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Chinelo Okekeocha

Andrew I.E. Ewoh

*Texas Southern University*, ewohai@tsu.edu

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## Questioning the Constitutionality of Sharia Law in Some Nigerian States

Chinelo Okekeocha and Andrew I. E. Ewhoh

Kennesaw State University

**Abstract:** *In 2000, Governor Sani Ahmed of Zamfara State introduced an Islamic law popularly known as Sharia in his state and eleven other northern states immediately followed suit. He opined in his defense that the Nigerian constitution gave the states an implied power to enact such law, thus rekindling a contentious debate on the role of religion in the country. The analysis begins with an examination of the constitutionality of the Sharia law and its consequences on citizens where such law operates. This is followed by an explication of reactions in Sharia states and the federal government's concern about the issue at stake. In sum, the article concludes with some policy implications of the Sharia law in a few northern states in the country.*

**Keywords:** Sharia law, constitutionality, northern states, federalism, public policy

### Introduction

Nigeria operates under a federal system of governance where political power is shared between the national and state governments. This type of authority reduces the chances of corruption and abuse of power, and it was readapted on May 29, 1999 after sixteen years of military rule. In terms of religion, the country is uniquely split in half between Christians and Muslims, Christians are the majority in the southern region, while Muslims dominate the northern part of the country (Nigeria Christians Flee 2012).

In 2000, Governor Ahmed of Zamfara State introduced an Islamic law commonly known as Sharia in his state, and eleven other northern states immediately followed suit. In the Governor's defense, he argued that the Nigerian constitution empowers the states to create a religious law, thus rekindling a contentious debate on the power of states. Since the Sharia law was first introduced during Nigeria's transition from autocratic governance to democratic governance, it is probable that any perceived crisis with its re-introduction could lead to an upheaval. The current strife between the northern states that enacted the law and the federal government on its constitutionality is a wakeup call on what the future holds.

Using an exploratory case study method, this analysis begins with an examination of the constitutionality of the Sharia law and its consequences on citizens in states that have enacted the law. This is followed by an explication of reactions between states that have the law and the federal government's concern over its implementation. In sum, the article concludes with some policy implications of the imposition of the Sharia law in a few northern states in Nigeria.

### Democracy in Nigeria

Nigeria is the most populous democratic country in Africa with a federal system of government. Under this system, there are three branches of government: the executive, the legislative and the judiciary. This structure of government makes it impossible for any

single branch to have full power, and reduces the risk of tyranny because each branch checks and balances the other. In a federal system, states come together to relegate some of their sovereignty within a defined context, to form a nation due to the benefits that accrue from sharing common resources with each other rather than remaining independent little entities (O'Toole 2007). In this type of government, the ultimate authority lies at the top of this hierarchy, known as the federal level. Nigeria returned to a federal system of governance on May 29, 1999 after sixteen years of military rule and has thirty-six states including an inclusive federal capital territory.

Nigeria has a long history of transitioning between democratic and autocratic system of governance. It was initially colonized by the British and later gained full independence on October 1<sup>st</sup> 1960, and comprised of three regions: northern, western, and eastern. During this time, Nigeria operated under a constitution that was similar to that of the British system, and each region had a certain degree of sovereignty but the national government was given exclusive powers in the areas of defense, foreign relations, commercial and fiscal policies. In this parliamentary system, the northern region had more seats than the eastern and western region combined, which makes it difficult for a major decision to be made in government without the approval of the north. Both the easterners and westerners did not like this political structure because it meant that the northerners could control Nigeria forever. There were two solutions that could alter the northern hegemony; one would be through a constitutional amendment (which was unlikely since the North controlled the parliament and would not want to give it up) and the other option would be through a violent takeover by the South (Siollun 2005)

In 1963, Nigeria became a federal republic and annexed the Midwest as the fourth region of the country, and established a federal system with three branches of government: executive, legislative and judicial and also three levels of government; federal, state and local government to share political power and the country's resources (U.S. Department of State 2011).

In this system, the north still had a majority seat in government, thus in 1966, the military took over through a coup d'état and assumed full control of the country because it felt the people in office were abusing governmental power. Coup d'états are sudden overthrow of governments which are usually done by the army. In the case of Nigeria, this coup was orchestrated by junior officers in the army because some northerners felt that it was an attempt by the Igbo people of the eastern region to dominate the country. Following the coup d'état, General Ironsi, an Igbo military leader, emerged as the new head of state and decreed that the federal system of government would be replaced with a unitary system, because he believed that an autocratic military regime with centralized power was the best fit for the country. The northerners did not approve this transition in government because they felt marginalized and, as a result, orchestrated a countercoup six months afterwards to get rid of General Ironsi and regain the control of government (U.S. Library of Congress 1991)

Nigeria went through a series of coup d'états from 1966 to 1976 and four military head of states within that time spans assumed the control of government. In 1976, General Olusegun Obasanjo, a former military head of state decided to relinquish his military power into the hands of civilian leaders. Consequently, President Shehu Shagari emerged as the first democratically elected leader in over a decade citizens had high hopes for his presidency as a change from tyranny and autocratic rule to a new era of

government accountability. However, President Shagari was later accused of corruption and electoral fraud. Similarly, the country experienced an economic decline under his leadership, coupled with religious and political violence. For these reasons, President Shagari was overthrown by a military leader, General Muhammadu Buhari in 1983, and this coup was welcomed by most Nigerians (U.S. Department of State 2011).

After General Buhari's military takeover, he was overthrown two years later via another coup d'état that paved the way for General Ibrahim Badamasi Babangida to become the new military leader. General Babangida held his position for almost a decade, before deciding to legalize the formation of political parties in 1989. Surprisingly, he banned all political parties in 1992 and formed two major ones; named them Social Democratic Party and National Republican Convention, and encouraged all Nigerians to join either party. Although Babangida allowed elections to be held and the majority voted for Chief Moshood Kashimawo Olawale Abiola as the new president, he annulled the results and remained in office. This action angered the citizens and led to a mass protest (U.S. Department of State 2011).

Knowing that Nigerians were infuriated by his actions, General Babangida selected Ernest Shonekan as the interim president. During his short tenure in office, Ernest Shonekan tried to implement measures for a democratic nation but his efforts proved futile because he was overthrown. Shonekan's abrupt demise came as a result of his neglect for the military, and his appointed defense secretary devised a coup d'état to remove him in November of 1993, just a few months in office. General Sani Abacha became the new head of state under military rule with no promise of a democratic government in sight (U.S. Department of State 2011).

The sudden death of Abacha in 1998 gave Nigerians an opportunity to transition into democracy with the help of an interim head of state, General Abdulsalami Abubakar, a military man with a keen interest of making Nigeria a democratic country. Nigerians were finally able to come out to vote for the first time in six years to elect a leader of their choice. President Olusegun Obasanjo, a former military leader, became the first elected democratic leader and was sworn in on May 29, 1999 after sixteen years of military regimes. Having experienced autocratic rule for so long, the nation suffered from economic stagnation which weakened most of its social institutions (Nmehielle 2004). Obasanjo's responsibilities include, but are not limited to, reconstructing a new democratic nation and making it a stable and peaceful environment for economic development.

It can be inferred from this historic synopsis, that Nigeria has experienced a lot of transitional governments and leaders that may have affected its political and economic prosperity. The imposition of Sharia law on citizens in the Northern states of Nigeria poses a problem to the sustainability of democracy in the nation, if appropriate measures are not taken either to eliminate it or reduce its legal influence. The elected leaders need to react tactfully to this new development because any perceived upheaval could result in a religious or civil war which the nation cannot afford to have.

### **Introduction of Sharia Law**

As earlier discussed, Sharia law was introduced by Governor Sani Ahmed, the former governor of Zamfara State, through a proclamation on October 27, 1999 (Laremont 2010). This proclamation meant that full criminal Sharia would become legal in his state.

Customary Sharia had been legal in Nigeria before, and this type of law gives Muslims the right to marry under their faith, bury under Muslim rites and other customary civil laws that they might choose to partake in. Although these customary laws have been in existence during and after colonization, the Criminal Sharia law that comes with harsh penalties like stoning to death for offenses such as adultery and amputation for theft had not been made legal in the nation (Laremont 2010). The introduction of Criminal Sharia law came with penalties that were contrary to the Nigerian constitution (the fundamental principles that the country is governed by). It protects the citizens and states, and is considered the supreme law of the land. Governor Ahmed believed that it was his right as a governor to introduce Sharia law in his state because it is permissible under the Nigerian constitution.

Sharia law is a religious and moral code of Islam, which controls the different aspects of a Muslim's life such as prayer habits, nutritional obligations, and the type of business Muslims can partake in and how they interact with others. It is seen as a divine law, and its sole authority comes from the revealed word of Allah or God (Nmehielle 2004). It is expected that all Muslims must live and abide by the laws set under the Sharia code of conduct, but some Muslims in Nigeria believe that there should be no separation of religion and state. Nonetheless, other Muslims agreed with Governor Ahmed that Sharia law should be the ruling law of the state, therefore they encouraged its implementation as a means of being able to fulfill the laws set out for them in the Quran and according to their religion. The implementation of a religious law in a democratic country like Nigeria is controversial because it is not a religious but rather a secular nation. The constitution requires a separation of religion and state, making it unconstitutional for a state to force its citizens to abide by the teaching and rules of a religious law.

When Governor Ahmed decided to implement the Sharia law, there were protests from both Muslims and Christians in his state, the country, and from the international community. People believed that such an enactment was unconstitutional because it does not follow the basis of a secular nation like Nigeria, but Governor Ahmed affirmed that the Nigerian constitution provided him the legal authority to enact such a law. He cited section 277 of the 1999 Nigerian Constitution which declares that:

(1) The Sharia Court of Appeal of a State shall, in addition to *such other jurisdiction as may be conferred upon it by the law of the State*, exercise such appellate or supervisory jurisdiction in civil proceedings involving questions of Islamic personal law which the court is competent to decide in accordance with the provisions of subsection (2) of this section (Laremont 2010; italicized for specific referencing).

Governor Ahmed was trying to say that the clause *in addition to such other jurisdiction as may be conferred upon it by the law of the State* gave him implied power to enact a Sharia law in his states. Eleven other states in the North agreed with him and decided to implement Sharia law in their states. These states are as follows: Kano, Sokoto, Katsina, Bauchi, Borno, Jigawa, Kebbi, Yobe, Kaduna, Niger and Gombe. Each state imposed the law based on its own discretion but the actual application, to a certain degree, was still the same (Laremont 2010).

### **Consequences of Sharia Law on Citizens in Nigeria**

The implementation of Sharia law in some Northern states has certain consequences on citizens in those states. At first, it was assumed to be only a constitutional problem but soon international concern aroused when the actual application of Criminal Sharia law was seen to be in violation of human rights. The first recorded application of the law was on Mr. Bello Jangedi who had his hands amputated because he had stolen two bicycles in Zamfara State. His sentencing came as a shock to people because this was in direct violation of both his constitutional and human rights. The global community pressured the Nigerian government to fight against the implementation and application of Sharia law because other punishments followed with severe regularity despite protests going on in the country and around the world (Kalu 2003).

Moreover, the implementation of Sharia law has negative consequences especially on citizens in the northern part of the country. For instance, Muslim women in the north have been impacted negatively because the law is affecting their daily lives as discussed in the next section. Furthermore, some of the punishments prescribed under Sharia law such as amputation, flogging and stoning to death are both human rights violations and unconstitutional acts that should not be inflicted on citizens irrespective of their religious affiliations.

Conversely, Christians in the northern states are being relegated to second class citizens in these jurisdictions because they are not given the same privileges as their Muslim counterparts. This should not be the case because all Nigerian citizens should be given the same rights delineated in the constitution. Also, Sharia law threatens the fabric of nation's democracy because the introduction of the law has enhanced the formation of an Islamic terrorist group known as Boko Haram. This group has evolved as a fanatic organization in the country, known for attacking and killing innocent civilians while destroying government property in the process.

#### *Sharia Law and Women*

Sharia law has consigned women to an inferior group in the affected northern states and embraced the belief that women are a substandard class and they should respect and treat their men as their superiors. This belief is evident in the control system under Sharia law where power and authority are in the hands of men. Although restriction is placed on women on what they can do in the society, there is no clear evidence that the Quran (the holy book of Islam) gives sole authority to the man. Some Muslim men, like most men in society, find it hard to embrace gender equality as a necessity in society, because men are the ultimate beneficiaries of inequality in society. Most victims of injustice usually attribute the irrationality of it to God and hence never question the authenticity of such injustice (UNHCR 2011).

Another indication of inferiority in the Sharia law is manifested in the degree of punishment that is administered when it comes to men and women. In the case of pregnancy out of wedlock, a woman is convicted on charges of either fornication or adultery while the conviction of a man on charges of fornication or adultery requires the testimony of four independent male Muslim eyewitnesses (UNHCR 2011). Since it is difficult to get eyewitnesses for rape cases, fornication or adultery, men are rarely ever persecuted for these charges under the Sharia law.

Some of the court cases that have been brought against the Islamic court and the

decisions resulting from such cases show how discriminatory the law is when it comes to women. Among such cases was that of Ms. Safiya Hussaini, a divorced mother of four, who was sentenced to death by stoning in October of 2001 for allegedly having a child with a married neighbor. She had a sexual relationship with her neighbor, Yakubu, and got pregnant. Hussaini's brother reported her to the Islamic court and she was arrested and persecuted for having a child out of wedlock. During the trial, Yakubu, her neighbor denied having any sexual encounters with her (Laden 2003) He claimed that they were neighbors and never had a sexual relationship. Yakubu was found not guilty because of the leeway in the Sharia law which says that in order for Hussaini to charge him, she would need at least four male Muslim witnesses to testify for her claim of rape. Thus, without sufficient proof, Yakubu was acquitted in spite of Hussaini's insistence on his guilt (Laden 2003).

During the trial, Hussaini had no legal representation and was not informed of her legal rights as a Nigerian citizen for an attorney to represent her. She was found guilty by the judge and sentenced to death by stoning, after she was done breastfeeding (Laden 2003). Immediately following her sentencing, there was an outcry from the rest of the country and the world on such a harsh punishment. People believed that no citizen in Nigeria should be subjected to such an awful punishment as the death penalty, something that was not justified under the Nigerian constitution.

Hussaini decided to appeal her sentencing and recruited a human rights activist lawyer who argued that the alleged act of adultery had taken place before the Sharia law was adopted in Sokoto where she is a resident. Full Sharia law was established in Sokoto State in June of 2000, a month after she had delivered her baby. The lawyer argues that she should not be held liable for a law that was enacted after the act was committed. Hussaini won her appeal on these grounds on March 25, 2002 and the case was dismissed (Ladun 2003).

Another case brought before the Islamic court was that of Ms. Bariya Ibrabim Magazu a 17-year-old Muslim girl in northern Nigerian. She was a street hawker by profession and was sentenced to be whipped because she had a child out of wedlock. Bariya claimed that three men who were friends of her father raped her in Zamfara, the first state in northern Nigeria to adopt Sharia. She was sentenced to 180 lashes with a whip for having sex outside of wedlock. Although the court decided to be compassionate and gave her only 100 of the lashes, on the grounds that she withdrew her accusation of rape, none of the men were persecuted or charged (Grisword 2001, 13). Under Sharia law, she was punished for being raped because there was no law to protect her or persecute the men that raped her.

In general, freedom of movement is placed on women in northern Nigeria, their movement, clothing choices and the right of association are restricted in violation of the Nigerian constitution, which gives all its citizens these freedoms irrespective of their gender. In some parts of the North, measures are in place to prohibit women and men from being seen together in public places. This physical application of Sharia law in the north has led to some embarrassing situations where women are dragged out of taxis because the drivers of these taxis were male and some men are flogged for carrying female passengers in their taxis (Grisword 2001). Women are now forced to enter taxis specifically driven by women. Also, in some Sharia states, cultural practices such as dressing have now been codified into law. After the enactment of Sharia law in Zamfara

State, the government passed a law prohibiting indecent dressing in public and the banning of two or more persons of opposite sex from hanging out together in public. Every female of Islamic faith is required to put on a dress that covers her entire body except for her feet, hand, and face when she appears in public (Griswood 2001).

Women are compelled to obey these rules because the consequences for disobeying them are dire. Women in the northern states are still Nigerians and are covered under the constitution. This means that these restrictive laws they are being subjected to are unconstitutional and should not be enforced.

#### *Penalties of Sharia Law and Human Rights*

The adoption of Sharia law and its harsh penalties have raised some concerns about its violation of human rights of citizens. Most of the punishments under Sharia law are in direct contradiction to the rights of citizens listed in the Nigerian constitution. Apostasy, for example, is forbidden under the Sharia law for Muslims. Apostasy is the denouncing of one's own religion for another religion. Under Sharia law, Christians, Jews or pagans are encouraged to convert to Islam yet the conversion of a Muslim to another religion is forbidden. The punishment for any Muslim who converts to another religion is death. Christians are prohibited from sharing the word of God with Muslims in these states and if a Christian is caught propagating the gospel, s/he could face jail time or be fined. The Nigerian constitution gives citizens the right to convert to any religion of their choosing (Nmehielle 2004).

In the same light, punishments under Sharia law such as stoning for adultery, amputation for theft and robbery, and flogging of victims for various other offenses are unconstitutional (Nmehielle 2004). The constitution gives every citizen the right to respect and dignity making implementation of criminal Sharia law and punishments such as torture, inhuman or degrading treatments illegal. In fact, section 34(1) of the Constitution states that:

any punishment involving torture, such as the rack, the thumbscrew, the iron boot, the stretching of limbs, burning alive or at the stake, crucifixion, breaking on the wheel, emboweling alive, beheading, public dissection and the like, or involving mutilation or a lingering death, or the infliction of acute pain and suffering, either physical or mental is inherently inhuman and degrading (Ojielo 2010, 7).

Although punishments under Sharia law are unconstitutional, there are still pending cases in certain areas of Northern Nigeria, one of such cases is that of Sani Yakubu Rodi who was given the death sentence. He was executed with a knife, the same manner he was alleged to have killed his victims. Although the evidence brought against Mr. Rodi was circumstantial, he was still convicted of murder. The court came to this decision because of the stipulation under Sharia that if a victim's next of kin swears collectively 50 times in a mosque that an accused had committed an offense, then the accused is convicted. In this case, the next of kin of the victim swore as required under Sharia law that the accused was guilty, so Mr. Rodi was convicted and sentenced to death (Ojielo 2010).

Although this form of trial does not meet the fair trial hearing that is guaranteed to citizens in both the Nigerian Constitution and the Universal Declaration of Human Rights (UDHR), to which Nigeria is a signatory, Mr. Rodi was still convicted and executed. In the same token, Article 10 of the UDHR guarantees an accused a fair and public hearing,

and access to an impartial jury to determine the verdict on any criminal charges brought forth. Article 11 of the UDHR also says that a person is presumed innocent until proven guilty according to a law in a public trial at which s/he is given a proper trial. In this case, the victims' families were both the accuser and the judge, since the judge was bound to pronounce a death sentence once the oath had been sworn so he was sentenced accordingly and executed by hanging (Ojielo 2010).

### *Is Sharia Law a Threat to Democracy?*

Following the enactment of Sharia law, a religious group known as Boko Haram developed in some northern states of the country and seeks to impose the law throughout the country. The name of the group loosely translates to 'western education is sinful' in Hausa, and was established in 2002 in Maiduguri, the capital of Borno State. It has since spread to several other northern and central states. The group's official name is Jama'atu Ahlis Sunna Lidda'awati wal-Jihad, which in Arabic means a 'group committed to propagating the Prophet's teachings and jihad.' Some people have referred to Boko Haram as Nigerian Taliban in reference to the group's call for the implementation of Sharia throughout the country (Scott 2011).

This group has attracted the attention of the public via bomb attacks in different states in the Northern part of the county. Members of Boko Haram have orchestrated these attacks using different weapons such as clubs, machetes and small arms, and by 2010, the group upgraded to Molotov cocktails and small explosive devices. Nonetheless, there have been numerous bomb attacks against Christian and authority figures in the country (Scott 2011). Boko Haram has received the attention of the federal government and the international community because federal lawmakers have established a special security fund to help the military fight the radical Islamist group. The government contends that this special security fund will help the armed forces to better combat the violence caused by the Boko Haram sect, and several military forces were created in response to a series of bombings and shootings (Stearns 2011). The government is finally seeing Boko Haram as a threat to national security and trying to stop this group from causing more harm to the citizens.

Recently, the leader of Boko Haram, Imam Abubakar Shekau, acknowledged that his group carried out an attack on January 20, 2011 in Kano, Nigeria's second largest city, where about 185 people were killed. The group members were armed with explosives and assault rifles, some camouflaging as army and police officers. There were also suicide car bombers who attacked police stations, immigration offices and the local headquarters of Nigeria secret police. Imam Shekau has denied killing civilians in the attack and claimed that his group tried to protect citizens in that city. Some of the casualties recorded from that attack included Muslim civilians (Gambrell 2011)

Boko Haram tries to target police officers, soldiers, and other government officials who the organization feels are opposed to Allah. It also targets Christians for obstructing the spread of Sharia law in the north, exploiting already existing tensions between the two religions in the nation. Boko Haram has rejected offers of a peace talk between the group and the president, instead it is promising to kidnap government officials' family members, and bomb schools and churches if it does not achieve its goal of making Nigeria an Islamic state (Gambrell 2011).

### *Christian and Muslim Relationships*

Christians have opposed the implementation of Sharia law in their residential states. Both Christians and Muslims migrate all over Nigeria in search of better opportunities. Therefore there are Christians who live in the north and call it their homes, and they oppose the implementation of Sharia law in Northern states because they feel it will indirectly affect them. When criminal Sharia law was first introduced and implemented in 2000, in twelve states of Northern Nigeria, it resulted in fears and suspicion by many Christians not only in the northern states but throughout the nation. There is a need to establish and promote Christian-Muslim relations in the country so that Muslims can practice Sharia without infringing on the rights of the Christians in the community, while Christians also need to respect the rights of Muslims to effectively practice their faith unhindered (Harnischfeger 2004). Most Christians feel that they are being relegated to second class citizens with the implementation of this law. As a result, they protested and rioted against the implementation, and still riot and protest on some of the penalties that they feel are unjust under the new Sharia system. In fact, the implementation of Sharia in some northern states has led to thousands of deaths and major damages on properties in the Northern and Central regions of the country. It has also resulted in religious tension across states such as Kano, Jigawa, Bauchi, Kaduna, Nassarawa, and Plateau (Onaiyekan 2001). Christians in the north do not see any reason why a particular state should impose a religious law on its citizens. This protest has resulted in many deaths and casualties for both Muslims and Christians across states in the country.

Christians have also complained that the implementation of Sharia law in Northern states has resulted in land disputes with Muslims. They further complain about not being given the right to build churches, nursery and accommodation because they are being denied access to land. In some cases, church buildings have been destroyed on the premise that they were illegally constructed and did not have the correct certification (Onaiyekan 2001). Christians have a right to own land in these northern states and denying them such a fundamental right is unconstitutional. Also, having churches demolished in order to make Christians feel threatened is another tactic used by Sharia states to stop the spread of Christianity in the north (Onaiyekan 2001).

Christians also feel that with the implementation of Sharia, their freedom of expression, which is a constitutional right afforded to all Nigerians is being restricted under the law. There have been open debates on the advantages and disadvantages of Sharia law, and critics were strongly discouraged and, in some instances, suppressed (Onaiyekan 2001). Some Christians argue that open government, which is an element of democracy, has been lost with the implementation of Sharia. They further argue that citizens can no longer speak out in protest of unjust crimes by the government or religious leaders for fear that they will be in violation of certain codes and be sentenced to be punished (Onaiyekan 2001).

### **Intergovernmental Relations**

The extension of Sharia to criminal law in 12 northern states has increased intergovernmental conflict, threatening the fabric of Nigerian federalism. This analysis helps to broaden our understanding of intergovernmental relations. The federal government will only intervene in a crisis when it perceives it as a threat to the national government. The government has given state governors leeway to implement whatever

policies they choose in their states, and says it is up to the citizens to fight against the constitutionality of any law.

As earlier discussed, Nigeria has a three tier system of government consisting of the federal, state, and local governments. Each level of government has a constitutionally guaranteed autonomy in the area in which it operates. Also, Nigeria has a new constitution that is just twelve years old, it is too new to have a strong foundation unlike the United States that has had its constitution for over two hundred years. The relationship between the federal and state governments can be described as hot and cold. The governors blame the president for not being democratic enough, they also accuse him for not given them the necessary guaranteed autonomy outlined in the constitution as it pertains to the rights of the state governments (Elaigwu 2004) The state governments do not want the federal government to interfere in their affairs, governors like Governor Ahmed believe it is their constitutional rights to implement a state religion and citizens in the states have to either abide by it or be heavily penalized.

### **Reaction of the Federal Government and Policy Implication**

The federal government has responded in a passive voice to the implementation of Sharia law in the Northern states, because of its mixed messages on how it wants to approach the situation. While the federal government contends that Sharia law is unconstitutional, it believes that it will eventually die away, because these states are simply doing it to get attention. The Attorney General of the Federation, Agabi, sent a letter to the state governors that had imposed Sharia law informing them about the unconstitutionality of the law. Although the letter warned that the actions of the northern states are threatening the stability, unity and integrity of the nation (IRIN 2002), it did not have any impact on these governors because they continued to enforce the Sharia law in their states. The Attorney General in his letter indicated that the federal government cannot do anything about the law but if a citizen brings up any action against the Sharia law to the Supreme Court, the Court will always rule in favor of the citizen over the law. A case under Sharia law has to do with actual action of violation of the right of an individual.

The imposition of Sharia law in the northern states has some policy implications in the country. Since Sharia law is legal in some states of the country, it is affecting some key important areas: political economic conditions, and human rights and security. These crucial areas are discussed below.

#### *Political Economic Conditions*

Nigeria is still a fragile state as it relates to the spread of democracy, and it will soon be celebrating its thirteenth year as a democratic nation. The country is continually learning how to deal with its new found freedom to be able to elect leaders of its choice and live in a democratic nation. It is a reality that democracy comes with some unforeseen consequences. The imposition of Sharia law as a religious law in some northern states has a consequence on democracy as it reflects the rights of the states to act on its own authority, which would have never happened in an autocratic government. In fact, the rise of Boko Haram, as a terrorist group, in the country also threatens the fabric of Nigeria's democracy. The sustainability of the Nigerian democracy is unknown because the military might decide to come back to power if it feels that the elected leaders are not doing a good job in protecting the citizens (Scott 2011).

The multinational corporations do not usually invest in any country perceived to be politically unstable and economically risky for business activities. Since Nigeria is a prime market for investment because of oil and being Africa's most populous nation, the federal government needs to create a stable environment to attract investors. The recent search for a German engineer by the Nigerian security forces, presumed to be kidnapped by the Boko Haram Islamist group, has added to the turmoil. The group also attacked the United Nations' compound in Abuja, killing at least 23 people, and it appears that this group is not just restricted to Nigerian citizens but it is also targeting foreign nationals (Lobe 2012, 1).

### *Human Rights and Security*

Sharia law breaches various human rights protections that are stated in both the Nigerian Constitution and the Universal Declaration of Human Rights (UDHR). With the adoption of Sharia law in twelve northern states in Nigeria, some citizens have voiced concerns that punishments under Sharia law are human rights violations. Nigeria is a signatory to various international treaties and conventions that guarantee human rights protection, and its constitution also grants fundamental human rights to the citizens. Sharia law carries with it some harsh punishments such as flogging, amputation and stoning to death, which are in direct infringement on human rights practices (Ojielo 2010). It is necessary that the leaders put an end to such atrocities against its citizens in the states under their jurisdiction.

With the emergence of Boko Haram, hundreds of Christians who live in the north have decided to flee after dozens were killed in a series of attacks by Boko Haram who issued an ultimatum to Christians to leave the north (Nmehielle 2004). This is not fair as some Christians in Nigeria saw the north as their resident homes and were now being forced to leave their homes and businesses behind to go back to the south.

Following the incessant killing of Christians in the Northern part of Nigeria by members of Boko Haram sect, some Southerners have already begun series of reprisal attacks against Muslims in their region. According to reports, over 10,000 Northerners, who live and do business in the southern cities of Asaba, Port-Harcourt, Owerri, Onitsha, Warri, Uyo, Calabar, Benin, were seen on heavy trucks and luxury buses heading to the Northern part of Nigeria (OnlineNigeria 2011, 1). Citizens in the country are dispersing back to their original homes and this defeats the whole purpose of freedom of movement given to citizens in the constitution. Also, with the crisis going on, some people are calling for a regional division of the country between the south and the north, and this might be the only solution to the end of violence.

### **Conclusion**

The foregoing analysis has demonstrated that Nigerian government is somewhat reluctant to enact a politically palatable public policy to stop the application of Sharia law in some northern states possibly for two reasons. The first reason is that Nigeria is in a fragile state and if it stops the implementation of Sharia law in the North, it could result in a civil war or a religious war between Christians and Muslims as evidenced in the formation of Boko Haram and the retaliation of Christians. The second reason is that Muslims make about 50.2 percent of the population and constitute the majority of voters. Since Nigeria is a democratic country, the citizens vote for their elected officials; and to appease the

voters, the federal government is taking a passive role in hammering down on the unconstitutionality of the law.

It is prudent on the federal government to take a more active role in stopping the implementation of the law instead of leaving it up to the citizens to fight against its implementation. It is also disturbing that some Muslims who have been penalized for disobeying Sharia law provisions take the punishments willingly because of the belief they are following the words of the Quran and abiding by it, for an eternal bliss. These Muslim citizens do not want to go against the teachings of the Quran and would never go to the Supreme Court to fight against a decision made from the Sharia code of law; therefore, the federal government has to step in for its citizens and put a stop to the practice of Sharia.

In sum, the solution to the constitutionality debate and the states' argument that they can use the implied clause of the 1999 Constitution, "*in addition to such other jurisdiction as may be conferred upon it by the law of the State,*" is to amend the constitution to explicitly deny states the right to have a state religion. This will take the pressure off on Muslims having to go to the Supreme Court in order to bring peace to the North. The federal government has an obligation to the citizens that live in the Northern states, to ensure that they enjoy the full rights afforded to them in the constitution, therefore the constitution needs to be clear and not left open to various interpretations. The practice of Sharia law is causing more harm than good to citizens and it is essential that this issue is resolved in a timely fashion to avoid a civil or religious war in the country.

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**Chinelo Okekeocha**, MPA, is the coordinator of the Master of Public Administration Program at Kennesaw State University. Her research interests are in public administration, African politics, and human resource management.

**Andrew I. E. Ewoh**, PhD, is professor of public administration and director of the Master of Public Administration Program at Kennesaw State University. He has long-term research and teaching interests in public administration, public policy, human resources management, governance, and business-government relations. His articles have appeared in *Review of Policy Research*, *Review of Public Personnel Administration*, *International Review of Public Administration*, *Public Works Management & Policy*, and numerous scholarly journals.