

The MacMillan Center Working Paper Series

Local Practices, Global Controversies: Islam in Sub-Saharan African Contexts

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The MacMillan Center
December 2005

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The Whitney and Betty MacMillan Center for International and Area Studies at Yale
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Introduction*

Kamari M. Clarke

Since the events of September 11, 2001, topics related to Islam, religion, politics, and social change in the Middle East have been at the forefront of American secular consciousness like never before. Just as the development of the modern secular state has led to the reinforcement of particular norms such as individual rights and democracy, Islamic revivalist movements are having a profound effect on many of the presumed norms of secular authority. Throughout Africa, South and East Asia, the Middle East and in parts of North America, Islamic movements are gaining significant ground.

In many African contexts, Islam has had a deeply historical presence and has been a central driving force in the reconceptualizations of increasingly pluralist states as well as the consequences of various failures. Yet Islam in Sub-Saharan Africa remains under-examined by mainstream scholars in the social sciences. Approximately one-fourth of the one billion Muslims around the world live in African nation states, and in these places Islamic institutions are being redefined, and in some cases revived, in an effort to shape new terms of governance and legitimacy in an increasingly expanding global domain. These developments have not been without consequence. For as increasing numbers of new local Islamic institutions and networks of trade and sociality continue to take shape, global controversies related to disjunctures in Islamic and neo-liberal contexts are becoming increasingly acute. Nevertheless, opposition to Islam is longstanding and has been interconnected with the conquests over land, power, economy, and allegiance to the state. The histories of Islam in the region that we now know as Europe, as well as South and Eastern Asia and Africa, are embedded in claims to power and contestations over the meanings of symbols and practices.

The development of secular governance in the Americas and Europe as well as in Africa and other parts of the developing world is part of a genealogy of religious conquest over territory in which Christians and Muslims have been embattled over centuries. In pre-modern encounters with Christianity, Islamic Muslim forces such as armies en route to Constantinople met Christian armies in battles known as crusades.¹ Many Muslim converts fought in an attempt to both claim territory and proselytize, as well as to defend their existing territory from, amongst others, invading Christians. Similarly, Christian armies often fought in the name of Jesus Christ, assured of eternal salvation by the Church. In the late 15th century Spain joined the Christian empire and with the help of Christian armies and the increasing

* Special thanks go to Lucy Moore, Sheriden Booker, Evon Clarke, Hauwa Ibrahim, Mihri Inal-Cakir, Joseph Hill, Lora LeMosy, the Council on African Studies, and the staff at the MacMillan Center.

institutionalization of the teachings of the Papacy and its devout followers² they were able to defeat Muslims³ who had dominated what would become modern Europe for many centuries. However, various Muslim forces regained control of the territory now known as the Middle East and conversion to Islam continued as they established communities of the faithful, simultaneously leading *jihads* in Africa, South Asia and throughout Eastern Europe. These *jihads* and conversions led to the spread and development of Islam from the mid-sixth century, and, over time, the eventual formation of three major Islamic divisions—*Sunni*, *Shi'a*, and *Ahmadi*. Each of these groups developed related, but interpretively different forms of Islamic law. Of these three divisions, by far the most prevalent in Sub-Saharan Africa is the Sunni branch of Islamic law and principles, which includes four main schools (*madhahib*, sing.: *madhhab*): *Hanafi*, *Hanbali*, *Maliki*, and *Shafi'i*. Named after their founders (Imam Abu Hanifa of Kufa, Iraq for the *Hanafi* school of jurisprudence; Imam Ahmad ibn Hanbal of Baghdad for *Hanbali*; Imam Malik ibn Anas of Medina for *Maliki*; and Abu `Abd Allah ash-Shafi`i of Medina for *Shafi'i*), all four schools continued to develop in various regions and established conceptions of Islamic practice in different political and cultural contexts. Using their interpretive bodies to entrench legal systems which worked through Shari`a courts, they became central to ways that various cultural logics of Islam played out in different regions.

Prior to Islamic crusades, African regions were populated by pagan worshippers. However, in A.D. 641, the Arab commander `Amr ibn al-As led his army across the Gaza Strip and into Egypt and outward into Morocco, Mauritania, Egypt, Libya, Tunisia, and Algeria, ultimately leading to the formation of Islamic social organization in Northern Africa. The spread of Islam by Muslim rulers into various parts of Sub-Saharan Africa was accompanied by its system of *Sunni* administration under the *Maliki* system of Islamic governance. The school of Imam Malik ibn Anas (ca. 710-96), the second largest school of Islamic law, followed by approximately twenty-five percent of Muslims, became the most widespread school in Sub-Saharan contexts. Maliki legal and religious prescriptions have combined with diverse manifestations of Sufism, or Islamic mysticism, leading to the formation of variations that have taken hold throughout the continent. Sufism, more a tendency than a school or division, was adapted to myriad local and translocal circumstances, occupying a wide range of positions between textual orthodoxy and syncretism. Today, the conversion to the Islamic faith has spread to regions throughout Africa where it is now predominant in regions ranging from Niger, Mali, Guinea, Senegal, Nigeria, Eritrea, Ethiopia, Chad, and Somalia, to

other regions in which there exist sizable minority populations such as Kenya, Sierra Leone, Tanzania, Ivory Coast, and Ghana (Hunwick, 2005). However, at the heart of these developments are struggles over the challenges of negotiating pluralist politics in ethnically and religiously complex regions. Accordingly, questions concerning what texts, laws, principles and cultural practices are to guide norms and provide a basis for social organization are at the forefront of this volume.

Trajectories of Islam Today

Today, popular Islamic beliefs locate the mortality of the body as merely a stage of life itself.⁴ Founded on the following five principle pillars: (1) the *shahada*: the testimony declaring, “there is no good but Allah and Muhammed is the prophet of Allah, (2) *salat*: the performance of the ritual prayer to be conducted five times per day, (3) *zakat*: the offering of alms and taxes, (4) *sawm*: fasting once per year during the month of Ramadan, and (5) *Hajj*: the pilgrimage to Mecca, Islam represents a reverence for the sacredness of life, dedicating this life toward ensuring everlasting life. These foundational requisites outline key tenets for which human relationships with “God” are sustained.

In establishing the basis for authority however, it is the Qur’an which represents the primary source of knowledge and authority and is seen by most adherents as the word of God, as such the Qur’an is as the divine text that shapes the understanding of Islamic principles. From 571 A.D. to his death in 632 A.D., the Prophet Muhammad, seen by many as a conduit of Allah (God), laid down the principles of Islam by outlining a life philosophy in the Qur’an. In addition to the Qur’an, Sunni Islam considers the statements and actions of Muhammad, individually known as *hadith* and collectively known as *sunna*, to be the second authoritative body of knowledge. Together, the Qur’an and *sunna* are the two primary sources of Islamic law, or *fiqh*. These texts offered a philosophy of life guided by principles and rules through which the faithful could participate in their own regulation. In most Islamic interpretations, like many religious traditions, these religious texts are living documents through which people have the power to apply core principles to changing social contexts. In addition to Qur’an and *sunna*, Sunni Islam recognizes two other authoritative sources when answers are not explicitly given in holy texts: consensus (*ijma`*) and analogical reasoning (*qiyas*). Qur’anic commentaries constitute traditions of reading, reasoning, justification, and negotiation, thereby rendering religious readers active agents in the production of interpretative meaning. Ultimately, the existence of such texts led to the use of

legal reasoning in order to establish the basis for the authority of the Islamic law, known as the Shari'a. However, the challenge of the Shari'a is that it relies on human interpretations of Islamic sources. It is the conception of the existence of God's divine made manifest through subjective interpretive determinations and applications to realities, leading to a crisis of the legitimacy of the interpretive act. This dilemma is known to Islamic legal scholars as being resolved with the distinction between the Shari'a and *fiqh*. As understood, the Shari'a is seen as the divine ideal existing in an uncorrupted state of being. However, the Arabic term *fiqh* is the concept used to describe the human attempt to understand and apply that ideal—Shari'a divine law. As such, the Shari'a, as religious law, is seen as immutable and flawless, but the *fiqh* is seen as flawed (*Fadl*).

It is the *fiqh* that represents what has been seen as “the political.” This practice of applying the ideal is what is often seen as a product of the political Shari'a. Nevertheless, the diversity of Islamic practices in sub-Saharan Africa today reflects the various ways in which members of the Islamic faithful have not only differently interpreted the Qur'an and hadiths, but it also reflects the ways that different leaders have attempted to address the challenges of inclusion in secular governance, especially in relation to the ways that Christian principles have played a critical role in the epistemological formation of laws, politics, and general social and economic logics of modern democracies.

With the goal of charting a culturally complex and historically grounded perspective on the influences and challenges of Islam in relation to democratic rights and global movements in Sub-Saharan Africa, the foregoing chapters examine Islamic formations—religious, cultural, political, social—with the hope of elucidating the ways that histories of divergent religious practices in Sub-Saharan Africa have been differently aligned with the history and politics of secularism in the West. By exploring a range of genealogies of the making of the modern world, as well as showing how the post-1989 revolutions have led to what David Held (1996) has referred to as the “triumph of liberalism,” the volume explores the historical formations of African Islamic life and interrogates the cultural and legal politics of governance, calling for analytic tools for understanding the cultural dimensions of world politics. For to explore such controversies as the results of the interpretation and implementation of rules of the Shari'a set against chapters of a State Constitution, or controversial norms of secular events, calls upon us to understand how alternate forms of governance have set in place competing conceptions of what constitutes normative practices and societal visions.

Following Max Weber's articulations of the alliance between Protestantism and modern capitalism and the ways in which capitalism has developed with various forms of Christian rationality (Weber, 1930), the chapters that follow explore the controversies that the state craft and its citizens, acting on behalf of their constituencies, confront when they either implement religious laws that run contrary to the principles of the neo-liberal subject, or when they deploy the language of human rights to defend a vision of humanity which privileges particular genealogies of governance over others.

In her essay in this volume entitled, "The Relationship between Divine and Human Law: Shari'a Law and the Nigerian Constitution", Ayo Obe begins by examining how Islam spread across what would become Nigeria in an effort to trace the genealogy of the Shari'a in Nigeria. Although 1804 is the year in which a Jihad of conquest spread Islam throughout Nigeria, she highlights that the ruler of the city of Kano, Ali Ghazi, was said to have been converted to Islam in the fourteenth century, while the kingdom of Bornu in North-eastern Nigeria was established by a Muslim ruler known as Ali bin Dunama (Ali Ghazi) who ruled from 1476 to 1503. Ali Ghazi was said to have traveled regularly to visit the Chief Imam Umar Masarriba in the Middle East to learn more about the Islamic legal system that came to be applied across those areas of Northern Nigeria that had Muslim rulers. As a result, Islam became entrenched there during the reign of Mai Idris Alooma from 1570-1602 and over time, Islam "spread across the country through contact, reaching across the Hausa and Kanuri kingdoms of the far northern part of Nigeria and down through the western parts into Yorubaland." Obe explores this history to show that the on-going process of amending the Shari'a is not new. Her goal is to explore how the Shari'a survived and changed over long periods.

By the late 1500s through to the contemporary period, Islam was entrenched in many regions and was accompanied by a range of laws and structures of practice surrounding its religious philosophies and laws. In The Sudan, as John Hunwick describes in his essay, "Islamic Revival in Africa: Historical and Contemporary Perspectives", Muhammad Ahmad "proclaimed himself Mahdi in the Sudan, but died before carrying out his grand plans." (p.32) Hunwick illustrates how the death of Muhammad Ahmad in 1885 left his successor, Khalifa 'Abdullahi, with the critical mission of establishing an Islamic state. By showing that Khalifa 'Abdullahi was instrumental in erecting Islamic laws and that this was followed by a conquest of the region by Anglo-Egyptian forces, Hunwick demonstrates that in this second period of the late 1890s until Sudanese independence in 1956 an Islamic experiment took shape until it was superseded by the formation of a

secular government, and then in 1989 superceded by a Sudan military regime which was revivalist and aspiring for “international recognition and influence.” Members of Sudan’s government carved out their political power through an alliance with the Ottomans and over time the northern and Muslim sector of The Sudan reaped the benefits of the Nile Valley-Egypt alliance because of its proximity to the Nile Valley, while the predominantly Christian south remained isolated and under-developed.

Tracing the formation of similar movements in Nigeria, Hunwick argues that this type of historical approach compares the development and revival of contemporary Islam, bringing to the fore the social politics of Islamic revival in two of Sub-Saharan Africa’s largest and most conflicted nation states. For as he demonstrates with the Nigerian case, “Muslims and Christians as well as adherents of African religions were precipitously thrown together in political union by colonialism [and] were presented at independence with the nation-state as their only political model.” The problem, Hunwick argues was that “older Muslim structures of government and society, while not eradicated, were radically changed by the colonial experience and found themselves at independence mere units of a larger, often alien, political structure.” His conclusion, that the historical processes that contributed to the problems in Nigeria and The Sudan will not be solved by technology, highlights how the contemporary period demands greater attention to issues of transnational alliances and Islamic networks.

Up to the middle of the nineteenth century in many regions of Western and Southern Africa, the north-south geography of Islamization shifted intensely with growing Islamic participation throughout West and Southern Africa, though the majority of trading activities were confined to many of the coasts. In the eighteenth century, as increasing numbers of European traders began establishing their presence, the need to expand trade into what was known as predominantly pagan or Islamic hinterlands and to undermine coastal trade competition led to the establishment of direct and indirect rule by various European powers, and eventually the securing of trade through the establishment of colonies. In those regions where Islam predominated, the systematization of various Islamic jurists took shape. The basic principles of law derived from the *Maliki* School shaped the formation of early Islamic law in various parts of Sub-Saharan Africa. As such, Muslim subjects were judged by *Maliki* jurors with jurisdiction over personal law and judgments were increasingly enforced by religious law and not necessarily that of the state. Prior to the independence of various Sub-Saharan African states, where Islamic rule encroached on customary laws, rules, and practices, the Shari’a

either superceded, modified, or overlaid them. For the Shari'a was a written system of law and derived power from the symbolic authority of God's word. Muslims were subject to their own system of personal law that created rights and duties based on people's subscription to a particular school. However, the spread of Islam did not mean the inevitable adoption of Shari'a law everywhere, especially in regions where occult practices dominated private arenas of public life. By the late nineteenth century, in various regions where laws were unwritten, European common law or canon law was often gradually implemented.

Such was the case in Cameroon in which the Portuguese and Spanish were forerunners in the colonization of this central West African state. However, in the nineteenth century Cameroon engaged in the Islamization of residents in the northern-most region, followed by colonization by the Germans, British and French in the South. By the end of the twentieth century, Cameroon, then a colony of France, was divided into two distinct regions: the Christian South and the Muslim North. As Hamadou Adama argues in his essay, "Islam and the state in Cameroon: between tension and accommodation", this division was only ephemeral since expansion could not be restricted into such a division. Rather, despite extensive colonial influence, as well as the rhetoric of Islamic distinction, Muslim chiefs affiliated with Sufi brotherhoods negotiated the maintenance of both Islam and traditional pre-Islamic beliefs, ultimately developing flexible methods of practice and rule.

A comparable formation of Islam in Senegal is explored by Joseph Hill in his article, "Sufi Specialists and the Globalization of Charisma: Religious Knowledge and Authority among Disciples of Baay Ñas." Here, Hill explores ways of understanding the role of embodied religious practices and experiences in the globalization of religion, challenging assumptions that religious globalization is limited to textual aspects of culture that travel easily, such as those emphasized by neo-orthodox Islamic movements. As he argues, Sufism has become globalized and we are seeing members of movements, such as that of the Taalibe Baay movement in Senegal and its global networks, spreading new techniques of cultivating of bodily dispositions and deeply religious experiences. Therefore, with attention to the global, Hill details the micropolitics of divine knowledge cultivation and its grounding in mystical, textual, and occult domains. As he argues, these reproductions of religious practice are transmitted in informal spaces that do not have a central bureaucracy or coordinated structure. And ultimately, it is the tension between "hierarchy and sublimely egalitarian charisma, between multiplicity and uniformity," that is contributing to the spread of such mass movements of Sufism.

Following this theme of religious movements and its spread transnationally, the next section of this volume focuses on the recent controversies surrounding Islamic movements in Northern Nigeria and their perceived political agendas. At the heart of this next section are the complexities of how to resolve the place of religion and law pluralist societies. Accordingly, the definition of law is not always construed through the enforce ability of a physical judicial system legitimized by the state. And in Islamic law there is no sharp distinction between religious and state authority. In the history of Islamic jurisprudence, the difference between applying the law of the community and the law of the territory depended on the subject position of the individual. In pre-colonial Nigeria, legal relationships were shaped by social relationships between people governed by the same system of personal law. However, this approach to jurisdiction changed with the nineteenth century development of British colonies in various parts of West Africa, as the shift in legal jurisdiction from personal rule to territorial rule led to the eventual establishment of territoriality as the modern basis for state rule. By extension, alongside the establishment of modern state authority developed a discourse of citizenship and rights and obligations of the citizenry that were conceptually shaped by contemporary Christian ethics and politically influenced by secularist liberal principles and philosophies. The law of the territory developed with the formation of the colonial state and was made to apply to everyone within the territorial confines of the British Empire. Employing systems of rule derived from the Middle Ages, involving the territorialization of legal jurisdiction of subjects rather than earlier mechanisms of personal rule, the formation of colonies and eventually states led to the development of districts which were structured according to conquered territories.

Following Ayo Obe, Rita Kiki Edozie addresses these complexities in her essay entitled, “Democratization in Multi-Religious Contexts: *Amina vs. the (Disunited) States of Nigeria*” in which she addresses questions of democratic justice in relation to Nigerian Islamicization. She concludes by arguing that resolving the Nigerian Shari’a question requires a critical debate about the epistemic principles underpinning Nigerian democracy. As she outlines, greater mutual understanding of political ideals, as well as approaches to justice that will improve approaches to rights and obligations, are central to resolving the Islam-democracy conundrum. This combination of individual rights and obligations of the citizenry, especially in relation to the history of secularism as the end of religious rule, is the backdrop around which the modern state gains its authority. For with the development of the modern secular state the religious foundations

of governance in contemporary liberal democracies were first replaced by the concept of “human nature” through which systems of natural law, natural morality, natural religion, and a natural theory of government took shape. Such theories demonstrated the need for civil government in order to secure individual survival at the price of the natural freedom of individuals (e.g., Hobbes), or in order to secure individual freedom within the limits of reason and law (e.g., John Locke). Theories using human nature as the foundation of the political, legal, and cultural order made it possible for European nations to put an end to the period of religious warfare and usher in enlightenment thought which advocated science and reason as the basis of governance. They also made possible, in most liberal democracies, perhaps inevitably, the separation of secular society as public and political from the influence of church and religious traditions as private and personal.

This separation owes its origins to enlightenment convictions that shaped the basis for natural law. The idea of natural law in Latin Christendom is linked to the medieval version of human rights drawn from Aristotelian thought. Aristotle identified the “natural right” by virtue of birth as opposed to the right accorded by convention, enabling seventeenth-century theorists such as John Locke to plausibly invoke natural rights against the emerging ambitions of the early modern state. In this sense, the ancestor of human rights first appeared as a form of political contestation and was closely linked to the volatility of property in relation to the need to protect one’s natural right from the arbitrariness of government. It was the formation of the notion of the self, Locke argued, that served to limit the contingent character of the individual through a legal concept of “the person.”

The liberal tradition which developed with the principle of the “legal individual” and the public entity known as the “modern state” shaped the distinction between two separate realms: one having to do with the authority of the state to punish and regulate crime (public principle) and the other having to do with the nature of individual rationality by which individuals could exercise rights (private reason). Secularism, then, arose in modern Europe and America as a political doctrine, and although it is often defined as the separation of the religious from secular, today, it represents new articulations of “religion,” “politics” and “ethics” (Asad, 1993 and 2003). As Talal Asad has recounted, the making of the modern state involved the redefinition of religion as belief and, therefore, distinctively private and outside of the public realm of politics. Religious beliefs, sentiments, and identity became personal matters that belonged to the newly emerging spaces of private life. In the context of those who wanted a strong, centralized state, religion was a threat because it provided what was often articulated as uncontrollable forms of rationality that were contrary to the perceived logic of state authority.

While it is true that in some contexts, in some places, with some persons, modern concepts of religious Islamic expression contravene with neo-liberal approaches to the individual, this is not because of the distinction between the secular and the religious—since the secular is often represented as the public and the non-secular as private faith. Rather, the similarities are that in defining “the individual” and related duties in specific spheres, both deploy forms of regulation that are governed through the law, economy, and self-discipline as political techniques. As such, the notion of the intrinsic worth of the individual in both spheres is connected to forms of authority that are imagined and constructed in particular ways.

In the case of liberal democracies, the measure of authority—the statute-based engine of the new legal norms—is a relatively new mechanism that has established modern domains of justice. It holds power not because it represents the democratically derived social contract, but because in keeping with revolutions of the West—France and America, for example (which absolved themselves from religious persecution or the inheritance of social standing)—these legal norms are the new social contracts of Western modernity within which particular forms of classification are made legible. In relation to the fundamental liberal principles of democratic citizenship and related notions of justice, therefore, modernization and the establishment of democratic states, whose principles of the endowed subject with citizenship rights have led to the search for the protection of individual rights, the desire for predictability, and the privileging of the authority of state power, is meant to symbolize the democratic will of the people.

Liberal universalism has proved attractive, historically, since discourses of liberalism— such as its assumptions about individualism and liberty—have become the starting point for any discussion on rights, democratic practice, state security and state interdependence. It has cornered the general world conception of what it means to be a “civilised” society engaged with other “civilised” states on the world stage. Accordingly, the state has claimed the power to sanction violence—to kill legitimately—for purposes of defense, police protection, and in some cases for capital punishment. This monopoly over what is seen as “legitimate violence” is often reflective of the moral and authorial function of the state. Thus, in introducing the criminal Shari’a to a country like Nigeria, the techniques of revivalism and politics of power suggest that religious adherents are challenging the core principles of secularism that shape the structure of liberal democracies as well as the nation-state’s claim as the ultimate authority of governance.

Attention to understanding competing claims to secular declarations of legitimate violence maybe understood by foregrounding the increasing role of Non Governmental Organizations, and pro-democracy movements in the United States.

The assumption that the state, as well as the rule of state-derived law, are the omnipotent authorities is misplaced if it assumes that the role of the secular nation has fundamentally eclipsed the role of religious faith as the authority of public loyalty. Rather, as the essays in this volume demonstrate, we need to look at the circumstances for the exercise of politics in Sub-Saharan African contexts by recognizing the ways in which the rise of capitalist economies in the modern world has been constituted by a Judeo-Christian logic, and rendered its manifestation as secular. The challenge, therefore, is connected to understanding the seeming antinomy of secular and Islamic governance—that is, the interface between predominantly secular governance conceptually shaped by Judeo-Christian sensibilities and Islamic governance under the authority of the Shari’a deployed to uphold particular Islamic principles.

For liberal democracies and their related secular nationalisms challenge the competing basis for supremacy of religious doctrine. Yet, the differences are not connected to differences in the nature of logics or the processes by which the imagination is mobilized. They are differences in the basis of authority as well as challenges over politics and resources. That is, how various state authorities go about settling age-old disputes over governance in Nigeria or The Sudan, Cameroon or Senegal, have everything to do with the range of options available to them in defining what constitutes the parameters for what acts are acceptable and what acts are punishable. In the end, the analytical challenge is a conceptual one that is fundamentally political. It is embedded in the deeply historical formations and contemporary competitions overpower and authority. How is one to understand the ways in which particular people and groups create norms and standards by way of creating boundaries, forms of distribution, and enacting them? The important point is that people engage in reading and interpreting authorial religious texts, constitutions, statutes, etc., by translating their meanings, measuring their applicability, and relating them to personal style, normative practice, as well as contextual appropriateness. Social scientists attempting to understand the challenges of Islamic contemporary formations in Sub-Saharan Africa need to explain how institutions—religious and secular—are productive of “ordering agents” through which people conceive of the world in manageable ways.

The essays that follow reflect the ways that people are engaged in spheres of knowledge and power and participate in the reproduction of personal reason, ethics, and politics related to their ideological goals. In discussing the spread and entrenchment of Islam in African contexts, and by tracing their sites of intersection, divergence, and conjuncture, the contributors to this volume use historical and political approaches to Islamic formations in order to address some of the critical tensions in Sub-Saharan African-Islamic politics. They detail the histories and politics of implementing and challenging Islamic formations in Sub-Saharan Africa in an effort to explore the local-global interface and to establish the basis around which forms of competing governmentality are spread, contested and resolved. They explore the multiple contestations and dilemmas of neo-liberalism, religion, and the cultural controversies over rights and entitlements, especially in the context of contemporary liberal democracies globally and various contemporary struggles over Islamic and secular authority in African contexts.

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Endnotes

¹ There are many examples of these encounters, some of the most prominent including when the Christian army lost to Turkish forces at Antioch in 1098. During the battle the Christian army ran out of supplies and many Christian soldiers deserted their comrades. However, the Christian army regrouped and defeated the Muslim forces. After the battle was over, Christian soldiers pillaged Antioch, boasted, and raped the women that were left behind. The Christians believed that this behavior was acceptable because they had defeated the enemies who were deserving of this treatment (Latourette, pp.294-5). Armies from Egypt were also met by Christian armies when they traveled to Jerusalem to conquer this new territory. In cooperation with Arabian armies, Muslims unsuccessfully fought for control of Jerusalem in the year 1099. After the Muslims were defeated, Christian soldiers killed the men, raped the women, and were known to discard babies against the walls of Jerusalem. After this victory many Christian soldiers returned home believing that their duty to God had been fulfilled. Small bands of Christian armies continued to exist roaming freely across the country and engaged in more crusades. After their defeat in Jerusalem the Muslims rebuilt their empire that extended to Egypt under the rule of Sultan Saladin in 1187. The Christian army again fought the Muslim empire, but failed to defeat them due to infighting among the rulers of England, France, and Germany (Latourette, pp.296-7). In the thirteenth century, Christian armies again attempted to defeat Muslim armies in Egypt, but then changed plans and successfully attacked Constantinople instead. In subsequent battles the Christian army was victorious and entered into a treaty with the Sultan of Egypt. This treaty handed over control of Bethlehem, Jerusalem, and Nazareth to the Christians. The next crusade in which they attempted to once again defeat the Muslims was unsuccessful because the King of France was captured by the Muslim army. However, he was returned after a large ransom was paid (Latourette, p.297).

² The papacy was responsible for the Christian victory in Europe because the Christian soldiers adopted the new discourses of allegiance and regimentation developed in Rome and the success of the Christian armies under the papacy influenced the popularity of Christianity. With this success, monasteries were established and the individuals in them became soldiers sanctioned to fight on behalf of the church. These soldiers killed or enslaved people who were heretics and spoke ill of the papacy (Latourette, pp.298-300) and with the development of

texts and rules that enshrined teachings of Christ's salvation in the a system of pre-modern religious rule took place with the regimentation of Christian principles.

³ The papacy attempted to convert existing Muslims to Christianity and find ways of destroying the prominence of Islam. Religious orders such as the Franciscan and the Dominican monks established in Rome and other parts of continental Europe sent their graduates to Egypt to preach among the Muslims in an attempt to convert them (Latourette, pp.300, 305-6).

⁴ Here the Western secular concept of death as reflecting the finality of life and a predominant Islamic conception of death as that of reflecting the continuum of life even after the death of the body can be argued as being conceptually divergent.



Part I
Sudan, Nigeria, Senegal, and Cameroon



Islamic Revival in Africa: Historical and Contemporary Perspectives

John Hunswick

Over thirteen hundred years ago, in A.D. 641, the Arab commander 'Amr ibn al-'As led his army across what we would now call the Gaza Strip and into Egypt. The move constituted Islam's first footsteps in the African continent, and opened up an era of continuous expansion for the faith, both as a spiritual enterprise and a political kingdom. Today approximately one quarter of the world's one billion Muslims live in Africa. In the countries of the northern one third of the continent Muslims are a majority—up to 99% of the population in some cases. This includes all the countries we would nowadays recognize as “Arab” countries in Africa (Egypt, Libya, Tunisia, Algeria, Morocco, Mauritania and, to some extent The Sudan). In a second tier of countries, Islam is either the majority religion, such as Somalia, Chad, Niger, Mali, Senegal and Guinea, or is the religion of approximately half of the population, such as Nigeria, Eritrea and Ethiopia. Almost all other African countries have minority Muslim populations, i.e. less than 50% of the inhabitants, and these include some with sizeable minorities (10-20%) such as Ghana, Ivory Coast, Sierra Leone, Kenya and Tanzania; others have smaller minorities. Surprisingly, even South Africa has a small Muslim population (2-3%), which is, nevertheless, well educated and well organized, with greater influence than mere numbers might suggest.

Obviously, at one time or another, Muslims were a mere minority in every corner of the continent. In Egypt, where the religion first penetrated Africa, Muslims remained a minority for several centuries, even though they were politically dominant. Even today, 8-10% of Egypt's population is Christian. Muslims, then, had to learn right from the beginning to survive and to preserve their religious integrity within a sea of non-Muslims. Not only did they have to define their identity against neighbors who belonged to other faiths—Christianity, Judaism and many different African religions—they also had to constantly redefine their own religiosity, engaging in self-criticism and seeking to redefine their faith in the light of what they learned from scholars of the wider Islamic world. Over the centuries certain cities in Africa themselves became centers of scholarship where the great issues of the faith were debated and new teachings evolved. Cairo, which was founded in 969 A.D., soon had its own mosque-university—al-Azhar—which became the reference point for orthodoxy among the Sunni majority of Muslims. Qayrawan in Tunisia, Tlemcen in Algeria and Fez in Morocco also became

important centers of Islamic learning in North Africa, while Timbuktu was a focal point for West African scholars from the fifteenth to the seventeenth century. In Sub-Saharan Africa, however, Islamic knowledge was not the sole prerogative of urban-based scholars. Islamic learning also flourished in Saharan oases and in small towns and scholarly settlements such as Walata in southern Mauritania, Kalumfardo in Bornu (N.E. Nigeria), Kutranj on the Blue Nile (The Sudan) or Lamu on the Kenyan coast. Even among nomads—often stereotyped as the arch back-sliders of religion—learning and religious zeal combined on occasion to produce revivalists and reformers whose influence was widespread.

Before going into detail on how some of these trends of revival worked in Africa, and, indeed, are still working with considerable vigor, let us re-examine the concept of revival in the Islamic tradition. Right from its inception in 7th century Arabia, Islam has been a faith with a tradition of activism, both in theory and in practice. The Qur'an, the scripture that Muslims believe to be the literal word of God as revealed to the Prophet Muhammad, encouraged Muslims to stand up for their faith against enemies and make Islam triumphant: "Say to those who disbelieve, that if they desist, God will pardon them for what has passed, but if they repeat it then the example of earlier folk has gone before. Fight them until there be no more dissent in the land and religion is all for God..."¹ Muslims were exhorted by the Qur'an to "strive in God's way", to undertake *jihad* for the defense of Islam and for its ultimate triumph.² It was such sentiments that imbued the early Arab warriors who undertook the unification of the Arabian peninsula under the banner of Islam, and led the great wave of conquests that took the Arab Muslims as far west as Spain and as far east as India in the first century of Islam.

Another passage of the Qur'an speaks of Muslims as "the best community produced for man kind", and characterizes its members as those "who command what is right and forbid what is wrong".³ Later this was echoed in a saying attributed to the Prophet Muhammad: "If any one of you sees something unacceptable that he can change, let him change it with his hand if he can, but if not, then with his tongue; and if not, then with his heart—and this is the weakest expression of faith".⁴ This, then, formed the basis for reforming action in Islam. Physical action is the preferred option. If this is was not a viable option, then preaching or exhortation was the next best approach to change. If one is too weak or fearful to do this, then the least one should do is to will change in the heart and pray for it.

There is a close connection in the Islamic tradition between reform and revival. Over the early centuries of Islam, Muslims began to develop a horror of what they called "innovation" (*bid'a*); a saying attributed to the Prophet Muhammad says:

“Every innovation is an errancy, and errancy leads to Hell”.⁵ Of course, in one sense, every decision they made about law, doctrine and government down to that time had been an innovation. However, by the beginning of the fifth century of Islam (Eleventh century C.E.) questions of orthodoxy (correct belief) and orthopraxy (correct practice) had been largely settled, and thereafter for the next eight centuries or so, what remained to be done was largely a matter of fine-tuning. The great challenge was how to preserve what was already there and to protect the beliefs of Muslims from the influence of ideas considered being “un-Islamic”—however that term might be defined. Muslims came to believe that the best way proceed was to look for moral inspiration and example toward the Prophet and his contemporaries. They were considered the model generation of Muslims, and to the epitome of the Qur’anic word of God and the Prophet Muhammad’s teachings in the writings of the scholars of the early centuries.⁶ Thus reform itself became revival, or renewal, of what was considered to be the ideal practice of the early Muslim community, or at least a strict observance of the “classical” elaboration of dogma and law in the early golden centuries of Islam. An essential dilemma of Islam in the twenty-first century is how to match this archaic idealism with the needs of Muslim communities struggling to enhance their material prosperity through rapid technological progress—how to build truly modern societies using not just the moral and ethical principles of an ancient religion, but retaining a frame of reference for social action which evolved in a bygone age. To this we shall return.

The process of revival began from the moment of the Prophet’s death in 632 A.D. Arabian tribes, who had acknowledged his leadership by formally committing themselves to his religion, at least in a political sense, refused to acknowledge his worldly successor—his caliph, Abū Bakr—and demonstrated this by refusing to pay the religious tithe—the *zakat*—considered one of the fundamentals of the faith. The refusal was labeled an act of apostasy (*ridda*). To bring them back to the faith, and into line politically and fiscally, the caliph launched a series of military campaigns, and within two years, political and religious loyalty had been restored, with a total occupation of the Arabian Peninsula. This example, incidentally, illustrates how closely bound the concept of religious faith is with what we might prefer to call politics. Paying taxes and owing allegiance to an acknowledged political head are integral to the faith of Islam as historically practiced. This remains true, at least in theory, in the present time, though few governments of Muslim countries formally organize payment of the *zakat* tithe, and there is now no politico-religious figure comparable to the

caliph to whom Muslims might owe allegiance. Here again is an area of conflict between the realities of twenty-first century life and the ideals of pristine Islam.

The political aspect of the faith was, in fact, the one over which the deepest divisions arose in Islam. This is not the place to go into a detailed account of Islamic sectarianism. Suffice it to say that it was over the issue of who had the moral right to head the Islamic community that the major split between those who came to be known as Sunnis and Shi'is arose less than thirty years after the Prophet's death. What evolved out of this struggle—comprising the first civil war in Islam—was a *Shi'ite* position which held that headship of the community should pass through the descendents of the Prophet's daughter, Fatima, and her husband, the Prophet's cousin, 'Ali, while the majority, who came to be known as the *Sunnis*⁷ held out for a broader base for leadership—simply within the Prophet's tribe, the Quraysh, but in practice within certain specific families of Quraysh. Another splinter group, the *Kharijites*, nowadays surviving only in small numbers in Algeria, Libya and Oman, proclaimed a “meritocracy”, declaring that leadership was open to all, regardless of ethnicity, conditional only upon piety and Islamic knowledge. While the *Shi'a* leaders, the imams, were recognized to have authority in dogma and law—indeed to be infallible—the *Sunni* caliphs had no such authority, but were looked upon as defenders of the faith both in terms of orthodoxy, as defined by *Sunni* scholars and the territorial integrity of Muslim lands.

In practice, the *Sunni* caliphs—and since Africans are all *Sunni* Muslims we shall only be concerned with this model—rapidly lost any political control over most of their territory after the first two centuries of Islam. Most North African territories were among the first to claim autonomy. The whole area west of Egypt was essentially lost to caliphal control after about 820 A.D., and Egypt itself was lost to it by 969 A.D. Even the caliphs themselves in Baghdad came to be controlled by secular sultans of non-Arab origin from about this time. Independent dynasties became the rule in the African territories of Islam (and Islamic Spain too), but only two of these came to power with essentially reformist claims, the Almoravids, a Saharan-originating dynasty that ruled Morocco and Spain between the mid-eleventh and the mid-twelfth century and their successors, the Atlas mountain Berber dynasty of the Almohads who united much of northwest Africa under their banner from the mid-twelfth to the mid-thirteenth century.⁸ We have to wait until the nineteenth century to witness movements with a revivalist ideology—movements headed by religious scholars who take, or are granted, political power in the name of creating truly Islamic states and expanding the political kingdom of Islam through jihad.

The consensus among Muslims was that there has been a constant decline in the practice of the faith since the earliest days of Islam is encapsulated in two *hadiths* attributed to the Prophet Muhammad, first recorded in the mid-ninth century:

(1) “The best [epoch of] my community (*ummati*) is the century I live in”,
and

(2) “God shall send to this community, at the head of every hundred years a person (or persons) who shall regenerate its religion for it”.⁹ It is not clear how much significance was initially attached to this latter saying, except perhaps to boost the status of the legal scholar al-Sh’afi, who died in the fifth year of the third century (~820 C.E.), and was later pointed to as the “regenerator” of the second century of Islam. Several centuries later, at a time when the fortunes of Islam seemed at very low ebb, following the Mongol conquest of 1258 and the slaughter of the caliph and his family, scholars again took interest in this saying. Lists were compiled of possible candidates for the honor of being the regenerator—the *mujaddid*—of the century. These circulated among scholars of the central lands of Islam, and although there was no unanimity about the names put forward, the list of contenders for a given century, produced in retrospect, were quite small.¹⁰ The interpretation of the *hadith* also took on an eschatological tone.

The notion of the appearance of a messianic figure heralding the end of the world had circulated among Muslims from the first century of Islam. Indeed, it is probable that the idea itself originated in Jewish messianic teaching and/or in Christian beliefs about the Second Coming. The followers of these two faiths were among the converts of the first century of Islam. It was believed that this person, known as the *Mahdi* (“the guided one”), would restore justice to the world and would lead a movement to conquer the entire world for Islam, aided in such a task by Jesus who would descend again from heaven for the purpose. The *Mahdi*, then, was himself a renewer of Islam—the final one before the Last Trump and the Day of Resurrection. In the literature of the regenerators of Islam, the *Mahdi* came to be counted as the final *mujaddid*.¹¹

This took on a special significance among those scholars who tried to forecast the end of the world—despite the Qur’anic dictum that no one other than God knows its hour. As the year 1000 of the Islamic era (C.E. 1591) approached, there was speculation as to whether the world would outlast that millennium. When it did, various new forecasts were promptly made. The century beginning with the year 1200 of the *hijra* (C.E. 1785) began to be favored by some, especially in West Africa and the Nilotic Sudan. The number twelve took on a special significance

in the light of another saying attributed to the Prophet Muhammad, to the effect that there would be twelve “true caliphs” in Islam. Various proposals were put forward as to their identity, but it was generally agreed that not all had appeared. Nevertheless, by juxtaposing the *hadith* of the twelve caliphs with the notion of the centennial renewer of Islam and the *Mahdi* as the last renewer, it became possible to theorize that the *Mahdi* would appear and carry out his mission of renewal and conversion during the thirteenth Islamic century.¹²

It is, indeed, during this century—the nineteenth century of the Common Era—that we see two major revivalist figures in Africa. The first, Usman dan Fodio, came close to being proclaimed *Mahdi* but opted instead for establishing an Islamic state in what is now northern Nigeria. The other, Muhammad Ahmad, proclaimed himself *Mahdi* in The Sudan, but died before carrying out his grand plans, and left it to his successor, the Khalifa ‘Abdullahi, to grapple with the day-to-day problems of establishing an Islamic state. Both men were scholars of the law and both were also *Sufis*; both were rare examples in the Islamic tradition of men of learning becoming men of action and wielders of state power.¹³

Both of these movements deserve closer attention, not only because of what they tell us about Islamic revivalism and its relation to social and political protest. The long-term consequences of them both are still, to some extent, with us. We begin with the movement of Shehu Usman dan Fodio. He sprang from a Fulani group with origins in northern Senegal. They had been settled in (what is now) north-western Nigeria since the fifteenth century, and by the mid-eighteenth century had become known for their piety and learning. Usman received a local education in the Qur’an and Islamic law and dogma, and by 1774 at the age of 20 had embarked upon a career as an itinerant preacher and teacher. He had also been inducted into the *Qadiriyya Sufi* Order. The Fulani were a marginal people, living on the edges, or in the interstices, of a predominantly Hausa society. The Hausa were divided into a number of small and often antagonistic kingdoms, ruled by Muslim sultans supported by an elaborate hierarchy of officials. The mass of the people were peasants living in villages and hamlets, while in the cities many various crafts were pursued, as well as trade, both local and long distance. Slaves provided a good deal of the labor among the elite class, and the rulers maintained large harems of enslaved women. Yet others formed a staple in the trans-Saharan trade. A historian of this area, Murray Last, has suggested that there was an economic crisis in the area in the eighteenth century. Hausa sultans practiced extortion on their subjects to maintain their overblown life styles; a wide gamut of taxes was being raised, including a cattle tax that particularly affected

the pastoral Fulani. The Fulani themselves were becoming increasingly hemmed in by the nomadic Tare to their north and loss of local grazing land turned over to agriculture in an apparent cotton boom. Enslavement of rural populations may also have been on the increase, not only to satisfy trans-Saharan trade, but also to be funneled southwards towards the Atlantic slave trade, then at its height.

There also seems to have been an expansion of the Muslim learned class among the Fulani and increasingly narrower interpretations of Islamic obligations. Shehu Usman preached against narrow condemnation of the ordinary Muslim on doctrinal grounds, while fostering a movement of wider education and community solidarity among Muslim populations both Fulani and Hausa. The local ruler of the state of Gobir saw this as the development of a state within a state and tried to hold it at bay, banning what we would today recognize as “fundamentalist” dress—turbans for men and veils for women, seen apparently as loyalist clothing of followers of Usman dan Fodio. Although he had some close and unfriendly encounters with his local sultan, Shehu Usman was left free, though restricted in his freedom to make new converts. In the closing years of the eighteenth century he preached that the sultan of Gobir, and then, by extension, all Hausa sultans, had abjured the faith of Islam on account of their oppression of Muslims, their ostentatious life-styles, and the un-islamic taxes they imposed on the people. Having declared them infidels he then withdrew from the territory of Gobir with a devoted band of followers following the practice of the *hijra* of the Prophet Muhammad, who left his city of Mecca in 622 to practice his new religion freely in Medina. Like the Prophet also, Shehu Usman became the political, as well as religious, leader of his community, adopting the caliphal title “Commander of the Faithful” (*amir al-mu'minin*), and again like the Prophet he proclaimed a jihad against those he considered “unbelievers” and enemies. In the short space of four years, from 1804 to 1808 Shehu Usman, with the help of his brother and son, roused most of the local Fulani and many Hausa peasants—even some Tuareg—to fight and overthrow the sultan of Gobir, while allied Fulani groups undertook the defeat of several other remoter Hausa sultans.

His movement certainly had millenarian overtones. Among his hundred or so writings are several that deal with the question of the *Mahdi*. It is clear that he thought the *Mahdi's* appearance was imminent, and for a while, he seems to have wondered if he might not, indeed, be the *Mahdi*.¹⁴ Nevertheless, he saw his basic mission as the establishment of an Islamic state and the spiritual preparation of Muslims for the eschaton. Within this Islamic state, he set up Fulani-ruled stateless (or emirates, as they were called) in place of the Hausa states and, together with

his brother ‘Abd Allah and his son Muhammad Bello, wrote numerous treatises on how to establish and run an Islamic state. Shehu Usman’s sons and grandsons continued to be at the helm of political affairs of the emirates of an over arching Islamic state, using the title “Commander of the Faithful”, for the rest of the nineteenth century, while descendants of Shehu Usman’s original appointees ruled the emirates.

These emirates proved to be enduring political organizations, essentially grounded in older Hausa forms of government that stretched back several centuries. When the state founded by Shehu Usman, generally known as the Sokoto Caliphate, fell to the Maxim gun of British imperialism in the opening years of the twentieth century, the shrewd High Commissioner for Northern Nigeria, Sir Frederick Lugard, used them as the basis of his policy of Indirect Rule. Emirs continued to be responsible for the day-to-day running of their states, but under the watchful eye of British Residents who would intervene if the emirs’ actions did not meet their approval. Certainly, the wings of the emirs and of the Commander of the Faithful—now given the more secular title of Sultan of Sokoto—were clipped by the British, and they have been even more sharply clipped by successive Nigerian governments since independence in 1960. Nevertheless, they still survive, blending Islamic legitimacy with older traditions of Hausa government and now, even sometimes with modern business sectors—one of the last sultans of Sokoto (Ibrahim Dasuqi) having been a successful merchant banker before his elevation.

If the shadow, at any rate, of Shehu Usman’s political institutions continued to be cast over much of northern Nigeria throughout the twentieth century, what about his social ideas? Shehu Usman was writing and acting at a time well before any ideas of the European Enlightenment had penetrated the Islamic world. But he was active at a time when Islamic revivalist-reformist ideas were much in the air elsewhere in the Muslim world. In Arabia, in the Prophet’s city of Medina, for example, there was a prominent school of thought in the eighteenth century that gave pride of place to the precise implementation of the Prophet’s practice—his *sunna*—in all spheres of human activity, and stressed the need for individuals to ascertain Prophetic practice and follow it. We know little about the direct connections of this *hadith* school of thought with Shehu Usman, but, indeed, there were some Fulani scholars who studied there.¹⁵ Shehu Usman certainly preached a revival of the *Sunna* — one of his major books is entitled “Revival of the Sunna and Suppression of Innovation” (*Iya’ al-sunna wa-ikhmad al-bid’a*), and late in life he appears to have advocated more personal responsibility in this matter. But, by and large, his approach was a conservative one: follow the models elaborated

by the scholars of the past and eschew radical rethinking of social and political norms. His recipe for religious regeneration was education for all—study of the Qur’an, the *hadith*, the prayers, and basic obligations of the religion. Reviving the Prophet’s practice, he encouraged the education of women in religious matters, and several of his daughters emerged as scholars and writers.¹⁶

His teachings continue to be studied and republished in Nigeria in popular facsimile editions, both those that deal with social and political matters, and those that deal with such topics as *Sufism*, religious ritual, eschatology and theology.¹⁷ In the political struggles of the late 1950s and early 1960s, the Northern Peoples Congress, the dominant party in northern Nigeria, essentially presented itself as the party that embodied the ideals of the Sokoto Caliphate, and its leader Sir Ahmadu Bello was, indeed, a descendant of Shehu Usman. Although other religious tendencies have become more popular since independence—notably the *Izala* movement, which echoes the Saudi *Wahhabi* denunciation of *Sufism*, whether the *Qadiriyya* of Shehu Usman or the later introduced *Tijaniyya*—the conservative and inward-looking ideology of Shehu Usman’s movement continues to be a hallmark of Islam, at any rate among the Hausa of the northern states. There are young radicals who would like to tear down the structure of privilege represented by the emirate system and establish something more akin to an Islamic republic along Iranian lines, and indeed the Iranian revolution of 1979 was a powerful inspiration to Nigerian Muslim radicals. So far, however, the weight of the older system combined with the vigilance of Nigerian security forces has kept such tendencies in check.

Taking the country as a whole, however, we can detect clear signs of an increased Islamic awareness tending toward Islamic revival (*tajdid*) in the years since independence in 1960. Numerically, Muslims are at least half of the Nigerian population, probably more. Additionally Muslims have been politically dominant during the post-independence period, whether in the rather few years of civilian government or the longer periods of military rule. But it has always been essential to maintain a balance between Muslims and Christians, and there have been public outcries when this balanced seemed imperiled. Christians probably account for about 35% of the population, mainly in the southern half of the country, but with important, and often militant, communities of Christians, who converted from African religions in the so-called Middle Belt and the plateau area of the north. Yoruba, Igbo and other southern Christians have a long history of western education, travel and residence overseas, of which many have keen business instincts. Although years of the late twentieth century witnessed a tremendous upsurge in

Christian religious activity (especially evangelistic and charismatic Christianity), Christian Nigerians have always supported the idea of a secular state—and this has continued to be a principle of successive Nigerian constitutions.

Muslims, on the other hand, have been critical of the secular state, which is an attitude they share with Islamic revivalists worldwide. They argue that secularism is not an exclusive concept, but embodies many Christian notions, beginning with “Render unto Caesar the things that are Caesar’s and unto God the things that are God’s”.¹⁸ Muslims frequently argue that how public life is conducted is a fundamental part of the faith. In particular, in common with revivalists in The Sudan, Pakistan, Egypt, Algeria, and elsewhere, they argue that their faith is incomplete if they do not live within a system of Islamic law—Shari’a. Following the establishment of colonial rule in Nigeria at the beginning of the twentieth century, Shari’a law continued to play an important role in the northern region of Nigeria, though by independence its domain had essentially been confined to family law. In the southern two (and later, three) regions it never had any official recognition. In the northern region, a Shari’a Court of Appeal was established, but with the demise of that region and its division into six states in 1967, appeal courts were established at the state level but without an ultimate single court of appeal. This issue of a Federal Shari’a Court of Appeal became a contentious issue in debates about a new constitution in 1977 when northern Muslims, joined by some southerners, argued for such a separate Court of Appeal dedicated to ruling on Islamic Shari’a questions. Ultimately the move was quashed but it surfaced again with vigor in similar constitutional debates in the late 1980s, and this time the military head of state simply ruled it out of order for fear of an acrimonious debate that had no prospect of amicable solution. In both cases, Christian representatives had seen such moves as an attempt to enthrone a second system of law in Nigeria. This is one in which they had no sympathy, and over which they had no influence. For them, indeed, it seemed part of an agenda to create an Islamic state. For Muslims, their demand was considered minimal. Many wanted to see the scope of Shari’a considerably increased, especially in the predominantly Muslim states of northern Nigeria. The Muslim “Council of Ulama” proclaimed that it sought “the uninhibited application of Shari’a law in Nigeria”, and some argued that making Nigeria an Islamic state was the only way to take Nigeria out of its moral and economic morass. Early in the 3rd Republic (ushered in May 1999), one of the northern states, Zamfara, was the first to announce that Shari’a would henceforth be the one and only law of that state. Other states (now a total of twelve) thereafter

announced that they would follow suit, decisions that sometimes spawned unrest, notably in Kaduna state where Christians formed a large minority.

Parallel to the Shar'ia debate of the 1980s, there was a similar outcry, with similar arguments, when it was "leaked" in 1986 that Nigeria had been admitted as a member of the Organization of the Islamic Conference, a pan-Islamic body promoting Muslim solidarity, development, and cultural awareness. Later, in 1990 there was an attempted coup within the Nigerian army when Christian officers, mainly from the Middle Belt, tried to overthrow the military government of General Babangida, proclaiming that some of the northern Muslim states of Nigeria would be excised from the federation, either temporarily or permanently. When, in the aftermath of that coup's suppression, the Christian Council of Nigeria (the Christian umbrella organization) demanded resignation of certain Muslim government ministers, and accused the military government of trying to Islamize the country through political appointments, the Council of Ulama issued a statement denying this and added: "Strictly speaking, the government has more to do with Christianity than with Islam, since secularism as practiced by the government is an extension of the church concept of government. In Islam, politics and religion are inseparable. For a government to be Islamic, Allah has to be the legislator through the Qur'an and the Sunna of the Prophet.¹⁹ This statement highlights the gulf that separates Muslim revivalists from their Christian compatriots, and it points to one of the reasons for Islam's success in Africa and the growing appeal of Islamic revivalism elsewhere. Muslims are able to claim that their religion has a political and social program—indeed, often a political and social remedy—and this, in countries faced with severe economic problems and repressive regimes, reduced to subservience by Euro-American hegemony, has a powerful appeal.

Earlier mention was made of the concept of the *Mahdi*, the messianic figure that Muslims believe will manifest him near the end of the world. This particular claimant to that office rose in The Sudan in the year 1298 of the Islamic Era, or 1881 of the Common Era. We shall now turn to The Sudan as the second example of Islamic revival in Africa and trace the story through from the time of the Mahdi Muhammad Ahmad to the present. The sense of expectation of the *Mahdi*'s appearance, which was felt by Shehu Usman dan Fodio and his contemporaries, continued in the Nigerian region as the century progressed, and there were several waves of migration towards the Nile valley to "meet the Mahdi" who was expected to appear somewhere in the east, perhaps in Mecca. How much of these Mahdist ideas percolated from the one region to the other are not clear, but the Mahdi's most ardent supporter and ultimate successor, the Khalifa 'Abdullahi, traced his origin

to a man who had emigrated to the south-western Sudan from Fitri near Lake Chad three generations earlier. He was the first person to recognize Muhammad A mad as the Mahdi, even before the man himself had proclaimed it.²⁰ From then on until the fall of Khartoum to the Mahdi's forces in January 1885 there was a continuous triumphal progress of volunteer armies fighting for the victory of Islam and the accomplishment of the eschatological mission.

As in Nigeria, so in The Sudan, there was profound social and political discontent, which the Mahdi was able to exploit, and which, indeed, may have served to convince him and his supporters that times were so evil that the end of the world must be at hand. In 1821, the forces of Muhammad 'Ali, a Pasha of Albanian origin who ruled Egypt on behalf of the Ottoman Turks, had conquered The Sudan. The objectives of this conquest were essentially colonial in nature: to exploit the country's resources, in particular to obtain slaves to serve in his army, and to open up the equatorial regions to Egyptian commercial enterprise. In so doing, he also opened up these regions to northern Sudanese and ultimately European commercial enterprise. The administration, which the Turco-Egyptian government set up in The Sudan, was alien and often harsh. Taxes along the Nile agricultural lands were heavy and had to be paid in cash. To supplement the agricultural economy, northern Sudanese undertook trading ventures in the south, capturing slaves for use on their lands and for export to Egypt, as well as hunting elephants for ivory, which was sold to European merchants to satisfy Europe's demand for piano keys, knife handles and billiard balls. By the mid-nineteenth century, there were numerous European merchants in The Sudan, and some Christian missionary organizations had been allowed to operate in the south. Under Muhammad 'Ali's fourth successor Isma'il (reg. 1863-79) attempts were made to end the slave trade and at the same time to expand the area under Turco-Egyptian control. A number of Europeans were appointed to governing positions within the regime, including Charles Gordon who subsequently became effective governor-general of The Sudan, as it was about to collapse under the Mahdi's *jihad*. The ending of the slave trade was certainly unpopular with northern Sudanese who profited greatly from it, and the fact that "unbelievers"—European Christians—were instrumental in this effort no doubt contributed to the discontent. At the time of the Mahdi's manifestation in June 1881, Egypt itself was in deep trouble, its finances largely mortgaged to European bankers due to Isma'il's extravagances, and in 1882 the British took over its government in the wake of a failed nationalist uprising led by Col. 'Urabi Pasha.

The moment was propitious for an uprising aimed at driving out the “infidel Turks”, as they were proclaimed, while fostering a (northern) Sudanese identity closely identified with Islam, which became a building block for Sudanese nationalism. In retrospect, many Sudanese saw the Mahdi as a nationalist, or at any rate a proto-nationalist, but he certainly did not think himself in those terms. Nor was his great movement of Islamic revivalism universally popular in The Sudan, either in the non-Muslim south, or even among some of the Muslim northerners. However, at least in the central northern regions of the country, he established an effective Islamic state, which was consolidated by his successor the Khalifa ‘Abdullahi following the Mahdi’s death in 1885. Although the Mahdi’s mission to conquer the world in the name of Islam had failed, his supporters seemed not to have given up hope, even as they settled for the more modest goal of maintaining a state guided by the laws and precepts of Islam—as they understood them—within the area of The Sudan. The state, however, was to be relatively short-lived. By 1898, a joint Anglo-Egyptian expedition had regained control of The Sudan. The Khalifa was killed, and the Mahdist regime was over. From then on until Sudanese independence in 1956 there was a second colonial regime—ostensibly a shared rule by Britain and Egypt, but in practice, governed and administered by the British.

The Islamic experiment was over—or was it? In 1989, there was in The Sudan a military regime that indeed proclaimed it an Islamic government and one that implemented the shari’a. Between independence and then, The Sudan passed through a long period of secular government, followed by periods in which party politics were essentially an outgrowth of earlier religious structures, and periods of military rule that increasingly tended toward the implementation of religious agendas. These agendas, however, were different from the traditionalist agendas of earlier years: they tended to be radical, revivalist, modernist, and aspiring to international recognition and influence.

During the British colonial period, the former core supporters of the Mahdi were regrouped into something more like a *Sufi* order under the leadership of Sayyid ‘Abd al-Rahman, the Mahdi’s posthumous son. This grouping was known as the *Ansar* (“Supporters”), using for religious effect a name originally associated with those who helped the Prophet Muhammad in Medina. While the British initially viewed Sayyid ‘Abd al-Rahman with suspicion, by the 1920s they had come to regard him as an ally and some one through whom they could ensure the loyalty of a sizeable number of Sudanese. In 1945 the *Ansar*, under the patronage of Sayyid ‘Abd al-Rahman, formed the backbone of a political party known as

the *Umma* party—again a very evocative title in a Muslim context—*Umma* being an Arabic word used as the term for the Muslim element of the world. Opposed to them was the National Unionist Party, which drew its main support from members of the powerful *Khatmiyya Sufi* Order, the ancestor of whose leader, Sayyid aAli al-Mirghani, had opposed the Mahdi. The old political lines of the late nineteenth century then re-emerged in the political alignments of the immediate pre-independence period. Indeed, they survived well into the era of independence, and are not even yet fully irrelevant. In political terms, the *Umma* party was pro-British and anti-Egyptian and stood for a completely independent Sudan. The National Unionist Party was pro-Egyptian, and saw the Sudan's future as linked in a union with Egypt. This position was favored by Egypt, both under the monarchy and under the post-1952 military regime that succeeded it.

When The Sudan became independent in 1956, it renounced any thought of union with Egypt, and the two main political parties ruled in coalition. In the wake of political turmoil following elections in 1958, the army seized power, which it held until 1964. After a short period of democratic rule, the army again took over in 1969, relinquishing power in 1985, and seizing power again in 1989. In the intervening civilian regimes, the dominant political figure was Sayyid Sadiq al-Mahdi, a western-educated Islamist-oriented grandson of the Mahdi. More important than any of these political events, however, was the slow rise to prominence of the “Muslim Brothers” under the leadership of Dr. Hasan al-Turabi, a brother-in-law of Sayyid Sadiq and, like him, western educated. The original Muslim Brotherhood was an organization founded in Egypt in 1928 by a schoolteacher called Hasan al-Banna'. Hasan al-Banna's program, which has been in essence the program of all Islamic revivalists after him, was to banish foreign domination from Egypt and to establish an Islamic order based on observance of the Shari'a and the establishment of Islamic social justice. This was to be accomplished, if necessary, by force, and since his day—he died in 1949—groups claiming his mantle have become increasingly violent in their opposition to what they see as godless government.

The “Muslim Brothers” of The Sudan were certainly inspired by the Egyptian movement, even though there were no overt organic links between the two. Al-Turabi, on his return from higher education in Britain and France, began to plan a long-term strategy. Following the popular uprising of 1964, that ended the first military government, he founded the “Islamic Charter Front” and pushed for an Islamic constitution for The Sudan. The next military regime in power, commanded by Gen. Ja'far Nimeiri, found him out of favor and exiled him. In 1977, however,

here turned as part of a movement of reconciliation and was appointed Attorney General of The Sudan. From this influential position he worked to get members of the Muslim Brotherhood and their sympathizers into positions of political and economic influence in the country, believing that access to such positions under a disagreeable regime was more important than trying to work immediately for an all-out Islamic regime. One of his apparent successes was the 1983 declaration of what were called the September Laws—a form of Shari’a law introduced with little preparation by a “born-again” General Nimeiri, and involving such public displays of “Islamicity” as the amputation of thieves’ hands.

Soon, however, he was in trouble again, and was imprisoned by Nimeiri shortly before the latter was overthrown by a new military regime in 1985. In 1986, however, he was free to contest new elections. These brought Sadiq al-Mahdi to power, but the National Islamic Front (NIF), as Turabi’s party was now called, came a strong third, and until democracy disappeared again, the NIF periodically joined a governing coalition. In 1989 came the final act of the drama. A military coup brought to power a regime that was essentially a tool of the NIF. The past twelve years have seen a steady erosion of civil liberties under a repressive regime, with the massive purging of the civil service, the army, the universities and other branches of public life of all those who do not subscribe to the Islamist philosophy of the government. Turabi officially holds no position in this government—it is, after all, a military government.²¹ But his influence is paramount, and he has attempted to boost his international standing by convening two meetings (1991 and 1993) of a body he founded called The Popular Arab and Muslim Conference. This is what may be described as a radical alternative to the Organization of the Islamic Conference (OIC), and it has passed many resolutions supporting Muslim movements in such places as the Philippines, Burma, Tadjikistan and Kosovo, as well as proclaiming support for the Palestinian people and the Muslims of Bosnia. Needless to say, it has endorsed the present regime in The Sudan.

In all of this discussion about Islamic revivalism in the Sudan, one factor has conspicuously been left out: the non-Muslim south. About one third of the land area of The Sudan occupied by (originally) perhaps one third of the population, is essentially non-Muslim, and in part Christian. These are mainly cattle herders and agriculturalists, divided among many ethnic groups, who have been fighting a sporadic war against a succession of Arab-Muslim dominated governments in Khartoum since just before independence forty years ago. Down to 1972, when a modus vivendi was reached, the struggle was for independence. Fighting resumed in 1983 when General Nimeiri went back on agreements granting autonomy to the

southern provinces and tried to impose Shari'a law on the entire country. Now the struggle is ostensibly for a negotiated solution to the position of the south within a united Sudan. No Sudanese government has come close to military pacification of the region, but the present government proclaims the war a *jihad*—a sacred struggle, and in the northernmost tip of the region, the Nuba Mountains, it has pursued a scorched earth policy and massive ethnic cleansing.²² Thus, the war has been given an Islamic ideological justification, and the Khartoum government has recruited or pressed into service thousands of northern Muslim young men to face martyrdom in the swamps of the south, just as the Ayatollah Khomeini did in the Iranian war against Iraq in the 1980s. Indeed, The Sudan has found an ideological ally in Iran, which has supported it in its internal struggles, while The Sudan has been used as a training ground for volunteers for other Islamist struggles.²³ Egypt, in particular, has protested vigorously against what it claims is the training and infiltration of fighting men aimed at overthrowing the Egyptian government. It also accused The Sudan of harboring two men wanted in the assassination attempt of President Husni Mubarak in Ethiopia in 1995. At the time of publication The Sudan was still on the U.S. State Department's list of terrorist states.

These rapid surveys of only two African countries naturally give only a partial picture of Islamic revival in Africa. Nevertheless, they do represent cases where one can see very clearly a number of parallels and can trace historical continuities stretching back over a century or more. Both are countries that were defined in many ways by their British colonial experience. In the case of Nigeria, Muslims and Christians as well as adherents of African religions were precipitously thrown together in political union by colonialism, were presented at independence with the nation-state as their only political model and, initially, parliamentary democracy as their chosen method of self-government. Older Muslim structures of government and society, while not eradicated, were radically changed by the colonial experience and found themselves at independence mere units of a larger, often alien, political structure. This structure was at a disadvantage educationally and economically. This was the case even though the Nigerian federation the Muslims would retain the political edge.

There are parallels in the case of The Sudan, but also significant differences. The Sudan, by its geographical position in the Nile valley, had for all its history been in contact, close or distant with Egypt and through Egypt with a wider Middle East and Mediterranean world. Its carving out as a political entity was originally at the hands of another Muslim power, the Ottomans, and thus the Sudanese experience of colonial status thus goes back deep into their history. However, it

was the northern and Muslim sector of The Sudan that reaped any benefits of the Nile Valley-Egypt connection, and it was this area that first enjoyed whatever educational and economic benefits British colonialism had to offer. The south remained isolated and underdeveloped through to independence.

While Muslims in The Sudan had always had relatively easy access to Egypt, and to Saudi Arabia and its holy cities, Nigerian Muslims, though they certainly did travel to North Africa, Egypt and Arabia, were faced with much greater difficulties of access because of their geographical position. When colonialism came at the beginning of the twentieth century, it came from the sea, and it was only the marginal Islamized south that reaped the most advantage from western education and increased economic activity.

Towards the end of the twentieth century, these geographical factors became of less importance: air travel, the fax machine and e-mail have tended to make distance irrelevant. However the historical processes that contributed to the problems that now beset both societies, and many other societies in Africa—such as population pressure, crumbling economic infrastructures, poor health care, inflation, elitism, corruption and ethnic antagonism—will not be solved simply by technology. Similarly, attempts to force an Islamist ideology upon people in the name of solving all their problems are likely to exacerbate these problems rather than alleviate them. One solution does not fit all, even if it claims divine authority. We may be sure, however, that the desperation of the contemporary situations of The Sudan and Nigeria is likely to make those who see “Islam”—however that is defined—as the panacea for all their ills, increasingly likely to cling to this utopian hope, and increasingly likely to press for its implementation with vigor, if not force.

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Endnotes

¹ Qur'an, 8: 28-9.

² Qur'an, 2: 218; 8: 74.

³ Qur'an, 3: 110.

⁴ Sunan of Abū Dawūd, K. al-Salat, 242; K. al-malahim, 17.

⁵ See Salih of Muslim, K. al-jum'ia, 43.

⁶ There was a feeling that the closer people had lived to the age of the Prophet, the better they would have understood his teachings. Thus there came to be a profound respect for "the pious ancestors" (*al-salaf al-Salih*).

⁷ I.e. those who follow the *sunna* — "practice" — of the Prophet.

⁸ It may be observed that both of these dynasties had names echoing religious ideas: the Almoravids' name derives from *al-murabitun* — "those who belong to the *ribat*, the fortress-like place of retreat for those who wish to devote themselves to worship and the defence of the borders of the lands of Islam"; the Almohads' name is correctly *almuwahhidun* — "those who proclaim the unity of God."

⁹ *Sunan* of Abū Dawūd, K. *al-malahim*, 1. For a discussion of this *hadith* in the West African context, see pp115-17 in my *Sharīfīa in Song hay* (1985).

¹⁰ This is also discussed in Hunwick (1985), p.116.

¹¹ Al-Suyuti, in a verse work entitled *Tu fat al-muhtadin bi-asmal al-mujsaddidin*, concludes by pointing to Jesus (*pbuh*), apparently equated with the Mahdī, as the final *mujaddid*: "For in the last of the hundreds, 'Isa will come, the Prophet of God; the one who possesses the signs; Who renews the religion for this community and who will lead in the prayers after us". See MS 2409(9), University of Leiden Library, at the end of al-Suyuti's *al-Tanbila bi-man yabfiath Allah fi'ala rals kulli milat sana*.

¹² See Al-Hajj, (1967), pp. 100-15.

¹³ For further discussion of the relationship between Muslim scholars is political power, see Hunwick (1996), pp. 175-94.

¹⁴ See R.A. Adeleye et al, (Jan. 1966), pp. 1-36.

¹⁵ See Hunwick (1984), pp. 139-54.

¹⁶ For an outstanding example of this, see Jean Boyd and Beverly B.Mack (1997).

¹⁷ See Chapter 2 of Hunwick (1995).

¹⁸ Luke 20:25

¹⁹ Council of Ulama Press Conference, Kano, 31 May 1990.

²⁰ There were some close links between the Mahdit movement in The Sudan and Fulani Muslims from West Africa; see Hunwick et al, (1997), pp.85-108.

²¹ However, following elections in 1996, he became Speaker of the Sudanese parliament.

²² Between 1983 and 1993 an estimated half million people were killed and 5 million were displaced.

²³ For many years Osama bin Laden, the bugbear of U.S. foreign policy, was resident in The Sudan.

Islam and State in Cameroon: Between Tension and Accommodation

Hamadou Adama

Introduction

In 2003, the Islamic feast of sacrifice (*Aid al-Ad'ha* or *Aid al-kebîr*), took place on February 11 in most Arab and Muslim countries. Following the example of Muslim faithful the world over, Cameroonian Muslims were expected to join them in the celebration of this sacred day of Islam. The feast of sacrifice is an Islamic ritual celebrated on the last month (*dhu al-hâjj*) and meant to commemorate the ritual act performed by Abraham. But, in Cameroon, February 11 is also a republican day, dedicated to Cameroonian youth. Since 1966, the day has always been repeatedly declared a public holiday by a decree of the Head of State and actively celebrated throughout the national territory. Students as well as administrative officials throughout the country gather in official public places for processions under the supervision of the local governor, divisional or district officer. The coincidence of these two feasts resulted in an unprecedented popular debate in civil society and compelled the government to postpone the Islamic feast by one day under the pretext of an error that occurred in interpreting the Islamic calendar. The displacement of the Muslim feast in favor of the celebration of a republican feast triggered bitterness and sowed division in the Muslim community. The reaction from Muslim scholars through the private media, in replication of the meddling of public authorities in the management of Islamic affairs, translated in a symptomatic way the relations that the state had always maintained with Islam in Cameroon since the colonial era. This incident, which is actually the first of its kind in Cameroonian contemporary history, was also embarrassing to the public authorities whose relationship with Islam has ever since alternated between collaboration and confrontation, between suspicion and intimidation.

As a matter of fact, the practice of subordinating religion by a secularist political regime is a long-standing phenomenon in West African Muslim societies. It resulted from an old Islamic policy carried out by respective colonial administrations in both former British and French colonies. In Cameroon, as early as the colonial days, the Germans and French strove tirelessly to apply this distinctive religious policy before the Cameroon state took it up after its accession to international sovereignty in January 1960. Thus, in spite of the circumstances, contexts, agents and actors involved, the various colonial administrations in Cameroon all tried to negotiate with members of Muslim theocracies before opting for a “policy of

taming” (Abwa, 1980)¹ and containment of Islam to safeguard their respective interests and consolidate their presence. To confront the reverting policy of the colonial administration towards them and the expansion of Islam, Muslims carried out an active resistance whose manifestations ranged from the refusal to send their children to French schools to political militancy (*jihād*) against the presence of those whom they considered as “unbelievers” (*haabe*).

After the colonial period, the newly independent state employed similar strategies to tolerate and channel the political arduousness and ambitions of some Muslim clerics and scholars who were determined to struggle with those who, according to them, docilely continued to perpetuate the hostile “Islamic policy” against Islam – instituted by those who were deemed “infidels” in former times. That was mainly the situation in the Northern chieftaincies and theocracies, considered from early nineteenth century as the heartland of Islam (*dâr el-Islâm*) in Cameroon.

Today, time has certainly contributed in mitigating the rigid standpoints of either party, but Islam and the state continue nevertheless to maintain a paradoxical relationship tinted with hidden suspicion. To impose its ideological positions and its conception of Islamic practices when the latter ventures into the public domain, the state does not hesitate to meddle in the religious sphere by attempting to structurally organize it through cooptation of important posts of responsibility to influential religious leaders with established loyalty to the ruling party. Another state intervention consisted of manipulating government subventions to Islamic educational institutions and health centers, such as to subordinate the beneficiaries and create loyalty to the state. On the other hand, Arabic speaking Muslim elite, who were long excluded from state structures and services, strove to (re)construct the social order, drawing especially from similar experiences from Arab countries by which they developed parallel strategies geared towards discrediting and invalidating the allegiance of the religious leaders to the secular state.

In spite of these recurrent tensions between Islam and the Cameroon state, sporadic dialogue forums are organized in relation to a seeming consensus. As long as the state manifests the legitimate need to maintain a monitoring right over Islamic affairs, so to do the Muslim elite find it difficult to sidestep public authority and inscribe their activities permanently in the civil society. It is therefore around this latent tension punctuated with casual confrontations, verbal sparring as well as collaboration dictated by local reality that this chapter was developed. Obviously, the adoption of either approach would determine the outcome of circumstances and relationships to be built between the intervening

forces. However, it is also clear that both alternatives implicitly translate the existence of the two important forces, borne by two opposing logics and that promote a model of a radically divergent society. By mutually neutralizing one another, they appear to have contributed to establishing in Cameroon alternative modes of self-regulation that are likely to eliminate radical tendencies by giving priority to consultation between Islam and state. This, coupled with the impact on the masses caused by this dichotomy between Islam and state over the past century, constitutes the main focus of this essay.

Islam and the Colonial State: From Tolerance to Suspicion

In the nineteenth century and quite simultaneously, Islamization and colonization processes took shape in the Cameroonian territory. The latter took shape through the coastal fringes of the Atlantic Ocean and equatorial rain forest in the south while the former spread from the savannah regions in the north of the country. By penetrating into the hinterland the Germans, British and French (unlike their Portuguese and Spanish predecessors), met with the advance from North to South, of Islam and the Muslims.

But most of all, the change of comportment from mutual tolerance to reciprocal suspicion was followed by the collaboration of Muslims under colonization. The end of Muslim political militancy (*jihâd*), due to the intrusion of Europeans armed with more sophisticated technologies, also opened up a new era, another turning point in relationships between natives and foreigners. This factor would, as well, impose a radical redefinition of Muslim and European roles and give rise to unpredictable alliances throughout the country.

Already, on the eve of the twentieth century, the Cameroonian territory seemed to be divided into two distinctive zones: that of the Christian South and the Muslim North. This division, however, was only ephemeral as the expansionist tendency of the two protagonists and could not be contained in such restricted geographical scopes. The first contact between Christian Western Europeans and Muslims was in territories administered by the Muslim theocrats, in the form of encounters between German merchants and explorers with little concern for annexation or colonization, and the Muslim sovereignty was never questioned. But as of 1890, the Germans dispatched a series of military expeditions to northern Cameroon with the aim of subjugating this region either by signing treaties with the local chiefs or by military force. These expeditions had the upper hand over the recalcitrant chiefs and, in 1901, nearly all territories administered by Muslim rulers were subjugated under German rule. Though the land was occupied, resistance continued in the countryside.

Generally, the German army encountered two types of organized resistance in northern Cameroon. Modibbo Hayatou of Balda and his army animated active pockets of resistance against the Germans. They personified the Mahdist resistance (Mohammadou, 1992), which took up arms both against the occupying forces and traditional rulers. The Kirdi or Mugazawa, mostly followers of African traditional religion, incarnated the second type of defiance. These non-Muslims were engaged in ongoing confrontations both with the German army and Muslim cavalrymen. But European inland intrusions were irreversible and the military superiority conferred upon them by possession of firearms triumphed over indigenous weaponry. Shortly after achieving the 'effective occupation' of the land as it was agreed upon in the 1884-85 Berlin conference, the Germans immediately launched great work projects aimed at facilitating the economic exploitation of the region.

Taking into account the existence of active pockets of resistance animated either by the Mahdist army in the plains and by non-Muslim Kirdi in the rocky mountains, the Germans resorted to the Muslim administrative machinery to assist them in beating the forces still in activity to submission and ensure a regular tax income. This pragmatic approach dictated by the necessity to establish law and order and implement a new taxation policy called for the leniency of the colonial administration toward the Muslim cavalrymen whose military prowess was dreaded both by the German and French administrations.

Considered more closely, this realistic administrative approach was in fact inevitable because of the highly insurrectional situation. The maintenance of the Muslim military arsenal became an ineluctable necessity which, later on, ended in a split into the installation of a de facto indirect administrative system of rule. It is widely known throughout the region that the indirect rule system both in northern Cameroon and northern Nigeria turned out to be beneficial to the Muslims, politically, economically as well as religiously. The convergence of interests between Muslims and the colonial administration justified such a circumstantial complicity. On the one hand, the Muslim rulers and colonial administration were confronted with the resistance from the mountain dwellers locally nicknamed *haabe*. On the other hand, the traditional rulers and colonial masters dreaded Mahdism as well as its notorious army. Compromising Muslim rulers and German collaborators were accused of treason by the Mahdists and were promised, if captured, punishment similar to that reserved for "unbelievers". Faced with the danger of manifest insubordination which threatened the new alliance, Muslim chiefs and colonial authorities conjugated their efforts to combat the *Haabe* in a terrain known to be inaccessible and steep. Simultaneously the

new allied forces pursued, captured, and eliminated sympathizers of *Mahdism* across the region. Many localities were “pacified” and consequently subjugated as a result of the joint action of Muslims and colonial administration. From this standpoint it seemed evident that the circumstantial political complicity of Islam representatives and German colonial authority had intrinsically some effects which favored a posteriori the spread of Islam because the latter came to be seen as a religion that was privileged by the colonial administration.

For a while at least, the French pursued a similar administrative approach towards Islam in Cameroon. But in the early 1920s their relationship with Islam began ailing. By 1924 the High Commissioner, Paul Marchand, inaugurated a new policy that Daniel Abwa aptly qualified as one of “taming”. It was essentially constituted by tolerance, generosity and influence. No occasion was spared to call the public to witness on the superiority and greatness of metropolitan France and the necessity of real and open collaboration. Loyalty and faithfulness to France were presented as beneficial to the Muslim chiefs and Islam. The implicit objective was to seduce the Muslim rulers in order to fully associate them with the colonial exploitation machinery on one hand, and to appease the Muslim elite and scholars with the intention of involving them in the colonial policy on the other.

But the colonial context and reversals of political positions of the protagonists were to dictate a redefinition of governance. Thus, parallel to sympathetic feelings towards the Muslim cavalry, Muslim scholars of doubtful loyalty, (especially of Mahdist brotherhoods or *Sufi* Orders such as Goni Wadday, Laamiido Oumarou of Banyo, Oumar Adjara of Mora or even the Sultan Njoya of the Bamum) were pursued and systematically eliminated either physically or politically. In the name of Islam, social justice, and equality among people irrespective of their skin color, ethnicity or cultural background, these scholars undertook, in their turn, to chase what they saw as German “infidels” out of the Muslim land (*dâr al-islâm*). German forces disrupted alliance and allegiance which linked, since the early nineteenth century, the principalities (*lamidats*) of northern Cameroon to Yola, the capital city of the Adamawa Emirate (Njeuma, 1971 and 1994).

Galvanized after the signing of the German-Duala treaty and well before the effective annexation of the Northern Cameroon territories, the Europeans, encouraged by the doctrine of ‘effective occupation’ after the 1884-85 Berlin Conference, established artificial boundaries in the middle of the Adamawa Emirate, separating and isolating de facto Yola from its Cameroonian dependencies such as Maroua, Garoua and Ngaoundere. On July 1893, shortly after the materialization of the ‘effective occupation’ principle, the Germans and British

started bilateral negotiations to demarcate their respective spheres of influence. At the end of the first round of negotiations which were sealed against the interests of Muslims, it was agreed that Yola and a quarter of the Emirate henceforth should constitute part of Nigeria while the three other quarters became an integral part of the German Kamerun. By virtually imposing artificial frontiers in the middle of the Adamawa Emirate, the Germans and British were, thus, able to control the emerging Islamic reformism of Modibbo Adama's successors in Yola as well as in the Muslim theocracies of Northern Cameroon. The disintegration of the Adamawa Emirate was to put an end to nearly a century of alliance and allegiance that existed between the various partners of the Emirate. The Germans in Cameroon and the British in Nigeria had therefore broken clean the slightest tendency toward Islamic expansion originating from the capital city Yola. It was then the duty of the French, who had defeated the German army, in 1916 to check this expansion within the inherited Cameroonian territories.

The Versailles Treaty legalized the French presence in Cameroon after the First World War. The colony was partitioned between Britain and France under a League of Nations mandate on June 28, 1919. France gained the larger share, transferred outlying regions to neighboring French colonies, and ruled over the rest from Yaounde. Britain's territory, a strip bordering Nigeria from the sea to Lake Chad, was ruled from Lagos. France too had to learn therefore to administer Cameroon by preserving the old contradictory policy that oscillated between concession and sometimes repression in order to consolidate their presence and protect their interests. But after past experiences with Islam, particularly acquired in Algeria, the French quickly realized that the presence of Muslims in the patrol teams they sent out regularly to "convince" the non-Muslim populations of the necessity to pay taxes had a detrimental effect on their esteem. Hence, they decided not to use Muslims and instead adopted consequently a policy of preserving their interests and safeguarding the imperialistic trend.

While adopting a rather cautious and suspicious attitude in dealing with Muslim traditional rulers, the French administration organized, at the same time, the institutionalization of Islam in Cameroon. On the one hand, it regulated, supervised and controlled the flux of pilgrims who traveled annually to Saudi Arabia by introducing passes (Aladji form) and setting up the Bureau des Affaires Musulmanes; on the other hand, it facilitated the visits of faithful foreign Muslim scholars whose sojourn on the Cameroonian territory was actually often transformed into an official trip. In both cases, examples abound illustrating this form of organizing "from above." The pilgrimage of Sultan Seidou Njimoluh of Bamum, a faithful ally of France was particularly symptomatic of the taking control and formalizing of the trade relationship between Cameroonian Muslims

and their foreign counterparts. Another example was the deployment of officials charged with supervising the Algerian paramount chief of the Tidjanis, Sheik Sidi Benamor, during the tour he effected in 1949 and during which he converted the Bamum aristocracy to the *Tijaniyya* brotherhood.²

Conclusively, two attitudes dictated the interaction between Islam and the colonial administration and both were articulated around safeguarding mutual interests and perception of local realities. The partition of the Adamawa Emirate carried out by the Germans prevented contacts with and incursion of clerics and scholars from Northern Nigeria where Islamic militancy was still active. Internally, the colonial administration controlled the charismatic religious movements and encouraged Muslim rulers to implement a tolerant, compromising and accommodating form of Islam. Visiting scholars from neighboring Chad or Nigeria were reported to the Bureau des Affaires Musulmanes and urged to leave the country or face prosecution. Muslim chiefs were officially affiliated with Sufi brotherhoods such as *Qadiriyya* or *Tijaniyya* but their interfacing position between Islam and tradition allowed them also to be constantly in touch with pre-Islamic beliefs. Although most of them identified themselves as Muslims and sought the guidance of religious clerics, they were also careful not to push reforms in the structure of the chieftdom too far in order not to alienate the custodians of tradition. Because the source of the chieftaincy's legitimacy was embedded in tradition, some of their successors often slid back, away from Islam.

Fundamentally, by its nature, its vocation and objectives, it was obvious that the Christian oriented colonial state, could be nothing else but hostile to the expansion of Islam. Paradoxically however, a tangible spread of Islam was recorded during the colonial era. This was caused partly by improved communications, urbanization and economic change. The construction of bridges, road networks and railways facilitated exchanges between the coastal regions and hinterlands. Muslim traders migrated southwards from the savannah regions to the coastal zones. Their interactions with the local people stimulated the spread of Islam among the Bantu people living in the equatorial areas. Besides, the colonial use of literate Muslims for local administration sometimes also contributed to the consolidation and spread of Islam. The European colonial reactions to Islamic proselytism varied from vigorous opposition to pragmatic cooperation. Was the independent Cameroon state to follow this pragmatic policy shaped by Germany and France, or would it discard it and conceive its own legislation taking into account the new realities of the environment? Both hypotheses were plausible by January 1960 when the colony became an independent state.

Islam and the Post-Colonial State: Authority and Dialogue

With political independence Cameroon inherited from her European masters the secular state apparatus with the necessity to make the new state functional, and to deal with local, national, regional, and international priorities. The state was thus called upon to attend to issues created beyond its capacity, and often contrary to its structure, such as economic reforms, internal ethnic, linguistic, and religious pluralism. In this context of uncertainty the secular state, as an imported structure, could not comprehend why it did not receive the absolute and unquestioning loyalty of all its citizens including Muslim rulers and religious leaders. In the context of a crisis of credibility, the state strove to rescue its authority by resorting to the adoption of general, comprehensive norms, such as political absolutism, and instruments fashioned by the political sovereignty that must command unconditional loyalty. The unitary state idea was thus promulgated to legitimize and transform the political society into an ethical community, the civil into the official, and national leaders into messianic champions. The will of the state hardened into an absolute, comprehensive norm, with the ultimate human destiny as its hostage (Sanneh, 1997; Levtzion, 1994).

This vision of the state was constantly challenged by Islam's comprehensive sphere, thus causing Muslims to bristle at the autonomy that the modern West considers state jurisdiction. This made the state an outright rival of the Muslim Faith. Faced with these realities, the Muslim leaders felt they could respond to this situation only by questioning the rule that confined religion to the sacred and that extricated it from the secular realm.

As such, both Islam and the state moved slowly and progressively towards reproducing a dynamic relationship dictated by new realities. The "whip" was resorted to in holding back attempts at emancipation from the state and discouraging the emergence of Islam in the public sphere, while the "carrot" was displayed to lure prospective traditional rulers as well as compromising religious leaders to rally round and relay state policy to lower levels of the society. In the development of the independent Cameroon nation state, habits developed over a long period of time and could not be stifled. In the forefront of these formations were prominent actors such as Ahmadou Ahidjo and Paul Biya who employed similar strategies to keep Islamic militancy at bay while secretly negotiating with obstreperous and prominent Muslim scholars.

Ahmadou Ahidjo and Construction of the Secular State (1958-1982)

The context in which Cameroon acquired its political independence involved the swearing in of the first president of the new state under conditions of social unrest and great political upheaval. Prior to building a viable nation state the leadership attempted to “pacify” the country by setting up a centralized, patrimonial and strong state which would be able to guarantee for its citizens security under the law. Guerrilla warfare was perpetrated by the Union des Populations du Cameroun (UPC), a nationalist political movement in the South of the country and, in North Cameroon, Muslim theocracies who had a different conception of the role of the state and instead were actively clamoring for more social, economic and political privileges from the governing executive. But surprisingly, it was in Northern Cameroon that Ahmadou Ahidjo, himself a Muslim, met with the resistance of Muslim authorities. This opposition, which lasted many years, was fierce as it was backed and legitimized from the Muslim rulers’ side by clerics officiating at the royal courts. After having militarily silenced social unrests in South Cameroon, Ahidjo used different strategies to discredit blatant religious leaders and traditional rulers from any influence in the Muslim society.

The early days of Amadou Ahidjo’s reign were marked by a policy of openness toward Islamic and Arab countries. Within the country, Islam benefited from the overt support of the political authorities. Members of the Muslim literati were recruited in public administration and some were promoted up to cabinet level. Consequently, Islam attracted a substantial number of converts regardless of their religious past or ethno-cultural stand. The growth and multiplication of the faithful from various horizons necessitated the setting up of intake structures to prepare their integration into the Muslim community. This resulted in the proliferation of schools, Islamic learning and training institutes as well as Islamic health centers, which demonstrated how Islam was progressively supplanting the state. The latter was gradually disengaging from its responsibilities in some entire sectors of social life because of lack of means. Externally, Cameroon privileged relationships with some politically moderate Arab countries such as Saudi Arabia and Egypt. The concern to check the number of students benefiting from private foreign scholarships to read the religious sciences of Islam in renowned state universities such as al-Azhar in Cairo (Egypt) or Um al-Qura’ in Madina (Saudi Arabia) was an “open secret.” This was also the case with the pre-eminence of the real interests of those Arab countries concerned with expanding Islamic proselytism towards Cameroon. But one thing was evident. The private trans-ethnic and across-state relations bred for long between the north and south of the Sahara desert, were spared diplomatic formalism. These relationships had been thriving since the colonial days and were periodically reinforced by new communication technologies.

In this connection and with the assistance of Arab donors, the Cameroon state launched a vast program for the construction of cathedral-mosques (*jâmi'*) in several localities. Parallel to this activity, the Ahidjo regime granted state scholarships to more than one hundred and fifty students from 1965 to 1980 to pursue religious studies in Arab countries (Adama, 1993). His concealed intention was to substitute scholars trained in Arab countries for local illiterate clerics in the Arabic language as a strategy to dismantle and weaken the opposition to his regime mounted around the traditional rulers.

Locally, he favored the introduction of the Arabic language in the curricula of public secondary schools and encouraged the creation of a new educational system made from a blend of the Arabic and French curricula: the resultant structure was dubbed *Ecole franco-arabe*. Traditional Qu'ranic schools flourished without subvention from the government. Both the traditional and modernized or renewed Franco-Arabic schools increased their intake by progressively integrating qualified personnel, the majority of whom was trained in Middle Eastern universities. The cultural proselytism of these combined religious agents was subsequently relayed and amplified by religious radio programs and television shows aired in local languages (*ajami*) over decentralized public medias. The production and distribution of audio cassettes and video tapes, the printing of religious booklets, importation and wide distribution of religious pamphlets, most often illustrated and subtitled in local languages, constituted the various opportunities that worked to the advantage of the spread of Islam within the entire region. Activities of other religious and economic partners like the Hausa merchants, Kanuri clerics (*goni*) and Fulani herdsmen, and more especially the role played by Muslim civil servants, were instrumental in bringing about a substantial number of conversions.

On the political level, two attitudes punctuated the Ahidjo regime in its interaction with religion in general and Islam in particular. These were the policy of "generosity" and "containment" carried over from the colonial period. The regime was overtly generous with regards to Muslim traditional or religious authorities by multiplying symbolic acts that were to constitute landmark gestures in favor of Islam. Among the many activities carried out was the 1963 decree creating the Association Culturelle Islamique du Cameroun (ACIC). The new structure had two main objectives: (1) the management of central mosques and (2) the organization of the Islamic educational system throughout the republic. Today, it is known that the Islamic Cultural Association did not meet all the expectations placed on it both by the state and Muslim community, and this inability and failure of ACIC was partly rectified by the state. With regards to the construction of central mosques for example, prospective enterprises were selected and retained at a higher decision making level.

The dialogue promoted by the state was extended to clergymen and their entourages. To let actions speak louder, religious authorities or their relatives benefited regularly from the generosity of senior administrators in terms of scholarships in Arab countries, transport requisitions during the pilgrimage (*hajj*) or preferential treatment during visits at the presidential palace. Interestingly, the activities of a number of Christian churches, notably evangelization campaigns were reduced to a minimum. Jehovah's witnesses were prohibited from proselytizing activities. In 2000, Muslim faithfuls represented approximately 30 per cent of the 16 million inhabitants. The two major Islamic celebrations, *Aid al-iftâr* (Ramadan) and *Aid al Ad-ha* (Pilgrimage), were declared public holidays. In public administration as well as in the national army, the hierarchy, with regards to commanding positions or promotion in grade, treated the educated Muslim elites, mostly graduated from high schools, with preference. Exchanges with the Arab countries and Muslim world were intensified and in 1974 Cameroon became a full member of the Organization of the Islamic Conference (OIC).

As for the policy described as one of "containment," Ahidjo ratified new executive orders restricting privileges formerly granted to Muslim chiefs. These decrees were carried further by formally and administratively subordinating the traditional rulers to the local representatives of the political administration. The 1974 decree installed de facto nationalization of unoccupied lands previously owned by local rulers. The main asset on which traditional chiefs built up their wealth, prestige and privileges was suddenly frozen. Instead, administrative officers, most of whom were unaware of local customs and tradition, were designated to rule. Three years later, Ahidjo ratified a new decree, which subordinated traditional chiefs to local administrative officers.³ Overnight, traditional chiefs, *laamiibe*, became henceforth auxiliaries of the administration and were subordinated to the sub-divisional officer or district officer of their area of residence with a formal obligation to regularly render account.

These decrees, were denounced, combated and decried by the traditional Muslim authorities and marked a turning point in the relationship that the public authorities maintained with Islamic representatives. Interestingly, Muslim sovereigns never approved of nor endorsed Ahidjo and his regime. Rather, they were jealous of the attributions conferred upon them by tradition, Islamic knowledge and mastery of the transcendent order. Ahidjo never, at any time, wanted a direct confrontation with the Muslim leaders and preferred to concentrate his efforts on other regions of the country racked by violent insurrections. The voting and ratification of the 1977 law redefining the attributions conferred to the traditional

chiefs marked nevertheless the point of rupture with president Ahidjo's regime. By becoming ordinary auxiliaries of public administration, the *laamiido* loses a large part of his traditional prerogatives, tax exemption and protocol privileges. Consequently, he is deprived of his basic political powers and reduced to a simple agent of execution, salaried and revocable in case of noticed or reported insubordination. Suddenly, the scope of activities of the traditional Muslim chief dwindled. Subsequently, the customary court of justice housed by the *laamiido*'s palace was transformed into an ordinary bureau for registration of complaints, in transit to state jurisdiction.

After the legitimacy of the traditional Muslim chiefs was demolished by the constitution of the new procedures inspired by the Cameroonian positive law, representatives of tradition and Islam clung to their honorary functions while hoping for better days. Before he stepped down in November 1982 after spending more than two decades in power, Ahidjo succeeded in rallying traditional rulers and religious leaders while dismantling many other radical Muslim strong holds that were in opposition to his regime. He also avoided facing the traditional rulers, yet he promulgated decisive constitutional amendments that hampered their threats to the secular state that he was passionately constructing. The return of former students sent to Arab nations in the late 1960s and 1970s was a remarkable phenomenon in the urban centers. They returned with new Islamic knowledge and practices, advocated new commitments and claimed more political recognition of Islam in civil society. They repeatedly questioned local Islamic practices and later engaged themselves in sensitizing and educating the Muslim faithful in the necessity of understanding the Arabic language prior to any interpretation of the Holy Qu'ran. But the vociferous opposition formerly animated by traditional rulers and religious leaders was no longer of any threat to his regime in the early eighties. When in 1982 Paul Biya stepped through a peaceful political transition, he was looked upon with great hope. He was seen as holding a promise for a better future.

Paul Biya and Islamic Revivalism (1982 – to Present)

Paul Biya's arrival in 1982 was welcomed with relief and hope. He was propped up not only by what he promised to do but also for what he could potentially do. His youthfulness and freshness, the smoothness of the transition and his intellectual background predicted and forecasted a more agreeable climate in the new relationships with regards to Islam and the Muslim community. Two landmark years, in this respect, need to be mentioned. 1984 was the year of the

failed coup attempt to overthrow the newly installed regime by military insurgents who were nostalgic for the former regime and mostly, as it was disclosed later on, Ahidjo's sympathizers. The second landmark year was 1990, which symbolized the beginning of a new and an unpredicted idyll between Paul Biya and traditional Muslim chiefs across the nation.

The failed attempt at seizing power resulted in the loss of lives, influence, esteem and respectability. As these conditions subsided, the public image of Muslims was that they appeared suspicious and lacked democratic inclinations. Amalgamation paved its way into civil society and the eruption of Muslim scholars onto the political scene triggered reactions of hostility, mistrust, and suspicion. Newspaper headlines and front pages of journalistic works, hastily written by opportunists who claimed to be faithful to Paul Biya, described the political, social and religious consequences of the recent political history of Cameroon.

Secondly, in the face of an adverse political climate, Muslim chiefs wanting to survive politically had to keep a low profile. Taking advantage of the situation, Christian churches of various denominations rapidly became engulfed in the breach and, subsequently, evangelization campaigns were taken up in full force. In the Northern part of the country the religious battle shifted to land issues. Private land properties in urban areas as well as in rural zones were requisitioned for edification of protestant temples and catholic churches. The economic crisis which shook the country at its very foundation and worsened an already bad situation, set in shortly after these events. When the economic crisis settled in the mid 1980s, campaigns of defamation were still smoldering within civil society and in the media. On the governmental level, attention was focused on the search for macro and micro economic solutions viable enough to help the country out of this impasse and avoid total bankruptcy.

These two periods were socially, politically and economically difficult both for the religious and secular authorities. However, dialogue was (re)established between the Paul Biyaregime and traditional chiefs recognized throughout the republic as the sole representatives of the Muslim community throughout the republic. But based on the drawbacks previously experienced, no one could have imagined that the new political order ushered in by the wind of political liberalism from Eastern Europe would overturn the relationship between the public authorities of the state and religious chiefs in Cameroon.

In the early 1990s, external factors combined with internal forces and stimulated multiparty politics through which the establishment of democracy took shape. The International Monetary Fund (IMF) and World Bank (WB) pressured

the state to restructure the domestic economy. Agricultural produce sold at the lowest possible rates, external debt was hardly paid, banks ran short of local and hard currencies, and salaries were only partially paid to civil servants. At the same time, students from the State University in Yaounde protested on a weekly basis and the masses clamored for civil rights. Between 1990 and 1994, Cameroon went through a crisis which almost destroyed it completely. This period of social unrest described as years of “amber”, ransacked the social and political landscape of the country to the point that international opinion grew disillusioned on any prospects of economic recovery of Cameroon in the medium term. The legislature was constantly solicited and numerous bills relative to individual liberties and civil rights were passed and immediately promulgated. The executive was compelled to legislate by decree in these emergency situations. In this connection, law n°90/053 focused on the formation and functioning of political associations was enacted in December 1990. It was followed by a series of other laws that aimed at liberating political competition and decentralizing higher education institutions. The hundred per cent devaluation of the local cfa franc currency in January 1994 was also seen as originating partly from the social unrest of the nineties.

In keeping with the political liberalization laws, corporatist and ethnic associations as well as political parties were officially created across the country. Some of these newly created associations were taken over and transformed into political parties to serve as springboards and stepping stones to achieving political ends, while others simply disappeared on their own, crowded out of competition. As a result of the new legislations, a large number of political parties were created, expanded and flourished so much so, that on the eve of the 1992 presidential elections, Cameroon counted more than one hundred and twenty eight legalized political organizations. Overwhelmed by the magnitude of the phenomenon, the government let do, secretly hoping that the enthusiasm would wane in a short or medium term. It hoped for and counted on a natural regulation of the political situation by the sovereign people during an electoral consultation. This last expectation was more or less confirmed after the 1992 double elections.

Paradoxically, public authorities went through the pre-electoral period with a displayed intention of (re)considering the function and role of the traditional authorities in the new sociopolitical reconfiguration. In the new context of political competition, traditional rulers were wooed and considered as natural partners to the ruling political party on grounds of the provision of the 1977 law, which subordinated them to the local administrative officers. That era was classified as the great “return of kings and traditional chiefs” (Perrot et al., 2003) to the

national political arena. Signs of the warming up of relations between Islam and the state could be seen in almost every major area of activity. Quite naturally and progressively, Muslim religious authorities and traditional rulers became the main target of strategists from political parties engaged in the electoral competition.

In the context of political liberalization and multi-party politics, competition henceforth became open. Alliances of all kinds and unpredicted reversals were also part of the political game. The ruling party seemed to have taken a lead over its prospective adversaries and willing competitors. The campaign of the Cameroon People's Democratic Movement (CPDM), the party in power created by President Paul Biya in 1985, integrated in its strategic approach Muslim chiefs of North Cameroon as well as their religious advisers. Political campaigns were transformed into political arenas for rallies mostly convened by the visiting electoral caravan. While airing speeches in local languages through loudspeakers, administrative officers were invited, in a rather ostentatious way, to openly take sides, sides which could easily be imagined by the population. The indecisive traditional chiefs were pressured to publicly make their choice known. They had to comply or run the risk of being dismissed from their duties or overthrown if ever the option was not that of the 'victor'. That was the delicate situation in which Muslim chiefs of North Cameroon sometimes found themselves.

Some Muslim chiefs from localities deemed politically "sensitive" because of demographic importance were given the opportunity to negotiate their alliance with the ruling party and extricate themselves from potential difficulties. By recommending and urging their subjects to vote for the ruling party, which was also their power of guardianship, the ruling party implicitly assured them rights in their respective administrative constituencies. Many had to take chances and ipso facto violate the republican legality and individual rights in their zones of influence. This happened through the prohibition of rallies of any other political parties showing public opposition to Paul Biya's regime. The actions of the late *laamiido* of Rey Bouba⁴, represent an example of this. Other Muslim chiefs situated in less strategic localities were encouraged either to postulate their candidature during the legislative elections in order to eliminate a popular opposition candidate, or to actively campaign for the CPDM like Laamiido Issa Maigari in Ngaoundere, with all the risks inherent to either operated choices.

Parallel with new forms of relationships articulated between the center and the periphery of political power and developed by the image of the "Marabout and the Prince" (to quote the title of a classic book authored by Christian Coulon (1983)), numerous zones of religious contestation with political prospects emerged

in the northern part of the country. The clamor of the Muslim order, fomented from within the Muslim community, focused on the disqualification of traditional clergymen with regard to the reading and interpretation of the Qu'ranic corpus. Traditional clergymen were simply judged as less educated by the Arabic speaking scholars to efficiently stand up for Muslim rights and interests.

Taking cover under some provisions of the 1990 laws, the Arabic speaking intellectuals, trained in the most prestigious Middle Eastern universities and mostly excluded from the inner circle of political decision making as well as from administrative duties, created nongovernmental organizations (NGOs) through which they expressed their views. According to their understanding of the Islamic guidance role, traditional chiefs were, because of their ignorance of the Arabic language, disqualified to stand as counterpart of the state. Instead, by virtue of their mastery of Islamic knowledge and Arabic language, they positioned themselves as prospective partners and self-proclaimed spokesmen of the Muslim community nationwide.

By attacking traditional rulers, Arabic speaking intellectuals made two mistakes. The first involved giving traditional rulers no other option but to report their frustration to the hierarchy. As a result, any attempt to recognize Arabic diplomas obtained in Saudi Arabia or Egypt was simply thwarted by the government. Many newly graduated students aspiring to join the public administration were discouraged and their applications ignored. They were even suspected of harboring seditious ideas potentially threatening to national security forces that they intend to operate from within the administration. In attacking the traditional rulers while secretly entertaining the hope of substituting them in case of possible reconsideration of partnership between Islam and state, Muslim scholars surprisingly found themselves confronted with a much bigger and stronger opposition from the state. The second error of Arabic speaking scholars was their inability to garner popular support. After having been abroad for a decade, they were disconnected from the society which had continued to entertain a rather compromising form of Islam. Pre-Islamic beliefs were sometimes associated with Islamic convictions in a more conservative and smooth coexistence. Muslim rulers as well as the rest of the Muslim society seemed to live harmoniously with these realities on a daily basis. The new discourse brought in by the New ulema (Coulon, 1993) was regarded as exotic and implausible to implement. The double gaps they unintentionally created by their risky proceedings ended up enticing them to the trap. From the enviable shooting position they became instead the prey and the whole political and administrative machinery were poised to eliminate them as a potential challenging partner in political power sharing or credible interlocutors

vis-à-vis the state. But, far from being completely discouraged, many opted for an active social life by reinitiating themselves to local realities while hoping to stimulate socio-political changes through educational training from within the society.

Islam, being a form of worship which does not clearly separate the political/public from the private, could not easily elaborate a diagnosis of endogenous relational modes with state and make projections for the future without some measure of uncertainty and error in conception. The entry into politics of Muslim intellectual agents, scholars and clerics, constituted enough proof that the latter were no longer contented with playing the traditional roles of moralizer and moderator. For numerous reasons, they aspired for an increased involvement and commitment in the political game by multiplying intervention areas while actively engaging themselves in reforming the state according to the salafi teachings. Likewise, attacks against Islamic values as well as political and professional marginalization constituted the site of contention of their political propaganda. The emergence of the associative structures, which gave them access to political expression, was for the moment the privileged forum of Arabic speaking intellectuals. The networks of private relationships they maintained and animated with the rest of the Islamic world, the international exchanges as well as the development of communication furnished the necessary energy for the functioning of these Islamic associations and fueled the spread of the Cameroonian version of Islam.

On several occasions the Cameroonian government had implicitly and indirectly tried to control the reproduction of Islamic revivalism and check the multiplication of Islamic associations by organizing them within a single confederation, dubbed the Conseil Supérieur Islamique du Cameroun (CSIC). However, this body was regularly confronted with numerous internal quarrels and leadership squabbles which plagued the entire Muslim community. Nevertheless, in 1985, the State carried on and went ahead to set up the High Islamic Council.

The newly created structure was run by a group of Muslim intellectuals and chaired by Dr. Adamou Ndam Njoya, a jurist and former member of government. Since its formal installation, the Council was also criss crossed with tension and diversity in religious conception, which considerably disturbed and hampered the development of its activities. The body remained powerless until 2003 when it made a sudden and surprising come back into the public arena. Cheikh Mounir, a charismatic Muslim scholar and some prominent members of the Council, severely criticized the State when the latter postponed and substituted the Islamic celebration of Tabaski (*Aid al-kebîr*) for the secular youth day feast⁵. The verbal skirmishes that resulted from the postponement of Tabaski between the Muslim

leaders and Minister for Interior Affairs (the supervisory political authority of religious organizations in Cameroon) over the media, complicated the latent and lingering tension with Islam. By intervening and asserting itself in the public domain, tension between Islam and the state became open and caused a split in opinion within the Muslim community. Some of the Islamic faithful spurned the state executive order and celebrated simultaneously the Tabaski, according to the Islamic calendar while others respected the decree and postponed their celebration to the following day. Interestingly and quite explicitly, these groups demonstrated respect to the secular state and expected recognition and reconsideration in return. The outcome of confrontation gave rise to a division of the Muslim community but also partly contributed to the shifting of the debate on Islamic issues from the private to public sphere. By emerging from its torpor and questioning the secular state in a new context of globalization and regional social unrests, Islam and Muslim faithfuls introduced new claims with regards to state authority. Whether these claims were appropriate, justifiable or convincing is another question

Amidst the economic crisis and socio-political demonstrations, Islamic leaders also put the entire state apparatus into question. Some were supportive and many took advantage of state disengagement to revive social activities by creating a variety of non-governmental organizations (NGOs). They committed themselves to and invested in integrated development projects in their social and geographical environments. The funding provided by external private initiatives and foreign networks contributed to popularizing the Arabic scholars' participation in the promotion of Islamic values across the country. Still today, the state, through the Minister for Interior Affairs, remains the supervisory administrative authority of religious organizations and confessional enterprises in spite of the fact that its scope of influence is considerably shrinking with the atomization of the religious domains and the emergence of private relationships linking the Cameroonian Muslims to the Arab world.

The public authorities did not remain inactive vis-à-vis the aspirations of the Muslim community and growing Islamic revivalism. In 1993, a university in northern Cameroon with an Arabic language department entirely run by Cameroonian scholars was established by the state. Beyond the concern for controlling the Islamic knowledge and training of young Arabic speaking intellectuals, such an initiative represented a strategy aimed at attracting funding from Arab countries and urging them to finance higher education. By so doing, the state indirectly expressed its willingness to establish and formalize a bilateral or multilateral cooperation with Arab or Muslim worlds on the higher level. Private

networks of supporters were encouraged to report their external funds to the state when applying for additional funding from governmental services. In 1997 Paul Biya for the first time appointed a Muslim scholar, Adoum Gargoun, as Minister delegate in the Ministry of External Relations in charge of Relations with the Muslim world. Six years earlier President Paul Biya, had personally participated in the Organization of Islamic Conference (OIC) summit held in Dakar, a conference during which Cameroon came out with a substantial debt cancellation. Relations with Arab countries and the Muslim world were reinforced through this network, with several international Islamic associations operating branch offices within the country.

As such, Islam and state relationship under Paul Biya's regime can probably be described as a continuation of former and previous relationships conceived, applied and articulated by his predecessors, but adapted it by strictly monitoring the contemporary evolution of religious activism. The geographical, historical, sociological as well as religious proximity to Nigeria – where Islamic revivalism is still active – has contributed and reinforced the adoption of such a policy.

Conclusion

From the colonial to the present time, Islam and the state have always maintained contradictory relations, oscillating between latent tension and circumstantial concessions (mostly dictated by the circumstances and environment). Tension arose as a consequence of dialogue failure when religious leaders crossed into the private sector, in which they evolved and invested, by using parallel forms of differentiation, in the public sector claiming subsequently more recognition and latitudes of power to exercise their new roles as well as their growing social responsibilities. On the other hand, circumstantial concessions with regard to Islam were also made, especially when religious leaders succeeded in mobilizing the whole Muslim community and became de facto a partner due to their deterrent force. This mobilization of force hardly took to the streets, but it was frequently employed by Islamic organizations to obtain state subventions in favor of community health centers and schools. Such approaches were dictated not only by the specific contexts and charismatic behavior of Islamic agents but it stemmed from realism, based on the will to preserve social order. The relationship between Islam and Cameroon state has always been dictated by a battle of wills in which losers might also win some concessions and vice versa. But paradoxically, in the public domain and politics, Islam seemed to have constantly and gradually lost ground in confrontation with state power.

Conclusively, three essential phases, having varying impact, have always punctuated Islam and state relationship in Cameroon. Firstly, during the colonial period, political and administrative authorities jointly undertook decisive military and administrative measures to contain the hazy hegemonic desires of the Muslims while trying to promote their own values through education and military domination. Muslim forces as well as religious values (pilgrimage, brotherhoods), just like the traditional elite (sultan, *laamiido*, Qu'ranic teachers) were put under state control and "advised" to actively collaborate in preserving law and order as well as ensuring tax revenues were collected. This was partly because Islam, being a spiritual and political force, had been disorganized over the decades and could no longer take political initiatives to constitute a viable and federative alternative for all the Muslims, irrespective of their ethnicity and cultural background, as it had done in the past. It was precisely this weakness, which inspired and encouraged the adoption of the Muslim policy by the French colonial administration as a new form of regulation and management of the Muslim communities. This political approach was later passed on to the independent Cameroon state after it obtained full sovereignty in 1960.

Secondly, after the colonial era, there was a clear need and also a political willingness to integrate Muslim rulers and Islamic leaders in the process of construction of a modern state. But as the North-South cleavage was widening, other forms of exclusion or auto-exclusion took place. As a mode of protest under colonization, many Muslims refused to attend Western style schools. This further marginalized Muslims within the political economic and administrative spheres of state power. Besides, the hostile legislations used to counter the traditional rulers' influence within the Muslim society, the progressively increasing prevalence of Western values as a pre-condition to professional success foiled the Islamic school alternatives. President Ahidjo's regime did try to encourage secular education in Muslim societies through a variety of incentive educational programs however, he fell short of realizing his dreams.

Finally, at the turn of the 1990's and the installation of free speech as well as multi-party politics, Arabic speaking intellectuals (many of whom were illiterate in the official languages— French and English) were consequently excluded from political debates and compelled to explore parallel alternatives. Instead, they strove to focus their interests on Islamic knowledge and mastery of Arabic language in an attempt to gain recognition and build their social institutions. However, the "pure" Islam they were professing was not compatible with the popular Islam that was blended with local beliefs and customary practices. As such, this sort of

political Islam, which they have been trying to (re)introduce in the public sphere through associative movements, is actually in the process of transforming itself into a counter-cultural phenomenon, poorly defined for the moment, but is serving to alleviate current Muslim discontent with the Cameroon secular state.

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Endnotes

¹ For extensive developments about French colonial Islamic policy in Cameroon, see Abwa Daniel master's thesis, 1980. *Le lamidat de Ngaoundéré de 1915 à 1945*. Yaoundé: University of Yaounde.

² For more details concerning Islamic brotherhoods like the *Tijaniyya*, *Qadiriyya*, *Salafiyya* and *Mahdism*, refer to the *Encyclopaedia of Islam*, second edition. Leiden: E.J. Brill.

³ Decree N°77/245 of 15 July 1977 organizing traditional chieftaincies.

⁴ Laamiido Bouba Abdoulaye (1975-2004) installed one of the most brutal reigns in Ray Bouba. Backed by the ruling CPDM party, he used his authority to exile many of his subjects from his administrative unit.

⁵ For more details about this verbal confrontation, see the *Mutations* newspaper, 13 February, 2003.

Sufi Specialists and Globalizing of Charisma: Religious Knowledge and Authority Among Disciples of Baay Ñas

Joseph Hill

Do you know God?

My first day in Medina Baay¹ was the day of the Great /*Gàmmul* (Arabic: /*mawlid*/), or celebration of Muḥammad's birth, Medina's busiest day of the year, when hundreds of thousands Baay Ñas's² disciples from all over the world converge in this holy city on the outskirts of the Senegalese city of Kaolack.³ Throughout the afternoon before the all-night *gàmmu* meeting, visitors streamed through my hosts' house to greet the family and to catch up with old friends who had returned home for the festivities. As I sat in the entryway with some guests and members of my hosts' family, a man sat down across from me and, after exchanging the usual greetings, asked me, "Do you know God? I mean, really know God?" He proceeded to explain something that I was to hear several times later that night and then innumerable times during subsequent years of fieldwork among disciples of Baay Ñas in Medina Baay and elsewhere. Baay Ñas, he explained, knew God and taught others to know God. Not only did Baay Ñas attain a high degree of *exoteric* (/*ẓāhirī*/) knowledge of books and laws, but, more importantly, he was given the secrets and gifts of *esoteric* (*bāṭin*) knowledge of underlying reality. Most importantly, he was given the secrets and gifts of Divine Knowledge (*ma`rifah 'ilāhiyyah* in Arabic, *xam-xamu Yàlla* in Wolof), which he has made available to all who seek it through him or through one of his representatives, or *muqaddams*.

I was later told that the way to this Divine Knowledge is *tarbiyyah*,⁴ a concentrated period of spiritual education often lasting between two and four weeks, during which a spiritual guide helps the disciple to attain the extinction of self and of all other things, leaving awareness of nothing but God, who is everything. A new initiate to this Divine Knowledge who is asked his or her name might answer: "God,"—not because anyone would mistake oneself for God but precisely because one's self has disappeared along with everything else, leaving only God to answer any question. Ñas taught that anyone who undergoes *tarbiyyah*, not only ascetics who retreat from the world for years, may attain true Divine Knowledge. For many disciples, this populist emphasis on making *Ṣūfī* knowledge available to all is the movement's trademark and greatest selling point and is an important factor in the movement's growth within Senegambia around the world. But another draw to the movement is its emphasis on cultivating exoteric knowledge. In addition to the mystical knowledge associated with *tarbiyyah*,

many of the group's central leaders have developed a high degree of competence in the Islamic disciplines,⁵ including *fiqh* (often translated as "jurisprudence"), the branches of Arabic linguistic study, Qur'anic interpretation, and the sayings and actions of the Prophet (*ḥadīth*). Members of the movement have established countless Islamic schools all over the world, ranging from informal ones run out of a teacher's home to several major Islamic institutes. If there is any single object in terms of which Baay Ṣas's disciples tend to define themselves and orient their projects, it is undoubtedly knowledge, whether mystical (*bāṭin*) and exoteric (*ẓāhir*). Senegambian disciples of Baay Ṣas usually refer to themselves as "Taalibe Baay,"⁶ or "disciples of Baay" in Wolof, and they call their movement the Faydah, or "flood," a name whose origins I discuss below. This chapter focuses primarily on Baay Ṣas's disciples in Senegambia and Mauritania. However, most of Baay Ṣas's disciples live in other West African countries, especially Nigeria, Niger, and Mali, and several thousand Americans in New York and Atlanta have joined the movement as well.⁷ At any given time, several dozen Americans and comparable numbers of Hausa, Yoruba, and Arab Mauritians can be found in Medina, either studying, assisting Medina's leaders, or otherwise making a living. Even though only a small subset of disciples routinely interacts with disciples from other countries, the global nature of the movement infuses the language of disciples whether in remote peanut farming villages or in national capitals. Senegalese disciples often extol Baay Ṣas's international appeal and his ability to do what Pan-Africanism could not do: bring together nationalities and ethnic groups that have historically been mutually hostile (for example, Wolof and Arab, Yoruba and Hausa). Events in Medina such as the annual *Gāmmu* and the *Laylat al-Qadri*,⁸ disciples often say, routinely bring together groups from every country in Africa (although it is not clear that every country is represented). A song that young people in Medina often sing during nightly chant meetings proclaims "Baay is international, *Lā 'ilāha 'illā allāh* (there is no god but Allāh)." An important part of the experience of being a disciple of Baay, regardless of one's level of personal interaction with foreigners, is imagining that one is part of a movement that is sweeping the earth and that others, whom one may never have seen, are experiencing the same Divine Knowledge.

At the same time, the very principles of religious knowledge and authority that account for this movement's vitality and momentum also contribute to centrifugal tendencies that increase as the movement grows and incorporates culturally and geographically disparate disciples. First, the movement is predicated on the cultivation of several forms of religious knowledge through personal

apprenticeship to religious specialists. Experiential and embodied religious knowledge and shared discourses about this knowledge provide an important basis for imaginations and enactments of community among disciples of contrasting backgrounds. Yet the movement's trademark Divine Knowledge, cultivated through these apprenticeships is inherently charismatic and sublimely unpredictable, and multiple sites of charisma interrupt efforts to forge uniformity and a unified regime of moral authority. Second, religious knowledge cultivation depends on lineage-like chains of religious authority through which knowledge and blessing (*barakah*) are transmitted. This loose and flexible network of apprenticeship has allowed the group to spread rapidly through a culturally diverse discipleship. However, as the generational distance between disciples and Baay Ñas grows and disciples increasingly associate their religious experiences with local leaders, disciples tend to fragment and focus loyalties on particular leaders. That this group should have a tendency to fragment is unremarkable, as it is uncommon for international *Şūfī* orders to have any significant organization or shared identity above the level of local *shaykhs*. Rather, what is remarkable is this movement's swift spread and the fact that there is enough group identity to warrant attempts at unifying it as a single movement.

Disciples of Baay Ñas at all levels in Senegambia, from central leaders to novice disciples, invoke shared religious experience and Baay Ñas's status as absolute authority and source of all their religious knowledge in speaking and enacting community. Some of Ñas's senior sons attempt to consolidate a unified, global sphere of moral authority through emphasizing their mantle as Baay's representatives, and in their efforts there is often a certain tendency toward routinizing charisma (Weber, 1978), although this tendency must not be reduced to a political or economic move by the inheritors of Baay Ñas's authority to monopolize power or to exploit disciples. At the same time, the group's originary charisma maintains its vitality in local communities of disciples who continue to experience Baay as an active and direct agent through dreams and visions, and whose multiple paths to Baay check any tendencies toward monopoly. This movement is perhaps an unprecedented experiment in the rapid globalization of a charismatic movement, testing the possibility of forging shared identity and community while preserving the movement's charismatic basis.

Religious Technologies of the Self and Chains of Authority

When many Taalibe Baay speak of religious knowledge, they most often mean a complex of experiences, behaviors, and discourses that one cultivates through various practices, relations, and institutions of education. Through an extended, ascetic religious education, beginning with arduous Qur’anic study and continuing with other disciplinary techniques, a religious apprentice is said to develop the proper social behavior of a believer and a deep sense of the sublime nature of God. Education serves not only to fashion the self into the subject of a particular moral order but to realize this ideal moral order. One might understand this project to harmonize individual dispositions with Divine norms and a larger moral order in terms of the mutually constitutive relationship Pierre Bourdieu describes between an individual’s habitus, larger social structures, and norms. Bourdieu dismantles the Kantian notion that what harmonizes the subjective and the universal are fundamental metaphysical principles of reason, ethics, and aesthetics, arguing that the perceived universality of such principles arises from practical dispositions shaped through minute and repeated daily practices and social interactions.⁹ Through grounding larger social relations and norms in embodied dispositions harmonized with fields of social interaction, Bourdieu offers a useful starting point for theorizing the relationships between embodied religious knowledge and a larger moral order.

I am not alone, however in questioning some aspects of Bourdieu’s framework: the rigidity of his “objective structures” (Certeau, 1984), his emphasis on the reproductive side of practice over its productive possibilities, and his tying habitus primarily to class, capital, and conditions “reducible to distributions of economic and political power” (Hirschkind, 2001). Especially in studies of religious practice, overemphasizing structural and economic dimensions and failing to take seriously practitioners’ own explanations, experiences, and goals precludes understanding what religious practice is about for participants. This is particularly the case with movements whose members explicitly describe themselves as involved in projects aiming to transform the self and society through religious discipline. For those involved in such movements, the self and the body are not simply objects passively inscribed by anonymous social structures but are objects and media of intentional transformations. Unmooring habitus from overdetermined and deterministic models of agency opens up the possibility that work on the habitus might become a tool of both subjective and social change.

Moving in this direction, several anthropologists (for example Asad, 1993; Mahmood, 2005; Hirschkind, 2001) have shown how religious practitioners fashion themselves as religious subjects through embodied disciplinary techniques, echoing Foucault's concepts of technologies of the self (1997) and hermeneutics of the self (1997). The self can become an object of strategic disciplinary operations, which set in place new norms and social relations while partially reproducing existing ones. Whereas many observers have tended to treat Islamic education in Senegambia as conservative,¹⁰ practitioners tend to understand themselves not as reproducing or reestablishing an old order but as creating a new one. Taalibe Baay public speeches and daily conversation repeatedly affirm that disciplining the body, purifying the heart, and cultivating a personal experience of God will lead to a society in harmony with itself and with God. Through participating in religious education, especially *tarbiyyah* and various collective chanting practices (such as *dhikr*), Taalibe Baay aim to transform themselves into spiritual beings who see, as religious leaders often say, "with the eyes of the spirit." Only through knowing God, they argue, can one truly know oneself and others and always do what is good: one always aware of God's presence cannot do what God forbids, and such a person recognizes the Divine in all things. At a *daayira* (local religious association) meeting in Medina Baay in 2001, the *muqaddam* in charge turned to me and explained the importance of religious education (names have been altered):

You must discipline¹¹ your arm. You must discipline everything in your being—your eye, your sight, your hearing. Then you must discipline what is seen and what is unseen. To whom will you show your discipline? Not Jóob [the speaker's name], who you'll leave here when you go to America... So how will you be disciplined, and to whom will you show your discipline? *Bāṭin* [hidden, esoteric, mystical]. When you are on your own, and you're not with anything, God, who is never absent, sees you. Even though you don't see him, he sees you.

In working on their own subjectivity as individuals, Taalibe Baay also make themselves into good subjects of a particular moral order and regime of religious authority. As I argue in this essay, all three fields of religious knowledge are considered to be ineffective without being enlivened by religious authority, which is accompanied by the divine blessing given uniquely to Baay Ñas. Authority, then, is a constitutive aspect of religious knowledge and experience. Yet disciples do not blindly reproduce their position in a rigid structure as dominant or

dominated subjects. Their narratives show that the acquisition and practice of religious knowledge and authority are much more fluid, flexible, and open than implied by many accounts of Senegalese Islamic groups, which have tended to divide these groups sharply into ruling “marabout”¹² families and passive disciples (Behrman, 1970, Cruise O’Brien, 1971, Copans, 1980, Coulon, 1981). Religious authority among Taalibe Baay has been persistently charismatic and multi-centered. Religious authority among Taalibe Baay exhibits tendencies both toward hierarchical unification and multicentered manifestations of charisma, neither tendency definitively defeating the other. As such, Taalibe Baay can perhaps best be understood as a vast network of people tracing their spiritual genealogies back to Baay Ñas, rather than as a coherent corporate or identity group, although disciples employ multiple ways of invoking community. Several kinds of religious specialists, most notably *muqaddams*, form the nodes around which this network of disciples is organized.

This chapter has three parts: (1) *divine knowledge*, which introduces three specialized fields of religious knowledge, focusing particularly on mystical knowledge of God and the techniques of cultivating this mystical knowledge; (2) *authority*, which shows that a constitutive dimension of religious knowledge is authority from the source of this knowledge and the blessing (*barakah*) adhering to the knowledge through this source; and (3) *unity*, which discusses attempts to address built-in centrifugal tendencies in order. Such a framing calls for a reevaluation of how we understand the role of religion in global contexts. Olivier Roy (2004) understands the paradigmatic version of global Islam to be a neo-orthodox Islam largely sterilized of any spirituality and focused on the textual aspects of culture that travel easily. Where Sufism is globalized, he maintains, is primarily the kind of Sufism that can be packaged in short pamphlets. I suggest that, in contrast to scripturalist and neo-orthodox movements, Taalibe Baay are testing new modes of religious globalization based on the spread of techniques cultivating bodily dispositions and deeply religious experiences. Whatever unity this movement has succeeded in forging has depended to a great extent on the cultivation of the three related fields of knowledge discussed in this essay (mystical, textual, and occult), the most distinctive of which has been that of Divine Knowledge, and each of these fields is grounded in shared repertoires of apprenticeship and religious practice. All these fields of knowledge are mostly transmitted in informal spaces without any central bureaucracy or centralized structure and through personalized relationships of apprenticeship. Despite this absence of central corporate structure, the multiplying spiritual generations

between Baay's original charisma and today's disciples, and the cultural contrasts in the movement, Baay's mystical presence through dreams, visions, and the representative authority of Medina's leaders continues to foster, if not a corporate unity, then at least some sense and practice of shared identity among Senegambian and many other disciples. Not only do the tensions between hierarchy and sublimely egalitarian charisma, between multiplicity and uniformity, show no signs of diminishing, but these insurmountable tensions may be precisely what give the movement its strength.

Divine Knowledge

To perform some kind of religious work one must be recognized as having specialized knowledge in one or more of three overlapping fields, all three of which major leaders are typically considered to have mastered. The first field can be classified as exoteric (*ẓāhir*) and involves mastery of religious or linguistic texts in Arabic. The two other fields of knowledge are esoteric (*bāṭin*). The first of these esoteric fields is that of Divine Knowledge or *Ṣūfī* knowledge, measured in terms of one's level of spiritual development (*maqām*). The specialist in this form of knowledge is a *shaykh* or a *muqaddam*.¹³ The other field of esoteric knowledge is that of occult knowledge or magic, whose object is "secrets" (*ʿasrār*, sing: *sirr*) through which one manipulates the spiritual properties of objects, texts, and spoken formulas.

As analytically distinct as these fields may appear they have often traveled in the same paths and overlap significantly in their content. Only recently has it become common for someone to specialize in only one of these fields, especially as new *muqaddams* have been appointed in urban areas to accommodate an influx of new disciples while school teachers have remained more numerous in certain rural areas where the movement is already well established. In addition to common historical paths these fields share a number of methods, principles, and practical repertoires. For example, all are more or less associated with the transmission of authority and blessing (*barakah*) from important leaders; all involve repeating texts and phrases countless times in an effort to embody or exercise religious knowledge; and the transmission of all these forms of knowledge often depends on similar social relations, bodily postures, and spatial arrangements of teacher and student, encoding apprenticeship within larger relations of loyalty and discipleship. Apprenticeship in all three fields shares methods and dispositions that form part of what Bourdieu (1971) calls a "religious habitus", a set of durable dispositions shaped and exercised in diverse sites of education and daily practice.

Muqaddams: Nodes of Knowledge and Authority

The most salient nodes in the network of Taalibe Baay are *muqaddams*, or those who have been given authorization to represent the *Tijāniyy* order through a written attestation (*'ijāzah*), from another *muqaddam*. The *'ijāzah* of any Taalibe Baay *muqaddam* contains a section tracing the chain of authority (*silsilah*) back to Baay Ñas and from there to *Shaykh 'Ahmad at-Tijāniyy*. Most active *muqaddams* have more than one *'ijāzah* from different leaders, often beginning with one from a local leader and followed by *'ijāzahs* from leaders in Medina with a more direct link to Baay Ñas, especially his sons or closest *muqaddams*.

Although Taalibe Baay are members of a larger *Ṣūfī* order, the *Tijāniyyah*, and therefore share many mystical practices and beliefs with other members of this widespread order, Baay Ñas's unique claims and teachings set him apart as not just one among many *muqaddams* of the order, leading other *Tijāniyy*s either to accept his claims as the spiritual heir of the order and to become his disciples or to criticize him for claiming such a lofty role. In 1929—at approximately the age of 29¹⁴—he proclaimed himself the bringer of the *Fayḍah Tijāniyyah*, or the *Tijāniyy* spiritual flood, an event that *Shaykh at-Tijāniyy* had predicted and whose bringer would be considered the true spiritual heir of *Shaykh at-Tijāniyy*. A defining element of the *Fayḍah* was a particular kind of *tarbiyyah* (spiritual education), a process through which a disciple (Wolof: *taalibe*, Arabic: *murīd*) comes to know God through instruction from a spiritual guide (*shaykh murabbī*) and through long repetition of a number of sacred phrases. Communities of disciples in different countries emphasize *tarbiyyah* to different degrees: Senegambian disciples of Baay Ñas tend to invoke it very often in private and public speech as a marker of their community, whereas in some (but not all) Mauritanian disciple communities it is practiced discreetly and is considered a highly personal matter unrelated to one's being considered a disciple. Ousmane Kane (2003) has similarly remarked that although originally an important marker among Nigerian disciples in Kano generating much controversy, *tarbiyyah* has in recent years become more discreet and possibly less common. My interviews in these communities in Mauritania have suggested that Divine Knowledge retains importance for many members of these communities, although *tarbiyyah* is seen as a personal and private decision. In any case, Senegambian disciples almost universally invoke *tarbiyyah* as what sets them apart as a worldwide community of people who know God.

It is important to note that many—perhaps most—Taalibe Baay with the rank of *muqaddam* today seldom if ever perform functions specific to their appointment

(such as giving the *Tijāniyy wird* and *tarbiyyah* and appointing other *muqaddams*, etc.). Of those who do practice this role, most do so only part-time and subsist primarily on non-religious work (such as trading or farming), and a minority of major leaders have enough independent financial resources or receive sufficient religious offerings (*hadiyyah*) from disciples to devote themselves full-time to religious work. Also, one should not ask for or admit to aspiring to the rank of *muqaddam*, so although one can actively cultivate the knowledge and social relations that might lead to an appointment, being a *muqaddam* is not spoken of as a career-path that one can choose, and when I have occasionally asked young people if they wanted to be *muqaddams*, they have answered (usually with embarrassment at the question) that they had no aspirations and were simply studying knowledge because they loved learning.

The *Tijāniyy Wird*

One becomes a member of the *Tijāniyy* order through receiving the *Tijāniyy wird*, or a litany that is to be repeated morning and evening every day, from a *muqaddam*.¹⁵ Most people from Senegalese Taalibe Baay families take their *wird* in their mid-teens and go through *tarbiyyah* soon thereafter. Note that becoming a *Tijāniyy* does not involve simply learning or practicing the phrases of the *Tijāniyy wird*, which anyone could do, but *receiving* it from an appointed individual. Indeed, all the phrases pronounced during the *Tijāniyy wird* existed before the order was founded and are pronounced by people associated with other *Ṣūfī* orders and even by people not associated with any order. The term *wird* can refer to any repetition of holy phrases, whether associated with a particular order or not, and the practice can be used to a number of ends. When the *Tijāniyy wird* is described as one of the “secrets” of the *Tijāniyy* order, what is understood as being hidden from view is not the phrases themselves, which are freely published and explained to anyone, but the mystical knowledge unlocked through receiving this *wird* from the appropriate individual and then practicing it correctly in conjunction with the order’s other obligations.

Upon bestowing the *wird*, the *muqaddam* also explains these other obligations, which include strictly observing the five pillars and other prescriptions of Islam, respecting and obeying one’s parents, and pronouncing the *wirds* of the order. These *wirds* include the aforementioned “obligatory” (*lāzim*) *wird*; the daily *wazīfah*, pronounced morning or evening in group whenever possible; and the Friday *ḥaḍrah*, also pronounced in group. When pronouncing the *wird* one is to drop all other activities and not engage in conversation, and most people pronounce

the formulas silently. People asked a question while pronouncing the *wird* pause, keeping their place in their prayer beads (*kurus, misbahah*) with their thumb, and try to answer by gesturing, and if the question is urgent and requires a spoken answer, they stop the *wird* and start over after answering.

Accompanying the practice of official *wirds* is a habit that many serious *Tijāniyy*s develop of carrying their prayer beads wherever they go and counting off various litanies on them throughout the day during their other activities, usually in an unstructured way and without a goal of attaining a particular number. Although this practice exists among many *Ṣūfī* groups and even people not affiliated with any *Ṣūfī* group, in Senegambia and Mauritania the tendency to pronounce *wirds* around the clock is most strongly affiliated with *Tijāniyy*s.

One who has taken the *wird* is clearly a member of the *Tijāniyy* order, but is someone who takes the *wird* from a *muqaddam* of Baay a “Taalibe Baay?” While some who have not even taken the *wird* consider themselves Taalibe Baay by association, many of those active in the movement would maintain that what sets Taalibe Baay apart is the knowledge that only they possess, which requires *tarbiyyah*. For example, one *muqaddam* who went through *tarbiyyah* late in life told us how, when asked before *tarbiyyah* whether she was a Taalibe Baay, had answered “yes” but then had corrected herself, saying that she could only call herself a “sympathizer.” The unofficial Taalibe Baay census undertaken by Seydinaa Baabakar Caam (better known as Haraka) lists three categories: “sympathizers,” disciples of Baay who have taken *wird* from a *muqaddam* of Baay, and disciples of Baay who have gone through *tarbiyyah*. When I asked him if a certain politician was a Taalibe Baay, he gave a qualified answer, saying that he had taken the *wird* but not *tarbiyyah*. In short, whereas receiving *wird* from a *muqaddam* of Baay sets one apart as a member of Baay’s spiritual lineage as opposed to some other lineage, many do not consider it sufficient to mark one as fully Taalibe Baay.

Tarbiyyah: Knowing God

Many people from Senegambian Taalibe Baay families visit a *muqaddam* to request *tarbiyyah* in their mid teens, an age when *tarbiyyah* often functions simultaneously as an initiation into a *daayira* of other recent initiates of similar age, although some disciples I met in Mauritania insisted that one should wait until adulthood, when one can better comprehend *tarbiyyah*’s full import, and a significant number of *muqaddams* I spoke with in Dakar came into the movement as adults. One *muqaddam*¹⁶ told me that she gives the *wird* to anyone who asks but she

must be certain that someone is spiritually prepared before giving them *tarbiyyah*. If the *muqaddam* deems that the disciple is ready he or she will instruct the disciple to go home and to pronounce certain prayers several thousand times and to return the next day for further instruction. The disciple thus begins a process of about two weeks during which, although participation in some mundane activities like going to work or school is possible, he or she will spend hours each day repeating sacred formulas in conjunction with receiving instruction from the *muqaddam*. Many disciples in this process lose all interest in any socializing, eating, sleeping, studying, and practically any other mundane activity. One *muqaddam* told me this is because they feel such a strong love of God that they don't love or find anything else interesting. Disciples often become highly disoriented and socially disconnected at this time, and their obliviousness may occasion some teasing from friends and relatives. One continues on this path until one reaches a state that is called *fath*, or "opening," which allows the spiritual guide to begin guiding the disciple to experience the Divine.

After *fath*, it is said, awareness the self and everything else is extinguished in what is called *fana'* (extinction), and one becomes aware of nothing but God. People who have been through *tarbiyyah* sometimes describe it as "seeing God," and many refer to the year of their *tarbiyyah* as "the year I knew God." When I asked one *muqaddam* if he has seen God since *tarbiyyah*, he answered that he sees God constantly and that his experience of God only becomes deeper as time goes on, although he no longer manifests it openly by going into fits or losing consciousness (*xëm*) as new initiates do, because he has developed an ability to handle divine knowledge properly. When one sees God for the first time with the eyes of the spirit, he says, it is like looking into a bright light to which one's eyes have not adjusted, which can temporarily blind a person. I had initially thought the sobbing and shrieking I had witnessed at meetings of young people was a goal of *tarbiyyah*, and perhaps onlooking disciples in fact see it as an indication that the *tarbiyyah* worked, yet according to this explanation a public manifestation of these states is not an end or even a desirable result of *tarbiyyah*, because it reveals a low capacity to handle Divine Knowledge and is to be overcome.

Muqaddams sometimes describe the time directly after *fath* as the most fragile, even dangerous time for disciples. Xadi N'ñaj, a *muqaddam* who plays a leading role in several youth *daayiras* in Dakar and is also the mother of several children, compared *tarbiyyah* to childbirth: the *muqaddam* has spiritually given birth to the initiate, who must be nurtured and given the right amount of knowledge at the right time, as without proper guidance a disciple can in fact "spoil others or become spoiled" (*yàq walla yàqu*). Her own story illustrates this fragility. After

her *tarbiyyah*, she spent “five years, perhaps even seven” in a feverish state and lost all sense of time and self. She was beyond reach to her husband and children, sleeping on the floor and sometimes going days without eating or sleeping. As she could no longer bring herself to love anything but God, her husband divorced her, complaining that he no longer had a wife. During this process, a *muqaddam* recognized signs that she had attained a high level of spiritual knowledge and gave her an *'ijazah*, although she was in no state at this point to induct others into the order, and she only managed to fix (*régler*) what was mixed up (*jaxasoo*) through seeking the help of another *muqaddam*.

Divine knowledge is like electricity, she says, and suddenly exposing a new initiate to too much knowledge is like plugging a low-voltage device into a high-voltage outlet. The *muqaddam*, then, not only acts as a conduit for knowledge but also helps prepare the disciple for ever greater portions of knowledge.

Thus, it is those who have recently been initiated to Divine Knowledge who most commonly show conspicuous signs of an altered state of mind, especially at nightly meetings during intense chanting of the names of God (*dhikr*) or during public speeches invoking phrases associated with Divine Knowledge. At small neighborhood meetings of young people and at larger speeches made by sons of Baay Ñas, I have seen a number of such manifestations, including uncontrollable sobbing, convulsions, shrieking, sudden exclamations — either intelligible (such as “*Baay!*” “*Allāh!*” or “*Lā 'ilāha 'illā aLlāh!*”) — or not, and even walking aimlessly about and doing unusual things as if in a trance. More seasoned members of the community may show some similar overt signs but tend to do so much less frequently, and someone who suddenly yells or jumps during a meeting is likely to arouse speculation over whether he or she only did it for show. One *muqaddam* told me that whenever one can, one should avoid these things, although allowances are made for people who are going through a “state” (*ḥāl*) and cannot control themselves. Yet despite the emphasis on controlling oneself, many of those who attend a meeting where many people show signs of an altered state speak of the meeting as a success. With ironic gratification, young disciples commonly describe themselves or another recent initiate as “crazy” (*dof*). To know God you must — as one *muqaddam* exhorted me to do — “throw off your mind” (*sànni sa xel*) in order to see things the mind prevents you from seeing.

Daayira: Communities of Knowledge

While it is through *tarbiyyah* that an individual disciple comes to know God and to learn that all distinctions are illusory, it is through participating in a *daayira* that disciples deepen this mystical knowledge while at the same time coming to

be reintegrated into a structured social order. In this way *tarbiyyah* can be seen as corresponding to what Turner (1995 [1969]) has called the “communitas” stage common to rites of passage, the “anti-structure” through which an individual’s previous structural position in society is negated only to be reaffirmed after reintroduction into a new position in society. Although Turner emphasizes initiation rituals’s symbolic negation of structure, *tarbiyyah* relies on technologies of bodily and mental discipline whose effectiveness rests on transforming experience and not primarily on symbols of negation. After *tarbiyyah*, the experience of the sublime and liminal that it cultivates—its “communitas”— is not immediately negated through an unequivocal reassertion of structure. Rather, it is reawakened and reinforced through regular chant rituals and other kinds of religious meetings, leading to a situation where the “structure” of religious authority and the “anti-structure” of sublime experience, each the other’s condition of possibility, constantly vie with one another, and which one (if either) prevails changes radically depending on the situation. It would therefore be simplistic to say either that this is a movement in which leaders dominate their disciples through structures or authority or that this is a radically egalitarian movement in which Divine Knowledge erases all distinctions in communitas. *Daayiras* are the primary site where this combination of social integration and unpredictable charisma plays itself out.

The term “*daayira*”¹⁷ is applied to a range of religious associations associated with a *Şaif* group, from small neighborhood youth groups to highly organized international organizations with dozens of local chapters. Officially, however, the latter are usually called “federations” (*rābiṭah*) or “organizations” (*jam`iyyah*), and the term *daayira* is properly reserved for the local associations that compose these larger organizations. *Daayiras* may be formed by people associated with a particular *muqaddam* or by people who share a high school, university, workplace, neighborhood, or village. The *daayiras* described in this essay are local groups closely associated with a particular *muqaddam* composed mostly of disciples who have received *tarbiyyah* from that *muqaddam*. Many *muqaddams* have a system—one that has become especially prevalent in the past ten years and particularly in urban areas—whereby all disciples undergoing *tarbiyyah* automatically become part of the *daayira*. These *daayiras* typically meet for various activities at least once a week, and some meet unofficially almost daily. In the typical *daayira*, the *muqaddam*’s house provides the headquarters, but young members generally take turns hosting the longer and louder weekly chant meetings, which many *daayiras* amplify through the whole neighborhood. These chant meetings provide the main weekend social activity for many young disciples who avoid the nightclubs frequented by their peers.

In many of these *daayiras*, one or two of the more established members are trained to shepherd new disciples and might have received a limited *'ijāzah* allowing them to give the *wird* and to answer routine questions on behalf of the *muqaddam*. For example, Xadi Ñarj has given two of her disciples limited *'ijāzahs* and holds regular “adjustment” (*réglage*) meetings with them to make sure new initiates’ education proceeds smoothly. At weekly chant meetings, these senior members and the *muqaddam* give speeches, and *daayira* members who are gifted singers lead the group in chanting *dhikrs*, religious poetry by Baay Ñas in Arabic, and Wolof songs praising Baay Ñas. Senior disciples who continue to play an active role in the *daayira* and develop a close relationship with the *muqaddam* may receive full appointments (*'ijāzah muṭlaqah*).

Although most Taalibe Baay, young or old, either are or have been affiliated with one or more *daayiras*, local *daayira* meetings tend to be organized and attended almost exclusively by young, unmarried people. Older disciples typically reserve their participation for the larger projects of the *daayira* and attend the less frequent large meetings such as *gàmmus* and all night “conferences.”¹⁸ Small *daayiras* associated with a single *muqaddam* often cater primarily to young unmarried people, whereas the larger *daayiras* and federations of *daayiras*, such as the 'Anṣār ad-Dīn-Dīn Federation of Dakar (the largest and most organized of many chapters of 'Anṣār ad-Dīn around the world)¹⁹ involve large numbers of married professionals.

In recent years, the Taalibe Baay movement’s rapid spread in urban areas has come with an increased demand for *muqaddams* to lead disciple communities at a local level. Many of the new of *muqaddams* work primarily in non-religious sectors and have little formal training in religious topics who provide a significant amount of leadership and among local *daayiras*. In contrast to early *muqaddams* and current *muqaddams* in rural areas, who typically received their appointments after perhaps decades of textual study with a *muqaddam*-teacher, many urban *muqaddams* today were appointed after developing a close relationship to a *muqaddam* as senior *daayira* members. These *muqaddams*’ main task is to provide *tarbiyyah* and leadership to young people, as the vast majority of those seeking *tarbiyyah* are under 25 years old, whether from established Taalibe Baay families or new adherents. Some of these *muqaddams* have a reputation as highly charismatic and effective leaders and are responsible for organizing major events and projects. Despite the high regard in which they are held for their high level of spiritual development, it is uncommon for someone without specialization in textual knowledge to have a large number of disciples above the local level or to

be a highly sought after public speaker. Aside from the daughters of Baay Ñas, most of the female *muqaddams* fall into this category, often having a great love for the spiritual side of the order but not having the opportunity to devote years to textual study due to domestic responsibilities.

Authority

Religious knowledge, whether mystical, textual, or occult, is transmitted from teacher to student, resulting in an extended spiritual genealogy or network. Religious knowledge is inseparably bound up with authority, for what is passed on is not simply information or even the embodied dispositions acquired through religious disciplines but the spiritual blessing (*barakah*) that became associated with any given piece of knowledge when given to the lineage founder.

According to disciples of Baay Ñas, repeating the same formulas repeated during *tarbiyyah* without the authorization of a *muqaddam* of Baay Ñas will not result in Divine Knowledge, even though the formulas have their own intrinsic merit and therefore bring some blessing to anyone who pronounces them. In all three forms of knowledge, one does not simply learn something; one “receives” it, and the source from which one receives it is extremely important.

The eighteenth century story of *Shaykh 'Aḥmad at-Tijāniyy* exemplifies this principle. He received many mystical secrets from *shaykhs* from a number of *Ṣūfī* orders in North Africa and the Middle East and became especially associated with the *Khalwatiyyah* order. Even without divine intervention, he had amassed a large amount of exoteric and esoteric knowledge. But Muḥammad visited him and had him found a new order that would supersede all other *Ṣūfī* orders and which would be directly connected to the Prophet. Muḥammad “gave” him the Qur’ān, which he had memorized and been authorized to teach years before, and a number of sacred formulas including the main *wirds* of the order—which similarly involved formulas he had previously received from other *shaykhs* (Wright, 2005). If it had been simply a matter of knowing what the formulas contained, this visitation would have been of little importance. What sets *Shaykh at-Tijāniyy* apart is not bare knowledge of sacred books and formulas but the fact that he “received” these things directly from the Prophet with particular blessings attached. To receive a prayer formula through *Shaykh at-Tijāniyy* or any of his *muqaddams* brings the same blessing, but to receive the same formula through someone else does not.

Whereas specialists generally act as nodes in a large network, transmitting the knowledge and *barakah* they have received, the lineage founder’s authority does not depend on having amassed a stock of texts and secrets but on a direct link

to the Prophet. Because Baay Ñas is considered to have received his knowledge and authority directly from the Prophet, much as *Shaykh at-Tijāniyy* received his, his disciples function largely as their own spiritual lineage even though they are technically part of the larger *Tijāniyy* order. Some members of the movement may object to me considering Baay Ñas rather than *Shaykh at-Tijāniyy* to be the founding authority, for Baay Ñas did not actually found an order but simply continued what *Shaykh at-Tijāniyy* had started. Those who wish to emphasize unity with other *Tijāniyy*s very often downplay Taalibe Baay exceptionalism. Yet both ethnographic data and the writings of Baay Ñas and his close *muqaddams* make abundantly clear that the prevalent view among leaders and lay disciples in Senegambia is that Baay Ñas received unique knowledge directly from the Prophet that sets him and his disciples apart from all others. I know of no case in which a Taalibe Baay has renewed a *wird* or *'ijāzah* with a non-Taalibe Baay *muqaddam*, although I have known many originally non-Taalibe Baay who have renewed their *wird* with a Taalibe Baay *muqaddam*, usually in anticipation of taking *tarbiyyah*. Moreover, his absolute authoritative position in mystical knowledge applies to occult and textual knowledge as well. Baay Ñas and his representatives are called upon to certify diplomas awarded by religious schools and occult secrets that do not originate with them.

As founder of this spiritual lineage, Baay Ñas stands outside the routine rules of transmission of knowledge and authority. Typically, any given specialist has amassed a certain stock of knowledge he or she is authorized to practice and transmit, and the authority to practice and teach typically depends solely on the quantity and source of knowledge amassed. A specialist who has received fourteen secrets has the authority to pass on exactly these fourteen secrets, and so on. As each specialist gets his or her knowledge from multiple sources, and many travel long distances to exchange knowledge and secrets with a wide variety of specialists, this network is not a simple genealogy or hierarchy but a complex web. All three fields of knowledge and their secrets are unified under and guaranteed by one religious authority, Baay Ñas—and by extension his main representatives—whose authority relies not on his collected secrets but on a direct connection with God and Muḥammad, the sources of all religious knowledge and authority. Baay Ñas functions as a kind of reserve and fountainhead of religious knowledge, not simply a relatively more important node.

The story of Mustafaa Jaañ,²⁰ a *muqaddam* who lives in a Sééréer-speaking fishing community in the western Saalum River delta, illustrates this principle of religious fiat. Mustafaa Jaañ's father was a *muqaddam* who died before having the

opportunity to appoint a successor (*khalīfah*). Mustafaa Jaān's family elected him as the *khalīfah*, but they faced a problem: although Mustafaa Jaān had attained an advanced level of textual specialization at informal Arabic schools in neighboring villages, his father had neither appointed him as *muqaddam* nor given him authorization to use his large stock of occult secrets. Normally, to use these secrets he would have had to track down numerous people who possessed the authority to practice each secret individually, which would have been as difficult as simply starting over. He received an '*ijāzah*' from one of Baay Ņas's major *muqaddams* in the area, but this did not solve the problem of the occult secrets. So he gathered up all the papers on which his father had written his secrets and traveled to Medina Baay, where he presented himself, his '*ijāzah*', and his father's secrets to the man many regarded as Baay's successor, Sēriñ Alliw Siise. Alliw Siise gave him another '*ijāzah*' as well as the permission to use all his father's secrets.

When I asked a son of Alliw Siise about this story, he answered with another story with somewhat different implications. When one *muqaddam* had asked Baay if he could use secrets that he found in books, Baay told him that it would be preferable to ask his permission first. This account implies that the purpose of seeking authorization is to show deference for the *Shaykh* through seeking his blessing in whatever one does. On the other hand, a Mauritanian *muqaddam* to whom I showed a book I had bought that explained in Arabized Wolof the uses of various prayers and verses of the Qur'ān told me that this book was useless because secrets can only pass through people, not books. One may therefore detect some ambiguity over whether Mustafaa Jaān went to Medina to get Medina's blessing or to get authorization that would unlock his father's secrets. In practice, however, it is doubtful whether many practitioners make a rigorous distinction between these two reasons, as it is precisely the blessing (*barakah*), both social and spiritual, of founding leaders that reinforces and makes effective a given specialist's knowledge.

Unity

Tens of thousands of people had come to the village of Tayba Ņaseen, Baay Ņas's natal village, for the *Gāmmu Tayba* or the *Gāmmu Baay*,²¹ the yearly celebration of Baay Ņas's birth. Nearly every house in Tayba hosted dozens of guests. The main night meeting took place under a vast tent covering the village square, between the large new mosque and the house where Baay was born, although only a small fraction of the pilgrims fit inside it. The tent's festive atmosphere was enhanced with strings of colored lights, framed photographs of Baay Ņas, and

numerous cardboard signs with the names of countries painted on them: “Nigeria,” “South Africa,” “China,” “Australia,” and so on, representing the global presence of Baay Ñas’s disciples. As usual, although most attendees were Senegambian, disciple communities in Mauritania, Nigeria, Mali, and other countries had sent delegations, and various individuals attended from other countries. Baay Ñas’s son Maamun, having recently returned from the major *Gàmmu* in Nigeria, gave a speech in which he called for the unity of disciples around the world:

Then let us praise God . . . and make greater efforts, and be more united. What Baay wants most from us is for us to come together and be united, for us to love one another. I said it in Nigeria, and I’ll say it now. I had a rather heated talk with the Hausas on the first day [of the *Gàmmu* events], but they accepted it, God be praised, and said they would abandon it [what he had criticized]. . . . I told them: your first *muqaddams* and your *khalifahs* who have passed on and your fathers practically used to live in Medina, but you have abandoned it. If you think the little you have received from Baay is enough that you no longer need Medina, I tell you that you are lost. Because the tree is Baay and it sprouted in Medina—that’s the center of the *Fayḍah*. . . . Then I told them the parable that I will tell you so you can benefit from it . . . : The tree and its roots are Baay; the leaves are we small disciples; the large branches are we small *muqaddams*; the small branches are the *khalifahs*. In this example that I give you, I tell you that the leaves, if you pick them now and set them down within 2 hours, if a fire approaches they will burn. If you cut off a small branch, within 2 days if a fire approaches it burns. Large branches, if cut off within 2 months at the longest it burns like tinder. So I say: whoever strays from the trunk dies. If your *muqaddams* would have you believe . . . that you should listen to them, and that you should seek their permission to visit²² Baay, they’re cheating you. Because whatever they have, they got it here, and they fear that you will become like them. Whoever forbids you that, leave him there and go to Baay and take from where he [the *muqaddam*] has taken. I say this to Senegal’s *muqaddams*. There are many people now who go around, followed by 10 or 30 people who chant the *dhikr* for them, holding their shoes, who believe that they are Baay.

There is only one Baay, and no one will become him. There is no second. What he said about the Prophet is that there is only one of him, and he is the Prophet's successor.

He warned that Baay would leave behind those who operate without acknowledging him or without the authorization of their leader (*sëriñ*), referring to Baay Ñas's and Alliw Siise's sons in Medina.

Shortly after Sëriñ Maamun had finished speaking about the unique importance of Baay and the imperative for other leaders to accept their status as mere disciples of Baay, the microphone was given to a delegation of twenty-one Malians who had come from Mopti and who very likely did not understand his Wolof address. The son of a *muqaddam* in Mopti joyfully chanted an Arabic poem his father had written in praise of Baay Ñas, following it with a poem of his own, both poems taking around fifteen minutes. He then passed microphone to a group of chanters from his Mopti delegation, who began to sing a poem in Arabic whose refrain, sung every other line, praised the Malian *muqaddam* to whom they were attached.

After a mere minute and a half of this chanting, Sëriñ Maamun took the microphone and told the chanters in Arabic: "Peace be upon you. *Shaykh* Muḥammad al-'Amīn [the senior son of Baay present at the meeting] says may God bless you, lift you up, give you health . . . you and all your loves ones." He then said in Wolof: "The *sëriñ* [leader, Muḥammad al-'Amīn] says to turn it over to Baabakar Caam. The night is Baay's night." He then instructed Baabakar Caam, the principal Taalibe Baay chanter, to sing poems by Baay but not to forget poems Baabakar Caam's teacher, Omar Faati Jallo Ñas, had composed in Wolof in praise of Baay.

Within the space of a few minutes of this all-night meeting, both the centrifugal nature of this charismatic movement and leaders' response became apparent. The very exaltation of local *muqaddams* that Maamun had just decried crept into this Baay-centered meeting through the Malians' chants, and although the leader's response was eminently tactful and discreet (to the point that many who did not understand Arabic were unaware that anything wrong had happened), the leaders could not allow the spotlight to remain on anyone but Baay.

This group's unity is not based primarily on horizontal imaginings of community or on a single cultural habitus but on vertical relations of authority leading to a single source, Baay. As the memory of Baay's physical presence recedes—he died just over 30 years ago—and as the generational distance between Baay and rank-and-file disciples increases, the more tangible and generationally close local *muqaddams* become increasingly important in their disciples' eyes.

The tendency of this grand genealogy to fragment as the generations multiply and as the movement spreads geographically and culturally is present in Senegambia but is particularly strong in other parts of the world. It is likely that many disciples attached to Baay's *muqaddams* outside Senegambia have only a vague notion of any connection to Baay.

Sëriñ Maamun's solution to this generational gap is to emphasize that, on a mystical level, all are disciples of Baay alone and not of these local *muqaddams*. That is, only one generation really counts—Baay and the disciple—and anyone who tries to come between the disciple and Baay is “cheating” the disciple. This approach is common among leaders who wish to emphasize the group's unity. Speaking at a small *daayira* meeting in Medina Baay, a grandson of Baay Ñas told of a young man initiated by Baay's son Maahi who once described himself as Maahi's disciple, prompting Maahi to reply that he had no disciples: both he and the young man were disciples of Baay alone. Some leaders allow their disciples to call them *Shaykh* and to speak of themselves as their disciples, yet these *muqaddams*, whatever their accomplishments, draw much veiled and open criticism. The complaint is not just that these *muqaddams* are self-important and prideful above their rightful place, but more importantly, that they are contributing to fragmentation by acting like heads of separate spiritual lineages.

Although one may be tempted to think Sëriñ Maamun confused his metaphor in saying that Baay is both the “tree and its roots” while his *muqaddams* and disciples are the branches and leaves, he is following a common practice of describing Baay as both the part and the whole, as a single man and as mystically coextensive with the whole movement. Sëriñ Maamun's tree metaphor is one of many such metaphors expressing the unity of disciples through Baay and their continued dependence on him for their knowledge and authority. Leaders often echo the metaphor of electricity, alluded to in Xadi Ñañ's story above: Baay Ñas is a power source whose disciples are plugged in through the medium of his *muqaddams*, who are the power lines. Disciples' knowledge is nothing without Baay just as a television is nothing without a power source. The point of such images is that Baay did not simply bequeath Divine Knowledge to his disciples; their Divine Knowledge depends solely on his sustained mystical presence.

Centrifugal forces are all the more powerful when disciples of contrasting cultural backgrounds are expected to be united. The Wolof speakers of Saalum, the region where Baay Ñas was born and the part of Senegambia where his movement is most prevalent, include sociocultural groupings of radically different backgrounds. Baay Ñas's “Njolofeen” forbears immigrated from the northern

region of Jolof during the mid-nineteenth century and participated in the formation of M̄bba Jaxu Ba’s revolutionary Islamic state. In contrast to the native “Saalum-Saalum,” many of whom were not Muslim before the revolution, the Njolofoon claim an Islamic ancestry of centuries, tracing back to Fuuta Tooro in the Senegal River Valley. Contrasting customs and attitudes sometimes lead to tension and stereotypes between the two groups: Njolofoon tend to see many Saalum-Saalum as fanatical and uncouth, whereas many Saalum-Saalum consider the Njolofoon to be of a lower blacksmith (*t̄gg*) caste, which the Njolofoon uniformly deny. In an environment in which religion provides a common language for talking about a multiple issues, differences that an onlooker might see as fundamentally cultural are understood as differences in religious devotion or spiritual power.

Daam Jóob²³ is a prominent young *muqaddam*, around 40 years old, from a village in eastern Saalum where, as he once told me, most people only began practicing Islam seriously within his lifetime. He is most famous as an occult specialist of *jinns* (invisible and sometimes harmful beings), *d̄emms* (soul-eaters), and other unseen problems. His disciples, whose Saalum-Saalum culture sets them apart sharply from the majority Njolofoon population in Medina, have a reputation in Medina of fanatical devotion to Daam Jóob at the expense of their loyalty to Baay and to the larger movement. Mamadu, a friend of mine who came to Kawlax to study at Baay Ñas’s Arabic high school, is Daam Jóob’s disciple and tells me I must interview him, and that it doesn’t matter what language I interview him in, as Daam Jóob understands all languages. Really? I ask, has he studied Arabic extensively? Of course, Mamadu answered—he knows the Islamic disciplines better than anyone in Medina, including Baay Ñas’s sons, and what is miraculous about it is that he only studied for a brief period and God gave him unequalled knowledge, and his special gifts allow him to communicate in any other language as well.

A few months after my interview with Daam Jóob, I’m told that after the Friday prayer there’s been a fight at the mosque. As Daam Jóob was leaving the mosque with a large entourage, some of his disciples walked ahead of him and attempted to clear a path for him. One man was sitting in their way and continued to tick prayer formulas off on his prayer beads, and Daam Jóob’s disciples repeatedly told him to move. There are disagreements as to who struck first, but what is clear is that a fight broke out. The man turned out to be one of the younger sons of Baay Ñas whom the disciples likely did not recognize. As word spread through Medina about this “attack on Baay Ñas’s family,” later that day some outraged Medina residents came and caused serious damage to Daam Jóob’s house. Daam Jóob and

his disciples left that day, soon sold the house, and for months neither he nor his disciples dared show themselves in Medina, including my friend Mamadu.

But Daam Jóob needed Medina's legitimating support to continue his work in the eastern Saalum villages, and the family of Baay Ñas needed him as he represented the movement to a large rural constituency. He had to be restored to the community of disciples but he first had to demonstrate that he accepted his place as a disciple. In December, 2004, Daam Jóob hosted a large religious meeting in his village and invited the son of Baay Ñas who had been involved in the conflict to come and speak, accompanied by dozens of Medina notables. As Daam Jóob and the guests sat in his sitting room before the meeting, Daam Jóob briefly addressed them. He indexed his discipleship to the "family of Baay"—represented synechdochally by Baay's son. Seating Baay Ñas's son in an armchair, he sat on the floor before him and said:²⁴

The fact that the family of Baay has come here today to give us a speech about God is a great decision of unity for God. Because, you know how the world is today—if he were following the world he would never dream of coming here. But God is all he sees, God is all he experiences, and God is all he finds here too. All he finds here are his disciples and his loved ones . . . who have nothing to offer him but peace. They place everything they have in his arms and tell him that he has come home to his family. . . . We are listening to you—wherever you point us, that's where we go; whatever you say, that's how it is; whatever you want, that's how it will be. . . .

Later, during the meeting in the public square, other speakers similarly expressed their subordination to Baay's son as a mystical embodiment of Baay. Daam Jóob's younger brother declared: "one might say that a son of Baay did not come here today, but rather Baay himself came." It is common to say that Baay himself is attending a meeting, not meaning that he is looking on in spirit, but that his family, or the community of disciples, are mystically one as Baay. This speech makes clear that while perhaps everyone and everything is mystically one with Baay and with God, Baay's family is more one with him than anyone else. Structure and anti-structure, *communitas* and society, are copresent in a unity structured by authority.

No one openly challenges the authority of the family and close associates of Baay or their right to represent Baay, although some quietly go about their business and pay just enough homage to Baay's official representatives to avoid anything like a rupture. Daam Jóob probably could have continued in his semi-marginal

place within the larger movement while remaining at the center his own disciples' devotion if this overt rupture had not forced him to restore his position as a disciple. This movement still has many centers of charismatic authority, and the family's apparent monopoly on the trademark of Divine Knowledge has not routinized away the movement's charismatic roots. I interviewed one young *muqaddam* in Dakar who is famous for having recruited some popular Senegalese rappers to the movement. When I asked him who instructed him in Divine Knowledge, he simply answered that Baay had taught him everything he knows. He has only been a member of the movement for a few years and is too young to have known Baay outside of visions. This kind of spiritual genealogy is not rare, and there's nothing to prevent someone from making such claims and acting on them. It is very common for disciples in Senegal to dream about Baay (some were surprised that I hadn't), which most people believe always have some spiritual meaning. In November of 2005 I heard that Baay had recently appeared to a group of people in Medina and to another in Gambia. With these constant manifestations of Baay's personal presence in the community, it is not a stretch for someone to claim a direct connection to Baay rather than going through his family. In making such claims, one must demonstrate that one has not claimed a degree (*maqām*) higher than one possesses, for to do so is said to bring ruin on the claimant and to be easily sniffed out.

In short, while central leaders of the movement attempt to prevent the group's fragmentation through constituting a population (Foucault, 2000) of disciples equally linked to themselves as a central authority representing Baay, disciples and *muqaddams* continue to imagine a community connected to Baay in multiple ways, complicating tendencies toward rationalization or monopolization of Baay's charisma. Continued charismatic manifestations both challenge unity, in that they are unpredictable and lead to multiple centers, and contribute to it, in that they draw on common dispositions acquired through mystical education and reassert Baay's centrality and unifying force independent of any bureaucratic uniformity.

Conclusions

The divine knowledge that upholds this movement's project of unity relies on deeply embodied disciplinary techniques, including *wird*, *tarbiyyah*, and chant meetings, which enable both individual and collective religious experiences. These micro-practical repertoires of cultivating religious knowledge, dispositions, and experiences have larger implications in the expansion of this religious movement. As Saba Mahmood (2005) has argued, we must take seriously the body's use not

only as a symbol but as a medium and an object of disciplinary techniques of self cultivation. Equally important is the need to take seriously the role of religious experience and belief in motivating religious action. To explain the years devoted to religious education primarily in terms of investment in symbolic capital—which on one level it undoubtedly is—would be to overlook the crucial dimension of religious experience, to which much time, affective energy, and resources are devoted. Without the cultivation of religious experience through which disciples acquire a strong emotional attachment to Baay Ñas and a transformed understanding of themselves and others, all the discourses about Baay’s importance would be powerless to increase group unity.

The Taalibe Baay movement’s global spread and its projects of social change and unity are grounded in the mutually constitutive but sometimes dissonant relationship between embodied religious knowledge and webs of authority. These webs of authority regulate, legitimate, and facilitate the practice and transmission of religious knowledge, tending toward hierarchy and order. Yet divine knowledge, inherently charismatic and multi-centered, continually checks tendencies toward unifying or monopolizing the sphere of religious authority. Whether such a charismatic movement will succeed in forging a unified global identity while preserving its charismatic side or will succumb either to fragmentation into local groups or to a bureaucratized uniformity remains to be seen.

Acknowledgements

This article is based on research conducted between 2001 and 2005 funded by a Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship, a Social Science Research Council International Dissertation Research Fellowship, and grants from the The MacMillan Center (formerly the Yale Center for International and Area Studies), the Yale Program in Agrarian Studies, the Yale Department of Anthropology, the Yale Graduate School, and the Williams Fund. This paper refers to interviews conducted by me and by members of the Medina Baay Historical and Social Research Committee, an organization I founded in 2004 with 15 disciples of Baay Ñas living in Kaolack. This article refers specifically to interviews and meetings that the following Committee members participated in conducting and transcribing: Aamadu Njaay, Abdu Salaam Caam, Sheex Baay Caam, Baay Laay Ñarj, Allaaji Abdulaay Bittéy, and Aadi Faal. Special thanks to Kamari M. Clarke and Eric Worby for their invaluable contributions to this project, to Csilla Kalocsai for her comments on a draft of this paper, and to Colin Smith, Elizabeth Busbee, and Donna Perry for feedback on the material presented in this paper.

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Endnotes

¹ Names of Wolof and Arabic places and people in this article, except for national and regional capitals, published authors, and national political figures, are spelled according to Wolof or Arabic transliteration conventions rather than according to French transcriptions common in studies in this area. For an explanation of the transliteration rules I apply, see <http://medinabaay.dyndns.org/Medina/doc/transliteration>.

² Baay Ñas's official name in Arabic is usually written Shaykh al-'Islām al-Hājj 'Ibrāhīm ibn al-Hājj `Abd Allāh at-Tijāniyy al-Kawlakhiyy (one or more of these last two epithets may be omitted in some cases), and his official name in Wolof is Sheex Ibrayima Ñas. His name is usually written according French conventions, his first name as Ibrahim or Ibrahimia and his last name as Niass or Niasse. Throughout this article I use his Wolof nickname, which is what disciples and others in Senegambia almost universally call him. *Baay* means "Father" in Wolof and was first applied to Ñas in the early thirties by his disciple Omar Mälle Caam, indicating that his disciples were his spiritual children, and it almost immediately gained currency. This nickname is known internationally, although disciples in other countries more often refer to him by other names (in Arabic-speaking areas such as Mauritania they tend to call him Shaykh 'Ibrāhīm or simply Ash-Shaykh, and in Hausa-speaking areas he is often called "Shehu."

³ As this is a regional capital, I use the French spelling. The Wolof transliteration is *Kawlax*.

⁴ *Tarbiyyah* simply means "education" or "upbringing" in Arabic, but in Sufism it often refers to an aspirant's (*murīd*) process of spiritual tutelage at the hands of a spiritual guide (*shaykh murabbī*). Some Taalibe Baay leaders object to using the term in the restricted sense of this brief and somewhat formalized process, arguing that this is only one phase in a spiritual education that continues throughout one's life. Reflecting common usage and lacking a more accurate term, I continue to use it in the common sense.

⁵ I translate as "Islamic disciplines" the Arabic term *'ulūm* (sciences, knowledges) and the Wolof term *xam-xam*, both of which literally mean "knowledge" but refer in this context specifically to a number of canonical Islamic disciplines. Some subjects that are not strictly religious (grammar, rhetoric, etc.) are included because they form part of the same curriculum oriented toward mastery of religious texts.

⁶ Taalibe Baay: “disciple of Baay”, from Arabic, *ṭālib*: student. *Taalibe* is also used in Wolof to designate a student at a Qur’ānic school. Outsiders often call disciples of Baay Ñas *Ñaseen* (*Niassène*), which means in Wolof “those whose surname is Ñas” or “of the Ñas family.” I do not use this term for a number of reasons. First, members of the movement rarely do, and many object to it because they consider themselves disciples of a person and not of a family. Second, it strictly refers to members of the Ñas family, not their disciples. Third, even if one extends it to disciples it is analytically imprecise because it would include disciples of Baay Ñas’s older brother Muḥammad (Xaliifa) Ñas when the family’s disciples split in 1930. Occasionally I have heard disciples of Baay Ñas use the term “Taalibe Ñaseen” to refer to all those who follow a Ñaseen leader, but this is not a primary identity and simply means what it means: “disciples of the Ñas family.”

⁷ Christopher Gray (1998) provides a brief historical note on the Ñas family’s relations with the colonial government and Nigerian *muqaddams*, and Ousmane Kane (2003; 1989) and John Paden (1973) give more contextual information about Nigerian disciples. Rüdiger Seeseman (2004) discusses Ñas’s crucial relationships with Mauritanian *shaykhs* in the early days of the movement.

⁸ The 26th night of Ramaḍān, when the final verses of the Qur’ān are recited, after the rest of the Qur’ān has been recited during the *nāfilahs* (superogatory prayers) of the previous nights of Ramaḍān. Although this night has been designated by convention, one cannot predict which night is actually *Laylat al-Qadri*, leading some to call the 26th night *Laylat al-Khatmi*, or night of sealing the Qur’ānic recitation.

⁹ This critique of residual Kantian metaphysics—perhaps most explicit in *Distinction* (1984), whose subtitle, *A Social Critique of the Judgment of Taste*, is a clear jab at Kant’s *Critique of Judgment* (2000 [1793])—is implicitly present throughout much of Bourdieu’s work.

¹⁰ See Perry (2004) for a discussion on prevalent views and interventions regarding Qur’ānic schools in Senegal.

¹¹ *Yar*: discipline, educate, make well behaved (*’addaba*).

¹² Much of the academic literature on Islam in Africa designates anyone performing nearly any kind of religious work as a “marabout.” I avoid this term because, although it can serve as a gloss of the multisemic Wolof term *sëriñ* (or *cerno* in Pulaar), it does not reference a single analytical category, and in Western academic literature the term “marabout” has taken on a connotation of an entrenched and hereditary ruling class distinct from the masses of passive followers. There are more useful and precise terms with which to speak about religious leadership.

¹³ *Shaykh* (literally “elder”) is a title of respect that in Arabic can apply to any eminent or old person but in Sufism generally refers to an eminent *Ṣūfī* leader and is sometimes used to refer to any prominent *muqaddam*. But many *Tijāniyy*s reserve the title only for *Shaykh ‘Aḥmad at-Tijāniyy* (hence most people in Medina Baay called “Sheex” are named directly or indirectly after *Shaykh at-Tijāniyy*) and in many areas disciples of Baay Ñas reserve it for Ñas (hence many Mauritanian disciples named after Baay Ñas go by “*Shaykh*.” Among Taalibe Baay, some disciples of other *muqaddams* refer to their leader as their “*Shaykh*,” although these draw criticism from some who consider Baay the only *Shaykh* for all his spiritual descendents.

¹⁴ Although it is most often said and written that Baay Ñas was born in 1900 (for example, Mouhamadou Mahdy Niass, 1997), written biographies tend to give the *hijrah* date of Thursday, 15 Rajab, 1395, which calculates to approximately 16 October, 1902. (Date calculators actually give 18 October, which is a Saturday, and allowing for differences in moon sightings, the closest Thursday is the 16th.) For example, Ya`qūb ‘Abū Bakr (2003) gives the same *hijrah* date, as does Cheikh Hassan Cissé (1984), who renders the date as 17 October 1902, although the same biography’s French translation renders the same *hijrah* date as 1900.

¹⁵ The main *wird* of the *Tijāniyy* order, the *lāzim*, or obligatory *wird*, is to be pronounced twice a day individually and begins with the opening *sūrah* of the Qur’ān (the *Fātiḥah*) and then has one hundred iterations each of the following formulas: ‘*astaghfiru ALLāh* (I seek forgiveness from God), the *Ṣalāt al-Fātiḥ* (Prayer of the Opener), and *Lā ‘ilāha ‘illā ALLāh*, interspersed with several other sacred phrases. See <http://medinabaay.dyndns.org/Medina/photos/documents/Tijani%20Wird/> for a pamphlet that provides a full explanation, transliteration, and translation of the *Tijāniyy wird* in French.

¹⁶ Strictly speaking, a woman should be called a *muqaddamah*, although for simplicity's sake I use a single term for men and women, and Wolof speakers tend to use only one form.

¹⁷ From Arabic *daa'irah*: circle. The term is used by all major *Ṣūfī* groups and even by some non-*Ṣūfī* groups in Senegambia. See Villalon (1995).

¹⁸ While Taalibe Baay prefer the French word *conférence* or Arabic *muḥāḍarah*, other Senegalese religious groups call similar meetings *jàng*.

¹⁹ Baay Ñas wrote in a letter in 1959 that all disciples should be organized into *daayiras* under a larger umbrella organization called 'Anṣār ad-Dīn, although to this day there is no single organization under a central leadership under that name.

²⁰ This narrative is based on an interview conducted and transcribed by Aamadu Njaay in 2004 for the Medina Baay Historical and Social Research Committee. The name of the *muqaddam* is a pseudonym.

²¹ The *Gammu* at Tayba Ñaseen was held on September 24, 2004 and was transcribed by Sheex Baay Caam.

²² “*Siyaare*” (*ziyārah*): to visit, pay one's respects to. To *siyaare* Baay means to visit his tomb and his sons, which sometimes involves bringing them a monetary gift.

²³ Names of participants in this narrative are pseudonyms.

²⁴ Aadi Faal attended and transcribed the meeting.

Part II
Contemporary Controversies in Nigeria



The Relationship Between Divine and Human Law: Shari'a Law and The Nigerian Constitution

Ayo Obe

Introduction

The Shari'a Revival in Nigeria

In October 1999, Governor Ahmed Yerima Sani took Nigeria by storm when he declared that Zamfara State, to the leadership of which he had been sworn in on 29 May that year, was an Islamic state and would henceforth apply Shari'a law, not just for personal matters, but in criminal and social matters as well. The circumstances that led to this declaration have become swiftly overlaid with myth and counter-myth. While the Governor insists that his election campaign was based on a return to Islamic values of which Shari'a is a necessary part, others say that it would have been illegal to campaign on a religious platform under Nigeria's election rules. They further maintain that whatever promises Governor Sani, a former Central Bank of Nigeria official¹, might have made when campaigning, they became active only when he found himself under pressure for wasting government funds. It was his claim that he intended to build more Shari'a courts (which his political opponents would have found difficult to challenge in a state with a population said to be 98% Muslim) that extricated him from his political difficulties.

But the wave of popular support that this unleashed made it impossible for Sani to turn back, even if he had wanted to, and the politician who can resist riding the crest of a popular wave is a rare animal indeed. This was confirmed by the way that one after the other, the Governors of other northern States with majority Muslim populations also embraced the extension of Shari'a. Even the religiously lukewarm could see the political advantage positioning themselves as champions of Islam at a time when Olusegun Obasanjo, a southern Yoruba who made frequent proclamation that he was a "born-again Christian" was ruling as Nigeria's elected President² after twenty years' rule by northern Muslims. By the end of 2000, criminal Shari'a law had been introduced in Bauchi, Borno, Gombe, Jigawa, Kaduna³, Kano, Katsina, Kebbi, Niger, Sokoto and Yobe States.

Full Shari'a Law Made Real

Although Zamfara State immediately introduced measures banning the mixing of men and women, closing sports facilities for women and prohibiting the consumption of alcohol, for the rest of the nation the discussion centered on whether the declaration of an Islamic State, and the laws and punishments proposed conflicted with several provisions of the Nigerian Constitution. President Obasanjo however, anxious not to offend Muslim sensitivities, refused to be “stampeded” into hasty condemnation, predicting that the whole storm would “die out”.

But in January 2000, Zamfara State enacted its Shari'ah Penal Code Law, and when this was followed by the execution of a sentence of amputation of the right hand for the theft of a bicycle by one Bello Jangedi in May 2000, the Federal Government's masterly policy of inactivity began to look extremely hollow. Having carried out the sentence before Jangedi, illiterate and poor⁴, could be reached by any independent advice on his right to appeal, the Zamfara State Government isolated him from outside visitors, giving him substantial financial and material inducements to ensure his continued public expression of gratitude for having been punished in accordance with the will of Allah.

It was a different matter however, when Bariya Ibrahim Magazu, an illiterate village teenager⁵, became pregnant after her father had ordered her to have sex with three men to whom he owed money. While the three men naturally denied any connection with Magazu, and thereby saved themselves from punishment⁶, she, left with the pregnancy as evidence of unmarried sexual intercourse, and not surprisingly unable to produce four witnesses to corroborate her story, was sentenced to 100 lashes⁷. Because the sentence was temporarily suspended while she recovered from the birth of her child, Magazu was able to get advice and assistance from local non-governmental organizations led by Baobab for Women's Human Rights, and thereby appealed the sentence. The case unleashed a wave of protest both within and outside Nigeria, the authorities in Zamfara State took offence at this and rushed to carry out the flogging despite the pendency of Magazu's appeal.

As with Jangedi, the deed was done and the victim went on with her life (although Magazu's appeal was not withdrawn immediately), and the world's attention moved on. There were more sentences of amputation, floggings and a death sentence for murder⁸ with little real change in the situation. However, when 35-year old divorcee Safiya Husaini was sentenced to death by stoning for extramarital sexual intercourse by the Shari'a court in Gwadabawa, Sokoto State on October 14, 2001, it was a different matter. As with Magazu, Husaini's

pregnancy was treated as evidence of her crime, while the man whom she named as her partner, having initially admitted his responsibility for the pregnancy, realized his peril, recanted and won his freedom. Husaini's claim that she had been raped, being unsupported by four witnesses, was not enough to secure her acquittal. Appealing against the judgment on several technical grounds, Husaini also now attributed the pregnancy to her former husband⁹. Eventually, on 14 January 2002, the Sokoto State Shari'a Court of Appeal quashed the conviction. But the dust had barely settled on Husaini's case when on the 22nd of March that year, 30 year old Amina Lawal was convicted after allegedly confessing to having had a child while divorced, and sentenced to death by stoning by a Shari'a court at Bakori in Katsina State. When the Shari'a Appeal Court at Funtua upheld Lawal's conviction and sentence in August, it seemed that Nigeria might witness its first execution by stoning under Shari'a law. However, the Katsina State Upper Shari'a Court of Appeal quashed Lawal's sentence the following year, and the execution was cancelled.

The History of Shari'a in Nigeria

The furor caused by these two cases in particular, and the clear and unfavorable disparity between the treatment of the two pregnant women and the men allegedly responsible for their pregnancies raised several difficult questions both within Nigeria and of course, in the outside world. Nevertheless, while these cases have given the matter fresh urgency, the debate over Shari'a law in Nigeria is not a new one. In the forty or so years before Governor Sani's declaration of Zamfara as an Islamic State, the debate had been confined to questions about the specific machinery for the application of Islamic personal law and its place in the Constitution.

What was left of Islamic criminal law was covered by the Penal Code, which had been enacted by the then Northern Region government shortly after Independence in 1960.

An examination of Islam and Shari'a law over a longer period in the history of the people within the "geographical expression known as Nigeria"¹⁰ however, shows that it is in fact the last forty years, during which Islamic criminal law survived only in a few sections of the Penal Code that are the aberration. For some Islamic communities in Nigeria, Shari'a law had been the way of life for centuries. The religion may have arrived in Nigeria by means of trade and contact as early as the seventh or eighth centuries. In any event, by the fourteenth century, the ruler of Kano was said to have converted to Islam while the following century the Kingdom

of Bornu was established by the Muslim ruler, Ali bin Dunama (Ali Ghazi)¹¹. As Islamic rulers in northern Nigeria consolidated their power, they established Islamic laws and administration, and the Shari'a legal system eventually came to be applied across those areas of Northern Nigeria particularly in Bornu during the reign of Mai Idris Alooma¹² in the sixteenth century.

Before the nineteenth century, Islam spread across the country through contact, reaching across the Hausa, and Conversion to Islam did not invariably mean the adoption of Shari'a law. In many cases, even where the rulers adopted Islam, the people did not completely abandon their indigenous religions and practices, particularly in the Yoruba kingdoms of south-western Nigeria where the role of "secret societies" in the settlement of disputes prevented the wholesale acceptance of Islamic law and practices.

Perhaps this dilution of the purity of Islam was the cause, but in 1804, the Fulani leader Uthman dan Fodio launched a Jihad of conquest to spread Islam throughout the land and to "dip the Qu'ran in the Atlantic Ocean". Military victories aided by horse-borne cavalry saw Fulani rulers installed from Sokoto in the far northeast to Kano and to Ilorin in the south-west. But despite the ambitions of the jihadists, it proved less easy to impose fully-undiluted Islamic law even within the Sokoto Caliphate that Dan Fodio established. Instead, the *Maliki* system of Shari'a law, which made some accommodation for indigenous practices and concerns, if these were not specifically prohibited by, or did not contradict Islamic law, became established across a wide section of the northern part of the country. Frederick Lugard, the Governor of Nigeria at the time of the 1914 amalgamation of the Northern and Southern protectorates, described what the British found there at the time when the Caliphate fell under their control:

The administration of Muslim law is modified by local law and custom in pagan Districts, provided that by so doing the Judge does not directly oppose the teaching of the Quran. There is no doubt that even in Muslim Districts the law, as administered today especially in the Emir's Judicial Councils, is often modified by recognition of the native law and custom which has been influenced by the system the Fulani found in operation at the time of their conquest.¹³

BOX 1 “The Emir, as Head of State, was the supreme judge, acting with the advice of his Executive Council. Important cases, mainly land and capital cases, came before him, but since the Emir and his Council were always heavily preoccupied with executive matters, the bulk of the judicial work was entrusted to officials who made the law their speciality. The Alkali, as these officials are called, was therefore a professional judge, with no executive or administrative functions. There was thus an effective separation between the agencies discharging executive and judicial functions.”¹⁴

It must be noted that the application of a full Islamic code and Shari’a law in pre-colonial Nigeria took place within what is best described as a theocracy, where the ruler (Sultan or Emir) was the spiritual leader as well as Head of State. In these areas, Shari’a punishments such as flogging, amputation of hands and execution including stoning to death were applied for theft, adultery, rape, incest and murder.¹⁵

Opinion differs as to whether the fact that the Jihadist’s system of establishing kingdoms headed by a Fulani Emir related to dan Fodio meant that the Jihad of 1804 was in reality more of an ethnic war of conquest than a holy war of conversion. However, as we have seen from present-day experiences, the dividing line between political expediency and religious obligation is sometimes more apparent than real. At any rate, political realities in those areas where resistance to both subjugation to alien rulers and conversion to Islam was strong meant that the Sokoto Caliphate did not impose the Emirate system in all the areas that came under its sway, while Maliki law was extended only gradually, and with local modifications.¹⁶

The Colonial Era

It was this *Maliki* system that the British colonialists met as they extended their own influence into the northern part of Nigeria in the early twentieth century (see Box 1). Because the British colonizers used the system of indirect rule to

govern in northern Nigeria, the indigenous courts remained in place, and Lugard even built them up so that they could continue to dispense justice to the people in a form that they understood. Lugard assured his new Nigerian subjects that “Government will in no way interfere with the Mohammedan religion ...”¹⁷.

This promise, of course, could hardly stand the test of time. The indigenous rulers who were responsible for the application and administration of the *Maliki* form of Shari’a law now retained and exercised their powers because the British colonizers permitted them to do so. This meant that the basis of their authority had been transformed from one based on divine right, to an authority based on the decisions of men. Once that had been conceded, the colonizers could and did continue to alter the content of that indigenous authority. One of the first changes was the end of execution by stoning of adulterers and rapists. According to Hakeem Harunah in his study of the contradictions and crises caused by present-day application of Shari’a law:

It would appear that the British under Lugard succeeded in persuading the various emirate authorities to step down such modes of punishment. The emirate authorities accepted the change not only because of their desire to avoid any form of major confrontation with the British, but also because of the fact of relative decline in the criminal breaches of the offences, which attracted such types of capital punishment.¹⁸

This comment glosses over the crucial transformation that had taken place in the application of Shari’a law now being applied, making it seem as though certain Shari’a punishments were abolished, not because the British prohibited Islamic rulers from applying them, but because the people stopped having illicit sexual relations!¹⁹ But appreciating that this transformation had indeed taken place is essential to an assessment of present-day steps to apply full Shari’a law and practice in modern Nigeria by rulers whose authority also comes—not from divine right—but from a Constitution made by men.

In any event, despite Lugard’s promise, the colonial powers certainly did interfere. The subordination of traditional powers and authority to the colonizing power was gradual, but it was inexorable. The Native Courts Proclamation of 1906 gave the British Resident power to appoint the Alkalis or Emirs’ Court, and made the consent of the Governor a pre-condition to any execution ordered by an Emirs’ Court. Once the right to appeal to non-indigenous bodies was established, it was inevitable that the content would also change. At first, there was a readiness to allow Islamic law to be applied as shown by the 1930 Abdullahi Kogo case:

There is no desire to interfere with decisions. The principle has been that the verdict and sentence of a Native Court which is an integral part of our judicial system carried out in accordance with procedure enjoined by Native law and not obviously inequitable will be accepted even though the procedure is widely different from the practice of English Criminal Courts.²⁰

In that case, the accused had been convicted on the evidence of his two co-accused, but without the oath of the co-conspirators being taken as required by Islamic law. The High Court to which he appealed simply sent the matter back for the oaths to be taken, since although it was accepted that the crime had been “fully established”, it was also recognized and accepted by Brooke J. that the oaths were “still regarded in the Mohammedan Courts of [Nigeria] as essential to a conviction”.

By 1947 however, attitudes had changed. Tsofo Gubba had been charged with murder before an Alkali Court, which used Islamic law to determine his guilt, and sentenced him to death. Although the court that heard his initial appeal dismissed it, it noted that the evidence disclosed no offence greater than manslaughter. But the West African Court of Appeal quashed his conviction, holding that where:

...A native court exercises its jurisdiction in relation to an act which constitutes an offence against the Criminal Code, whether or not it is also an offence against [Islamic] law and custom, it is required to exercise the jurisdiction in a manner ... in accordance with the provisions of the [Criminal] Code.²¹

In 1948, four Commissions of Inquiry were set up to investigate the working of the Native Court system across the entire country. In his work on Nigerian criminal law, Karibi-Whyte described the situation that Brooke J., found in the North:

In the Northern provinces, there was considerable opposition to any attempt to change the status quo. Opposition was strongest against the withdrawal of jurisdiction in homicide cases from the Emir’s Court. There was in addition an unwillingness to administer any law except Mohammedan law in Muslim Courts, and a desire to retain Mohammedan practice and procedure even when the Courts are enforcing Nigerian Ordinances.²²

As we consider the present revival of Shari’a criminal law, we should remember that these were the views expressed by the northern elite barely fifty years earlier. And although Karibi-Whyte described this attitude as reflecting “a

rigidity hardly acceptable in a multi-legal society”, it might equally be argued that, although in the intervening 50 years Nigeria’s Muslims had struggled to find some *modus vivendi* with the multi-legal society in which they found themselves by accident of colonial history. Their enthusiastic embrace of the extended Shari’a in 1999 was nothing more than a return to their roots.

But what happened in Nigeria regarding Islamic law in the 50 years between Brooke J’s 1948 investigations and Governor Sani’s 1999 declaration?

From Pre-Independence to the 4th Republic: Criminal Law

In 1954, a federation of Nigeria was created with three regions, each with a dominant ethnic group: the Hausa/Fulani²³ in the Northern Region, the Ibo in the Eastern Region, and the Yoruba in the Western Region. Each region included minority ethnic groups, and as the nation moved towards self-government and independence, these minorities were the issue of an investigative Commission. In the Northern Region, the Minorities Commission found that religious issues were of particular concern. The disadvantages suffered by those whom Islam treated as pagans, coupled with a political unwillingness to convert to the religion of the conquerors meant that many embraced Christianity when British colonial rule gave room for missionaries to operate with more freedom in areas under Muslim control. There were thus large numbers of non-Muslims within the Northern Region who expressed vociferous concern about what their fate would be once the Muslim majority achieved full power since they were already experiencing discrimination in Muslim courts. The Minorities Commission listed their concerns as follows:

(i) Compulsory submission to the jurisdiction of Courts which follow a procedure which:

(a) Attaches greater weight to the evidence of a male Muslim than that of a female Muslim, or to the evidence of a Christian or pagan;

(b) Permits a Muslim to swear his innocence and go “scot-free”.

(ii) Subjection to the Muslim law of homicide, which provides for differing rates of “blood money” according to the religion of the deceased.

(iii) That the executive—the Native Administration which was often just the Emir alone—still appointed Alkalis and still exercised a large measure of control over Muslim Courts

(iv) Uncertainty as to what amounted to a criminal offence, due to the special jurisdiction of the ruler known as “siyasa”.²⁴

For their part, although Muslim leaders in the Northern Region wanted to preserve the dominant position of Islam and Islamic law, they were also alert to the need to develop a system under which all citizens would feel included. They were also aware of the changing currents within the Islamic world, having sent delegations to visit Pakistan, Libya and the Sudan to study issues such as the liability of non-Muslims to be prosecuted for purely Muslim offences and the disabilities of non-Muslims before Muslim courts. These investigations made it clear that the Northern Region Government risked isolation even among other Muslim nations if it maintained a rigid stance. The government of the Northern Region therefore:

In the light of the legal and judicial systems obtaining in other parts of the world where Muslim and non-Muslim live side by side, and with particular reference to Libya, Pakistan and the Sudan...²⁵

established a panel of six jurists²⁶ to consider

- (a) The system of law at present in force in the Northern Region, that is, English law as modified by Nigerian legislation, Muslim law and customary law, and the organization of the courts and the judiciary enforcing the system, and
- (b) Whether it is possible and how far it is desirable to avoid any conflicts, which may exist between the present systems of law; and to make recommendations as to the means by which this object may be accomplished and as to the reorganization of the courts and the judiciary in so far as this may be desirable.”

The Panel recommended the introduction of a Penal Code based on the Sudan Penal Code, with local modifications, which in particular would make provision for the large non-Islamic minorities in the Region. The Penal Code which was consequently enacted by the Northern Region government and legislature, included matters of importance to Muslims, such as punishment for extra-marital sexual intercourse²⁷, punishment for drunkenness in public, and punishment for anyone who “being of the Muslim faith drinks anything containing alcohol other than for medical purposes.”²⁸

Although this legislation was enacted by a predominantly Muslim legislature, and with the support of a predominantly Muslim Northern Region government, it has still been described as having been “achieved in the teeth of considerable Muslim opposition.”²⁹ Again, this Muslim opposition at a time when Muslim Northerners controlled the central government should be borne in mind when considering the re-extension of Shari’a in today’s Nigeria. According to Ibrahim Shekarau, the present Governor of Kano State, the Penal Code was never accepted, and indeed, he describes Northern leaders of the time as having been “cajoled” into “sacrificing Shari’a for the Penal Code” by “the economic concerns and fears of non-Muslims”³⁰:

The code which was introduced in 1959 is a hybrid of the Shari’a, the English common law and the traditional law. But even those offences for which the penalties were made to reflect the Shari’a such as theft, adultery, debt and drinking alcohol, bastardized the actual provision of the Shari’a. What made the issue unacceptable to the Muslims is that the changes introduced in the penal code were rendered amendable. By 1960 as many as eighteen amendments were carried out.³¹

Those amendments of course, were carried out by the Northern Region legislature, which was dominated by Northern Muslims. Moreover, despite the opposition to the Penal Code, its enactment represented recognition that any realization of Islamic ideals would have to be by means of a system of laws and government designed for a multi-faith society.

The limitations of the new system were soon apparent. Particular difficulties arose in relation to the “opting-out” provision that was designed to allow non-Muslims to avoid being tried by a Muslim court, as highlighted by the Provincial Annual Reports of 1959:

The introduction of section 15A has resulted in a most unsatisfactory state of affairs: accused persons have forsworn their religion in the hope of avoiding trial in the Alkali’s Court.³²

The response to this trend was to prosecute, this transgressed suspected Muslims who forswore their religion for apostasy but, both national and international guarantees of the right to freedom of religion. In 1961, the opting-out provision was abolished, because—it was argued—the enactment of the Penal Code meant that Islamic law *stricto sensu* was no longer being applied. While it should be noted that this abolition revived the concerns of non-Muslims whose

experience when being tried by Muslim judges was that the habits peculiar to Islamic criminal procedure (such as the differing weight attached to the evidence of Muslim men, Muslim women, and non-Muslims) still left them at a disadvantage, from the Muslim point of view the Penal Code represented a tremendous and unpopular compromise, since it suggested that any hope of maintaining Islamic criminal law as something applicable to Muslims—even under the national man-made statutes—had been relinquished.

From pre-Independence to the 4th Republic: Personal law

Although the 1960 Independence Constitution recognised Shari'a law as one of the three sources of Nigerian law³³, its' application was now limited to personal cases, including those related to matrimonial causes and disputes, and to inheritance matters in those Regions which had decided to establish Shari'a courts. In practice, this meant only the Northern Region. The courts here however, were free to administer Shari'a law between Muslims and non-Muslims who accepted the Islamic jurisdiction (which was not unusual).

Islamic principles also survived Independence in denying voting rights to women in the Northern Region. This disenfranchisement was carried through to the Federal Constitution in which the qualification for being registered to vote, or be a candidate for election to the Federal Parliament stipulated that:

A person shall be qualified for election as a member of the House of Representatives if he is a citizen of Nigeria and has attained the age of twenty-one years and, in the case of a person who stands for election in Northern Nigeria, is a male person.³⁴

Since neither the 1960 Independence nor the 1963 Republican Constitutions contained any guarantee against sex discrimination, this sop to the Islamic Cerberus went largely unchallenged and indeed, almost unquestioned.

Post-Independence Nigeria witnessed severe political upheaval, including a military coup in 1966 and mass ethnic killings, which led to the attempt by the Eastern Region to secede from Nigeria as the sovereign state of Biafra. After the 1967-1970 civil war defeated the secession, much was done to encourage nation building and to prevent any future attempt at secession. The Regions were divided into first twelve and then nineteen States in an ostensibly federal system, but under a military dictatorship, with state military governors subject to the centralised command structure of the armed forces. When General Yakubu Gowon, who had led the country during the civil war began—despite repeating the mantra that “military rule is an aberration”—to show signs of dragging his

feet over returning the country to civilian democracy, he was overthrown in a bloodless coup in 1975. Although his successor, General Murtala Muhammed was assassinated after barely six months in a bloody but unsuccessful coup attempt, Muhammed's deputy, General Olusegun Obasanjo took over and re-committed the military dictators to a laid-out programme for a return to civilian democracy. A major part of this programme was the preparation of a new Constitution.

Nigeria's military rulers saw the autonomy of its federating units—reflected in the separate Regional Constitutions—as a threat to the national unity, which they, through institutions such as the National Youth Service Corps³⁵ and the concept of the “federal character”³⁶ had striven to build in the wake of the civil war. They therefore determined from the outset that there would be only one Constitution for the whole country. A Constitution Drafting Committee consisting of 50 “wise men”³⁷ was appointed to prepare a draft Constitution, and upon the submission of their report, a Constituent Assembly of elected and appointed members was convened to agree a new Constitution.

Like the present 1999 Constitution that is based on it, the 1979 Constitution prohibited the adoption of any state or national religion and guaranteed freedom of religion. These provisions were uncontroversial and excited little debate or dissent. Regarding Islamic law and principles, the fact that the discussions on the proposed Constitution were a national debate about a national Constitution and was reflected in two ways. Firstly, in a post “women's liberation” world it was not only difficult to maintain the “women's subjugation” aspects of the previous Constitution; with a President who was to be elected on votes cast by the whole country³⁸, it would have been political suicide for the states of the former Northern Region to deprive themselves of the votes of half their population. The 1979 Constitution, which was eventually enacted, therefore gave the women of the former Northern Region the same right to vote and be voted for that their sisters in the rest of the country had enjoyed since the pre-Independence days of the 1950s.

Secondly, the discussion about the position of Shari'a law took place in a national setting. At this time, (1977-78) there was no overt suggestion of the revival of Shari'a criminal law and punishments. Rather, it was the judicial arrangements, and in particular, those relating to appeals from the Shari'a courts hearing civil matters that generated the most heated arguments, threats and indeed,—a walk-out by some northern Muslim members of the Constituent Assembly.

The cause of the argument seems arcane, but below the surface issue was a determination on the part of the non-Muslim northern minorities (supported by representatives from the East and—Muslim and Christian—from the West) to resist

any entrenchment of Shari'a at a national level. The northern Muslims on the other hand, were suspected of seeking to return Islamic law to the supremacy that it had managed to retain during the colonial era by means of the apparently innocuous wedge of a separate court for personal Shari'a law at the national level.

At Independence, Nigeria's judicial system consisted of the lower courts (Area Courts, Customary Courts and Magistrates' Courts etc.) the High Courts, and the Supreme Court of Nigeria. Appeal from the Supreme Court to the Privy Council of the British House of Lords was abolished with the Republican Constitution of 1963, but the litigious citizens of the Western Region soon continued began to clog the Supreme Court up with their incessant appeals. The vestigial autonomy of that the Regions even under military dictatorship allowed the Western Region to establish its own Court of Appeal between the High Court and the Supreme Court. However, it was popular with neither the rest of the country nor the Supreme Court (which did its best to overturn as many of its decisions as it reasonably could), while to the military authorities, it was another sign of apartness and difference. At any rate, in 1976, the Western Region Court of Appeal was abolished, and a Federal Court of Appeal established for the entire country.

Under the draft Constitution, states with Shari'a courts for Islamic personal law could establish a State Shari'a Court of Appeal. At the Constituent Assembly, their representatives now insisted that a Federal Shari'a Court of Appeal be established to hear appeals from these state Shari'a appeal courts. It was this issue which, with heated argument and a walk-out by northern Muslim members, dominated the headlines of the day, with shouts of "Shari'a" and "No Shari'a" reflecting the fact that—however relatively technical the issue—defeat or victory was indeed seen as a proxy for the continuation of the *jihad* by which the Qu'ran was still to be "dipped in the Atlantic Ocean" by the modern-day heirs of Uthman dan Fodio.

In the end, the military rulers intervened and dictated firstly that the discussion must stop: they would take a decision, and secondly that there would be no Federal Shari'a Court of Appeal. Thirdly—and this was the compromise—instead of a Federal Shari'a Court of Appeal, the judges of the Federal Court of Appeal were to include at least three who were learned in Islamic personal law. Without creating any formal or special division of the Federal Court of Appeal, these judges would be the ones to sit and hear appeals from state Shari'a appeal courts.³⁹ At the same time, similar and corresponding provisions were made for customary law although by its very nature, customary law varies not only from place to place, but also from time to time. While a judge learned in Islamic law would be qualified to hear an appeal from any state Shari'a Court of Appeal since the law being applied was (in

theory) universal and known, the benefits that would be brought by a judge learned in Efik customary law to the determination of a case involving the customary law of Oyo are not immediately apparent, but it may be presumed that this was done in the interests of “balance”.

The return to civilian rule of which the 1979 Constitution (decreed into law by military fiat) was the precursor, was rudely truncated on the 31st of December 1983. Having done away with the military dictatorship of General Muhammadu Buhari, who had failed to subscribe to the “military rule is an aberration” mantra, his successor, General Ibrahim Babangida established his own Constituent Assembly to create a new Constitution for the proposed return to civilian rule. Again the “Shari’a!” “No Shari’a!” debate paralysed the assembly until the military dictators forbade further discussion on the issue. Due to his abrupt cancellation of the presidential elections of the 12th of June 1993, Babangida’s 1989 Constitution never came into effect. His successor, General Sani Abacha went through the same process, with the same result.

Due to the universal importance that northern Muslims attached to the continued struggle to entrench Shari’a in the national legal system, the Shari’a issue continued to dominate Constitution making in Nigeria even though the different Constituent Assemblies that produced the various Constitutions referred to above became progressively less representative in the sense of being composed of members directly elected by the Nigerian people, and more a matter of reward by appointment as a government nominee to such Assembly.

Nonetheless, given all that had been imposed by military fiat, a national consensus seemed to have grown around the idea that Shari’a law would remain confined to issues of personal law, with Islamic criminal law concerns taken care of by whatever could be made of the Penal Code. It was this consensus that was rudely shattered by Governor Ahmed Yerima Sani’s October 1999 declaration that Zamfara State was an Islamic State.

Full Shari’a and the Nigerian Constitution

By declaring that Zamfara State was an Islamic State, announcing the adoption of Shari’a criminal law, ordering the segregation of men from women, and closing down certain amenities for women, Governor Sani appeared to be deliberately challenging not only the apparent consensus about the place of Shari’a law in the country, but the Nigerian Constitution itself.

A State Religion?

The first mention of religion in the 1999 Constitution states that: “The Government of the Federation or of a State shall not adopt any religion as State Religion.”⁴⁰ Although Sani tried to explain his declaration of Zamfara State as an Islamic State as merely descriptive of the claimed 98% of the citizens of the State who were said to be Muslims, the initial actions of the State Government gave the impression that it believed that the declaration meant that Islamic law and principles could thereupon be applied without more.

Women felt the immediate effects first. The government ordered the public segregation of women from men, but in practice what this meant was that while public facilities remained open to men, women were barred from much of public life. They could use neither buses nor taxis, while the “poor man’s taxi”—motorcycle taxis—were ipso facto prohibited, since they were operated almost exclusively by men. In the first flush of enthusiasm, even girls’ schools were closed as male teachers were withdrawn, while female teachers were left without direction as to their right to work, prompting real fears about the “Talibanization” of a part of Nigeria, and the danger that some of its citizens would be hurled back to the Stone Age. Women were banned from taking part in sporting activities, while the segregated medical facilities grudgingly made available to women were substandard, ill equipped and undermanned.⁴¹ All this seemed to be a flagrant breach of section 44 of the Constitution (See Box 2).

BOX 2 44(1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person –

(a) Be subjected either expressly by, or in the practical application of any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria or other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or

(b) Be accorded either expressly by, or in the practical application of any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.”

At first, the state government did little to curb the activities of groups of self-appointed enforcers who took action against those selling and consuming alcohol, flogging them for breaches of Shari’a law, even though no legislation had been enacted criminalizing such activity. Again, this appeared to be a clear breach of section 36(12) of the Constitution (See Box 3).

BOX 3 36(12) Subject as otherwise provided by this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty therefore is prescribed in a written law; and in this subsection, a written law refers to an Act of the National Assembly or a Law of a State, any subsidiary legislation or instrument under the provisions of a law.

The initial response of Zamfara State to critics who drew attention to these breaches was to claim that they had to be set against section 38 (1) which guaranteed freedom of religion (See Box 4).

BOX 4 38(1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

If the citizens of Zamfara were to truly be free to practice their own religion of Islam, was the argument, they must be free to practice it in its entirety through the Shari'a, which provided a complete set of rules to cover the whole of a Muslim's life, including the way he or she lived, with whom and how he or she could associate, and how he or she could be sanctioned for transgression of those rules. Those rules were divine in origin and nature. No true Muslim could properly choose to live apart from Shari'a, or pick and choose which of the rules they would adhere to,

and which they would do away with. Writing three years later, the Governor of Kano State emphasized the impossibility of compromise or partial application:

To appreciate the religio-cultural attachment to the Shari'a and the resistance to any compromise to it, it is important to emphasize its comprehensiveness as well as its religious character. For Muslims, the Shari'a represents the way the religion enjoins for whole of life, individual and collective. Thus, the Shari'a covers aspects of political, social, economic and religious domains. It defines crimes and punishment and regulates contractual relationships, which include, Marriage, Inheritance, Will, War, Trade, Barter, agency larceny, partnership, claim etc. It provides guidance and a legal framework for relations with non-Muslims within its jurisdiction and relations with societies and states beyond its jurisdiction. In addition, the Shari'a defines the articles of faith and the necessary rites of worship, and it expresses the ethical norms that should inspire and govern human conduct in an Islamic society" in particular, the virtues of perseverance, neighborliness and cooperation, sincerity and fairness, modernization, contentment and confidence in God.⁴²

Despite this initial and continued insistence that for Muslims and Shari'a, it must be the whole of Shari'a, Zamfara and all the state governments that introduced criminal Shari'a laws made efforts to make it appear as though they were in fact complying with the Nigerian Constitution. One sign of this had been the claim that full Shari'a proponents were only exercising their right to religious freedom guaranteed under the Constitution. Assurances that the state fully intended to meet its obligations with regard to the education of girls, and the belated provision of "women only" buses and taxis were other means by which the state sought to avoid criticism of discrimination against women, although quite apart from the implied rejection of the condemnation in other jurisdictions of the concept of "separate but equal"⁴³, the reality was that the separate facilities provided for women were, like those of apartheid South Africa, inferior and insufficient. Another step was the enactment of Shari'a criminal legislation in an attempt to meet the objections raised with respect to section 36(12) of the Constitution, which required all criminal sanctions to be under written laws (See Box 3). Zamfara State again blazed the trail with the enactment of the Shari'a Penal Code Law of January 2000.

Continued Conflict with the Constitution

The enactment of laws in a bid to comply with the unambiguous requirements of the Constitution laid bare the issue of whether the substantive Shari'a laws which provided for punishment of private consensual sexual activity by stoning to death could ever meet the Constitutional requirements for the preservation of fundamental rights. But it must be stressed that the appeals eventually won by Safiya Husaini and Amina Lawal left many of these substantive issues un-addressed. Safiya Husaini's appeal succeeded on technical grounds (see Box 5).

BOX 5 The four Khadis of the Gwadabawa Upper Shari'a Court allowed the appeal of Safiya Husaini on the basis of loopholes and inconsistencies in the investigation and trial, viz:

The actual date of commission of the offence was not stated in the charge.

Husaini was denied the right to properly defend herself in court before her conviction.

The conviction was based on a retroactive application of the Shari'a criminal law which had been passed into law on the 31st December 2000 to come into effect on the 1st January 2001, whereas the charge against Husaini was laid on the 23rd December 2000.

The trial court lacked jurisdiction because the alleged offence was committed before the Shari'a legal system came into being

The trial court failed to investigate Husaini's mental state before proceeding to try her.⁴⁴

Amina Lawal's appeal certainly addressed many of the more fundamental complaints about the discrimination between men and women and the unfair burden placed on the latter in regard to cases of unmarried sexual activity brought before Shari'a courts. By a majority of four to one, the Katsina State Shari'a Court

of Appeal held that proof of pregnancy outside marriage is not proof of adultery, and that for a confession to be accepted as proof of adultery, it must be made on more than one occasion after the person confessing might have had access to legal advice, in the presence of a judge. The Katsina State Shari'a Court of Appeal also held that a confession by a woman could also be rescinded in the same way that the confession of a man who might originally have accepted responsibility for the pregnancy could be rescinded.

Although one of the criticisms about the way that Shari'a law has been introduced in Nigeria is the lack of uniformity in the different laws enacted in the twelve states, which claim to have adopted it, the Lawal decision is likely to be influential to similar cases in states other than Katsina. Whereas the grounds on which Husaini's appeal was allowed can be seen as somewhat technical, owing much to the Nigerian Constitutional prohibitions against retroactive punishment, the decision in Lawal's case was based on Islamic interpretation of Islamic law and practice. Adoption of this line of reasoning in future cases in other states is therefore likely to save women who become pregnant because of consensual extra-marital sex.

It is entirely understandable that those conducting the defense of Husaini should prefer to concentrate on the technical grounds available to them, as these were bound to succeed before any court of judges with a reasonably competent knowledge of the meaning and workings of the Nigerian Constitution. Lawal's defense has equally been framed in a way that positions itself squarely within particular interpretations or schools of Islamic law. In this way, the appeals have been able to avoid asking fundamental questions about the very concept of punishment for private consensual sexual activity, let alone the imposition of the death penalty for such activity, and the death penalty by stoning at that. The case of Bariya Magazu underlined the need to tread cautiously to avoid offending what were often portrayed as extremely volatile Muslim sensibilities. While many, mostly non-Muslims, not unreasonably condemned the very idea of stoning a woman to death for any crime at all, let alone simply having a child out of wedlock as "barbaric and uncivilized", those directly involved in the cases were careful to avoid such emotive language, and to avoid appearing to challenge Shari'a punishments—and thus possibly Islam itself.

Yet, the question cannot be avoided indefinitely. Although some of the women accused before Shari'a courts have had the benefit of expert legal representation as well as national and international support, others—accused of prostitution—have been less fortunate. Equally unfortunate have been the victims of several

sentences of amputation and flogging, with the poor and uneducated convicts browbeaten or brainwashed in to accepting “the will of Allah” and forgoing any appeal against sentence. As a result, many of these sentences have been carried out without any pronouncement by the superior courts on the constitutionality of such punishments.

It is difficult to avoid the conclusion that much in Shari’a criminal law and practice is unconstitutional. Consider the question of amputation. For much of the late 1990s, part of the West African sub-region was in turmoil as the malignant effect of the civil war in Liberia spread to neighboring countries. The Fodey-Sankoh rebel group, which fought in the resulting civil war in Sierra Leone, treated non-combatants—including women, children and even babies—with particular brutality. Accusing them of supporting the elected government, the hapless people would be asked whether they wanted “long sleeve” or “short sleeve”, and depending on the answer, would have their hand, or their whole arm chopped off. This treatment was rightly condemned as inhuman. Now, governments in Nigeria have deliberately maimed unblemished human beings in the name of Shari’a punishment, by also chopping off their right hands.⁴⁵ Section 34(1)(a) of the Constitution contains an absolute prohibition against “torture, inhuman or degrading treatment.” Is this any less inhuman or degrading?

Responding to the outcry against the sentence of 100 lashes passed on Bariya Magazu, Shari’a apologists were at pains to emphasize that the flogging was not intended to cause actual harm to the nursing mother: that lashings under the Shari’a were meant to serve as “highly regulated public humiliations not brutal punishments”, and that by custom, the person administering the lashing should hold a book in his armpit with his arm in order to lessen the force of the lashing. However, such humiliation is a form of degradation forbidden by the Constitution.

BOX 6 (f) The executioner shall be of moderate physique;
(g) The lashes shall be of moderate force so as not to cause lacerations to the skin of the convict;
(h) The executioner shall hold the whip with the last three fingers

It was difficult, if not impossible for non-Muslims to understand the ease with which the men responsible for the pregnancies that landed Magazu, Husaini and Lawal in trouble had been so easily able to escape punishment, even where they had initially accepted their responsibility. But by removing the fact of pregnancy as a means by which extra-marital sex can be proved against a woman, and recognising the same right to withdraw a confession by a woman as by a man, the Katsina State Shari'a Court of Appeal did much to remove the clearly unconstitutional⁴⁶ discrimination against women in this regard.

But it would be optimistic to believe that all the odds against women with regard to extramarital sex have been removed. While Lawal's defence is undoubtedly of great assistance to those who engage in consensual sex, for rape victims the picture is less encouraging. In order to accuse her assailant, the victim must necessarily accuse him—possibly on oath and in the presence of her lawyer—of having sex with her. But if unable to produce four male witnesses to the assault, she may be unable to prove the truth and instead find herself facing charges for false accusation as well as for the extra-marital sexual relations contained in her accusation-turned confession. For many, rather than risk accusations of fornication or adultery or at best, slander, and silence may be the only option. There must therefore be concern that the Shari'a laws as presently constituted in many states do not become a rapists' charter⁴⁷.

It is not only in relation to extra-marital sex that women suffer discrimination under the Shari'a laws introduced in some states: in Kano State the evidence of one man can only be outweighed by the evidence of two women. Although there is little doubt that were such provisions to come before properly trained judges, they would be struck down as unconstitutional, the danger for many victims of

such legislation is that the greater majority of the first instance judges in Shari'a courts are barely trained, often with little more than an ability to recite the Qu'ran by heart, a skill which may have been valuable in an era of mass illiteracy when the written word was scarce and printing had not been invented, but which is of doubtful relevance today, at least, with respect to the administration of justice.

Breach of the Constitutional guarantee of freedom from discrimination is also evident in the arguments with which the proponents of Shari'a sought to allay the fears of non-Muslims that they would be subjected to flogging, amputation or stoning for actions which had been made criminal solely because Islam prohibited them, namely the assurance that Shari'a law only applied to Muslims. Even a presidential candidate (who one might have hoped would be aware of the constitutional prohibition on discrimination) rejected criticism of Shari'a punishments by human rights groups and other commentators in Nigeria on the ground that the law and the punishments would be applied only to Muslims, and Muslims were not complaining. This of course reflected a (fortunately increasingly unjustified) confidence that nobody who wanted to avoid being called an apostate would dare to criticize the particular version of Shari'a law, procedures or punishments being introduced into Nigeria. It also reflected the thinking that if there was a disadvantage, it was to the disadvantage of Muslims, but failed to recognize that defense of the Constitution cannot lie only in the hands of particular affected groups. The Constitution, which prohibits discrimination on the ground of religion, is clearly breached by criminal laws, procedures and sanctions to which only Muslims are subject.⁴⁸

Mention should be made of the fact that not all states that adopted Shari'a laws agreed that they should be binding only on Muslims. Obviously prohibitions on mixing men and women would affect non-Muslims as well as Muslims, but on the 1st of June 2001, the Governor of Bauchi State, Ahmed Adamu Muazu declared that Shari'a law applied to all persons in the state, not just Muslims, and on the 4th of June assigned a Shari'a judge to the predominantly Christian villages in Tafawa Balewa and Bogoro Local Government Areas to enforce Islamic law. The sentencing of a Christian widow in Niger State for brewing *burukutu*⁴⁹ showed that some Shari'a adherents were ready to avoid discrimination to the disadvantage of non-Muslims. Meanwhile, in February 2004, the Zamfara State Government issued a "dress code" for female National Youth Service Corps members.

The proponents of Shari'a based their actions on their interpretation of the freedom of religion guaranteed by section 38(1) of the Constitution, and their insistence on what that meant in the context of the Islamic religion. However,

the immediate effects of Shari'a on adherents of other religions—in particular Christianity—showed that that freedom was a one-way street in the Shari'a states. A not unnatural response to the threat of amputation or stoning as a Muslim was to deny one's faith and/or convert to Christianity. This, as we have seen, was how some Muslims had behaved during the colonial era when brought before courts administering Shari'a law for criminal offences. The same pattern was repeated in some of the other Shari'a states, for example in Borno State, where the Muslims arrested during a civil disturbance were taken before the Shari'a courts, but the Christians arrested along with them were simply released.

However, in some states, a Muslim converting to Christianity—whether in order to escape Shari'a justice or simply because of a genuine change of confession—might find himself in jeopardy. In his book on the contradictions and crises of Shari'a in contemporary Nigeria, Harunah described the fate of some of such converts:

The example was given of how some Muslims who converted, voluntarily, to Christianity in Zamfara State, were arrested and brought for prosecution in a Shari'ah court at Gusau. After trial, they were found guilty of committing transgression against Islam, although the presiding judge, Alhaji Awal Jabaka, was unable to recommend them for capital punishment, because the Shari'ah penal code of Zamfara State did not indicate how such offenders were to be punished. However, the general feeling among most of the State officials was in favour of death sentences for these converts. Notable among such officials was those of the “Shari'a Monitoring Group” of Zamfara State, who put pressure on Alhaji Jabaka to pronounce the death penalty on the convicts.⁵⁰

Harunah went on to describe how the converts were saved from lynching only because Christian groups rescued them. In Zamfara and other states, matters came perilously close to the situation in Saudi Arabia, Afghanistan and other Muslim countries where Christians were hardly free to practice their religion (which some of them insisted included the duty to evangelize in accordance with the Biblical injunction to go out and preach the gospel). While private Christian schools were ordered by the Kano State Education Ministry to employ Islamic teachers for even just one Muslim pupil (with no corresponding obligation on state or Muslim-owned schools to employ Christian teachers for any Christian student),

in June 2001 38 of the 41 churches in Katsina were ordered to relocate to a newly-designated “Christian Zone”.

We have seen that there were tangible political benefits for northern Muslim governors who adopted the extended Shari’a codes in their states. Nevertheless, the experience of Mohammed Sani suggests that its proponents were also ready to use it to stifle political debate. Sani, a tailor, had criticised some aspects of the implementation of Shari’a in the state, pointing out that it affected the poor, but left the rich largely untouched⁵¹. Insisting that Shari’a was from God, not from the Governor, he expressed the view that what they had in Zamfara State was a political campaign, not Shari’a. For this, he was arrested and taken before a Shari’a court presided over by Umar Shittu who expressed astonishment that Sani had gone “... right into the mosque and criticized the government!” When Sani refused to understand that his comments could cause “anarchy”, he was sent to prison and stayed there for four months. State government officials justified the treatment of Mohammed Sani on the grounds that “Islam does not permit someone to criticize the government.”⁵²

When Sani Yakubu Rodi, who had been found guilty of the murder of a woman and her two children, was sentenced to death, the Katsina Shari’a court’s decided that he should be put to death in the same manner that he had killed his victims, i.e. by slitting his throat. In the event, the Katsina State Government balked at the idea of the sort of gory public spectacle that had become common in Taliban-ruled Afghanistan, and Rodi was taken to Kaduna Prison to be hanged there on the 3rd of January 2002, shortly after the expiration of the statutory 30 day period within which he could have appealed against the sentence. This speedy process⁵³ was in stark contrast to the position under the non-Shari’a Penal Code whereby no death sentence could be carried out until every appellate court available had examined it. Under the non-Shari’a process, the filing of an appeal where a death sentence had been imposed was mandatory and automatic⁵⁴. The lack of similar procedures under the Katsina State Shari’a laws and the requirement instead that the condemned person must make an affirmative decision to appeal left many ill-educated persons with little or no legal advice, subject to fatalistic pressure to accept “the will of Allah” with little chance of any examination of their mental state at the time of the commission of the crime or the validity of such a conviction and sentence.

Nonetheless, Shari’a purists condemned the way that Rodi had been hanged, insisting that under Shari’a he ought to have had his throat cut publicly. In a similar manner, the quashing of the sentences passed on Safiya Husaini and

Amina Lawal attracted criticism. To the poorly informed masses who had been led to expect the spectacle of a stoning, the argument that the alleged offences must have been committed before the state Shari'a laws came into effect was incomprehensible. Indeed, when this was pointed out to one of the Funtua Shari'a Court of Appeal Khadis who dismissed Lawal's appeal, he was clearly unaware of the constitutional prohibition on retroactive punishment (See Box 7). But he quickly rallied, and declared that since the state's Shari'a Law was merely an enactment of a divine law which had stood since revealed by Prophet Mohammed, her actions had always been a sin. Fortunately, for Lawal, that argument was rejected by the Katsina State Upper Shari'a Court of Appeal, which allowed her appeal and quashed her conviction and sentence.

BOX 7 Section 36(8) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

The foregoing shows that although there has been some attempt to comply with Constitutional requirements for written criminal laws and prohibition of retroactive legislation, there remain serious questions as to whether criminal Shari'a laws and social restrictions are not in conflict with the Constitutional provisions relating to torture, and inhuman and degrading treatment and, discrimination on the grounds of sex or religion. In addition, many aspects of the way that the self-declared "Islamic states" have realised that description suggest that both freedom of religion and freedom of speech have been placed in jeopardy. While pro-Shari'a apologists have tried to place their own actions within the Nigerian Constitution by pointing to the guarantee of freedom of religion, it remains a question whether there is a real understanding on their part of the true position of Islamic law and principles under the Nigerian Constitution.

Between Divine and Human Laws

Section 308 of the 1999 Constitution restricts legal proceedings against the President, the Vice-President and the Governor or Deputy-Governor of a State while they hold office. But in March 2004, the former Minister of Foreign Affairs, Sule Lamido and other prominent citizens of Jigawa State brought a claim against their Governor, Saminu Turaki, in a Shari'a court in Dutse over charges of maladministration and failure to account for over N30 billion⁵⁵ collected on behalf of local government councils over a 30-month period. Explaining why the action had been taken in the Shari'a court, Lamido explained that:

Under the conventional court system, the governor enjoys immunity as enshrined in the constitution. We in Jigawa State, apparently the only thing we can do is to take refuge under Islam. Nothing else can rescue Jigawa State. The political institution, the traditional institution, the religious institution, the bureaucracy, virtually everything has failed in Jigawa State. Islam is anchored upon trust, therefore, Saminu Turaki, as our governor, as our leader is supposed to lead in line with Islamic principles. Under Shari'a, no person, no matter how highly placed, is immune to prosecution before a Shari'a court. We are going to find out from the Shari'a court where the money is.⁵⁶

This action and these statements encapsulate the continuing belief on the part of many Shari'a proponents: that Islamic law is superior to the Nigerian Constitution.⁵⁷

It is important to recognize that this is not a problem affecting only Islam and Muslims. Nor is it only in Nigeria that the question of the application of what are claimed to be God's laws in a human-ordered world arises. There are many areas and religions where the sacred and the profane are juxtaposed, where laws said to be divinely generated have to find their place under laws made by ordinary human mortals. Israeli settlers in occupied Palestinian territories reject anything that the United Nations has to say, and "internationally recognized borders". Instead, they refer to the land of "Judea and Samaria" promised to them by God as His chosen people. At the personal level, we find that parallel considerations arise in relation to abortion or divorce laws, both of which are said to be prohibited either directly or indirectly by many religions, yet which are permitted under the laws of many countries. Again, if in countries such as Iran and Saudi Arabia the requirement that women should cover themselves to a greater or lesser degree is said to be derived from God's law, what should we make of this century's French laws banning the

wearing of “overt religious symbols”, or last century’s Turkish laws banning the wearing of the so-called “Islamic” headscarf? Can the devout adherent of a faith accommodate him or herself to these laws if, as a Sikh, for example, he must wear a turban? The issue is therefore a live one for many societies.

Divining Divine Law

The biggest problem is of course, that there is no universal agreement on what God’s laws are, since knowledge of those laws must come through the medium of fallible mortals. It is rarely easy to be sure, whether what one is hearing, or what another claims to hear, is indeed the voice of God.

The case of Muhammadu Goni (See Box 8) may seem to be obvious. But what would be the reaction to a modern-day Abraham, leading his son up a mountain with the expressed intention of slaughtering him as a sacrifice to his God?⁵⁸ Or, a Noah, convinced that “The End Is Nigh”? However large or small the number who believe and accept that a certain stipulation is God’s law, there will always be those who reject or challenge the claim. Some divine vessels, such as Mohammed and Moses were accepted and recognized as prophets during their own lifetimes. But recognition for others comes after death: Jesus Christ was crucified before the religion named after him swept the world, while Joan of Arc was burned at the stake some six centuries before she was canonized. Christ and Saint Joan were condemned for blasphemy and heresy, but despite the religious nature of their alleged offences, both were put to death by secular authorities, and under laws, which neither recognized nor accepted the supposed divine nature of their calling.

BOX 8 In February 2004, at Friday prayers in the city of Kano in northern Nigeria, Muhammadu Goni attacked the Emir of Kano, Ado Bayero. When the Emir questioned him, he said: “The Lord sent me to attack you so that I will have a place in paradise should I die this Friday.” Both the palace authorities and the police eventually concluded that the man was “mentally ill”.⁵⁹

Disagreement over those who declare themselves in direct communication with God, and authorized to transmit His laws to the rest of humanity is not found only among the different faiths, but is also found (often with even more virulence) within the same faith. The early thirteenth century slaughter of those who considered themselves to be followers of Jesus Christ, when the “crusade” was against the “Albigensian heresy”, continued through the centuries across Europe, with the St. Bartholomew’s Day Massacre of Protestant Huguenots by Roman Catholics in France in 1572 being a particularly bloody example from later years. The split between Sunni Muslims and Shiite Muslims occurred almost immediately after the death of Prophet Mohammed, but it was not until the last century, in 1959, that the more orthodox and dominant Sunnis recognized Shi’ism as a legitimate school of Islam. The eighteenth century saw the emergence of Gulam Ahmad. His adherents consider themselves good Muslims. But to those who are not Ahmad’s followers, his claim to be a prophet is rank heresy, since for most Muslims, Mohammed was the seal—i.e. the last—of all prophets, and Ahmadiyyas are treated as non-Muslims, and thus prohibited from entering Mecca to perform the holy pilgrimage.

Although in previous times, those who did not subscribe to the majority faith were harshly dealt with, being burned at the stake⁶⁰, converted by force or bribery⁶¹, restricted to certain locations⁶² or specific occupations⁶³, in the modern world, nearly all countries have felt able to subscribe to the Universal Declaration of Human Rights⁶⁴, which specifically provides for freedom of religion in Article 18:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Against this background, with so much room for religious diversity, the prospects for universal agreement as to whom has received God’s laws, and what those laws are, are bound to be problematic.

It would be wrong to imagine that apart from contention about Shari’a law—to be or not to be—there had ever been a general consensus about what laws should permit or prohibit, encourage or dissuade. History shows that any assumption that there is a basic agreed set of moral principles to which all human beings subscribe is false. In the nineteenth century the British Queen Victoria, when approached for the royal assent to laws criminalizing homosexual activity, simply refused

to believe that such behaviour could take place between women. As a result, lesbianism was never a crime in the United Kingdom⁶⁵. In this century, the case of Armin Meiwes, the German cannibal highlights the fallacy of believing that any particular behaviour is generally agreed to be unacceptable. Although revulsion at Meiwes's activities was almost universal, it simply had not been conceived (one is tempted to say "even in the wildest nightmares") that the series of acts which led to the death and consumption of Bernd-Jurgen Brandes could ever have taken place. As a result, the prosecutors found it difficult to frame charges and convict Meiwes because they had no laws against eating human flesh, while the victim (if that is the word), was a willing participant in, and indeed for the first course at least, an active perpetrator of his own death!

Thus, while many legal systems operate on the basis that ignorance of the law is no excuse for having transgressed it, we can see that it would be wrong to make assumptions about what parameters any particular society has set for human behavior if no such parameters have in fact been set. Such assumptions would be even less justified (in societies which cannot even agree on the morality of women wearing trousers or the hunting of foxes) against a background of knotty present-day issues of ethics and morality such as those connected with in vitro fertilization, embryonic stem cell research and cloning.

In reality, the "basic principles" are under constant threat. The Universal Declaration of Human Rights in 1948 represented an attempt to define an ultimate basic set of moral principles, and many countries today claim a human rights underpinning for their laws and systems in much the same way that some state governments in northern Nigeria may claim that Islam underpins their laws. But we have only to examine the present-day justifications offered for actions taken under the guise of defense of national or homeland security to understand that lawmakers are as ready to abandon basic human rights principles as they have been to abandon religious ones. Thus the universal and absolute prohibition against torture thought to have been agreed upon in 1948 has been subjected since then to increasingly elastic definitions, while declarations against killing might almost be said to have dwindled to "Thou shalt not (appear to be planning to) kill first."

Human Application of Divine Communication

The Imperative of Agreed Rules

In these circumstances, even where the rules are transmitted by those who are (or claim to be) in direct communication with God, there must still be some post-divine-experience agreement about the message received. This does not necessarily mean written form: the form of access may simply be through a judge or monarch conferred with some authority—sacred or mundane—who decides each case according to what he (says that God) considers being fair or just. But whatever their origins, stipulations that a society or community intends to enforce have to be agreed upon by that society. Just as a nineteenth century village community in Eastern Nigeria could not logically sanction a person for bathing at a particular stream or place on the river without having first designated different spots for bathing, washing and drawing drinking water, neither could a society or nation which had not agreed that—for example—anybody who owned a dog was obliged to feed it, logically punish a man who starved his dog to death.

Shari'a law, with its claimed divine origins, has also been reduced to forms produced by human beings. Its sources are the Qu'ran, then the *Hadith*, that is, the sayings of Prophet Mohammed, the *Sunna*—his daily practice, and lastly, the work of Muslim scholars in the first two centuries after the coming of Islam. But even here, basic assumptions stand to be challenged. Although there may now be only one generally or widely accepted version of the Holy Qu'ran, the fact that there were different versions of its contents⁶⁶ underlines the intrinsic difficulties of transmitting the Word of God. There are several different schools of Islamic jurisprudence, most of which reject punishments such as stoning. In addition, while the state governments in Nigeria appear to intend to enforce the most restrictive and harsh version of Shari'a law, there is a lack of uniformity in the Shari'a laws and procedures enacted by the various state governments in their bid to comply with section 36 of the Constitution.⁶⁷

In a country such as Nigeria therefore, where people follow several different faiths, from monotheistic to polytheistic, imported to indigenous, and where there is thus little likelihood of agreement as to what the Word of God, or divine law consists of, the response up till now, has been laws which make no pretence to be anything other than the work of human beings. Despite the maxim *Vox populi, vox dei*⁶⁸, the Nigerian Constitution states that:

We the People of the Federal Republic of Nigeria [have] firmly and solemnly resolved: TO LIVE in unity and harmony as one indivisible and indissoluble Sovereign Nation under God dedicated to the promotion of inter-African solidarity, world peace, international co-operation and understanding...⁶⁹

does not claim any divine origins. On the contrary, it specifically (although falsely) claims to have been made by “We the People”.

The Supremacy of the Constitution

Just as whatever a country may claim about its adherence to human rights principles in its laws and practices, recourse can only be had to the laws and practices in force to see what it actually does⁷⁰, so too with religious laws. While they may whip up popular sentiment by claiming to be realizing God’s plan for humanity as revealed through Islam and Shari’a law, political leaders in Nigeria who have joined the Shari’a bandwagon have always recognized that just as their own power derives from the Nigerian Constitution, so too must their actions conform to it. In addition, there is nothing new in this. From the time when Islamic law was subordinated to the colonial system to the attempts by today’s proponents of Shari’a law to justify their actions as being in compliance with the requirements of the Nigerian Constitution, the position has remained the same, namely, to reaffirm the de facto supremacy of laws enacted by human beings.

It may be possible to apply Islamic law within the four corners of the Nigerian Constitution, and the revival of the debate among Muslims and Islamic jurists and legal scholars about the meaning and content of Islamic law and practice and the results achieved in the Amina Lawal appeal show that much can be done in this direction by adherents of the faith who may be just as entitled to call themselves good Muslims as any others.

It maybe perhaps the ambition of its advocates to make Shari’a law the basis for the Nigerian Constitution, but that has not been achieved, nor is it likely to be achieved in multi-faith Nigeria. At any rate, pending such alteration in its basic law, Nigeria’s Constitution does not and cannot pretend to be designed to achieve or bring about the ideal Islamic society. Many Islamic scholars recognize that Shari’a law can only be fully applied in the sort of theocracy that existed in times past, and cannot be fully implemented in a situation where it is subordinate to the man-made Nigerian Constitution and certainly not by those whose power derives from the constitution. In circumstances, one must ask questions about the extent to which a misplaced desire to avoid offending sensibilities should continue to shield those

states which insist on the right to flog, amputate or stone their citizens. Clear and unambiguous pronouncements by the courts of Nigeria as to the constitutionality of those punishments should be addressed. As noted above, the fortune of Safiya Husaini and Amina Lawal must be contrasted with the misfortune of the several unsung victims of amputation and flogging, while others remain under sentence of death by stoning. Even though it may mean requiring Muslim judges to pronounce on the constitutionality of Shari'a punishments, Nigerian courts should no longer shirk the question of whether flogging, amputating or stoning a person to death are in breach of the Nigerian Constitution, which they swore to uphold.

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Endnotes

¹ Governor Sani has denied ever telling foreign journalists that he took bribes from the former military dictators, but he emerged from his tenure at the Central Bank with the fortune which paved the way for his political success in the 1999 elections.

² Nigeria's first President, Dr. Nnamdi Azikiwe, though a Christian from the south-east, held the position under the parliamentary system as a ceremonial Head of State, with political power being in the hands of the Prime Minister, a northern Moslem, Tafawa Balewa.

³ The attempt to introduce Shari'a in Kaduna State led to rioting and bloodshed as its sizeable indigenous Christian population resisted the move, but after repeatedly insisting that it would only apply to Moslems and undertaking not to adopt the methods of other states, such as Zamfara State's Hisbah enforcement groups, the proponents of Shari'a law prevailed.

⁴ Although not poor enough to justify his theft: the court that tried him ruled that he and his family had sufficient food, housing and clothing.

⁵ Her true age was put variously at 13, 14 and 17.

⁶ Being married, the named men would have faced death by stoning for adultery.

⁷ Her initial sentence was 100 lashes for fornication and 80 lashes for false accusation.

⁸ See below, Sani Yakubu Rodi, in Katsina State executed on 3rd January 2002.

⁹ Under the Shari'a principles in force in Sokoto State, a pregnancy can be concealed for up to seven years.

¹⁰ Obafemi Awolowo's description of Nigeria, taken from Winston Churchill's comment about India—recognising that the country was an artificial creation with arbitrary borders imposed by colonial powers in Berlin who knew little or nothing of the many different peoples contained within those borders.

¹¹ 1476-1503

¹² 1570-1602

¹³ F. Lugard: Political Memoranda, quoted in A.G. Karibi-Whyte: History and Sources of Nigerian Criminal Law (1993), Spectrum Law Publishing, at p. 130

¹⁴ Okany (1984), p. 3

¹⁵ Harunah (2002), p. 21

¹⁶ These were mostly in the Middle-Belt area of Nigeria—i.e. the southern part of the Northern Region.

¹⁷ Lugard's address to the Sultan, Waziri and elders of Sokoto, 1902

¹⁸ Haruna (2002), p. 26

¹⁹ Flogging (or "birching") and the death penalty were applied in Britain itself at that time.

²⁰ *Abdullahi Kogo & Ors. v. Katsina Native Authority* (1930) 14 N.L.R., 49, p. 50

²¹ *Tsofo Gubba v. Gwando Native Authority* (1947) 12 W.A.C.A. 141, per Verity CJ, p. 144

²² Karibi-Whyte (1993), p. 177

²³ The term Hausa/Fulani reflects a combination of the political situation after the 1804 Jihad imposed Fulani rulers over Hausa communities, the fact that Hausa remained a *lingua franca* spoken across a wide swathe of the sahel regions of West Africa, and the natural results of contact, trade and intermarriage between the Hausa and the Fulani.

²⁴ See Karibi-Whyte (1993), pp.190-191

²⁵ 1959 White Paper, para. 3: Statement of the Government of Northern Region of Nigeria on the Reorganisation of the Legal and Judicial Systems of the Northern Region.

²⁶ Four were Moslem jurists: Sayad Mohammed Abu Ranat, Chief Justice of the Sudan as Chairman; Justice Mohammed Sherif, Chairman of the Pakistan Law Commission, Shettima Kashim, the Waziri of Bornu, and M. Musa, the Chief Alkali of Bida, while two were Christian: Mr. Peter Achimugu, a member of the minority ethnic groups in the Northern Region, and Professor J.N.D. Anderson, Professor of Oriental law at the University of London. The Chairman, Sherif and Anderson were experts in both common law and Moslem law.

²⁷ Sections 387 & 388 of the Penal Code, although there was at that time no suggestion of stoning to death being imposed as an Islamic punishment.

²⁸ Sections 401—403, Penal Code

²⁹ Karibi-Whyte (1993), p. 194. As a result, some Moslems today still talk of the Penal Code as being “imposed” on them.

³⁰ Ibrahim Shekarau: *Shari’a, Moslems and Nigerian Politics*, article published in *The Guardian*, 18th March 2004.

³¹ *Ibid.*

³² Provincial Annual Reports 1959, Resident of Ilorin’s Report.

³³ The others were the Common Law—derived from the British colonisers’ legal system—and Customary Laws, which varied from place to place and from time to time.

³⁴ Emphasis added; section 44(b) of the Constitution of the Federation 1963.

³⁵ By which all Nigerian graduates under the age of 30 performed a year’s national (non military) service in a part of the country other than where they had been born or schooled.

³⁶ Whereby appointments to government positions should be balanced as to region and ethnic origin; derided as “quota system” by some, hailed as “affirmative action” by others.

³⁷ Although Nigeria had not been insulated from the renewed demands for the actualization of women's rights, it apparently never occurred to the male-dominated military hierarchy to include any women in the Constitution Drafting Committee.

³⁸ In the First Republic Nigeria operated the parliamentary system, whereby the chief executive was a Prime Minister chosen from among several members of parliament each of whom had been elected by only their own constituents.

³⁹ Section 237 (2): "The Court of Appeal shall consist of – (a) a President of the Court of Appeal; and (b) such number of Justices of the Court of Appeal, not less than forty-nine of which not less than three shall be learned in Islamic personal law, and not less than three shall be learned in Customary law, as may be prescribed by an Act of the National Assembly."

⁴⁰ Section 10, Constitution of the Federal Republic of Nigeria 1999

⁴¹ The most disturbing aspect of the medical apartheid was that the Governor's wife was herself a qualified medical practitioner!

⁴² Ibrahim Shekaru: *op. cit.* It should be noted however that there are substantial differences among Islamic jurists as to what constitutes Shari'a law and that while for some, it is fixed at what (they believe) happened in 7th Century Arabia, for others, it is dynamic and evolving in a manner entirely compatible with the Koran and the *Hadith*.

⁴³ *Brown v. Topeka Board of Education* 1954, U.S.

⁴⁴ Extracted from Harunah (2002), pp. 62-65

⁴⁵ The social taboos common in Africa against proffering the left hand to receive, or using it to give or to take food from a communal pot made this a particularly harsh punishment. Moreover, the prohibition in Islam against putting food into one's mouth with the left hand meant that the victim of Shari'a amputation was forced to defile himself every time he ate.

⁴⁶ See Box 2 on the Constitutional guarantee against discrimination on the ground of sex.

⁴⁷ It would be wishful thinking to imagine that—with the Shari’a cleansing of brothels and prostitutes—women living under Shari’a were safe even in their own homes. Rather, one might reasonably expect a huge, but silent and undocumented increase in cases of rape and incest.

⁴⁸ Moslems are not given any real choice about submitting to Shari’a jurisdiction, since they face the accusation of apostasy. However, it should be noted that Christians have preferred to submit themselves to Shari’a criminal jurisdiction particularly in cases where the penalty consists of flogging, rather than face the fines of months (or even years awaiting trial) in prison— Nigerian prisons at that—to which they would be subjected under non-Shari’a criminal provisions. The speedy procedures under Shari’a law are attractive not only in criminal matters, but also in civil disputes.

⁴⁹ A local alcoholic drink.

⁵⁰ Haruna (2002), p. 49.

⁵¹ Mohammed Sani cited the way that government officials were permitted to keep their satellite dishes and video cassette players, but the two cinemas in the town had been closed; that the rich were not compelled to pay *zakat*, and that it was only the poor who were dragged before the Shari’a courts: reported in *The Double-Edged Sword of Nigeria’s Shari’a* by Rena Singer for *The Christian Science Monitor* February 22nd, 2001.

⁵² Statement credited to paramount Islamic leader and adviser to the State government, Abdul Kadir Jelani, reported in *The Double-Edged Sword of Nigeria’s Shari’a* by Rena Singer for *The Christian Science Monitor* February 22nd, 2001.

⁵³ It could be argued that here, the nature of the offence and the fact that there was no baby to be weaned before the execution could take place was one of the few instances where it was the male who was at a disadvantage, since it had been the suspension of the sentences passed on the women sentenced for extra-marital sex that gave time for news of their predicament to reach the outside world.

⁵⁴ Although this might result in the condemned prisoner’s Counsel simply telling the appellate courts that there was nothing to urge in favour of the convict, the purpose was to ensure that the highest legal minds were brought in to examine the entirety of the case against the convict before the state could exact the ultimate penalty. The question of whether the inordinate delay which thereby resulted occasioned another form of inhuman treatment as has been held in other jurisdictions has not yet been tested by the Nigerian courts.

⁵⁵ Approximately US\$240 million.

⁵⁶ Reported in *The Punch*, Friday March 26th, 2004.

⁵⁷ On the 28th of April 2004, the Jigawa Shari’a Court held that it had jurisdiction to entertain the claim against the Governor in his personal capacity since Islam was “no respecter of persons”. Although the court then went on to dismiss the claim on the ground that there was no proof that the Governor had stolen the Local Government funds, the complainants insisted that they intended to gather the necessary evidence and bring their case afresh, leaving the prospects open for a direct clash with the constitutional immunity provisions. It should be noted that under the Constitution, the Governor can be sued in his official capacity, but there is some doubt as to whether the immunity can be waived. See *The Guardian*, Thursday April 29th, 2004.

⁵⁸ In April 2004, Deanna Laney was acquitted in Texas, USA, of the murder of two of her sons after psychiatrists concluded that severe mental illness caused her to have psychotic delusions. They testified that Ms Laney believed she had been divinely chosen by God to kill her children as a test of faith and then serve as a witness after the world ended.

⁵⁹ See *Tell* magazine No. 11 of March 15, 2004, at page 35.

⁶⁰ Protestants in 16th century Catholic European countries, Catholics in 16th century Protestant countries.

⁶¹ Various jihads by Islamic conquerors; Christian missionaries in 19th and 20th century Africa offering education upon condition of conversion.

⁶² Ghettos and *Sabon garis*—quarters for strangers.

⁶³ A fate to which Jews were particularly subject throughout Europe, one of the strangest being that they were allowed to lend money at interest, something specifically forbidden by their religious laws.

⁶⁴ The Universal Islamic Declaration of Human Rights also supports the right to freedom of religious choice. The main Article XIII provides that:

“Every person has the right to freedom of conscience and worship in accordance with his religious beliefs.” while Articles XII and XIV provide for the right to freedom of belief, thought and speech “so long as he remains within the limits prescribed by the law” and declare the entitlement of every person:

“to participate individually and collectively in the religious, social, cultural and political life of his community and to establish institutions and agencies meant to enjoin what is right (*ma’roof*) and to prevent what is wrong (*munkar*).”

⁶⁵ And consequent upon British colonial rule, nor, until the Shari’a Penal Codes enacted by some states recently, was it a criminal offence in Nigeria.

⁶⁶ Having been revealed to Mohammed by the Angel Jibril, the Koran was originally recited by Moslems in such a way as to convey its meaning, but after his death, initial resistance to the idea of collecting the entire Koran together into one book gave way. At first, there were different versions, but when this led to Moslems accusing those using versions different from their own of being infidels, with disciples and teachers killing each other, Caliph Othman Ibn Affaan called on the Companions of Mohammed to “unite and write you an *Imam* for the people.” He formed a committee to supervise the writing of the Koran, and then ordered the versions that differed from his to be cast into boiling oil.

⁶⁷ See Harunah (2002), pp. 38-40.

⁶⁸ The voice of the people is the voice of God.

⁶⁹ Preamble to the Constitution of the Federal Republic of Nigeria 1999. Despite its claim to be the product of “We the People”, the document was in fact decreed into law by the military dictatorship led by General Abdulsalami on the eve of its departure from office in May 1999.

⁷⁰ The United Kingdom, upon granting its citizens the right to appeal to the European Court of Human Rights, found its laws and practices being constantly struck down and condemned by that Court as inconsistent with treaty obligations, but even here, when that country wanted to bend human rights principles in order to fight the “war against terror”, it simply opted out of those treaty obligations.

Democratization in Multi-Religious Contexts: *Amina vs. The (Disunited) States of Nigeria*

Rita Kiki Ediozie

Freedom and Democracy in Multi-Religious Nigeria: Amina: A Metaphor of Democracy and Globalization

In 2002, Amina Lawal Karumi, a 31-year-old northern Nigerian woman was convicted of adultery under a strict Shari'a legal code and thus faced becoming the third person to be stoned to death since el-Shari'a's controversial movement into Nigeria in 1999.¹ The international community addressed Amina's case in significant ways. Appearing on *Time Magazine's* cover², this Muslim woman's story depicted Nigeria to the world as a pariah nation of human rights abuses. Amnesty International condemned Nigeria for the cruel, inhuman and degrading punishment of its citizens; for the failure to meet international standards of fair trial; and for discrimination on the grounds of gender.³ Even more significant for the current study, between 2001-2003, Nigeria's Freedom House democracy ratings fell from a 4 in civil liberties to a 5, indicating that Nigeria was not making a deep enough commitment to democracy since its reestablishment in 1999 due to an escalation of human rights abuses witnessing the worsening of democratic institutions in the country. In its 2003 'Freedom in Nigeria Report', the international governmental organization cites as one of the central reasons for the worsening of democracy in Nigeria the violence increasing the gap between Christians and Muslims due to the adoption of Shari'a in the northern Nigerian region.⁴

Using the Amina case as a symbolic of more critical and deeply-seated state-society relations in contemporary Nigeria, the central question that this dilemma seeks to explore concerns the performance of democracy in large multi-religious ethnically divided states. Democratic performance is defined by a democratic regime's ability to produce positive policy outputs to build broad political legitimacy for democracy as the preferred political system for a given territory (Diamond, 1999). Contemporary studies in democratization currently utilize conceptual frameworks for examining democracy that have significantly advanced beyond the traditional framework that focuses on democratic electoral politics. Democratic performance in developing and advanced industrial countries is increasingly being judged by a political system's ability to include human rights that give fuller weight to the extent of political repression and the marginalization of ethnic communities. The more 'precise' focus on 'liberties' and 'rights' encourage democratic states to foster a political environment that enables

citizens to develop and advocate their views and interests and contest policies in the democratic regime.⁵ In today's post Cold War democracies, for a country to improve its democracy ratings its cultural, ethnic and religious groups should not be prohibited from expressing their interests in the political process.

Nigeria, the Sudan, Lebanon, and India—developing countries that are ethnically plural societies in which ethnic nationality often times overlaps with religion—are increasingly disqualified as democracies by standard international 'democracy' indicators due to the democratic regimes in these countries' inability to address religio-political conflicts within a liberal democratic framework. The difficulty lies in the fact that like these countries, the liberal democratic regime in Nigeria was founded on territorially concentrated cultural communities bounded by ethnic, religious and sectarian socio-political identities thereby fracturing broad and homogenous notions of democracy. In a country like Nigeria, deeply divided ethno-religious identities are a significant structural constraint that inhibits the full development of 'political and cultural rights', the very basis of evaluation which informs the advancement and consolidation of democracy in the contemporary global arena.

In 2000, Nigeria's challenge in achieving democratic consolidation, defined by the democracy literature⁶ as a process of achieving broad and deep legitimation for democracy — such that all significant political actors at both the elite and mass levels believe that the democratic regime is the most right and appropriate political system for their society — is not simply a condition of its errant leaders as the standard literature on democracy argues. On the contrary, I argue that the critical obstacle to democratic consolidation source in contemporary Nigeria has more to do with divergent epistemic⁷ notions of democracy that are disputed on cultural grounds. In Nigeria's multi-religious society, the power and identity of the state are being negotiated between the Eastern precept of political Islam and the Western notion of liberal democracy

The special complexities in religion and democracy that will be examined in the current study, however, lie not simply in the paradox involved in reconciling deeply divided cultural and institutional structures of competitive multi-party liberal democracies or in addressing the famed 'national question' as this dilemma is normally manifested in Africa's ethnic societies. Nor do I necessarily explore the reconcilability of Islam and democracy since most African democracies which have existed with Islam since their establishment⁸ demonstrate that the Islamic doctrine contains elements that may be both congenial and uncongenial to democracy. Instead, the focus of the current study concerns Islam's construction

as an ethno-regional political identity in competition with a non-Islamic, Christian ethno-regional identity. Due to the historically constituted regional disparities between traditionally Western Sudanic and Guinea grassland cusps in West Africa, culturally plural societies in these regions tend to be forged in such a way that religious identity, especially Christianity and Islam, inform the formation of demographic groups strategically balanced between territorial Northern and Southern ethno-regions; hence Africa's north-south question.⁹

When ethnicity and regionalism are infused with religious undercurrents to form composite cultural and political identities such as in Nigeria and the Sudan, which are Africa's most symbolic expressions of the North-South dilemma, cultural diversity may produce deeply divided political communities. In The Sudan, the introduction of Shari'a laws in 1983 culminated in an ethno-regional 'clash of visions', the breakdown of democracy, and the resumption of war by the ethnically composite, Christian Southern Sudanese¹⁰. This clash of visions also occurred in Nigeria in 2000 after a democratic transition where northern Nigerians, through political Islam, attempted to apply the belief and value systems of Islam at the level of the state. In response, the Nigerian South and Nigeria's Middle Belt northern communities who identify as non-Muslim have begun to consciously promote the values of secularism and State minimization of the religious sphere to the private domain.

Determining democratization in Nigeria's deeply divided multi-religious society therefore concerns the question of incompatible values between contending groups as a phenomenon that may not occur among ethnically plural societies; in religiously plural societies, the differences present among religions are more complex because the expression of self-determination is fundamentally constructed. The manifestation of this complexity is far from straightforward; for example, in Nigeria and the deeply divided democratizing states aforementioned, there exists an empirically expressed value incompatibility between the exalted status of Western-centric individual rights and social entitlements among secular Christian communities on the one hand, and the rights of the community and the social obligations of the individual in the community articulated among Muslim communities on the other. In essence, the dilemma for Nigeria and other complexly constituted multi-religious developing democracies results from the competition between two distinct social transformations: political Islam and Western concepts of democracy.¹¹

Muslim communities in Nigeria's federal democracy, who constitute a majority of the country's democratic constituencies, posit Islamic democracy and not liberal

democracy as the preferred democratic regime for their communities conveyed through democratic representation in their gubernatorial states. For example, the Governor of Nigeria's Niger state, one of the twelve northern Nigerian states that adopted Shari'a in 2000, construed the return to democracy in the country as giving weight to territorial communities' rights to democratically shape the kind of society that is appropriate to Nigerian culture, including Islamic culture.¹² Citing secularism and the separation of religion from the state, Nigerians in non-Muslim states in the country's central, eastern and western regions alternatively adhere to a conceptualization of democracy premised on liberal values, and thus resist the Islamization of democracy reflected in the adoption of the Shari'a code. Reacting against Amina Lawal's 2002 *Hadd* sentencing, the Catholic Archbishop of Okogie Lagos State, argued that while the government had the right to punish offenders, promote the security of citizens, preserve life and ensure good governance, it did not have the right to punish on behalf of God, since 'God and the Constitution forbade it'.¹³

Unlike The Sudan where the Numayri government and later the National Islamic Front sanctioned the establishment of Shari'a Law by enshrining it in The Sudan's former Attorney General Al-Turabi's 'Afro-Islamic' Constitution, declaring The Sudan, an Islamic state, and the Southern Sudanese, a Christian ethnic minority¹⁴, for Nigeria the experience of democratization in the midst of a North-South conflict was to be very different. Nigeria's secular democratic regime and its Southern Christian president, President Olusegun Obasanjo, while acknowledging the adoption of Shari'a by northern states as Nigeria's historical expression of a federal and ethnic democracy and thus not disputing the states' rights to implement it, did intervene on the human rights aspects of Shari'a application, declaring those codes illegal under the country's Constitution.

The expression of freedom and liberty is limited and fractured deeply for democratizing developing world states. Yet, Freedom House democracy ratings tell us little about the complexities of democratic development in contemporary Nigeria and other multi-religious countries, and standard academic democracy analyses on Nigeria are unuseful. A recent Journal of Democracy (JOD) analysis of Nigeria's Fourth Republic, for example, stated that the 'democracy dividend' has not materialized in the country due to, amongst other things, the lack of resolution to basic questions about national identity and to the mounting social violence, reflecting ethnic, religious, regional, and political tensions that feeds a rising sense of insecurity and crisis.¹⁵ The JOD analysis blames the religious conflict on the democratic government and its lackluster performance but does not

explain the conflict on its own terms, nor in the context of transformations that occur because of democratization. Neither does the JOD analysis explore deeper conceptual notions of democracy or take a more critical evaluation of rights in a liberal democracy. The real expression of democratic rights by culturally distinct electoral constituencies in the multi-national democracies of the developing world is obfuscated in the liberal democratic discourse.

**Democratic Rights in the ‘Plural’ Developing World:
Political Rights vs. Cultural Rights; and the Non-normative Civil Society**

Due to the very different political boundaries through which the developing world modern nation-state fostered distinct conditions from which democracy has emerged, many developing world democracies resemble something of a democratic melting pot (Pinkney, 2003) where alternatives to liberal democracies are often experimented. The endogenous development of democracy in the developing world resists liberal democracy’s homogenizing civic nationalism¹⁶ due to ethnic multi-nationality. It resists the monopoly on political power at the sovereign center, a tendency among liberal democracies, and inclines instead toward decentralized territorial power. Democracy in the developing world also espouses cultural rights-discourse expressed as the right of nations, nationalities, national groups and minorities to freely pursue and develop their culture, traditions, and their religion more often than the political and civil rights expressed in classic liberalism.¹⁷ In Africa, liberal democracies have often degenerated into ethnic majoritarian tyranny (Southall, 2000) and therefore have had trouble in gaining legitimacy among the continent’s multi-national constituencies. The ‘consociational democracy,’ a genre of democracy first used by David Apter to describe the way in which a culturally diverse country such as Nigeria ensured that all significant cultural groups were incorporated into government without being frozen out by a crude majoritarianism, is the preferred practice of democracy in the developing world (Apter, 1961: 20-28). India’s ‘indigenous’ democracy established in 1948 demonstrates perhaps the most successful developing world democracy that has been able to institutionalize the bargaining power of different religious and ethnic groups (Kohli, 2001), thus making the country an especially good case through which to examine the endogenous development of ethno-religious democracies in the developing world. Nevertheless, in India and Nigeria alike, consociational democracy has been practiced in the context of liberal democracy generating in both countries by the Millennium contradictions between citizens’ rights and ethnic communal group rights, especially where religious rights are involved.

The struggle for democracy began in the developing world during the initial de-colonization era; liberal democratic institutions of the early English, French and American political rights culture were established in African and Asian postcolonial states. In the newly independent democratic nation-states, a received liberal democratic culture of citizens' civil, political and socio-economic rights developed and was enshrined in constitutional law. However, in establishing a basis for modern democratic struggle for rights in the developing world, the expression of democracy from the composite peoples of the culturally heterogeneous developing world occurred as an expression of cultural self-determination (Mamdani, 2000) and not of individual freedom in the way that rights had been articulated in the West.

This expression of democracy among civil society in the developing world still tends to differ from the rights-based, citizenship-based liberal democracy of the advanced industrial world where early capitalist development had dissolved traditional communal identities and replaced them with the idea of a civil society of atomized individuals each of whom was a bearer of rights. Democratic consolidation in seventeenth century England, for example, occurred because of the manifestation of civil societal mobilization among groups disadvantaged by capitalism (working and burgher classes).¹⁸ The liberal democratic modern state that has achieved global legitimacy as a result of contemporary globalization¹⁹ was designed as the protector of these rights, hence the citizen-based liberal democratic nation-state that is the focus of standard democracy indicators today.

Alternatively, modern nation states derived from imperial colonies in the developing world during a Post World War I or II period of global Wilsonian democratization foisted the liberal democratic state, its ideas and institutions, upon societies in which modernity had not made significant inroads. As a result, the process of individuation during this period was partial and was contained among a minority of urban nationalist classes. For the majority of the population, the social structure which informed the political basis for democratic development was defined on the basis of ethnic or regional communities and religious groups whose interests were politically forged around cultural identities rather than political interests.²⁰

The establishment and survival of democracy in the developing world required the rapid adaptation of these institutions that were alien to indigenous society and thus served poorly as legitimate conduits of authority in culturally heterogeneous societies (Pinkney, 2003). As a result of the very conditions under which the development of liberal democracy and the modern nation state in the

developing world, combined with the greater liberal demands of democracies adopted long-suppressed groups for greater autonomy and cultural self-expression after the demise of colonialism, many in Asia and Africa broke down during the immediate post-colonial era.

In the Post Cold War era, liberal democracy has increasingly become associated with ‘democracy’ in itself, thereby rendering in theory and practice alternative genres of democracy insignificant.²¹ The liberal model of democracy, however, is not wholly incompatible with culturally plural developing world nations. The consociational model of democracy²² has developed from the adaptations of liberal democracy because of the increasing emergence of multi-nationality among most contemporary states.²³ The Post Cold War liberal democratic model, for example, now assigns a wide role to civil society by allowing a range of individuals and groups to articulate political demands and interests to the state through a competitive multiparty system.

Nowadays in a world fragmented by balkanization, the liberal conception of cultural pluralism accords the multi-national state, whose vitality springs from competition and exchange between different cultural traditions, equal respect. The model further presents the best guarantee for liberties as a state where no one culture holds a dominant place, and the fullest security for the preservation of local customs in cultural communities is provided. The liberal democracy model thus endorses group identities, reserving places on political bodies for group members and giving them rights of veto over policies that affect their groups directly²⁴.

However, as the preeminence of religious political identity over ethnic political identity in Nigeria demonstrates, cultural communities in multi-religious contexts tend to acquire disparate sets of personal identities as social allegiances respond to shifting political realities (Miller, 2001:41). Severe tensions between groups may occur in such a liberal democratic environment, which advocates the openness and fluidity of cultural identities, and gives identities, rights, and access to policy variations to excluded groups, which are denied to other groups. Also, in an environment where the legitimating of democracy is disputed, political recognition — positive valuation and practical endorsement — of one group’s cultural claims may be impossible for some groups to endorse without violating their own identities. For example, *Hadd* offences where private acts like adultery are punished by penalties such as stoning, lashing, or body part amputation are posited as one group’s understanding of democracy while the other group views these acts as subversive of democracy. The contending views represent an example of the extreme tensions that emerge from religious political identity differences.

The incompatibility between different notions of democracy expressed through political rights claims in a liberal democracy tends to foster a politically charged environment between contending groups, which in turn creates even greater conflict, and instability.

That is why despite what appears as India's successful consolidation of democracy, the country's Freedom House Score of 4,4 (Partially Free) in 1998 — only gaining a 2,3 Free status in 1999 — shows that the world's largest democracy remains far away from achieving the universal ideals of liberal democracy. In India, contrary to the desires of democratic modernists, democracy has not simply undermined and eradicated traditional identities, like caste and religion. Instead, as democratic forms became better entrenched and opportunities better appreciated by common people, traditional forms of identity have adapted to modern structures (S. Kaviraj in Lefwitch, 1996). Moreover, more recently as evidenced by the preeminence of the democratic regime led by India's Bharatiya Janata Party (BJP), the ultra-nationalist Hindu ruling party, modern interest groups based on social class or occupation prominent during the Nehru secular democracy era have been lost to groups based on caste, religion and ethnicity (Chadda, 2000: 224-225). Ironically, the BJP claims as one of its most important grievances against the Indian National Congress ideology, the unfair protection of Islamic minorities, which in their view have fostered a cleaved Indian democracy with Muslims and caste groups receiving unmerited preferred treatment.²⁵

Though more successful than The Sudan whose 2003 Peace Process has just begun to address the country's delicate balance between Islamic democratic rights in the country's north and the self-determination of the secular southern Sudanese societies, Nigeria has been less successful than India in negotiating the tensions between contending cultural and religious groups within a liberal democratic framework. The failure of the country's first liberal democratic regime has been widely attributed to the unsuccessful adaptation of the received liberal democratic precepts in the country's tripartite ethno-regions. Similar to India, where Article 370 of the Indian Constitution gave culturally distinct territorial communities such as Muslim Kashmir and other northern non-Hindi underdeveloped states the powers and protections not available to other Indian states (Parekh in Anderson, 2002), the Nigerian constitutions undertook to respect the separate customary and personal laws of its religious communities.

Nigeria's 1946 Richards Constitution, 1954 Macpherson Constitution, 1979 Obasanjo Constitution, the 1993 aborted Babangida Constitution, and the 1999 Abubakar Constitution all established a liberal-democratic framework

that attempted to create a greater sense of an enlarged community and shared citizenship for the developing Nigerian nation-state in the context of deep ethnic, regional and religious differences. That is why all of Nigeria's Constitutions made provisions for the recognition of an Islamic political identity by allowing Shari'a courts to administer, observe and enforce the provisions of Islamic law in states with Muslim majorities. A Shari'a Court of Appeal was established in each state and a Federal Shari'a Court was established to conciliate Muslim communities who perceived the Nigerian secular state as discriminatory against Muslims.

However, also similar to India, as the Nigerian democratic state developed, the consociational mechanism used to mediate cultural units rather than individuals began to run into crisis as opposition from liberal communities argued that the state should be based on a single and uniform set of fundamental principles; that it should have a common and uniform legal system which required all citizens to have exactly the same rights and obligations. In the post Cold War environment, the global hegemony of the liberal democratic state further reinforced this crisis of the liberal democracy in the multi-religious and ethnically plural country. Nigeria's 1999 re-democratization process presents an important case study through which to examine the contradictions of democracy in practice.

The Nigerian Shari'a Movement: An Expression of Democratic Social Justice

The country's demographic breakdown, the extent of Nigeria's cultural pluralism reveals an extraordinary cultural pluralism, which includes 51 nations, 400 ethnic groups, 20 principal religious denominations, the received common law of England, Islamic law, and the numerous customary laws of each ethnic group. Significantly, also, 50% of Nigerians identify themselves as Muslims; and another 35% as Christians, and 15% as animists (Falola, 1999). This cultural mosaic can be divided into roughly six cultural zones, including the Hausa-Fulani northern emirate states, the Borneo northern states, the north-central Middle Belt minorities²⁶, Yorubaland in the southwest, Igboland in the southeast and the southern minorities in the Niger delta regions. (Paden, 1995:6)

The country's North-South division, however, has provided the main context upon which ethno-religious regional identities have been forged. Like most of the West African Sudanic-Grassland regions, pre-colonial and colonial historical transformations caused significantly separate developments between the country's northern and southern regions significantly leading to two different cultural approaches toward modernity. The Nigerian South for example adapted its

sedentary communities, city-states, and constitutional monarchs to encroaching colonial values brought in by missionaries. By adopting the Christian religion and gaining a head start in Western education, the southern groups assumed early supremacy in the designing of the modern postcolonial democratic state²⁷. Alternatively, Nigeria's north, once a heartland of medieval Islamic Sudanic empires, preserved through the colonial policy of indirect rule, its 500 year Islamic traditions and institutions such as el-Shari'a²⁸, and thus entered modernity with the Middle East as a cultural reference point.

This regional divide fostered deep and distinctly divergent psychological perceptions of each region's role in Nigerian politics throughout the development of the country's modern democracy. For example, as early as 1953, following the motion for self-government by southern politicians, the northern nationalist leaders seeking to delay the independence process were accused of being ignorant of the euphoric and the momentous democratic independence movements in the post World War II era. The northerners in turn perceived of the Southerners as radicals and agitators (Nnoli, 1980), giving rise to a situation that foreshadowed an early fracture within the civil society, and a bifurcated nationalism that remains a staple feature of Nigerian politics to this day.

In contemporary politics the South presumes the North's attempt to relate Islam to Nigerian governance and law to be evidence of the expansion of northern dominance in politics as evidenced by the military state of Northern origin since the that brought General Gowon to power in a July 1966 coup. Thus, successive Nigerian political regimes were accused of committing a disproportionate amount of public resources, especially through extra-budgetary spending for the development of the Northern part of Nigeria, at the expense of the Southern part. As well, Northerners were often accused of using their control of state power to promote Islam at the expense of Christianity.²⁹ This perception was further exacerbated by southern perceptions of an unrealized ambition by the Fulanis to establish Islamic hegemony over the entire nation (Paden, 1970).

In turn, the North perceives its adherence to an Islamic way of life in the northern states as that region's opposition to Southern cultural and political hegemony, implicit in the founding of the Nigerian state on English civil law and canonical Westernized Christian values. In May 1977, a seminar at Bayero University in Kano by northern Muslims complained that the laws of the country were a legacy of colonialism and biased in favor of Christianity.³⁰ The seminar spearheaded the northern political view that the Nigerian legal system based on colonial models was tyrannical and inimical to the welfare of Muslims.³¹ In this

context, the subsequent Shari'a movement was seen by its advocates as an attempt to attain social justice through democratic means. By the late 90's advocacy for Shari'a represented an ethno-religious nationalism in the north, organized as a reaction against perceived southern cultural dominance. Henceforth, Islam was presented as a uniting image of religion, politics and nation amongst the confederal northern states, offering an outlet for radical political action through political Islam.³²

It is in this context of the paradox presented by liberal democratic structures in a country with a looming ethno-regional divide, complicated by religious undertones that Nigeria's 1999 democratic transition must be understood. After a ten-year struggle to implement the country's third experiment with liberal democracy, twelve of the thirty-six Nigerian states had established the Shari'a code in the country's northern region by 2000. These trends were a reflection of religious identity factors moving from the cultural realm to the political stage of contested national symbolism. Composite identities of ethnicity, religion and culture crystallized along the Nigerian Muslim and Christian divide, with different claims within each category resulting from a resurgence of political Islam in the Nigerian north and a response from predominantly Christian but politically secular south.

A precursor to Amina Lawal's highly symbolic internationalized struggle for human rights and democracy in Nigeria was the establishment of Shari'a in Nigeria's north as an outgrowth of the 1999 democratic resurgence. Governor Sani Yerima, the newly elected governor of Zamfara state made history in October 1999 when he expanded the jurisdiction of Shari'a laws from their local civil application under customary law in northern Muslim communities to the state level. The Governor justified his enactment of Shari'a law in the name of the Constitution and democracy. Explaining that his adoption of Shari'a as a fulfillment of a campaign promise indicated that Shari'a was not simply promoted by political elites. Reinforced by global waves of political Islam and a democratic transition, the activist promotion of Shari'a in Northern Nigeria emerged from an array of social forces within Islamic civil society ranging from the radical Muslim student groups like the Umma Islamic statistes who advocated the adoption of Shari'a to the fundamentalist Izala movement that promoted radical reform against Sufism.³³ Among northern communities, new interests had also begun to narrow ethnic identities to religious ones. Northern Nigerian villages had begun to articulate local conflicts in terms of Christians against Muslims, by invoking salient socio-

religious ties that emerged from associational memberships. They became assertive nationalities in post democratic environments (Murray Last, 1967)

Varying interpretations of the Nigerian Constitution further triggered the Millennium crisis of Nigerian democracy. Non-Muslim southerners viewed Shari'a's establishment as an unconstitutional declaration by individual northern states that had unilaterally enacted Islam as the religion of the state thereby dismissing the 1999 constitution's explicit support for secularism. Chapter 2, Section 10 of the constitution prohibits the adoption of a state religion.³⁴

Protagonists of Shari'a, however, upheld its constitutionality by citing Chapter 4, Section 38 of the constitution, which states that,

Every person shall be entitled to freedom of thought, conscience and religion including freedom to change his religion or belief, and freedom to- either alone or in a community with others, and in public or in private- manifest and propagate his religion or belief in worship, teaching, practice and observance.

Moreover, Governor Yerima argued that he had not declared Zamfara an Islamic state, but that the state had been given an additional status as a 'seat of Islam'.³⁵

The Civil Liberties Organization (CLO), a Nigerian pro-democracy NGO — whose headquarters is based in the cosmopolitan south — enumerated the implications for human rights abuses by the enactment of this controversial Islamic code. Contrary to Governor Yerrima's interpretation, the CLO cited Chapter 4, Section 38 of the constitution, which stipulates freedom of thought, conscience and religion, to argue that Shari'a negated those rights. According to the CLO, Shari'a law restricted the exercise of free will even if individuals born into Muslim homes because of the offence of Riddah³⁶, which is inconsistent with Section 38. Arguing against Governor Sani's activist interpretation of that code, the CLO's literal interpretation stated that the right to freedom of religion does not imply the imposition of a particular religion by a state on an individual. The NGO argued that the constitution recognized the right of Muslims by copiously making provisions for the establishment of a Shari'a Court of Appeal to cater for the civil and personal matters of such persons.

Moreover, attacking these amputations, stoning and beheading for heinous crimes under Shari'a, the CLO pointed out that the Constitution guaranteed the right to life and dignity of persons including their personal liberty and freedom from cruel punishment. Finally, the CLO concluded that by disallowing the association of men and women in public, Shari'a Law violated freedom of

assembly and association as provided under Section 40 thereby infringing on the individual rights of citizens' minority group rights.³⁷ To this, the Zamfara governor again defended Shari'a laws by stating that the rules apply exclusively to Muslims. Thereby missing the point regarding the CLO's discourse on secular individual rights, the governor incited Christian governors to come up with laws based on Christianity with a view that regulated and remolded the lives of Christians (Newswatch, 2001).

The country's fourth democratic regime entered the fray of the constitutional debate by declaring the strict version of Shari'a practices among Northern states as illegal under the country's constitution. Facing stiff opposition from northern governors who deemed the Obasanjo regime's attempt to declare Shari'a illegal as an undemocratic act in a federal democracy, the regime declared that Shari'a law discriminated against Muslims. Ironically, depicting the deep contradictions that exist for democratization in a deeply divided multi-religious society, Justice Minister, Godwin Agabi argued that a Muslim should not be subjected to a punishment more severe than would be imposed on other Nigerians (non-Muslims) for the same offence.

Despite the democratic government's declaration that Shari'a was illegal, the crisis only became more complex in 2002 with the development of the Amina Lawal case, which internationalized the country's worsening democratic conditions. By 2003, as many as 5,000 people had lost their lives to violence over conflicts in the name of Islam and Christianity³⁸ Demonstrations over Shari'a in Kaduna in 2001 resulted in violent riots and bloody religious clashes initiating a series of renewed accusations of a pogrom enacted by the Islamic north against the southern Igbo Christian residents in northern regions. Socio-political violence also spread to the Middle Belt region where intra-ethnic cleavages were transferred into ethnoreligious clashes between Muslims and Christians in Jos. After the 2003 boycott of the Miss World Contest, spearheaded by a highly charged, international riots erupted between Muslims and Christians in Abuja resulting in the deaths of 200 people.

Post Independence Democratic Transition: The Separation of (Mosque) from State

After a decade of military rule, reinstating Nigeria's democratic constitution in the late 70's made constitutional legality the overall reference point for the democracy's legitimacy, fostering again during the country's 2nd Republic an environment where religious markers took on a distinctive political identity. The

Constitutional debate that ensued during the democratic transition between 1978-1979 established the political grounding for conflict over the Shari'a question. The Constitutional Drafting Committee (CDC), a democratic transition institution, convened to design a new constitution for Nigeria and adopted the principle of 'dichotomy', which permitted two religious systems to be identified in Nigeria's democracy. The principle of dichotomy previously used by colonial administrations in many developing countries created a split in the legal system between state law and customary regulation of social life.³⁹ The CDC proposed a constitutional clause that would allow non-Muslims the prerogative principle of separating "church and state", while allowing Muslims to link Islam and governmental administration through Shari'a Courts that administer, observe and enforce the observance of the principles and provisions of Islamic law.⁴⁰

In effect, the CDC's re-inscription of the dichotomy principle by enacting a Federal Shari'a Court of Appeal⁴¹ generated protest from non-Muslim members of the assembly who warned that such an act would privilege Islamic law, create a dual system of law in the country and open the door to the development of political Islam.⁴² For Nigerian Christians, constituting a significant segment of the Middle Belt and the southern secular movement, their sentiments were best summarized by Archbishop Olubunmi Okogie, who representing CAN⁴³ argued that the secular state was the appropriate state form for the new democracy because its ruler would enjoy full autonomy with no control from religious or spiritual authorities.

However, the decision to allow for a Shari'a Federal Court of Appeal, in the Nigerian Constitution was made to conciliate Muslim communities whose representatives at the Constituent Assembly rejected the idea that Nigeria should be a secular state. Arguing that 'a secular state was a godless state that discriminated against Muslims,'⁴⁴ Islamic leaders in Nigeria maintained that a secular state was a negation of the Shari'a, and by extension, inimical to the development and aspiration of Islam.⁴⁵ Muslim members of the assembly believed that the application of Shari'a lay at the core of their lives as Muslims. Therefore denying them Shari'a rights at the highest level of law constituted discrimination against them (Ibrahim Suleiman, 1987). By reinforcing the dichotomy principle or legal dualism, the constitutional drafting body sought to democratically accommodate the diverse claims of religious political identities in the Nigerian nation.

Nevertheless, the enactments of 1979 did not solve the contradictions between Shari'a law and secularist principles adhered to in other parts of the country. In fact, the implementation constitutional endorsement of Islam as an established political identity through the establishment of a Federal 'panel' of Shari'a Appeal

produced an outcome typical of the competitive cultural politics of a liberal democracy: all cultures are endorsed. The more substantive questions regarding the reconcilability of Islamic democracy with liberal democracy, the implications of Shari'a law on individual human rights, on non-Muslim citizenship rights, and on the disputed moral claims of modern statehood were left unaddressed to attend to. These crucial issues set the stage for later religious crises.

By the 1980s, ethno-religious identities had visibly expanded into cultural and political markers in the context of democratic elections, as evidenced by the increasing polarization of Muslims and Christians as power blocks. In both milieus, attempts were made to radicalize popular constituencies, by giving primacy to the identification of religion in politics. For example, Alhaji Gumi, an Islamic cleric, jurist, politician, acclaimed international award winner, an early instigator of reformist political Islam in northern Nigeria Grand-Mufti-in-waiting, and until his death in 1992, the leader of the controversial, Izala anti-Sufi movement committed to the eradication of Islamic heresy, told a news reporter that he wished that the 'great' northern, Christian, Nigerian leader, General Gowon, had been a Muslim.⁴⁶ Setting the stage for the politicization of religious identities, Gunmi's stated that,

In Islam, Muslims are not allowed to vote for non-Muslims, and in the event that non-Muslims can not live with this, the country should be divided. (Falola, 1998)

In response, southern millionaire and political candidate, Arthur Nzeribe, called on all Christians to unite and elect a Christian president⁴⁷ (Kukah, 1993).

The aborted Third Republic's transition to democracy also revisited the constitutionality of Shari'a in a multi-religious context. A report on the Shari'a question and ethno-religious diversity produced by the Anyiagolu committee of 36 Muslim and Christian elders, concluded with the same staunch positions on both sides as had occurred in the 1979 transition. Yet, another compromise solution was reached with,

Both sides of the Shari'a divide claiming to have won. The Christians felt that they had won the victory that henceforth the Shari'a laws in Nigeria would remain for only the Muslims, and non-Muslims would never be made subject to their tenets. The Muslims on the other hand felt that they had won their fight that the Shari'a not be excluded from the Constitution. (Anyiagolu 1993)

During Nigeria's fourth democratic regime, the Shari'a debate had emerged as a synthesis of previous constitutional contradictions, long-standing cultural and

political identity mobilization, and a typical case of Nigerian 'ethnic politics as usual'. Moreover, the debate had moved from the domain of the state to the diverse groups within civil society. To further appreciate the deep sense of 'plurivocality' in Nigeria's millennium democracy, for instance, one merely has to examine the maneuvers of the Nigerian civil society in the wake of the climax of social violence that erupted in Northern and Middle Belt states after the implementation of Shari'a in 2000.

The Fatwa Committee of the Jamaatu Nasril Islam, (JNI), a modernist northern political movement, and the 19 northern governors group met to set up a committee to discuss the controversial issues smoldering the Shari'a legal system. With the tacit support of the Federal government they sought to reconcile the differences between the 1979 and 1999 constitutions with respect to Shari'a law in the country, as well as deliberate on how to implement it without causing unnecessary friction or heightening the already tense atmosphere in most parts of the country. In response, the Council of Ulama, a nationwide Islamicist umbrella political movement based in Kano state, which sponsored the Kano bill on Shari'a, took a more extremist position threatening to break away from the rest of the country over Shari'a. The head of the organization declared,

We are happy to inform our Yoruba fellow citizens of Nigeria that we too have come to the same conclusion that there should be a national conference, whether sovereign or otherwise, to determine the basis of our continued togetherness. The sooner all sections of Nigeria meet to determine our future co-existence, the better for this country.⁴⁸

Consequently, the normally ethnically divided South united in their opposition to Shari'a. In an unprecedented display of solidarity action, the Nigerian South, represented by Afenifere for the Yoruba, Ohaneze for the Igbo and the Union of Niger Delta (UND) for the southern minorities, decided to confront the Shari'a issue head on. Across the geo-political zones of the south, the houses of assembly passed strongly worded resolutions against Shari'a. The governors of the five south-eastern states whose indigenes had been fatal victims of the Kaduna violence condemned the killings and Shari'a in the following telling statement,

We cannot again tolerate any situation where easterners are killed without any provocation, and that any further attack on easterners will compel us to re-assess our faith in the continued existence of Nigeria as a corporate entity.⁴⁹

Even more politically loaded was the statement from the pan-Igbo political movement, Ohaneze, that the enforcement of Shari'a in the north constituted a deliberate, calculated violation by the state government of the 1999 constitutions of Nigeria, the provisions of which were the foundation of Nigeria's association as a nation. The adoption of Shari'a was likened to a 'disguised' secessionist move. Acclaimed Nigerian constitutional author, Ben Nwabueze, put it best when he stated,

Shari'aization is a well calculated move to endanger the continuance of a federal government in Nigeria in terms of section 5 (3) of the said constitution since such state enforcement of Shari'a and true federalism cannot co-exist.⁵⁰

Non-Islamic northerners of the Middle Belt continued to condemn the northern adoption of Shari'a. The Southern Kaduna Peoples Union, SOKAPU, an umbrella association of Christians and animists residing in the Sabon-Gari's⁵¹ in southern Kaduna condemned the move to institutionalize Shari'a, recommending that Kaduna state be split into two to avoid a religious war. Peter Tanbo, the chairman of the Christian Association of Nigeria (CAN) Zamfara State chairman Peter Danbo, stated his opposition to Shari'a by expressing the fears by Christian indigenes who feared that they would be forced to live like oppressed minorities within the predominantly Muslim state.

Public Policy Implications for Democracy in Nigeria: An Agenda for a National Conference

The international community seemed to heave a sigh of relief in September 2003 when a Katsina Islamic court announced that Amina Lawal had been cleared of the Zina adultery charge, releasing her from a sentence of death by stoning. Some human rights activists in the country commended the fact that Amina's fate had been resolved locally within the Katsina appeal court since the acquittal demonstrated the procedural capabilities of Nigerian democracy and the right of due process to appeal against injustices handed down by the state. By allowing the case to proceed and be won on the first of potentially three appeal courts (Katsina State, Federal Shari'a and the Supreme Court), the country began building an endogenous culture of human rights and democracy within the rule of law.⁵² Indeed, Amina's female Muslim defense lawyer reinforced this position, proclaiming that her client's acquittal was, "a victory for law, for justice and for dignity and human rights for Nigeria."⁵³

However, the 4-1 split decision by Katsina state's best jurists cited procedural reasons for dismissing the *Hadd* charge against Amina, leaving the substantive question of the constitutionality of Shari'a and its applicability to modern human rights and democracy standards unresolved. Thus, for Southern and Middle Belt groups that advocated the abrogation of Shari'a on the grounds of its unconstitutionality and its irreconcilability with modern democracy, Amina's acquittal was merely a partial victory. Several more *Hadd*⁵⁴ cases still await trial, all 12 of the northern Shari'a states continue defying Obasanjo's declaration that *Hadd* Shari'a codes are unconstitutional, and Obasanjo himself still refuse to challenge Shari'a's constitutionality in the Supreme Court for fear of offending Nigerian Muslims- at least half of his electoral constituency. Meanwhile, Nigeria's democracy remains an important focal point of international public policy discussion due to its implications for democracy in multi-religious developing world contexts.

The adoption of liberal democracy alone, however, will not placate potentially volatile political tensions in Nigeria. In developing democracies with uneven cultural development, liberal democracy, which encourages groups in a plural nation to participate in the political realm and affirm their cultural identities, has fostered a politics of cultural difference. When cultural politics are expressed in distinctive and separate trajectories, the agitation for rights among civil societies may result in cultural fragmentation and democratic instability as in Nigeria. This is because the liberal democratic state goes no further than applying the role of the democratic state as an arena in which groups negotiate and bargain with one another in order to affect public policy.

India's long history of internal self government beginning in 1908 fostered the development of the strong Hindu-dominant Indian national congress that facilitated a successful transition to a democratic postcolonial state in 1948 and since then has served as a secular arbiter for competing claims among its diverse religious and ethnic groups. However the Northern People's Congress, Nigeria's first liberal ruling party in 1960, while not an Islamic party, did reflect the composite class, ethnic and religious features of Hausa-Fulani hegemony, resulting in northern political dominance during Nigeria's First Republic (Paden, 1986). Rather than the secularism adopted by the Indian Congress, the central policy of the Nigerian postcolonial democracy merged Islam and ethnicity in an attempt to construct a political support base that would enable the NDC's domination of Nigerian national politics. But this attempt at political dominance in a country with equally strong non-Muslim ethnic populations merely fostered greater ethno-

regional competition among already structurally autonomous regions, resulting in a breakdown of the liberal democratic system in 1966.

Nigeria's commitment to federalism designed and practiced by the country's military regimes nevertheless marked the beginning of a political culture of liberal cultural accommodation using consociational democratic mechanisms. For example, the commitment to state's rights enabled the development of a political tradition in which the powers of between the nation-state and its regions were separate (Sklar, 1983). Federalism's main goals were the removal of structural imbalance ergo tripartite ethno-regionalism which was identified as the cause of the civil war; the allaying of the aspirations of minority groups for self-determination; the allaying of fear of domination by major groups over the other; and the insurance that all groups received equal access to political leadership at the national level.⁵⁵

Other consociational mechanisms, constitutive of Nigeria's democratic culture, were designed as radical power-sharing remedies that would remove ethnicity from politics through political arrangements and institutions that privilege alternative identities over religion and ethnicity. For example, proposals to rotate the nation's leadership between a Muslim and a Christian leader as in Lebanon's 1943 National Pact⁵⁶ were entertained.

Since this form of democracy has the negative consequence of reinforcing cultural divisions that may have withered away if they had not been re-inscribed by power sharing policies. By incorporating ancient customary law as the civil code for local communities, whose manifestation in northern Nigeria in the Millennium has been the reification of Shari'a law; cultural accommodations⁵⁷ for cultural representation have established the present context for the re-emergence of fundamentalist precepts as bases of cultural citizenship in the contemporary political arena. However, consociational democracy does not appear to be the exclusive solution to Nigeria's democratic diversity either. In an environment in which ethnic politics takes on a religious dimension, and when contentious claims between ethnic communities involve deep-seated epistemic questions of human rights, there is a need for the democratic state to go beyond the validation of ethnic claims — in this case stoning women to death for adultery as a democratic cultural right — and instead facilitate an environment that underscores shared and common democratic understanding and consensus. 'Centripetalism', a democratic mechanism that aims to pull socio-political forces toward moderate policies that discover and reinforce the center of a deeply divided political spectrum, is especially required for Nigeria's divided democracy.⁵⁸

The political process by which the resolution of Nigeria's Millennium democratic crisis may be best achieved through the regions legacy of democratic traditions. According to an African nation of democracy, democratic decision-making and justice cannot be achieved merely by aggregating the preferences of the majority nor by negotiating claims in a majoritarian liberal democracy, but instead must rely on deliberation and consensus methods. According to Tanzania's Julius Nyerere,

In African society, the traditional method of conducting political affairs is by free discussion; the elders sit under the big trees, and talk until they agree.⁵⁹

African traditional democracy thus values the prizes the principles of discussion, conciliation and consensus⁶⁰ Similar to the philosophical paradigms of Rousseau, Jefferson and Habermas, this republican conception of democracy also involves citizens and groups who are actively involved in shaping the future direction of their societies. Moreover, the democratic values embodied in this notion of democracy are substantive and less limiting than those in liberal democracy are because they draw groups who initially have very different priorities into public debate and seek to achieve compromises that members of each group can accept. Republican democracy also relies upon each member or group's capacity to be swayed by rational arguments and to lay aside particular interests and opinions in deference to overall fairness and the common interest of the collectivity.

A republican model of democracy should inform the basis of the future National Conference in Nigeria, the agenda of which should exclusively address the competing claims between democracy and political Islam and other relevant policies affecting the deeply divided society and its implications on democratic performance. Nigerian social movements and ethnic groups already play active roles in shaping the future direction of their societies. The National Conference would merely continue this cross-cultural dialogue by fostering a process of open discussion around highly sensitive questions of national interest.

There is also strong evidence that suggests that a republican democracy would transform initial policy preferences into ethical judgments on critical issues. In Nigeria for example, Muslims have already begun to move from rejecting talk about a secular state to acceptance of the notion of a 'multi-religious' state, while Christians in turn now acknowledge an 'a-religious' state (Kukah, 1993). Also significant is the fact that both Hadd cases against Muslim women found justice within Islamic jurisprudence. Amina, a Muslim woman, fought for justice against Zina; Hawa Ibrahim, a Muslim woman led her defense team; the case was

acquitted within a Katsina appeal court within Islamic/Shari'a jurisprudence. This shows that Northern Nigerian Islamic communities are achieving their own forms of democracy by endogenously countering traditional conceptions of democracy and justice as received from Islamic law.

Resolving the Nigerian Shari'a question on broader substantive grounds in relation to non-Muslim democratic stakeholders requires a more critical debate amongst Nigerian democratic agents about the epistemic or ideological principles underpinning their democracy. Greater mutual understanding of political ideals and theories of justice among disparate ethnoreligious groups would also improve the environment of rights and obligations between the democratic state and its civil societies also thereby deepening the positive attitudes toward democracy and thus enhancing democratic consolidation.

Future democratic regimes in Nigeria should also capitalize on the country's tradition for fostering dialogue and debate in reaching national consensus on the subject of democracy. As early as 1977, as military head of state, General Obasanjo, addressing the conflicted members of a Constituent Assembly divided over the religious identity of a future Nigerian constitution, urged the body to remember that,

The African genius is a child of moderation not given to unnecessary intellectual inflexibility. It prefers to arrive at consensus through compromise.⁶¹

As democratic president in 2000, President Obasanjo has repeated his attempt to deal with the Shari'a question through 'palaver' methods such as persuading courts in the north to modify their sentences, rather than risk a potentially confrontational Supreme Court political and not a legal decision by a court stacked in numerical favor toward a northern majority.

However, currently, there is a stalemate between the Federal government, the Shari'a states, and the liberal civil society in the south and the Middle Belts, over the place of Shari'a in Nigeria's modern democracy. This situation requires the Obasanjo regime to take further constitutional steps to legitimate and strengthen the country's federal democracy. An independent judiciary is the hallmark of a liberal democracy and Nigerian democratic regimes must begin to rule horizontally through other representatives of the country's democracy such as Supreme Court judges, trusting the rational and ethical judgment of these institutions as Amina has done. In conclusion therefore, the epistemic differences over democratic values in Nigeria may be best resolved by addressing the role of the modern state in balancing the sensible demands of Shari'a law and the human rights implications of other aspects of the law (*Newswatch*, 2001).

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Endnotes

¹ Shari'a law was first established in Nigeria's modern democratic history under colonial rule. In its 1900 Native Courts proclamation, the British accepted the Shari'a Courts that had been adopted in the 18th Century under the Sokoto Caliphate as being at par with the customary courts and stated that those courts were to administer native law and custom prevailing in the area of jurisdiction (Sweet and Maxwell, 1966).

² *Time Magazine*, April 2002.

³ <http://www.amnesty.org>.

⁴ <http://www.freedomhouse.org>.

⁵ Larry Diamond, 'Consolidating Democracy' in Diamond (1999).

⁶ Diamond (1999).

⁷ An epistemic conception of democracy sees the aim of democratic procedures as arriving at a correct answer to some question facing the political community. For Nigeria, the epistemic nature of democratization was best articulated in this leading journalist's proclamation that the crucial questions that the Nigerian democracy's Fourth Republic needed to address was the role of the modern state to balance the sensible demands of Shari'a law and the human rights implications of other aspects of the law (*Newswatch*, 2001).

⁸ Senegal in Africa is an important case study. This African country with an Islamic majority exhibits features of a liberal Islam, where political democracy has forged one of West Africa's most stable democratic states. (Villalon and Kane, 1998).

⁹ Sierra Leone, Cameroon Cote d' Ivoire, Ghana, Benin and Togo all share similar regional disparities between northern Islam and Southern Christians as a result of their boundary locations. Non-West African countries that are also significantly multi-religious are the Sudan, Ethiopia, Uganda, Kenya, Malawi, and Mozambique. In these countries, Islamic populations make up significant minorities.

¹⁰ Deng (1995).

¹¹ William Zartman, 'Democracy and Islam: the cultural dialectic' in *Political Islam Annals* APSA, November, 1992 .

¹² Niger State Governer Kure (Guardian News, 2000).

¹³ IPS 'Shari'a Court Overturns Amina Lawal Death Sentence' by Toye Olori, September 25, 2003.

¹⁴ Anderson (1999).

¹⁵ Lewis (2003).

¹⁶ Westphalian nationalism based on loyalty to 'nation-state'. The basis of liberal democracy, civic nationalism is the nationalism of an aggregate of 'citizens' in civil society who express their love of country through the boundaries of the nation-state.

¹⁷ Campbell (1997).

¹⁸ Examine accounts of Western democratic struggles by Moore (1966).

¹⁹ Anderson (2002).

²⁰ For a full discussion on the alternative social bases for democratic development via democratic struggle in the developing world, see the chapter by Sudipta Kaviraj for the case of India "Dilemmas of Democratic Development in India" Leftwich (1996) and for Africa in general, see Mamdani (1988).

²¹ In *Transnational Democracy*, Anderson discusses the diffusion of the liberal democratic state through globalization (Anderson, 2002).

²² Lijphart (1977).

²³ David Miller argues that due to globalization, states have lost the capacity to determine the cultural makeup of its citizens leading to new forms of identity politics where sub-national groups increasingly challenge the legitimacy of the state. (Miller, 2000).

²⁴ For an excellent discussion on liberal democracy in the context of Western multi-nationalism see Miller (2000).

²⁵ Parekh (1993).

²⁶ The Nigerian Middle Belt region- the old Benue, Niger, Plateau, Bauchi and Zaria provinces consists of a Nigerian region at the cusp of the North/South divide. On one level this region consists of communities that have long-standing subordinate socio-political ties to the old Hausa kingdoms. On the other, the Middle Belt also consists of significant non-Muslim, Christian communities. Due to this region's traditional opposition to Hausa-Fulani hegemony, the politics of the Nigerian Middle Belt is often deeply influenced by the Christian/Muslim divide and has been the site of a significant portion of the social violence between Christians and Muslims in the country.

²⁷ The southern National council of Nigeria and the Cameroon (NCNC) was the dominant pan-Nigerian nationalist movement of the post-war era (Iweriebor, 1996).

²⁸ Uthman dan Fodio established Shari'a law in northern Nigeria in 1804 when he founded the Sokoto Caliphate.

²⁹ Jega (2001).

³⁰ *New Nigerian*, 27.3.77.

³¹ As early as the British colonial imposition of the modern state- the colonial state- established in Nigeria, Nigerian Muslims rejected the non-religiosity of the state. By way of rejecting that state's Western and Christian values, Islamicist opposition movements began to strengthen the Muslim identity. Observed in practice, this aspect of Islamization fostered the positive, though contradictory, value of dissipating and attenuating the expression of separate ethnic nationalism among Nigeria's northern region. A corollary to this, however, is the fact that this early politicization of Islam may be explained as an instance of provoking regional northern ethno-nationalism expressed as Northernization by way of a unifying religious cultural element. The latter form of ethno-nationalism infused by political Islam is indeed the basis of religious factionalism both intra-regionally among a religiously diverse Northern region, as well as inter-regionally as a regional-religious cleavage between Nigeria's north and south.

³² Defined by the condition of a fusion of state power and Islam expressed in an Islamic theocracy.

³³ <http://www.NigerianGuardianNews.com>.

³⁴ *Post Express* 'Groups Declare Shari'a Illegal', 2001.

³⁵ Philosophically, Yerima's legitimacy is rooted closely in the theories of Ottoman Empire secular philosophers Al-Mawardi and Ibn Tawimiyya, who contrarily to Sunni and Shiite theocratic state Islamicists theorized that the state was not a direct expression of Islam, but rather a secular institution whose duty it was to uphold Islam. (Ibishi, 1966).

³⁶ Prohibits Muslims from converting to another religion thus constrains religious choice and freedom.

³⁷ *Vanguard Nigeria*, 'CLO Report on the Shari'a', 2000.

³⁸ Amir Taheri, 'Iran and Saudi Arabia, Two Zealots of Islamism' in *African Geopolitics*, winter 2001/2002.

³⁹ See Christian Lund's brilliant discussion of 'dichotomy' in Niger as it relates to land tenure rights and democracy (Lund, 1997).

⁴⁰ Adegoba in *Great Debate*, p. 375.

⁴¹ The Federal Shari'a Court of Appeal was enacted for the Third Republic. The CA established that a 'panel' of three Islamic jurists would be constituted within the Federal Court of Appeal in an ad hoc appeal emanating from a state Shari'a court.

⁴² John Hunwick, in *Annals*, 1992.

⁴³ The Christian Association of Nigeira.

⁴⁴ Bole Ige, 'Religious Freedom and the Nigerian Constitution' in Clarke and Linden (1984).

⁴⁵ Matthew Kukah (1993).

⁴⁶ Southern political hopeful, Chief M.K.O. Abiola, began a campaign to galvanize support for the introduction of Shari'a courts in the South. The conventional wisdom of the period characterized Abiola's newly founded ethnoreligious fervor as a precursor of the beginnings of his political misadventures and frustrations with the northern ruling class in the North who he had aligned with, expediently using the religious card to enhance his chances in the Second Republic.

⁴⁷ In 2001, former head of state Muhammadu Buhari, introduced a new qualification for the highly controversial Nigerian solution to the national question- ethno-regional zoning- by suggesting that Muslims should only vote for a Muslim president in the forthcoming election in 2003 (*Newswatch*, 6/26/01).

⁴⁸ *Newswatch*, 'Obasanjo's Cross', 2001.

⁴⁹ *Newswatch*, 'Obasanjo's Cross', 2001.

⁵⁰ *Newswatch*, 'A Ticking Time Bomb', 2001.

⁵¹ non-native reserved sections of town.

⁵² Ayesha Imam, Executive Director, Boabab, a Nigerian women's NGO, quoted in a BBC news article, 'Amina Lawal Campaign Unhelpful' <http://www.bbc.uk.com>.

⁵³ ‘Islamic Court Clears Amina Lawal of Adultery in Stoning Case’, Agence France Presse, 25 September 2003.

⁵⁴ Hadd offences are a specific set of offences within Shari’a law punished by specific penalties such as stoning, lashes, or amputations.

⁵⁵ Nwabueze (1994).

⁵⁶ Lebanon’s infamous constitution that formally divided political power between the major religious groups (Richani, 1998).

⁵⁷ Both the Richards and MacPherson Constitutions provided protection of African customary law from received colonial law.

⁵⁸ Reilly (2002).

⁵⁹ Mutiso and Rohio (1975).

⁶⁰ Wiredu (1996), p. 198.

⁶¹ *The Great Debate*, 1980.
