

Women, Shari'ah, and *Zina* in Northern Nigeria

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Abstract

In 2000 and 2002, two women – Safiya Hussein and Amina Lawal – were tried and convicted for *Zina* in Northern Nigeria. The verdicts handed down was death by stoning; the punishment for adultery (*zina*) by Islamic law. *Zina* is considered one of the greatest sins in Islam. Thus, Islamic law prescribes stoning as the penalty for a married person, while the punishment for an unmarried male adulterer is one hundred lashes or being exiled for twelve months. The basis for the chastisement is the Qur'an, while the source for the punishment is found in the *Hadith*. The immediate reaction of the people of Northern Nigeria was that of happiness. Several reasons have been adduced for this feeling. According to Ogbu Kalu, the sentences were considered “a mark of identity, a measure of mobilization of the Islamic ummah, hope for greater social security, employment for shari'ah enforcers, belief that it would engender development and true religious commitment”. (Kalu, O.:2004)

Meanwhile, Section 1 of the Nigerian Constitution avers that “the Constitution is supreme and its provision shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria,” (including all its 36 States in Nigeria as well as the Federal Capital Territory). Section 1(3) further states “If any other law is inconsistent with the provision of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void.” Thus, this paper investigates the reactions of the civil society, particularly Muslim women of southwestern Nigeria to the issue of “stoning”, bearing in mind that the men who impregnated these women were set free by the same law that sentenced these two women to death by stoning.

In the Name of Allah, the Compassionate, the Merciful! This is a sura which We have revealed and sanctioned, proclaiming in it clear revelations so that you may take heed. The adulterer and the adulteress shall each be given a hundred lashes. Let no pity for them detain you from obedience to Allah, if you truly believe in Allah and the last day; and let their punishment be witnessed by a number of believers. The adulterer may marry only an adulteress or an idolatress; and the adulteress may marry only an adulterer or an idolater. True believers are forbidden such (marriages). Those that defame honourable women and cannot produce four witnesses shall be given eighty lashes. And do not accept their testimony ever after, for they are great transgressors – except those among them that afterwards repent and mend their ways. Allah is forgiving, Merciful.

And those who accuse their wives and have no witnesses except themselves, let each of them testify by swearing four times by Allah that his charge is true, calling down in the fifth time upon himself the curse of Allah if he is lying. But they shall spare her the punishment if she swears four times by Allah that his charge is false and calls down Allah's wrath upon herself if it be true. If it were not for Allah's grace and mercy on you and that He is forgiving and Wise, (He would immediately uncover your sins and hasten your punishment).¹

Introduction

The question of whether to follow established rules (*fiqh*) or derive new rules from principles (*usul*) of Islamic law has been one of the major controversies in Islamic discourses of modernity, women's rights and gender equality.² This is relevant to the cases of the two Northern Nigerian women tried for *zina* because of the gender bias exhibited in the court convictions. Recent developments in the study of women in Muslim societies have emphasized gender equality and Islam's compatibility with women's emancipation and social justice as mandated in the Qur'an.³ Badran contends that:

The basic argument of Islamic feminism is that the Qur'an affirms the principle of equality of all human beings but that the practice of equality of women and men (and other categories of people) has been impeded or subverted by patriarchal ideas (ideology) and practices. Islamic jurisprudence, *fiqh*, consolidated in its classical form in the 9th century, was itself heavily saturated with the patriarchal thinking and behaviors of the day.⁴

The sources for this view continue to be the Qur'an, the *Hadith* and the lives of prominent women in early Islam. In Nigeria, for example, the stories of Aisha; the Prophet's wife and Nana Asmau; a daughter of the early nineteenth century religious, intellectual and political leader, Uthman Dan Fodio, have become popular models of such knowledgeable Muslim women. Thus, Northern Nigerian Muslims still justify male dominance and female subordination based on texts from the Qur'an.

The purpose of this paper is to explore how Northern and Southern Nigerian Muslims' interpretations of Islamic practices affect Muslim women at different levels of society, and how this relate to the widespread debate over the fate of the two Northern Nigerian women under

¹ The Holy Qur'an; Sura al-Nur 24:1-10.

² Charles Kurzman, *Liberal Islam: A Source Book* (New York and Oxford: Oxford University Press, 1998), pp. 101 - 142 cited in Muhammad S. Umar, 'Mass Islamic Education and Emergence of Female 'ulama' in Northern Nigeria: Background, Trends, and Consequences. *Unpublished work*. p. 21.

³ Margot Badran, "Islamic feminism: what's in a name?" *Al-haram Weekly* (Cairo), January 17–23, 2002, Issue No. 569, p.2.

⁴ Badran, "Islamic feminism", p.4.

study. Fundamental differences between the two regions emerged in the public debate over the court decisions that sentenced these Muslim women to death by stoning after their convictions for adultery in 2001 and 2002. Whereas many Northern Nigerian Muslims supported these sentences, Southern Nigerian Muslims generally regarded them as unfair, unequal, and a violation of their basic constitutional rights. Sanusi Lamido Sanusi, a Kano prince, who has written many articles about Shari'ah, maintains that there is substantial disagreement among Muslim scholars concerning the treatment of women and Islamic jurisprudence. He asserts that:

...even a cursory student of Islamic history knows that all the trappings of gender inequality present in Muslim Society have socio-economic as opposed to religious roots. The excessive restriction of women and other manifestations of male domination are no more an integral part of Islam as a religion than, say, the sanctification of the Arabic language and the tendency towards institutionalized racism which appear in some literatures of those days. Muslim men, like men everywhere, are the last to accept that gender inequality is a social contraption rather than a religious imperative. This is natural not only because men are the ultimate beneficiaries of this inequality but also only those who are victims of injustice tend to see it and appreciate the absurdity of attributing it to God.⁵

Here I will examine two cases that have received a great deal of attention in the Nigerian and international press in my consideration of the disadvantaged status of northern Nigerian Muslim women. The first is that of Safiya Hussein of Tungar-Tudu. She was convicted of adultery by an upper Shari'ah court seating in Gwadabawa, Sokoto State, on 9 October 2001. The second is that of Amina Lawal of Funtua. The same type of court convicted her on the same charge in Bakori, Katsina State on 22 March 2002. Both were sentenced to death by stoning -- the *hadd* (punishment) for *zina*. The men with whom they committed adultery, however, went unpunished. Indeed, the traditional requirement of the Shari'ah law of four truthful eyewitnesses to the act of sexual intercourse was demanded, but in neither case did such eyewitnesses contest successfully the claims of the women. Thus, it seems that the opinion of the court was gender-biased. As far as the judges were concerned, the condition of pregnancy was enough basis for their conviction.

Safiya Hussein and Amina Lawal

Safiya Hussein was a thirty-five year old mother-of-five when she became the first woman to be sentenced to death by stoning in Nigeria. The fifth of twelve children, she grew up in the remote poverty-stricken village of Tungar Tudu, in Chimola district of Gwadabawa Local Government Area of Sokoto State.⁶ Her first marriage took place when she was twelve years old, but it did not last very long. As is common in Hausaland, she married two more times, but unfortunately, both marriages ended in divorce.⁷ After her third divorce in 1998, she began receiving the attention of another man, Yakubu, whom she alleged, raped her.⁸ Safiya's troubles began on 23 December 2000. Her younger brother reported her to the *Hizbah* group, the local Shari'ah implementation

⁵ Sanusi Lamido, www.gamji.com/sanusil16.htm cf. Ogbu Kalu, 'Safiyya and Adamah: Punishing Adultery with sharia stones in Twenty-First-Century Nigeria' In *African Affairs* (2003), p.395.

⁶ Ogbu Kalu, 'Safiyya and Adamah: Punishing Adultery with sharia stones in Twenty-First-Century Nigeria' In *African Affairs* (2003) <http://afraf.oupjournals.org/cgi/reprint/102/408/389.pdf>. P.394 see also Sanusi Lamido, 'The real crime is being a woman' in <http://scotsman.com> network of Friday August 25, 2003.

⁷ Puttin, Renee Ilene, *Women and Work in Northern Nigeria: Transcending Boundaries* (New York: Institute of Social Studies/Palgrave, 2002), p.14.

⁸ Lamido, 'The real crime'.

committee.⁹ Safiya was arrested and detained at Gwadabawa police station. Thereafter, she appeared before the lower Shari'ah court, which transferred the case to the upper Shari'ah court in Gwadabawa.¹⁰ After an arduous court process she was condemned to death by stoning.¹¹ Safiya accused her neighbor, Yakubu, of rape. In her words, she explained what transpired between her and Yakubu:

He met me in the bush, the whole thing turned to madness. He subdued me with his power and assaulted me. There was also a time I went to a nearby village. He subdued me again and had carnal knowledge of me. It happened three times. There is no King like Allah. I told him this thing you've done to me, I leave you in the hands of Allah, because I did not willingly give myself to you ... For months, I did not tell anyone for shame.¹²

The date of Safiya's conception became an important part of the appeal against her conviction. As her lawyers pointed out, she had actually conceived her baby a month before the implementation of Shari'ah in Sokoto State in June 2000.¹³ Thus, no crime had been committed. According to her accusers, Safiya's pregnancy itself bore witness to her "crime", arguing that according to the *Maliki* School of jurisprudence, pregnancy is *prima facie*, evidence of *zina*.¹⁴ She was to be stoned after weaning her baby.¹⁵

Throughout Nigeria, Safiya Hussein conviction mobilized human rights groups and women's groups to organize an appeal against her conviction because it was a gross violation of her constitutional rights and gender inequality. More so, since Yakubu was not convicted. Meanwhile, Pro-Shari'ah forces marshaled public opinion in support of Safiya's sentence. The Grand *khadi* and the other judges of the Shari'ah court of appeal argued that:

It is not allowed for a person to beg for another who has been brought before a court for the offence of theft or *zina* punishment. It is compulsory to punish them with *Hadd* punishment if they are found guilty. Even if they swear not to do it again; and they change into good people. Because the issue of the *Hadd*, if it is before an Imam and the suspect is found guilty, this is Allah's right; it is not proper for a person to save another from *Hadd* punishment.¹⁶

In response, Safiya's supporters claimed that she had been accused of an offence about which she was ignorant. After her sentence, she expressed her surprise at such harsh treatment:

I felt like dying that day [of the sentence] because of the injustice. I never thought there would be such a penalty. It is because I am poor, my family is poor, and I am a woman [translation from Hausa as in the original].¹⁷

⁹ Kalu, 'Safiyya and Adamah', p. 394

¹⁰ Kalu, 'Safiyya and Adamah', p. 394

¹¹ News Release by **Amnesty International USA** 'Nigeria: BAOBAB for Women's Rights and Amnesty International Joint Statement on the Implementation of New Sharia-based Penal Codes in Northern Nigeria'. 25 March 2003.p.1.

¹² Okorie Uguru interviewed Safiya, 'Amina Lawal: Let Off the Hook' *The Comet* 27 September, 2003. p. 11.

¹³ Lamido, 'The real crime is being a woman' in <http://scotsman.com> network of Friday January 25, 2002.

¹⁴ Kalu, 'Safiyya and Adamah', p.396

¹⁵ Kalu, 'Safiyya and Adamah', p. 394

¹⁶ Certified True Copy, *Transcript of Sharia Court of Appeal Sokoto State*, March 25, 2002, p. 44. Cf. Kalu, 'Safiyya and Adamah', p. 401.

¹⁷ Lamido, 'The real crime', 25th August 2002.

Altogether twenty human and women's rights groups came together in the 'Safiya Must Not Die Campaign' (SMNDC) to organize her appeal.¹⁸ These activist groups were Non-Governmental Organizations (NGOs) like BAOBAB, Civil Liberties Organization, Access to Justice, the Campaign for Democracy, Women's Rights Advancement and Protection Alternative, the National Coalition on Violence against Women, Women's Defence Project, the International Federation of Women's lawyers, the National Council of Women's Societies and Women Advocates' Research and Documentation Centre, and others. All these groups opposed Safiya's sentence of death by stoning. They articulated a variety of concerns in Safiya's case. They hoped to fight against the execution and sentences, particularly to prevent a reoccurrence. In defending Safiya's case, some supporters drew attention to Safiya's daughter, Adamah, who would be deprived of a mother. Others emphasized that the law was biased along gender and class lines for only women and the poor bore the brunt of the Shari'ah law.¹⁹

The second case involving a sentence of stoning to death was that of Amina Lawal, who had given birth to a child, Wassila, outside of marriage. She was thirty years old, uneducated, and lived in her father's polygamous household with his two wives and numerous children in Kurami, Katsina State.²⁰ On 22 March 2002, a Shari'ah court in Bakori, Katsina State had sentenced Amina to death by stoning. Like Safiya, she was a poor woman who had been seduced and abandoned by her lover. She insisted the man responsible for her pregnancy, Yahaya Muhammad, had promised to marry her. However, he denied paternity of her child and produced four witnesses who testified he did not have a sexual relationship with Amina. As with Safiya's case, the man involved in the case went free.

As in the case of Safiya, human rights and women's groups organized the campaign to free Amina. As a result, her case became an international *cause célèbre*. Amnesty International and other groups launched a campaign of letter writing and petitions calling for the release of Amina. The details of this case are well known, and I need not describe them here.²¹ After many months, the Nigerian-based women's rights group in customary, secular and religious laws; BAOBAB, complained that well-meaning women's and human rights groups hindered their efforts in organizing an appeal case based on local understanding of diplomacy and law.²² BAOBAB officials argued that they had a better local understanding of diplomacy and law, and had already achieved some success because of the strategy they had developed. Together with the lawyers, BAOBAB succeeded in getting the conviction overturned. Safiya was freed in March 2002 and Amina; September 2003. Amina Lawal, on the other hand has since remarried on 2 April 2004.²³

The Nigerian Press

¹⁷ Kalu, 'Safiyya and Adamah', p. 398.

¹⁹ Ogbu Kalu, 'Safiyya and Adamah: Punishing Adultery with sharia stones in Twenty-First-Century Nigeria' p. 398

²⁰ Jeff Koinange, 'Woman sentenced to stoning freed'

[Http://www.cnn.com/2003/world/africa/09/25/nigeria.stoning/index.html](http://www.cnn.com/2003/world/africa/09/25/nigeria.stoning/index.html)

²¹ See 'Amina Lawal: Sentenced to death for Adultery' on [Http://web.amnesty.org/pages/nga-010902-background-eng](http://web.amnesty.org/pages/nga-010902-background-eng)

²² 'Hindering efforts of Human Rights Groups' on [Http://news.bbc.co.uk/1/hi/world/africa/3024563.stm](http://news.bbc.co.uk/1/hi/world/africa/3024563.stm) See also 'Please stop the international Amina Lawal protest letter campaigns' on [Http://www.baobabwomen.org/press.html](http://www.baobabwomen.org/press.html)

²³ Puttin, Renee Ilene, "Women and Work in Northern Nigeria:" p. 1.

The international media and western scholars have addressed many aspects of the Shari'ah case, ignoring the opinions of Nigerians. This paper seeks to shed light on the opinions of the Nigerian people as promoted in some of the newspapers. It examines press reports and a limited number of interviews with residents of Ibadan, the second largest city in Nigeria. Its population is roughly fifty percent Christian and fifty percent Muslim. It looks at such issues like the position of Muslim women in the southwest, reactions of Muslim women to the two cases of *zina*, and reactions of some Christians and other persons in southwestern Nigeria.

While the cases of Safiya Hussein and Amina Lawal prompted a nation-wide debate about the status of women under Shari'ah, southwestern Nigerian Muslims and Christians departed radically from Northern Nigerian Muslim opinion. The print media became a major vehicle in the development of public opinion. Since the mid-nineteenth century there has been a strong Nigerian press operated by an articulate indigenous intelligentsia that has deployed newspapers as an important vehicle to mobilize public opinion.²⁴ However, from the 1970s, the press has taken part in the dialogue about women's participation in public life and Shari'ah. The largest number of newspapers and news magazines are based in Lagos but important newspapers are also published in Ibadan, Ilorin, Abia and Onitsha.²⁵ Their coverage reflects the fact that their readers are both Muslims and Christians.

The southern Nigerian press therefore provides important material for understanding the perceptions of Southern Nigerians regarding the cases of Safiya Hussein and Amina Lawal. Historically, there has been an easy tolerance between Muslims and Christians in this region. Among the Yoruba, it is common to find Muslim and Christian members of the same family happily co-existing with one another. Intermarriage between the two faiths is also common. Southern Nigerian newspaper editorials and articles have reflected the opinions and fears of all sectors of the community, both Christians and Muslims. They have commented on the constitutional interpretation of the practice of Shari'ah and as practiced in the twelve Shari'ah states.²⁶ Considered together, this public discourse was geared towards the realization of national unity in the multi-ethnic and multi-religious society like Nigeria. In this section of the paper, I shall be examining the reactions of a Muslim, a Christian, and a Lawyer. I will also analyze the editorial reaction of *The Guardian*, one of the most widely read newspaper published in Lagos. Barrister Bashir Hammed Folorunsho is a Yoruba Muslim lawyer in Ilorin, Kwara State (northern Nigeria). Ilorin is solely a Muslim society.²⁷ Ilorin is an important Muslim town and its importance dated back to not later than 1817, when it became a jihadist center for the expansion of revivalist Islam into southwestern Nigeria.²⁸ He holds the view that Shari'ah as practiced in

²⁴ Agbaje Adigun, **Nigerian Press, Hegemony, and the Social Construction of Legitimacy, 1960 – 1983**, (Lewiston: E. Mellen Press, 1992) see also Adigun Agbaje, 'Freedom of the Press and Party Politics in Nigeria: Precepts, Retrospect and Prospects' in *African Affairs*, Vol. 89, No. 355 (Apr., 1990), 205 – 226.

²⁵ The Guardian Newspapers (Lagos), The Daily Sun (Lagos), The Comet (Lagos), The Vanguard (Lagos), The Punch (Lagos), The Nigerian Tribune (Ibadan), THISDAY (Lagos), and The Monitor (Ibadan).

²⁶ Twelve States that instituted the Shari'ah in Nigeria are: Zamfara, Niger, and Gombe States (January 2000); Kano, Sokoto, Katsina, Bauchi, Borno, Jigawa, Kebbi, Kaduna, and Yobe States (June 2000).

²⁷ Barrister Bashir H. Folorunso, 'The Constitution does not allow criminal aspect of Sharia' *Daily Sun* (Lagos), 24 March 24, 2004, p. 22

²⁸ On Ilorin see Samuel Johnson, The History of the Yorubas from the Earliest to the Beginning of the British Protectorate (Lagos: CSS Books, 1976 [1921]), pp. 178-283; Robin C. Law, The Oyo Empire c.1600-c.1836: A West African Imperialism in the Era of the Atlantic Slave Trade (Oxford: Clarendon Press, 1977), pp. 245-302; "Chronology of the Yoruba Wars, pp. 211-22; "The Constitutional Troubles of Oyo in the Eighteenth Century",

the twelve Northern states of Nigeria was unconstitutional. He said that Shari'ah law exists in Ilorin, being a purely Islamic society, but the Shari'ah practiced in Ilorin is different from what obtains in the north. Barrister Folorunsho stated that:

Sharia has been the core centre of Islam in Nigeria since the Jihad of Usman Dan Fodio in 1804. And apart from a few cities like Zaria, Kano, Sokoto, you cannot see elsewhere the type of what is happening in Ilorin. Virtually all Ilorin people are Muslims. You don't have anybody from Ilorin that can tell you he's a Christian. He must have come from a neighboring town. So, Sharia has been our system from the beginning. We don't believe in that (Shari'ah) of Zamfara. Do you know why? *Sharia* has been there for a very long time, and you know we have Sharia court of Appeal all over the northern part of the country. And if you look at the constitution, it allows this. Any state that wants can have the Sharia court of appeal. And our legal system there has been entrenched in it. Even if you go to the penal code, you now have two codes in Nigeria. The other one is the criminal code. The penal code of the north has already taken care of so many things concerning Sharia. ... The one you see in Zamfara is purely the criminal aspect of it, which the constitution did not allow from the beginning. It's the one they are now hammering on, that somebody commits adultery, and you should stone him etc. The only difference is that we don't do that in Ilorin. You know the constitution does not allow it.²⁹

The Deputy Secretary General of the Catholic Secretariat of Nigeria (CSN), Reverend Father George Ehusani also responded to the Shari'ah debate, putting a Christian view forward. He contended that Shari'ah is capable of dividing the country:

Reacting at the weekend in Lagos to the amputation carried out in Zamfara State, Ehusani said the development had made it more urgent for a serious discussion on the need for the corporate existence of Nigeria. We want a new constitution for this country and if that is going to be brought through a sovereign National conference; through a constitutional review or whatever form, all that we are calling for is a new constitution for this country that will guarantee freedom of religion, where the state will have nothing to do with the prescription of any religion.³⁰

These two commentaries centered on the practice of Shari'ah and its implications to the unity of the Nigerian state. Olusegun Adeniyi, of **This Day** devoted his article, to the issue of the two women accused of *zina*. In his word:

These stories (the two women accused of *zina*) have become rather instructive because in his sermon in our Church last Sunday, Brother Lanre Ajanaku, a young man with pastoral calling who is still marking time in the banking hall, raised one interesting poser, "What about the man who was committing adultery with the woman, what happened to him?" ... The message in there is that women have always been victims in this game and now we can understand why Amina (and Safiya) has to bear the brunt alone for an act committed by two people.

JAH, 12, 1971, pp. 25-44 and "The Northern Factor in Yoruba History" in Akinjogbin and G. O. Ekemode (eds.), Yoruba Civilization (Ile-Ife: University of Ife, 1976), pp. 103-132; Akinjogbin, "The Prelude to the Yoruba Civil Wars of the Nineteenth Century", ODU, 2nd Series, 1, 2, 1965, pp. 24-46 and "The Oyo Empire in the Eighteenth Century—A Reassessment", JHSN, 3, 3, 1966; J. A. Atanda, "The Fall of the Old Oyo Empire: A Reconsideration of its Causes", JHSN, 5, 4, 1971, 477-90; Wande Abimbola, "The Ruins of Oyo Division", African Notes, 2, 1, 1964, pp. 16-19 and Abdullahi Smith, "A Little New Light on the Collapse of the Alafinate of Yoruba" in Gabriel Olusanya (ed.), Studies in Yoruba History and Culture: Essays in Honour of Professor S. O. Biobaku (Ibadan: University Press Limited, 1983), pp. 42-71 and Atanda, "Comments on 'A Little New Light on the Collapse of the Alafinate of Yoruba'" in Toyin Faola (ed.), Yoruba Historiography (Madison: University of Wisconsin, Press, 1991), pp. 105-121.

²⁹ Barrister B. Folorunso, 'The Constitution...'.

³⁰ Horatius Eguu (Religious Affairs Reporter) 'Religion has no business in constitution – Ehusani' *The Punch* (Lagos) March 28, 2000. p. 3

... the Islamic code under which Amina (and Safiya) were convicted was introduced after the act, not before, which means it would be retroactive, if carried out.

I have said it before and I want to repeat it again that the sad thing about the nature of *Sharia* being implemented in the North today is that it seems to be targeted at poor people and especially against women. It is indeed increasingly becoming a class thing.

And on the issue of adultery, we know the way many of our big people in Nigeria are with women. Majority of them, whether in the North or South, have no moral scruples. Yet it is this same set of people who would preach piety, who would order that a woman be stoned to death for having a child out of wedlock.³¹

From Olusegun Adeniyi's article, I have observed that not only did the issues relating to Shari'ah appealed to journalists, they also became subjects of sermons in Churches. This shows the level of concern generated by the convictions of the two women tried for *zina*.

The Guardian newspaper of 28 February 2000 provides an excellent summary of Southern Nigerian views published in its editorial:

Two issues are immediately fore grounded for consideration by the riots in Kaduna over the introduction of the Sharia in that state. First, is the reaction of the Christian community to what they consider a deliberate infringement on their rights as citizens within a secular state. Second, is the nature and form of the introduction of the Sharia itself. Following the nature and the adoption of Sharia in Zamfara state, ... This has caused considerable tension between Christians and Moslems, and that is perhaps an understatement. ...Close to 600 persons have lost their lives. A strange, macabre orgy of killing and deaths has overtaken that otherwise multi-ethnic and diverse state. What we faced with is religious intolerance.

We recognize the right of Muslims to fulfil the tenets of Islam to the letter, but the carnage that Sharia has brought is indefensible. Now Christians in Kaduna state are demanding their own portion of the state, a free and safe haven where they can be Christians. The Sharia issue is turning out to be extremely explosive. What economic advantages do its promoters seek? What is their interest in the Nigerian nation? What they want is really indeterminable. That is why the Federal Government must rise up today to halt the descent into this clearly avoidable abyss.³²

Men wrote all these newspaper articles. Both Muslim and Christian women in Southern Nigeria hesitated to enter into the press debate, but they were more forthcoming in the personal interviews I had with them. I conducted fourteen interviews; seven men and seven women in Ibadan. There were more Muslims than there were Christians. Most Christians whom I approached said they were not familiar with Shari'ah and so could not comment on the issue. It proved to be difficult to get Muslims to talk. Public sensitivity to the Shari'ah debate in Nigeria is responsible for people's reluctance to discuss the issue. Most of the women insisted on remaining anonymous. The people I interviewed had a variety of responses to issues surrounding the two accused of *zina*. Their perspectives were informed mainly by the fact that Yoruba land 'was proverbial for its religious tolerance.'³³

Southwestern Nigerian Muslim women belong to a variety of women Islamic organizations. They have established these organizations mostly for promoting the learning of the precepts of the Qur'an, encouraging the development of good Muslim homes. Women believe that they are the major instrument through which this dream can be realized.³⁴ According to Alhaja Lateefah

³¹ Olusegun Adeniyi, 'The Woman Caught in Adultery' *THISDAY* newspaper (Lagos), September 12, 2002, backpage.

³² "Sharia and the Kaduna riots" *The Guardian* newspaper (Lagos), February 28, 2000, p. 20.

³³ Banjo Ayo, *In the Saddle: A Vice-Chancellor's Story*, (Ibadan: Spectrum Books Limited, 1997), p.72.

³⁴ Interview with Mrs. Nike Ishola, Feb. 27, 2004, Ibadan.

Okunnu, a Lagos politician and the first woman to hold office as a deputy governor, Muslim women organizations were:

...established to meet the dual purpose of informing their members on the religion of Islam and propagating the faith. Among their common objectives are the creation of avenues for proper understanding of the religion of Islam and propagating the faith. Among their common objectives are the creation of avenues for proper understanding of the religion, identification of the problems of Muslim women and helping to solve them, and proper education and up-bringing of children according to the tenets of Islam, as well as efforts to help the less fortunate members of the society. As a result of these activities, we now have many Qur'anic schools for children, nursery schools with Islamic bias and adult literacy classes. The effects of these efforts are visible. Muslim women are becoming articulate on matters of religion and Islamic education is within the reach of many Muslim children.³⁵

From this statement and the objectives of the Federation of Muslim Women's Association of Nigeria (FOMWAN), it is clear that Muslim women in Southwestern Nigeria do not view gender-equality as the most important objective for improving their lives. Instead, they are more inclined towards promoting the spiritual and physical welfare of their members.³⁶ Mrs. Ishola, a member of the *Badirudeen Asalat* Circle, contends that:

All the activities of our organizations are carried out in accordance with the precept of the Holy Qur'an. Apart from the reading of the Qur'an, which is normally done at the beginning of every meeting, the other important program is prayer. Any activity or activities, which are contrary to the teaching of the Qur'an are not carried out. The position of women in the Qur'an does not give room for parity between women and men. Women as a result of the fact that they are either wives in their husbands' homes or daughters in their fathers' homes are to respect and obey their husbands and fathers. These orders are Islamically guided. To engage in hermeneutics towards enhancing gender equality and justice is to commit a grievous sin.³⁷

However, both Okunnu and Ishola hold the view that, though the Qur'an spelt out in details the relationship between husbands and wives, the position of women is not geared towards making women occupy any subservient role. They believe that those provisions in the Qur'an that restrict women's movement, exposure, dressing, and their general way of life are meant to protect them from harassment.³⁸ This they say does not imply they should not work. As far as they are concerned, the Qur'an permits them to work and acquire some education. Alhaja Bilikisu Raji, a prominent member of the NASFAT Islamic Society -- though a trader and not educated, says she values education. She says all her children, both male and female, are graduates. She said in Yoruba: *tori omo ni mo se n sise* – this literally means I am working because of my children.³⁹ There is no bias against the education of the girl-child in the Muslim societies of Southern Nigeria. Alhaja Raji corroborates her standpoint with some *Hadith* verses:

Acquisition of knowledge is a duty bound on every male and female Muslim. Knowledge is also property of every Muslim. He has a right to it wherever he finds it. Seek knowledge even if it is available in so

³⁵ Alhaja Lateefah Okunnu 'Women, Secularism and Democracy: Women's Role in the Regeneration of Society'. Paper delivered at the Conference on Sharia held at the Commonwealth Centre, Commonwealth Institute, Kensington, London, 14 – 15 April 2001, p. 4.

³⁶ Alhaja Lateefah Okunnu 'Women, Secularism and Democracy See also <http://www.ifh.org.uk/fomwan.html> . FOMWAN is a federation of over 150 Muslim associations spread across Nigeria.

³⁷ Interview with Mrs. Nike Ishola, Feb. 27, 2004, Ibadan.

³⁸ Interview with Alhaja Bilikisu Raji, Feb. 24, 2004, Ibadan.

³⁹ Interview with Alhaja Bilikisu Raji, Feb. 24, 2004, Ibadan.

distant a land as China. The virtues of a learned believer is like the virtues of the moon over the rest of the stars.⁴⁰

When Shari'ah was newly introduced in the North, Mrs. Ishola's group (the *Badirudeen Asalat Circle*) enquired from their Imam if it was right to have Shari'ah in multi-ethnic and multi-religious States of Nigeria. They were told by their Imam that Shari'ah as introduced in Northern Nigeria was right, because it should be the law for all Muslims but that Nigeria was not at the stage where Shari'ah could be practiced.⁴¹ Their Imam shared Asad's view:

The Islamic state must be so constituted that every individual, man and woman, may enjoy that minimum material well-being ... for there can be no real happiness and security and strength in a society that permits some of its members to suffer undeserved want while others have more than they need. Where the state does not fulfill its duties with regard to every one of its members, it has no right to invoke the full sanction of criminal law (*hadd*) against the individual transgressor, but must confine itself to milder forms of administrative punishment.⁴²

On the women accused of *zina*:

When the first one happened (Safiya Hussein) we were not too interested because we knew it would not happen in here and because we believed that since it was so decreed in the Koran, the punishment as prescribed must be carried out. But when the second sentence (Amina Lawal) was pronounced on that woman who was pregnant out of wedlock there was a serious outcry centered not on the need to carry out the injunctions of the Koran on such sins but on why the men concerned in both cases were freed. We took the case to our religious leaders who had serious talks with us. They said that though the women were guilty and had to be punished, they wished such executions should not be carried out so as to preserve the image of Nigeria. But for us women we did not want the sentence to be carried out as long as the women were going to suffer the punishments alone.⁴³

The Muslim women I interviewed were distinctly disinterested in the two cases of *zina* addressed by this paper. They were not particularly interested in the court proceedings, but they agreed that Safiya Hussein and Amina Lawal had been treated unfairly. They agreed that the women should be released since the men had been released. They hesitated to air their opinions for fear by rebuke their religious leaders. One informant, Alhaja Bilikisu Raji [a pseudonym], said:

I am not aware of the proceedings of the case and how the Ulamas arrived at the conclusion that the women are guilty. I am not in support of the introduction of Sharia Law in any part of the country. This is not because the law is not good. It is because of the fact that it was a politically motivated one. Nigeria as a country cannot practice the law like several countries in the Middle East, which has been used to it for several centuries. Also, the nature of the administration of justice can easily be twisted by any category of learned Islamic Scholar because of the need to achieve some set of chauvinistic purposes. The Amina's case is a disgrace to the position of Nigeria in the comity of states. I am not happy with the judgment because of the fact that Sharia law and its administration in the Northern part of the country was an aberration. I am not very versed in the provisions of the Sharia Law. This is based on the fact that is not practiced in this part of the country. Generally, several Islamic organizations, which I know, were not happy about the judgment at all. The only impediment is that one will look very crazy by trying to publicly denounce the judgment of the

⁴⁰ *Hadith* of the Holy Prophet Verses 50 – 52.

⁴¹ Interview with Mrs. Nike Ishola, Feb. 27, 2004, Ibadan.

⁴² Muhammad Assad *The Message of the Qur'an*, cited in Sanusi Lamido Sanusi *The Hudood Punishments In Northern Nigeria: A Muslim Criticism*, **ISIM NEWS**, the quarterly publication of the Institute for the Study of Islam in Modernity, Leiden, Holland. [Http://www.gamji.com](http://www.gamji.com)

⁴³ Interview with Mrs. Nike Ishola, Feb. 27, 2004, Ibadan.

Ulamas in the North. Religion is a very volatile thing. One's argument can easily be misinterpreted or misunderstood. That is why several Muslim women or women organizations during that period were not obliged to make public their disposition to the issue. A lot of us are not well versed in the teachings of the Qur'an. It will be very crazy for us to therefore argue for or against the provision of the Sharia Law.⁴⁴

Apart from fear of rebuke by religious leaders, the limited knowledge of the provisions of the Shari'ah law by southwestern Nigerian women was responsible for their silence on the issue, which affected their counterparts in the North. The Muslim women I interviewed were distinctly disinterested in the two cases of *zina* addressed by this paper. They were not particularly interested in the court proceedings, but they agreed that Safiya Hussein and Amina Lawal had been treated unfairly. One informant, Alhaja Amoke Kadiri [a pseudonym], said:

Here in Yoruba land, we do not practice Shari'ah. Islamic women are enjoined to follow all the commands of Allah in their relations to either their husband or their father. I do not know if Islamic Feminism is practiced in the northern part of the country where Shari'ah Law is practiced. There is nothing wrong with Shari'ah Legal System. The administration of justice is the problem. The fact that the Nigerian Shari'ah was politically motivated gives room for suspecting the verdicts of the Ulamas in the Amina's case. Several Muslim women in the South could not make any public condemnation on the Amina's case because of what some advocates of Shari'ah are capable of saying or doing. Currently, we are interested in making sure that our daughters are well educated because it is only through proper education and teaching of the words of God that people can be able to differentiate between what is right and wrong. The provisions of the Holy book and the ways they are used are based on several factors, which include cultural background. Muslim women organizations join hands with several other women organizations which are non-religious to agitate for some important problems, which affect the status of women.⁴⁵

Two of my informants were Hausa women who lived in Sabo, the main Hausa Muslim area of Ibadan. Although they defended Shari'ah law, they did not agree with the sentences imposed on Safiya and Amina. One of them said:

As a woman, I rejoiced with Amina Lawal and Safiya Hussein. I would not have been happy if they were stoned to death. Those who advocated stoning were only interpreting the Quoran to suit themselves. Sharia is part of Islam, and it is meant to bring us closer to Allah. But politicians have hijacked it to suit their own purpose. If politics can be divorced from sharia it will be better.⁴⁶

The other Hausa woman asserted that:

Sharia is good. But women should not be the only victims when it comes to adultery. Both men and women, we are all subject to the laws of Allah. As to Amina Lawal and Safiya Hussein, I rejoice with them because they would just have been sacrificial lambs.⁴⁷

Of the Christians interviewed, agreed to comment on Shari'ah. The woman responded to the issue based on her understanding of Christian precepts of justice, and its implication for a multi-religious society like Nigeria. She is not familiar with the basic tenets of Islam despite the fact that her family included Muslim members. According to her:

⁴⁴ Interview with Alhaja Bilikisu Raji, Feb. 24, 2004, Ibadan.

⁴⁵ Interview with Alhaja Amoke Kadiri, Mar. 29, 2004, Ibadan.

⁴⁶ Interview with Hajia Jumai Bawa, Mar. 13, 2004, Ibadan.

⁴⁷ Interview with Hajia Aisha Rabi, Mar. 13, 2004, Ibadan.

The Catechism of the Catholic Church teaches that "peace is the work of justice and effect of charity." The primary tenet is the assumption of "the transcendent dignity of man." Upon this foundation rests the principle of justice, a virtue that means "to preserve our neighbour's rights and render him what is his due." The preservation of these rights entails all forms of development, ensuring that the person has sufficient means at his disposal to flourish. It is "injustice, excessive economic or social inequalities, envy, distrust, and pride raging among men and nations that constantly threatens peace and causes wars".

The mode of operation of the sharia brand of justice seems to me to have assimilationist tendencies. There seems to be a craving for a jihad on the part of young, misguided Islamic militants. This attitude is bound to be violently resisted by members of the other religions as is already occurring in some parts of Nigeria.

The one-sidedness of sharia law, especially in issues that have to do with adultery/fornication is nauseating. Men can have their way, while women have their lives endangered. This may see some women changing from Islam to other religions - and this may also be resisted by male Muslim zealots. I may also add, as more Muslim women become better educated and consequently economically empowered, they may find a more liberal religion tempting, rather than a stifling and gender-biased one.⁴⁸

To what degree does this view represent Christian opinion in Southern Nigeria? More research is needed for an understanding of this aspect of interfaith understanding. However, Dr. Ogunbunmi's statements reveal some fundamental misunderstanding of the nature of Islam, as is common with most Christians. It is obvious that she blames most inter-ethnic strife in Nigeria on the newly implemented Shari'ah. She could not be far from the truth because most of these clashes were religious in nature. The male Christian is a Henry Winters Luce Professor of World Christianity and Mission, McCormick Theological Seminary, McCormick University, who happened to be present at the court proceedings and was with Safiya when she was in Rome to 'receive the key to the city of Rome'.⁴⁹

He gives an eyewitness account of the Safiya Hussein's case:

As for popular reaction to Sharia, I was surprised that the people were happy about it for several reasons - mark of identity, a measure of mobilization of Islamic *Ummah*, hope of greater social security, employment for Sharia enforcers, belief that it would engender development, and a true religious commitment. It was interesting that it was Safiya's brother who reported her pregnancy to the Sharia enforcers. Later, he was running around to get money from reporters and rights' workers who came to their village! A Federal Government Information Officer told me that many people watched with dismay as their children became morally debauched and believed that Sharia would bring back moral discipline. There is little doubt that politicians read their people rightly and exploited the mass support. Recall how pilgrims in Saudi booed Atiku when he visited the Nigerian camp and cheered the Zamfara governor. Indeed, even the Governor of Sokoto did not want the Sharia but feared the consequences. The last people who wanted the Sharia were the governors of Niger and Kaduna. It was so popular that the governors gave the Mallams a large space in designing the codes. This partially explains the flaws in the designs. A lawyer complained bitterly that the Mallams would not even permit trained professionals to advise them; that the governors were powerless to intervene; that he has lost government business because he warned the governors against the activities of Mallams and incurred the latter's wrath. It was as if they created a Frankenstein monster that they could no longer control. The class dimension to Sharia has become glaring: who is dragged to the court? But that has not brought the disillusion predicted. However, leaders realize that only social reforms could preserve the popularity and are trying to make noises in that direction. The decision to free Safiyya did not raise a fanfare of happy supporters. Rather, the state government made efforts to image it as a FG interference with a deliberate intention to abuse Islam. This explains all the wild rumours that the Italians loaded Safiyya with

⁴⁸ Interview with Dr. (Mrs.) 'Lanre Ogunbunmi, Mar. 28, 2004, Ibadan.

⁴⁹ Kalu, 'Safiyya and Adamah', p. 407.

money and built her a house; that the Pope instigated her visit to Rome. I was in Rome with her and knew all about the arrangements! The judges made the pointed remark that it was not allowed for anyone to prevent the *hudd* from being applied. This opened the door to two interpretations: public and international outcry saved her; the justice within the Sharia laws saved her.⁵⁰

Prof. Ogbu Kalu claims that ‘the justice within the Shari’ah laws saved her’, might not be unconnected with verses from the Qur’an and the Hadith. Some of these hadith outline capital punishment as a penalty for adultery. Two of these are particularly instructive to this discourse and they are as follows:

Imran b. Hussain reported that a woman from Juhaina came to Muhammad and she had become pregnant because of adultery. She said: I am pregnant as a result of Zina. Muhammad said: “Go back, and come to me after the birth of the child.” After giving birth, the woman came back to Muhammad, saying: “please purify me now”. Next Muhammad said, “Go and suckle your child, and come after the period of suckling is over.” She came after the period of weaning and brought a piece of bread with her. She fed the child the piece of bread and said, “Oh Allah’s Apostle, the child has been weaned.” At that Muhammad pronounced judgment about her and she was stoned to death.

The second hadith reads thus:

Ma’iz went before Muhammad in the Mosque and said, “I have committed adultery, please purify me. Muhammad turned his face away from him and said “Woe to you, go back and pray to Allah for forgiveness.” But the boy again came in front of Muhammad and repeated his desire for purification. The act was repeated three times, until Abu Bakr, sitting close by, told the Ma’iz to leave, as the fourth repetition of the plea would get him stoned.... Muhammad then said, “had you kept it a secret, it would have been better for you.” Muhammad then ordered Ma’iz to be stoned to death. During the stoning, Ma’iz cried out, “O people, take me back to the Holy Prophet, the people of my clan deluded me”. When this was reported to Muhammad, he replied “Why did you not let him off, he might have repented, and Allah may have accepted it.”

It is worth noting that in all these, stoning occurred after one of the adulterers voluntarily went to Prophet Muhammad and bore witness against himself. In these two illustrations, the prophet asked those involved to go back severally and have a rethink before they were finally stoned to death. For these two women – Safiyya and Amina – at no time were they convinced that they were guilty such that they will deem it fit to report themselves to the *hizbah* groups or any of the Islamic clerics. Neither did they admit to their sins. Hence, the verdicts were based on false premises. The judgments were biased.

Conclusion

From the foregoing, the reactions of the Nigerian civil society reveal the following:

1. The implementation of Shari’ah is political and not religious
2. Shari’ah as practised in the North is unconstitutional
3. It violates freedom of religious practice
4. It is targeted at the poor
5. It is gender-biased
6. It is capable of undermining the unity of the Nigerian nation

⁵⁰ Kalu, ‘Safiyya and Adamah’, p. 407.

So much has been said in the international community about Shari'ah in Nigeria and in particular, about Safiya and Amina. It is common in the international media to use words like barbarism, but the Nigerian Muslims have said it is not the law that is barbaric but the way it has been executed. The legal process has even showed itself to be fair, thus, the release of the two women accused of *zina*. It is in this light that it should be understood that since Shari'ah was not implemented for religious reasons but political reasons that it has been badly implemented.

The state governments that established this law in their various communities did not bother to educate the people on its implication for their lives. In addition, the governments did not put in place the infrastructure required for the implementation of Shari'ah towards improving the socio-economic lives of the people of Northern Nigeria. The civil society has no objection to the implementation of Shari'ah provided it does not infringe on other peoples' rights and abide by the provisions of the Nigerian constitution. In keeping with the provisions of the constitution, the rights of men, women and children should be guaranteed. It is worth noting that Southern Nigerian Muslim women have not responded to the *zina* cases the way their counterparts around the world would have done – perhaps out of the ignorance of feminist hermeneutics. Instead, they engage in the reading of the Qur'an, with the aim to build good Muslim homes and inculcate in their children Islamic values. They are not involved in the drive towards the realization of gender-equality like other Muslim women in the world; even when they believed the judgments were gender-biased. This is because they believe their men are liberal enough and are supportive of their life ambitions. This could be a function of the patriarchal society in which they have found themselves.