2011

Religion, Family Law, and Recognition of Identity in Nigeria

M. Christian Green

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INTRODUCTION

In March 2008, the journalist Eliza Griswold described a burgeoning "competition" for believers between Muslims and Christians in the country of Nigeria—"God's Country" according to the article's title.[1] The description is tragically ironic in light of the carnage that has accompanied this competition in the form of waves of interreligious violence after the implementation of Sharia criminal law in Nigeria's northern states in 1999. The strife has resulted in the deaths of an estimated 13,000 Nigerians.[2] The Nigerian struggles over Sharia, while not yet reaching the genocidal level of Rwanda, Congo, or Sudan, seem especially emblematic of the way in which religion—often in concert with other social, political, and economic factors—is manifesting itself in sub-Saharan Africa today. The stakes in Nigeria are particularly high for both U.S. and international relations. As Griswold points out:

> Nigeria is Africa's most populous country, with 140 million people (one-seventh of all Africans), and it's one of the few nations divided almost evenly between Christians and Muslims. Blessed with the world's 10th-largest oil reserves, it is also one of the continent's richest and most influential powers—as well as one of its most corrupt democracies. . . . The state has all but abdicated its responsibility for the welfare of its people . . . . In this vacuum, *religion has become a powerful source of identity.*[3]

Such quests for identity have become a hallmark of modernity and postmodernity, manifesting themselves in a variety of "politics of recognition"

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[1] Eliza Griswold, *God's Country*, ATLANTIC, Mar. 2008, at 40, 41, 49.

[2] U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 98 (2011).

[3] Griswold, *supra* note 1, at 42. Griswold observes that this competition is taking place both *between* and *within* Islam and Christianity. *Id.* For a longer discussion of Nigeria, see generally ELIZA GRISWOLD, THE TENTH PARALLEL: DISPATCHES FROM THE FAULT LINE BETWEEN CHRISTIANITY AND ISLAM (2010).

over religious, ethnic, national, linguistic, cultural, sexual, and other markers of individual and group identity.[4] The concern for identity and recognition of particular identities has even made it into human rights discourse and the perennial debates over universal human rights and various forms of cultural or other relativism, particularly around matters of religion.[5]

In discussions of religion and human rights—particularly the question of whether there are special and distinctive "religious human rights"—religion sometimes assumes a rather static and monolithic character. While not, perhaps, as foundational to identity as the "Blood and Soil" categories of race or national origin, religion has come to be seen, in the eyes of many religious believers around the world, as nearly as fundamental as these categories when it comes to individual and communal identity. Consultants at a recent conference on "Law, Religion, and Human Rights in Africa"—convened in Durban, South Africa by Emory University's Center for the Study of Law and Religion ("CSLR")—emphasized both the importance of religion as a source of identity competition and the interrelation of religion with various other social, political, and economic concerns in much of sub-Saharan Africa.[6] And yet many who study conflict around the world, particularly in the social and political sciences, have tended to view it mostly in terms of these social, political, and particularly economic concerns—with religion being only marginal or epiphenomenal. In this economic view, in particular, "Stuff" trumps "Spirit," and religion is seen as merely a "proxy" for other social, political, and economic conflicts over mostly material resources.[7]

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[4] *See* Charles Taylor, *The Politics of Recognition*, *in* MULTICULTURALISM AND "THE POLITICS OF RECOGNITION" 25 (Amy Gutmann ed., 1992).

[5] Some recent examples of this are the debate over "defamation of religions" at the United Nations ("UN") and the way in which religion became intertwined with race at the UN "World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance" held in Durban, South Africa, from August 31 through September 8, 2001, and the follow-up "Durban Review Conference" held in Geneva, Switzerland, from April 20 through 24, 2009.

[6] For views emerging from that conference, see Symposium, *The Foundations and Future of Law, Religion, and Human Rights in Africa*, 8 AFR. HUM. RTS. L.J. 337, 337–595 (2008) [hereinafter *Foundations and Future of Law*].

[7] An important recent critique of this materialist and "areligious" view of conflict is offered in MONICA DUFFY TOFT, DANIEL PHILPOTT & TIMOTHY SAMUEL SHAH, GOD'S CENTURY: RESURGENT RELIGION AND GLOBAL POLITICS (2011). The arguments of Toft, Philpott, and Shah provide a political science account that accords with the influential recent journalistic account of these themes in JOHN MICKLETHWAIT & ADRIAN WOOLDRIDGE, GOD IS BACK: HOW THE GLOBAL REVIVAL OF FAITH IS CHANGING THE WORLD (2009). In their study Toft, Philpott, and Shah emphasize the empirical data that show conflicts that are religious in nature tend to be more violent. *See* TOFT, PHILPOTT & SHAH, *supra*, at 147–55. For an excellent philosophical discussion of this phenomenon, see generally AMARTYA SEN, IDENTITY AND VIOLENCE: THE ILLUSION OF DESTINY (2006).

In Nigeria, religion and family are two central factors in both the current conflict and the construction of individual and communal identity. Thus, the potential effects of Sharia and other religious jurisprudence in the area of family law represent, in the eyes of some, a threat to national democracy and to individual and communal identity. The current conflict also has precedents in—and bears the weight of—colonial history. As a former British colony, subject to British policies that permitted colonized peoples to retain their laws of personal status, Nigeria is a place, along with other former outposts of the British Empire, where family and the laws that govern it matter considerably, particularly when those laws are informed by religion.[8]

Recently, former American Ambassador to Nigeria John Campbell has made some striking observations about the role of religious and family identities in Nigerian conflicts. In a recent conference, he cited recent polling in which 92% of Nigerian Muslims and 87% of Nigerian Christians "claimed to *identify themselves most strongly with their religion*, then with their family/ethnic group, and lastly with their country."[9] In his recent book, *Nigeria: Dancing on the Brink*,[10] Campbell further argues that one result of the weakness of the Nigerian state has been that Nigerians have tended "to migrate internally into the worlds of family, ethnic group, and religion," such that now "[f]amily, ethnic, and religious identities are trumping a sense of national allegiance in large part because the state no longer addresses the basic concerns and needs of the people."[11] Other recent polling confirms the significance of religion, family, and identity in Nigeria, not only for individuals and communities, but also for the Nigerian state.

In this Essay, I discuss some of the key features of Muslim-Christian contestation in Nigeria as revealed in a recent survey conducted by the Pew Forum on Religious Life, titled *Tolerance and Tension: Islam and Christianity in Sub-Saharan Africa*.[12] I then discuss some of the Pew statistics that bear on

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[8]   For an important discussion of these colonial themes, see MUSLIM FAMILY LAW IN SUB-SAHARAN AFRICA: COLONIAL LEGACIES AND POST-COLONIAL CHALLENGES (Shamil Jeppie, Ebrahim Moosa & Richard Roberts eds., 2010).

[9]   Erik Owens, *The Council on Foreign Relations Religion and Foreign Policy Series: Electoral and Religious Conflict in Africa*, HUFFINGTON POST (Dec. 1, 2010, 6:41 PM), http://www.huffingtonpost.com/erik-owens/council-on-foreign-relati_b_790474.html (emphasis added).

[10]   JOHN CAMPBELL, NIGERIA: DANCING ON THE BRINK (2011).

[11]   *Id.* at 109, 138.

[12]   PEW FORUM ON RELIGION & PUBLIC LIFE, TOLERANCE AND TENSION: ISLAM AND CHRISTIANITY IN SUB-SAHARAN AFRICA (2010), *available at* http://pewforum.org/preface-islam-and-christianity-in-Sub-Saharan-africa.aspx [hereinafter TOLERANCE AND TENSION].

the family and gender issues at the heart of the Sharia controversy. Finally, I offer some concluding reflections on whether Muslim-Christian contestation in Nigeria should be construed as a matter of religion *qua* religion or of "religion by proxy," on the prospects for moderate Sharia and juridical pluralism in Nigeria, and on the importance of identity for understanding religious conflict in Nigeria and elsewhere.

I. *TOLERANCE AND TENSION* AROUND RELIGION AND IDENTITY IN NIGERIA

First, the empirical data. The tenor of Muslim-Christian relations in Africa has received increased attention in recent years—most notably in the Pew Forum's study, *Tolerance and Tension: Islam and Christianity in Sub-Saharan Africa*.[13] It is a study that sheds important light on the themes of religion, family, democracy, pluralism, and human rights that are the subject of this Symposium. The *Tolerance and Tension* study is wide-ranging, covering nineteen countries and including numerous questions on religious affiliation, level of religious commitment, the presence of traditional African beliefs and practices, interreligious harmony and tension, and the relationship between religion and society. In the Pew study, Nigeria is singled out early on for the demographic division between its Muslim (52%) and Christian (46%) population, the most even division among the countries included in the Pew survey.[14] In fact, analysis of the Pew data on Nigeria, in comparison with other countries included in the study, shows that Nigeria is distinctive among sub-Saharan nations in a number of respects that bear significantly on questions of religious identity and the potential for conflict. The distinctions are significant for what they indicate about the sharpness of the Nigerian conflict, but there are also places where the Nigerian responses are representative of larger trends around religion, family, and identity that are increasingly seen worldwide.

A. *Orthodoxy, Orthopraxy, and the "Clash of Monotheisms"*

The statistics on Nigeria leave no doubt about the significance of religion and the sharpness of religious conflict in parts of sub-Saharan Africa. Participants at the CSLR's Durban Consultation frequently referred to religious conflict in Africa as involving a clash of orthodoxies and a competition of

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[13]   *Id.*

[14]   *Id.* at 12. Nigeria also contains both the largest number of Muslims and the largest number of Christians in sub-Saharan Africa. *Id.* at 19.

monotheisms.[15] The Pew data on religious affiliation and commitment suggest some of the baseline reasons for the interreligious tensions in Nigeria. When it comes to religious affiliation, 87% of Nigerian respondents said religion is "very important in their lives."[16] It is a high response, but one which places Nigeria merely in the median of the Pew survey countries in the highly religious region.[17] Nearly all Nigerians (97%) express religious beliefs in heaven, hell, angels, and miracles; similarly high numbers, 87% of Christians and 90% of Muslims, believe that the Bible or the Quran is the word of God and should be interpreted literally.[18] Large majorities of Nigerian Christians (79%) and of Nigerian Muslims (86%) believe that their faith is the one true faith leading to eternal life; somewhat lower, but still high, percentages of Christians (66%) and of Muslims (70%) said there is only "ONE true way" to interpret the teachings of their religions.[19]

The fervency of many Nigerians' beliefs in literal scripture and theological doctrines pertaining to heaven and similar concepts is combined with high levels of religious commitment and practice. Both Muslims and Christians in Nigeria reported similarly high levels of participation in a variety of religious activities, including prayer, fasting, attendance at religious services, reading religious materials, watching religious broadcasts, tithing or giving to charity, praying or reading scripture with their children, and sending their children to religious education programs.[20] On many of these indices of religious commitment, Nigeria is at or near the top of the Pew survey countries—even more so for Christians than for Muslims. When it comes to intensity of practice and commitment, Nigeria stands out among the Pew survey countries that are majority Christian.[21] Nigeria's Christian community contains the highest percentage of Pentecostal and the third-highest percentage of Charismatic Christians; these traditions tend to be characterized by high levels of both affiliation and commitment.[22] Nearly twice as many Christians as Muslims in Nigeria reported having witnessed or experienced divine healings, prophecy, divine revelation, and exorcism—all phenomena that correlate with intense

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[15] *See Foundations and Future of Law*, *supra* note 6.

[16] TOLERANCE AND TENSION, *supra* note 12, at 3.

[17] *Id.*

[18] *Id.* at 25–26, 175–76.

[19] *Id.* at 193–94.

[20] *Id.* at 3, 29, 218–19.

[21] *Id.* at 20, 25–32.

[22] *Id.* at 23, 156–57. Nigeria is tied with Ghana and Liberia at the top on the percentage of Christians who are Pentecostal—26% in each country. *Id.*

religiosity.[23] The high levels of orthodoxy and orthopraxy among Nigerian Muslims and Christians, along with the fervency of belief of some Christian groups in the Pentecostal traditions, suggest that Nigerian religion is religion in especially strong form.

Some commentators believe that the division between Muslims and Christians in Nigeria is heightened by its comparatively low numbers of adherents to African traditional religions, the practice of which can serve as a buffer between the two monotheisms.[24] Only 8% of the Nigerian respondents reported adherence to indigenous religions, making it the second-lowest, above only Rwanda, in levels of traditional religion.[25] Where adherence to African traditional religion persists in Nigeria, it is often syncretized into the dominant Muslim and Christian religions. Nigerians, however, do believe in the "prosperity gospel"—in fact, Nigeria is second only to neighboring Ghana in the level of its Christian population (77%) that embraces the "prosperity gospel"—and this can be a further source of religious division.[26] The "prosperity gospel" may, on the one hand, simply correlate with the overall attitude of optimism that characterizes the Nigerian people. When asked whether their lives were better than five years ago, 67% of Nigerians responded affirmatively, second only to Chadians in their levels of optimism.[27] On the other hand, in a highly religious country where the Muslim population disproportionately experiences poverty and underdevelopment,[28] the belief that God grants health and wealth to the faithful could give rise to invidious comparisons that might exacerbate interreligious tensions.

Another source of tension between Muslims and Christians in many parts of Africa when it comes to religious affiliation and commitment is the practice

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[23]   *Id.* at 211–14.

[24]   Ambassador John Campbell made this observation at a special session of the 2010 American Academy of Religion at a panel, sponsored by the Council on Foreign Relations, on the topic of "Religion and Foreign Policy Conversation: Religious Conflict in Nigeria." For more on this event, see M. Christian Green, *Recent Forum on Nigeria: Religion, Family, and the Weakened State*, SHARIA, FAM. & DEMOCRACY NIGERIA & BEYOND (Dec. 3, 2010), http://blogs.law.emory.edu/nigeriasharia/2010/12/03/recent-forum-on-nigeria-religion-family-and-the-weakened-state. At the same time, Campbell has also defended the significance of the North-South, Muslim-Christian division in Nigeria. *See* John Campbell, *Nigeria's Challenge*, ATLANTIC (June 24, 2011, 7:00 AM), www.theatlantic.com/international/archive/2011/06/nigerias-challenge/240961.

[25]   TOLERANCE AND TENSION, *supra* note 12, at 34.

[26]   *Id.* at 31.

[27]   *Id.* at 16. Nigeria was tied with Ghana for third place, just behind Chad and Liberia, in the belief that life would "be better in the future," with 84% of respondents in each country saying that they expected that their lives would be better in five years. *Id.* at 56. So the optimism is both retrospective and prospective.

[28]   *See id.* at 298–300.

of proselytism and conversion, but the concern often seems to be based more on perception than reality.[29] Large majorities of Christians (93%) and Muslims (88%) in Nigeria believe that members of their religions have a duty to try to convert others to their religious faiths.[30] While a significant percentage of Christians (41%) describes itself as "evangelical," the majority (56%) does not claim evangelical status or the proselytizing motives that the name implies.[31] When asked whether they share their faith or views on God with people of other religions, 30% of Christians reported doing so at least once a week and nearly as many (26%) reported sharing their faith once or twice a week— indicating that a majority of Nigerian Christians regularly engages in activity that could be construed as proselytism.[32] Only 6% of Christians reported *never* sharing their faith with non-Christians.[33] By contrast, while 20% of Muslims reported sharing their faith with non-Muslims on a weekly basis, the most frequent response by Muslims was that they "seldom" shared their faith (25%), and nearly as many reported that they "never" share their faith (20%)— indicating that a near majority of Nigerian Muslims refrains from proselytizing activities.[34] Perhaps a more significant observation of these faith-sharing tendencies is that, to the extent that such exchanges of religious views are intended to proselytize and convert between Christianity and Islam, such attempts have largely failed. In Nigeria, as in the vast majority of other countries included in the Pew survey, *zero percent* of the surveyed population reported switching between the two faiths.[35]

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[29] For an excellent recent discussion from a Muslim perspective, see A. Rashied Omar, *The Right to Religious Conversion: Between Apostasy and Proselytization* (Kroc Inst., Occasional Paper No. 27:OP:1, 2006), *available at* http://ocw.nd.edu/peace-studies/islamic-ethics-of-war-and-peace/readings-1/omar-on-religious-conversion. *See also* SHARING THE BOOK: RELIGIOUS PERSPECTIVES ON THE RIGHTS AND WRONGS OF PROSELYTISM (John Witte, Jr. & Richard C. Martin eds., 1999). For a well-argued critique of proselytism, see Grace Kao, *The Logic of Anti-Proselytization Revisited*, *in* PROSELYTIZATION REVISITED: RIGHTS TALK, FREE MARKETS AND CULTURE WARS 77–107 (Rosalind I.J. Hackett ed., 2008).

[30] TOLERANCE AND TENSION, *supra* note 12, at 192.

[31] *Id.* at 155.

[32] *Id.* at 208.

[33] *Id.*

[34] *Id.*

[35] *Id.* at 12. Though there is little religious switching between Christianity and Islam, there is switching within Christianity. Responses to questions by Christians on the denomination in which they were raised and the denomination to which they currently belong show net losses of 3% among Nigerian Catholics and net gains of 4% among Nigerian Protestants. *See id.* at 24. It is possible that some of the anxiety about the possibility of Muslim–Christian switching actually derives from these Christian concerns about interdenominational switching, which has tended to favor the rising Pentecostal movement, whose fervency and evangelism may be perceived as a threat by Muslims as well.

B. Freedom, Democracy, and Trust in the "Unknown Other"

Concerns about religious competition and conflict are also reflected in the sections of the Pew study dealing with interreligious relations and views on religious freedom and democracy. Some significant insights into the nature and quality of interreligious relations in Nigeria come in the responses to a series of questions on moral characteristics associated with the two religions. When asked for perceptions of Muslims, both Christians and Muslims maintained that Muslims are honest and devout; but Christians were somewhat *more* likely to find Muslims to be selfish and immoral, significantly *more* likely to find Muslims to be arrogant and violent, and significantly *less* likely to find Muslims to be tolerant and respectful of women.[36] When asked for characteristics associated with Christians, both Christians and Muslims found Christians to be overwhelmingly honest and nonviolent.[37] Muslims are somewhat *more* likely to say that Christians are selfish, immoral, and arrogant; significantly *less* likely to find Christians to be devout; and significantly *more* likely to say Christians are intolerant and do not respect women.[38] The significant gap in the perception of each group's treatment of women is especially important for questions of Sharia and family law.

These perceptual differences become even clearer in the Pew data on perceptions of religious extremism and interreligious hostility. On the questions of religious extremism, half of both Muslims and Christians reported being "very concerned" or "somewhat concerned" about extremist groups in the country.[39] This high level of concern about extremism might be a source of conflict between the religions. But one of the more surprising findings of the Pew study on this point was that the largest percentages of both Christians (21%) and Muslims (26%) were most concerned about members of their own religion.[40] Another key finding is that Christians are more concerned about

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[36] *Id.* at 113–20. Nigerians, both Christians and Muslims, are less likely to deem members of the other religion to be "violent" than other Pew survey countries. While the discrepancy between Christians and Muslim views of each other suggests a high level of in-country tension, the 25% gap between Christians and Muslims on the question is near the median for the countries surveyed. Much higher discrepancies are found, for example, in neighboring Ghana where the gap is 50%. *See id.* at 8.

[37] The finding that Muslims do not associate Christians with violence is striking and worthy of further research, as it would appear that much of the intercommunal violence in Nigeria is bilateral, reciprocal, and retaliatory.

[38] *Id.* at 121–28. This is an area of the survey where there are significant percentages of "don't know" and "refused to respond" answers.

[39] *Id.* at 277.

[40] *Id.* at 278.

Muslims than Muslims are about Christians.[41] The largest percentage of Muslims (38%) said that very few Muslims in Nigeria support extremist groups like al Qaeda, but the Christian response was more mixed, with the largest percentages saying "just some" (24%) or "very few" (23%) Muslims support extremists, but with a sizable percentage (17%) saying "many" Muslims support extremists and the largest group (28%) saying they did not know or refusing to respond.[42]

On the subject of interreligious hostility, Nigerian Muslims were charitable toward their Christian neighbors on measures of perceived harmony or hostility, with the largest percentage (39%) saying "very few" Christians are hostile toward Muslims in their country.[43] The gap between the two groups is not pronounced on this point, as 31% of Christians had the same view, but a nearly equal 27% of Christians did admit some Christian hostility toward Muslims. Muslims were even more insistent on disclaiming animosity toward Christians, with 44% expressing the view that "very few" Muslims have such hostility.[44] Once again, Christians were more divided, with 25% saying "very few" and 29% saying "just some" Muslims are hostile toward Christians. Muslims and Christians were also divided over the question of the government's treatment of religious groups.[45] The largest group of Muslims (33%) said that members of their religion are "not too often" treated unfairly and nearly the same percentage (34%) said that Christians, too, do "not often"

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[41] *Id.* In a more recent Pew Global Attitudes Project survey comparing Muslim and Western perceptions, this statistic is reversed, with more Muslims expressing unfavorable opinions than vice versa. *See* PEW GLOBAL ATTITUDES PROJECT, MUSLIM-WESTERN TENSIONS PERSIST: COMMON CONCERNS ABOUT ISLAMIC EXTREMISM (2011), *available at* http://pewresearch.org/pubs/2066/muslims-westerners-christians-jews-islamic-extremism-september-11.

[42] TOLERANCE AND TENSION, *supra* note 12, at 280. The Muslim percentage of those who responded "don't know" or refused to respond is also high at 34%. *Id.* Indeed, the responses on religious extremism were high across all of the African countries surveyed, approaching or exceeding 50% of the total population in Liberia (49%) and Zambia (51%), with additional high don't know/refuse to respond scores in both stable countries, such as Botswana (48%), and in post-conflict and post-apartheid societies, such as Rwanda (46%) and South Africa (58%). *Id.* It would be worth inquiring whether there is some dynamic in post-conflict societies that leads to reticence to respond on the question of religious extremism, as well as what the refusal to respond might mean in more stable societies.

[43] *Id.* at 281. It is worth noting that on all questions in this portion of the survey covering intergroup hostility and preferential treatment by the government, substantial percentages of both Christians and Muslims—often nearly 20% in each group—gave "don't know" or "refuse to answer" responses. This reticence may itself be an indication of the sensitivity of the topic.

[44] *Id.* at 282. The Pew researchers reported a margin of error of plus or minus 4% for results on the total population and of 6% for Christians and 5% for Muslims in Nigeria. *Id.* at 66.

[45] *Id.*

suffer unfair treatment.[46] The resentment in this area seems to be more on the part of Christians, 35% of whom said Muslims "never" suffer unfair treatment and who were twice as likely as Muslims to report that Christians suffer unfair treatment "very often" or "somewhat often."[47]

The existence of Muslim-Christian tensions could be interpreted as a potential threat to religious freedom, and perhaps even to democracy, to the extent that it reflects unequal privileging of one group over another. And yet religious tension coexists with strong perception of and support for democracy and religious freedom in Nigeria and many of the other Pew survey countries. On the one hand, 71% of Christians and 68% of Muslims in Nigeria said democracy is preferable to other forms of government.[48] On the other hand, 74% of Christians and 80% of Muslims agreed with the statement, "People like me don't have any say about what the government does," suggesting a rather low sense of participation.[49] Despite their suspicion toward people of other religions, 66% of Christians and 68% of Muslims said religious leaders should express their views on political questions, and similarly high percentages of Christians (63%) and Muslims (59%) said it is acceptable for religious leaders to have different religious views from their own.[50]

The tolerance for religion in the public square may be a function of the widespread perception of religious freedom, as reflected in the responses that 74% of Christians and 79% of Muslims feel "very free" to practice their religions in their country and 67% of Christians and 74% of Muslims feel that people from religions different from theirs are free to practice their religion and that this a "good thing."[51] But this perception of religious freedom does

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[46] *Id.* at 283–84.

[47] *Id.*

[48] *Id.* at 84. Nigeria is fifth from the bottom of the Pew survey countries on this measure, but the high percentage suggests a strong perception of religious freedom in Nigeria.

[49] *Id.* at 87.

[50] *Id.* at 91, 94. Nigerian responses to these two questions were not extreme in comparison to the other Pew study countries and tended to cluster in the middle tier around the median. *See id.* at 52.

[51] *Id.* at 96, 98. The UN Special Rapporteur on Freedom of Religion or Belief has, however, made a different determination. A country report on Nigeria from 2005 maintains:

> The level of insecurity in certain areas of Nigeria can also be attributed to religious reasons, which makes the right to freedom of religion even more vulnerable. Nigerians can legitimately claim that they do not feel secure to freely practise their religion because they may feel targeted because of their religious identity.

Special Rapporteur on Freedom of Religion or Belief, *Mission to Nigeria*, Comm'n on Human Rights, ¶ 45, U.N. Doc. E/CN.4/2006/5./Add.2 (Oct. 7, 2005) (by Asma Jahangir) [hereinafter Special Rapporteur].

seem to overlay a base level of interreligious competition, misunderstanding, and distrust. Among Christians, 82% feel that Christians are increasing their influence on life in the country and that this is a good thing, and 73% of Muslims think that Muslims are increasing their influence and that this is a good thing.[52] Each group, however, is far less sanguine about the other group expanding its influence. Only 37% of Christians think that Muslims are expanding their influence and that this is a good thing, and only 42% of Muslims think that Christians are increasing their influence and that this is a good thing.[53]

When it comes to actual knowledge of each other's faith, the largest percentages of both Christians (34%) and Muslims (42%) claim to know "not very much" and 21% of both groups claim to know "nothing at all" about the other religion.[54] When it comes to interreligious cooperation, 60% of Christians and 65% of Muslims say their mosque, church, or house of worship does *not* work together with institutions of the other religion to find solutions to community problems.[55] These are not happy statistics when it comes to the potential for religious cooperation transcending religious conflict, but they do indicate a space in which greater knowledge of religious "others" could have a beneficial effect. For rather than a "narcissism of minor differences" based on substantial knowledge of the religious "other," Muslim-Christian misunderstanding in Nigeria seems more likely to be based on an "other" who is, to a significant degree, unknown. This lack of knowledge of and common experience with the other religion does not, however, prevent members of both religions from forming perceptions about the nature and extent of their religious similarities and differences. Here, both groups are divided, with 48% of Muslims and 42% of Christians saying the two religions have "a lot in common" and 45% of Muslims and 53% of Christians considering them to be "very different."[56] Thus, in perceptions of religious difference, as well as perceptions of religious freedom, Christians were inclined, if only slightly, to be more wary of Muslims than vice versa.

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[52] TOLERANCE AND TENSION, *supra* note 12, at 105, 108. As with the questions on intergroup hostility and preferential treatment, there are significant numbers of "don't know" and "refuse to respond" answers to these questions, perhaps indicative of another area of sensitivity alongside perceptions of religious extremism.

[53] *Id.*

[54] *Id.* at 100–01.

[55] *Id.* at 165.

[56] *Id.* at 103.

Perhaps most significant for intergroup relations, and a further challenge to Nigerians' rosy perceptions of religious freedom and democracy in their country, are statistics showing Muslims and Christians to be quite divided over basic levels of social trust toward members of other religions. In response to a question about their level of trust of people of other religions, 48% of Christians and 43% of Muslims reported that they trust people who have different religious values, but nearly identical percentages (43% of Christians and 47% of Muslims) said that they do not trust people of the other faith.[57] These divisions over the possibility of interreligious trust may simply be reflections of an overall low level of trust in Nigerian society. The section of the Pew survey on interreligious tensions does, after all, begin with the statistic that 62% of Nigerian Christians and 59% of Nigerian Muslims said "you can't be too careful in dealing with people," as opposed to "most people can be trusted" in their society.[58] In that sense, the somewhat lower levels of distrust of believers of the other faith may be an improvement on the more general level of distrust. But these mixed statistics on trust in Nigeria coexist with grimmer statistics on perceptions of religious conflict. When asked about a range of social and political problems in their country—including crime, political corruption, ethnic conflict, and unemployment, all of which tended to be widely cited across the board in the sub-Saharan nations represented in the Pew study—Nigerians were second only to post-genocide Rwandans in seeing religious conflict as a "very big problem."[59]

The Pew indices on religious freedom, democracy, and interreligious tensions, along with the data on religious affiliation and practice, are significant for what they reveal about the perceptions and the sense of group identity of Muslims and Christians in Nigeria. They reflect the state of Nigeria's national character and identity in relation to its sub-Saharan African peers.

II. RELIGION, FAMILY, AND THE RECOGNITION OF IDENTITY

In addition to bringing to light a variety of issues related to religious affiliation and commitment, interreligious relations, and the relationship of religion, democracy, and society, the Pew *Tolerance and Tension* study also

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[57] *Id.* at 130.

[58] *Id.* at 83. Nigeria appears to be a low-trust society, but it is merely in the median of the Pew countries. Tanzania, Cameroon, and Senegal have the highest levels of distrust, with 83%, 82%, and 74%, respectively, of Muslims and Christians combined reporting distrust of others.

[59] *Id.* at 9.

raises a number of points concerning law, religion, family, and identity. Several results among the Pew statistics on religion, politics, and society have a direct bearing on the Sharia controversy and the question of juridical pluralism. Most significantly, the Pew data indicate that the tendencies of both Christians and Muslims toward literal faith and orthodox belief may carry over from the religious to the legal sector. Among Christians, 70% favor making the Bible the official law of the land, and 75% of Muslims favor the implementation of Sharia.[60] Both the Christian and Muslim scores on support for religiously based law are very high, comparatively speaking, coming in second and third, respectively, among the Pew survey countries.[61] In particular, large percentages of both Christians and Muslims in the Pew data on Nigeria, 60% and 71%, respectively, favor allowing religious beliefs to decide family and property disputes.[62] Christians reject harsh punishments based on religious law by percentages of nearly 90% across the board, but significant majorities of Muslims also disapprove of such Sharia-based punishments as whipping and cutting off hands for crimes of theft and robbery (54%), stoning for people who commit adultery (60%), and the death penalty for "apostates" who leave the Muslim religion (65%).[63] This sort of moderation on such matters as harsh religious punishments lends credence to the recent speculation that a more moderate form of Sharia may be emerging in Nigeria.

When it comes to family matters, specifically the selection of marriage partners, Christians and Muslims in most of the countries in the Pew study show a very strong tendency toward religious endogamy, with all but four countries reporting intra-religious marriage rates of 90% or above for both Christian and Muslim populations. In the Pew study, Nigeria is tied with Mali behind Senegal for second place in rates of religious endogamy, with 97% of Nigerian Christians and 98% of Nigerian Muslims married or living with a partner of the same religion.[64] Of course, Mali and Senegal are overwhelmingly Muslim countries—so much so that the Pew study does not include statistics on intra-religious marriage rates for the small number of non-

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[60] *Id.* at 11, 285, 289.

[61] When responses to several questions about religious law, religious judges, and religious punishments were aggregated in the Pew study under the general heading of support for "religious jurisprudence," Nigeria appeared more moderate than the responses on Biblical/Sharia law suggest. In this aggregate measure, 41% of Muslims and a mere 8% of Christians reported high levels of support for "religious jurisprudence" in this broader sense. *See id.* at 51. It could be that the zeal reflected in the opening questions about religious law dissipated in connection with subsequent questions about harsh punishments.

[62] *Id.* at 286, 290.

[63] *Id.* at 291–93.

[64] *Id.* at 260.

Muslims living in those countries. That Nigeria has such a high rate of intra-religious marriage, even with its overall religious diversity, suggests a high degree of identity investment in forming families within the faith—and possibly of a high degree of religious community segregation between the Muslim and Christian populations of the various Nigerian federal states. That some observers have noted a correlation between Muslim-Christian intermarriage and more harmonious relations where the groups are intermixed may be the happy exception to the general trend toward intra-religious marriage and the potential for interreligious hostility that may accompany this in-group preference.[65]

This concern for marriage and community identity is also found in the responses to questions about the possibility of religious exogamy of offspring. Asked whether they would be comfortable with a child of theirs marrying a person of the other faith, 50% of Nigerian Muslims and 42% of Nigerian Christians said that they would be "not at all comfortable" and an additional 16% of Muslims and 24% of Christians would be "not too comfortable."[66] Interestingly, despite the concerns about interreligious marriage in the family, 29% of Nigerian Muslims and 30% of Nigerian Christians have immediate family members who are of the other faith.[67] The concerns about interreligious marriage may correlate to concerns about religious conversion because intermarriage is often the occasion and motivation for religious conversion, but the strength of response on the religious exogamy question alone is worthy of note.

On issues of marital morality, Nigeria is generally conservative along with many other African countries. That 79% of Nigerian Christians see divorce as morally wrong is, thus, consistent with the wider regional view.[68] The 41% of

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[65] John Campbell, Senior Fellow, Council on Foreign Relations, Remarks at the Annual Meeting of the American Academy of Religion on "Religion and Foreign Policy Conservation: Religious Conflict in Nigeria" (Oct. 30, 2010).

[66] TOLERANCE AND TENSION, *supra* note 12, at 166–67. It is worth considering whether the concerns about interreligious marriage correlated to concerns about religious conversion in any way, because intermarriage could be the occasion and motivation for religious conversion.

[67] *Id.* at 264–65. The Nigerian statistics on interreligious families are close to the median on these measures. They do not, for example, approach the much higher rates of familial interreligiosity in the Democratic Republic of Congo ("DRC"), Mozambique, and Uganda. The rates of Muslims having Christian family members in those countries are as follows: DRC: 62%; Mozambique: 93%; Uganda: 66%. The rates of Christians having Muslim family members are lower across the board for most countries, but the percentages for Mozambique, Rwanda, and Uganda still exceed or match Nigeria, according to the following breakdown: Mozambique: 43%; Rwanda: 30%; Uganda: 32%.

[68] *Id.* at 268.

Nigerian Muslims who see divorce as morally wrong, however, comprise a low percentage compared not only to Christians in-country, but also to Muslims in other surveyed countries, who disapprove of divorce to a greater extent than their Nigerian counterparts.[69] This apparent tolerance of divorce among Nigerian Muslims, in light of the disadvantages that often flow to women and children from marital dissolution, makes the Sharia law of divorce a particularly important topic for consideration of both interreligious relations and women's equality. One of the other key findings of the Pew survey, despite the generally conservative approach of both Christians and Muslims throughout the African subcontinent on issues of morality, is a profound disagreement over polygamy, with Muslims being significantly more likely than Christians to approve of polygamous relationships.[70] The overwhelming percentage of Nigerian Muslims (63%) approving of polygamy and even higher percentage of Christians (76%) deeming it morally wrong are, thus, not unexpected.[71] In fact, Nigeria has the highest rate of Muslim polygamy among the countries in the Pew study, with 40% of Muslim men reporting that they have more than one wife.[72] It is, however, noteworthy that the discrepancy between Nigerian Christians and Muslims on the permissibility of polygamy (53%) is the second highest among the Pew survey countries, followed by Ethiopia (49%) and Tanzania (46%).[73] Ethiopia and Tanzania are majority-Christian countries, but each is also one-third Muslim and has seen some escalation in Muslim–Christian tensions in recent years, including disputes around Sharia law.[74] For these reasons, pronounced discrepancies between

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[69]   *Id.*

[70]   *Id.* at 16, 53.

[71]   *Id.* at 274.

[72]   *Id.* at 318. Interestingly, Nigerian Christian men reported being in polygamous relationships at a rate of 14%—not the highest rate in the study, as 31% of Ugandan Christian men reported being in polygamous relationships—but this does illustrate a significant rate of departure from Christian doctrinal norms among Nigerian Christians. It would be worth knowing whether Nigerian polygamy among Christians tends to occur where Christians live in close contact with Muslims or practitioners of indigenous religious or cultural norms, both of which could influence Christians in the direction of polygamy.

[73]   Ghana's discrepancy of 63% is the highest, with 78% of Christians and 15% of Muslims saying the polygamy is "morally wrong." *See id.* at 274.

[74]   *See, e.g.*, *Ethiopia: Muslim Radicals Burn Twelve Protestant Churches. One Dead, Dozens Injured*, SPERO NEWS (Mar. 12, 2011), http://www.speroforum.com/a/50143/Ethiopia---Ethiopia-Muslim-radicals-burn-twelve-Protestant-churches-One-dead-dozens-injured; Aaron Maasho, *Ethiopia: PM Blames Muslim Sect over Church Attacks*, REUTERS (Mar. 13, 2011, 1:11 PM), http://af.reuters.com/article/topNews/idAFJOE72C05220110313; Alawi Masare, *Faith Bigotry Was One Huge Worry in 2010*, CITIZEN (Dar es Salaam) (Dec. 30, 2010, 9:57 AM), http://www.thecitizen.co.tz/news/5-political-news/6770-faith-bigotry-was-one-huge-worry-in-2010.html; Saumu Mwalimu, *New Cabinet Urged to Push Setting up of Kadhi Court*, CITIZEN (Dar es Salaam) (Nov. 25, 2010, 7:46 AM), http://www.thecitizen.co.tz/news/4-national-news/5834-new-cabinet-urged-to-push-setting-up-of-kadhi-court.html.

Muslims and Christians over issues like polygamy could reflect or even be indicia of larger intergroup tensions grounded in religion, family, and identity.

Another index of interreligious relations, often cited as a barometer of more general social advancement, is the status of women. Here, too, the Pew study offers some interesting results. On the question of whether only men should be allowed to serve in religious roles, 42% of Nigerian Christians and 67% of Nigerian Muslims would impose such restrictions.[75] What is somewhat notable about Nigeria on this point is the division among Christians. Against the trend in a number of the Pew survey countries toward permitting women to be religious leaders, the 49% of Nigerians who approve of women's leadership are nearly offset by the 42% who are opposed.[76] This gender conservatism among Nigerian Christians may arise from their interpretation of their religious tradition, but it could also reflect a concession to surrounding norms that include the more conservative Muslim views. When it comes to some measures of gender norms and the status of women, Nigerian Muslims do tend toward conservatism. In response to the Pew study question of whether women should have the right to decide to wear a veil or should defer to their surrounding community, 64% of Nigerian Muslims said women should *not* have the right to decide, but rather should wear the veil if dictated by their surrounding communities.[77] Nigeria is tied with Cameroon at the top of the Pew study countries in denying women choice in veiling.

The gender norms regarding women's roles and women's rights reflected in the Pew data on women's religious leadership and the question of the veil are just two specific measures, but they are suggestive of broader themes that should be taken into account when assessing the relationship between religion, family, and identity. It is in this light that Ambassador John Campbell's remarks on the "internal migration" to the family, ethnicity, and religion are a potential threat when it comes to the status of women. Participants in the CSLR's Durban Consultation on "Law, Religion, and Human Rights in Africa" discussed whether religious human rights were "luxury" rights in their focus on civil and political equality, when matters of economic and social equality often seem to be more pressing on the African continent.[78] The overwhelming consensus was that religion was by no means a component of a rights

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[75] TOLERANCE AND TENSION, *supra* note 12, at 195.
[76] *Id.*
[77] *Id.* at 196.
[78] *See Foundations and Future of Law*, *supra* note 6.

superstructure that is dispensable, or derogable, in times of turmoil, but rather that religion assumes even greater importance as a source of economic, social, and spiritual coping—as well as a strong source of community identity.[79] In the same way that religious freedom should not be discounted as a human right, women's human rights should not be sidelined in the quest for religious freedom as a human right.

The question of Sharia in family law, political democracy, and religious pluralism in Nigeria is certainly a question of religious human rights—for Muslims, Christians, and practitioners of other faiths. The concern of Muslims for juridical freedom in implementing Sharia must be balanced against the freedom of Christians to be exempt from Sharia in Muslim-majority areas.[80] In the realm of family law, the Sharia debate involves powerful forces around religion, gender, and the prospects for peace in Nigeria's ongoing interreligious conflict. Discrimination against women has often occurred in the institutions of religion and family, which is why religion and family—and women's lives, embodiment, and inculturation—are such frequent battlegrounds in struggles for community identity.[81] Recent developments in the global economic recession, including the loss of traditionally masculine industrial jobs to globalization and burgeoning populations of young people— particularly young men—in the developing world, are increasingly calling into question existing gender and family arrangements.[82] This past winter, a slap in the face to a young male fruit seller in Tunisia by a female police officer— experienced by the young man as a humiliating reversal of cultural gender norms and an affront both to him and to the family he was helping to support—

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[79] *Id.*

[80] For a discussion of the threat that Sharia poses to Christians, see JUDE OSELOKA EZEANOKWASA, THE LEGAL INEQUALITY OF MUSLIM AND CHRISTIAN MARRIAGES IN NIGERIA (2011). *See also* Jude O. Ezeanokwasa, *Sharia, Secular State and Nigeria: A Matter of Getting down to the Basics*, SHARIA, FAM. & DEMOCRACY NIGERIA & BEYOND (Apr. 20, 2011), http://blogs.law.emory.edu/nigeriasharia/2011/04/20/sharia-secular-state-and-nigeria-a-matter-of-getting-down-to-the-basics/.

[81] For an excellent discussion of the challenges—and sometimes threats—that religion may pose to women's rights, see Madhayi Sunder, *Keeping Faith: Reconciling Women's Human Rights and Religion*, *in* RELIGION AND HUMAN RIGHTS: AN INTRODUCTION (John Witte, Jr. & M. Christian Green eds., 2011). *See also* Special Rapporteur on Freedom of Religion or Belief, *Study on Freedom of Religion or Belief and the Status of Women in Light of Religion and Traditions*, Comm'n on Human Rights, U.N. Doc. E/CN.4/2002/73/Add.2 (Apr. 24, 2009) (by Abdelfattah Amor).

[82] *See* Hanna Rosin, *The End of Men*, ATLANTIC, July/Aug. 2010, at 56; Reihan Salam, *The Death of Macho*, FOREIGN POL'Y, July/Aug. 2009, at 65.

touched off a series of revolutions in North Africa and the Islamic world.[83] The revolutions in Egypt and Libya incorporated both gender-based sexual crimes against women and calls for women's human rights to be recognized to a greater extent in the reconstituted societies, but there were also calls by conservative Muslim groups for the robust implementation of Sharia.[84] There also was a sense that Muslims in Nigeria and other parts of the global Islamic community were watching these developments and feeling them with special force.[85] Questions of religion, gender, family, and identity are all at the heart of the Sharia debate in Nigeria, and they will be significantly affected by how that debate is ultimately resolved.

CONCLUDING POINTS: RELIGION BY PROXY, THE PROSPECTS FOR MODERATE SHARIA, AND THE IMPORTANCE OF IDENTITY

There are two arguments that one regularly encounters in considering interreligious conflict in Nigeria. The first argument has to do with the phenomenon of "religion by proxy," which is said to be a prominent feature of religious conflict in Nigeria and elsewhere in Africa. The argument is that religion is an ascribed rationale for conflicts that are really social, economic, and political in nature. In some cases, the "religion by proxy" description is an accurate reflection of the complexity of the situation. There is also a tendency among some social and political scientists, long influenced by the "secularization" thesis, to view religion as less salient than other factors. This view is sometimes aided and abetted by certain religion scholars who "sacralize" religion and religious studies by viewing religion as supernatural, transcendent, and ultimate, so as to avoid subjecting the matters of the spirit to the aims and evaluations of the social sciences out of a fear of co-optation or corruption. The conflict over Sharia in Nigeria is a prime example of the need to inquire broadly into the situation in Nigeria and other African nations and to probe the more porous boundaries between religion and politics that exist there

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[83] Roger Cohen, Commentary, *Facebook and Arab Dignity*, INT'L HERALD TRIB., Jan. 25, 2011, http://www.nytimes.com/2011/01/25/opinion/25iht-edcohen25.html; Karim Fahim, *Slap to a Man's Pride Set off Tumult in Tunisia*, N.Y. TIMES, Jan. 22, 2011, at A1.

[84] *See* Isobel Coleman, Commentary, *Is Revolution Bad for Women's Rights?*, WASH. POST, Feb. 20, 2011, at B3.

[85] *See* John Campbell, Commentary, *Nigeria: The Morning After*, INT'L HERALD TRIB., May 3, 2011, http://www.nytimes.com/2011/05/03/opinion/03iht-edcampbell03.html; Edegbe Odemwingle, Commentary, *North Africa: The Jasmine Revolution and the Nigerian Nightmare*, LEADERSHIP (Abuja), Feb. 20, 2011, http://allafrica.com/stories/201102210983.html; Peter Run, Commentary, *Is Nigeria Doomed to Follow Sudan's Example?*, ABC.NET (Apr. 21, 2011), http://www.abc.net.au/unleashed/97708.html.

more so than in the United States and other countries with traditions of religion–state separation.

For example, the recent annual reports of the U.S. Commission on International Religious Freedom ("USCIRF")—which in recent years has designated Nigeria as a "Country of Particular Concern" on issues of religious freedom[86]—strive rigorously, and correctly, to balance religion among the various social, political, and economic factors afoot in Nigeria. The USCIRF Nigeria reports on chronic "incidents of violent communal conflict across religious and ethnic lines, *which are often intertwined.*"[87] The commissioners note that religion is "often *used by politicians as a proxy* for political or economic disputes within northern communities."[88] In particular, the commissioners observe that "*[r]eligion and religious identity are intertwined* in ethnic, political, economic and social controversies, and can be misused by politicians, religious leaders, or others to rouse their constituencies for political gain," so that, while "religion is a significant catalyst in the violence, the violence is not purely religious in nature."[89] The U.S. State Department's 2010 International Religious Freedom Report for Nigeria cites a number of specific factors that continue to feed the conflict, particularly in the country's Middle Belt region, including controversies over "indigene/settler laws, discriminatory employment practices, and resource competition."[90] The U.S. State Department analysts have further observed:

> Religious differences often paralleled and exacerbated differences among ethnic group[s]. In the Middle Belt, identity is simultaneously molded along both ethnic and religious lines. Competition for scarce resources, in concert with livelihood differences and discriminatory employment practices, often underlay the violence. Local politicians and others continued to use religion on occasion to spur hostility among groups.[91]

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[86]   U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 57–64 (2009) [hereinafter 2009 ANNUAL REPORT]; U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 98–109 (2011) [hereinafter 2011 ANNUAL REPORT].

[87]   U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 241 (2008) (emphasis added).

[88]   2009 ANNUAL REPORT, *supra* note 86, at 58 (emphasis added).

[89]   2011 ANNUAL REPORT, *supra* note 86, at 98 (emphasis added).

[90]   BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, U.S. DEP'T OF STATE, *Country Report for Nigeria*, *in* INTERNATIONAL RELIGIOUS FREEDOM REPORT 2010 (2010), *available at* http://www.state.gov/g/drl/rls/irf/2010/148713.htm.

[91]   *Id.*

The former UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, has also pointed out the multifactoral nature of the hostilities, with particular attention to the implications for religious freedom. In this regard, she has observed that "while economic, political, and other factors contribute to such tensions, they have often led to *polarization along religious lines*."[92]

The confluence of religion with these other economic, social, and political factors in the Nigerian situation has implications not only for religious freedom, but also for religious identity. In this regard, Special Rapporteur Jahangir has observed:

> The level of insecurity in certain areas of Nigeria can also be attributed to religious reasons, which makes the right to freedom of religion even more vulnerable. Nigerians can legitimately claim that they do not feel secure to freely practise their religion because *they may feel targeted because of their religious identity*.[93]

While the notion of "religion by proxy" is certainly applicable in the cases of Nigeria and other African nations where religion is intertwined with economics, politics, and social status, it is this crucial connection to identity that is at risk of being overlooked or minimized in considering religion as *merely* a proxy for other concerns. Leading social scientists have recently argued that religion is more and more a matter of choice than a status or community into which one is born with few avenues for escape.[94] It is perhaps this sense, along with the resurgence of religion and the increased contact among religions in our globalized world, that is fueling concerns of proselytization and conversion—even, as we have seen, where the statistics do not bear out the reality of religious switching—becoming reality. But the novelty of this sort of freedom of choice in matters of religion should not count against the seriousness of those choices for those who make them. It may be the case that the increased number of options when it comes to religious choice, rather than simply auguring the death of traditional religious identity, may be giving rise to new forms of religious identity—reaffirming the overall importance of religious identity in the process. Thus, while the Sharia debate in Nigeria is a crucial forum for the negotiation of matters of religious freedom

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[92] Special Rapporteur, *supra* note 51, at 2 (emphasis added).

[93] *Id.* ¶ 45 (emphasis added).

[94] *See* MICKLETHWAIT & WOOLDRIDGE, *supra* note 7, at 23; PEW FORUM ON RELIGION AND PUBLIC LIFE, FAITH IN FLUX: CHANGES IN RELIGIOUS AFFILIATION IN THE U.S. (2009). Micklethwait and Wooldridge argue that, given the tendency to imitate U.S. culture that is found in many parts of the world, the trends that Pew reports in the United States are likely global. *See also* CHARLES TAYLOR, A SECULAR AGE 3 (2007).

and human rights for Muslims and Christians seeking to coexist peacefully in Nigeria's federal and religiously plural system, it is equally a forum in which Muslims and Christians are seeking to defend religious choice and religious identity in the context of a modern, pluralistic democracy.

These observations on democracy, pluralism, and identity turn out to be important, as well, in assessing a second argument that has surfaced in discussions of religious conflict in Nigeria. This argument concerns the prospects of the emergence in Nigeria of a moderate Sharia, though it may seem unlikely in connection with a country that has recently given rise to the Boko Haram ("Western education is sacrilege") movement and to Umar Farouk Abdulmutallab, the fortuitously inept Detroit airplane underwear bomber of 2009. Indeed, analysis of the Abdulmutallab case and the inchoate but emerging Islamist movements in Nigeria in the last few years has indicated that Nigeria resembles some of its recently revolutionary North African neighbors in the presence in the less developed northern states of restive young Muslim men (and equally disaffected Christian men) who perpetrate much of the intercommunal violence.[95] It is this demographic that seems most susceptible to traditionalist, or even extremist, Islamic movements, that might hold out strict interpretations of Sharia that would lead to a continuation of conflict.

Even so, *New York Times* Africa correspondent Lydia Polgreen has observed that the "Islamic revolution that seemed so destined to transform northern Nigeria in recent years appears to have come and gone—or at least gone in a direction few here would have expected."[96] Indeed, she maintains that "the practice of Islamic law, or Shariah, which had gone on for centuries in the private sphere before becoming enshrined in public law, has settled into a *distinctively Nigerian compromise* between the dictates of faith and the chaotic realities of modern life in an impoverished, developing nation."[97] As other contributors to this Symposium have noted in their case studies of the implementation of Sharia in various Nigerian states, these sorts of compromises can be the hallmark of a robust federal system that allows such

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[95] The gap between expectation, reality, and the prospects for the future is apparently ensnaring even the affluent in these societies, for Abdulmutallab himself hailed from a wealthy Muslim family. *See* Adam Nossiter, *Lonely Trek to Radicalism for Terror Suspect*, N.Y. TIMES, Jan. 17, 2010, at A1, A10.

[96] Lydia Polgreen, *Nigeria Turns from Harsher Side of Islamic Law*, N.Y. TIMES, Dec. 1, 2007, at A1.

[97] *Id.* at A1, B4; *see also* M. Christian Green, *Moderate Sharia in the Secular State?*, SHARIA, FAM. & DEMOCRACY NIGERIA & BEYOND (Nov. 5, 2010), http://blogs.law.emory.edu/nigeriasharia/2010/11/05/moderate-sharia-in-the-secular-state (emphasis added).

local accommodations to flourish. Nigeria's federal structure could serve as the sort of "laboratory of democracy" envisioned by many federalist theorists. In this case, the very *publicity* of Sharia implementation in the context of a democracy might invite public scrutiny in a way that leads toward modification in the direction of greater moderation.

Of course, the grimmer alternative that haunts many Nigerian observers is the possibility that the country might ultimately go the way of Sudan and partition into two separate states, or the way of Tunisia, Egypt, and Libya and enter into an uncertain revolution. Whether Nigeria opts for tradition, moderation, or revolution will have an inevitable effect on its national identity as a modern, pluralistic democracy—not to mention the religious and political identity of its Muslim and Christian populations—in what some are describing as an "age of identity" in our modern, global situation.[98] This Essay has explored these concerns over identity as revealed in the social science data on tolerance and tensions surrounding religion, freedom, democracy, and family in Nigeria. It has supported the need for multivalent and interdisciplinary inquiry into these matters, so as to avoid unnecessary reductionism and marginalization of religion in the "religion by proxy" argument. It has pointed to the new discussions about the possibilities of a moderate Sharia emerging in Nigeria in a way that could give Nigerian Sharia its own distinctive identity in the Muslim world and Islamic jurisprudence. But the path ahead for Nigerian Sharia—and Nigeria itself—is uncertain. Meanwhile, it seems inevitable that rights and identity will coalesce, and occasionally conflict, in their mutual demand for recognition. Above all, as this Symposium has suggested, law and religion will continue to be crucial areas for the construction of identity—other sources of normativity and power—in modern, pluralistic democracies worldwide.

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[98] DOMINIQUE MOÏSI, THE GEOPOLITICS OF EMOTION: HOW CULTURES OF FEAR, HUMILIATION AND HOPE ARE RESHAPING THE WORLD 14 (2009).