

THE SHARIA:

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ADULTERY AS A CASE STUDY

THE CONTROVERSY

The controversy about the Sharia in Nigeria first reached its peak during the Constituent Assembly debates in 1977 while considering the Report of the Constitution Drafting Committee which later became the Constitution of the Federal Republic of Nigeria, 1979. The country was almost torn apart, torn into two: airplanes were temporarily grounded deliberately by the Federal Government; the means of communication was thereby curtailed to prevent the flame of intolerance from spreading like wild fire. The controversy was contained. And ultimately, common sense and the spirit of tolerance prevailed. General Obasanjo was the Head of State at the time, and the late Major General Sheu Yar'Adua, the Chief of Staff, Supreme Headquarters, was his deputy who contained organized agitation for Sharia in the Northern States.

Twenty-four years on, in the year 2000, the controversy erupted once again. This time, it reached its highest peak ever. It had its origin in Zamfara State, one of the nineteen states carved out of the old Northern Region of Nigeria. And the controversy still rages on today. It is the alleged "Islamization of the country by the Federal Government".

SHARIA UNDER THE NIGERIAN CONSTITUTIONS

Two misconceptions, both borne out of ignorance, must however now be put to rest. The first misconception is that the Sharia is illegal and indeed unconstitutional. A highly placed jurist in our society, a leading constitutional lawyer and distinguished Professor of law, leads this crusade of misinformation. What is illegal in the Sharia which became the customary law of Muslims in **all** parts of Nigeria ever since Islam was received as a religion in Nigeria several centuries ago? How can the Sharia be unconstitutional when it has even been enshrined in all our nation's written constitutions since 1951?

Section 16(e) of the Nigeria (Constitution) Order in Council, 1951¹ provided for “an adviser on Moslem law” to be a member of the Northern House of Chiefs. There was a similar provision under section 19 of the Nigeria (Constitution) Order in Council, 1954².

Section 112 (1) to (5) of the Constitution of the Federation of Nigeria 1960³ made provisions for appeals from the Sharia Court of Appeal and the Court of Resolution to the Federal Supreme Court. These provisions were reproduced in section 119 (1) to (5) of the Constitution of the Federal Republic of Nigeria, 1963⁴ which remained the Constitution of Nigeria during the period of the controversy in 1977.

Sections 240 to 244 of the Constitution of the Federal Republic of Nigeria 1979⁵ contained similar provisions with respect to the establishment, jurisdiction, constitution, practice and procedure of the Sharia Court of Appeal of a State, and the appointment of the Grand Kadi and other Kadis of the Sharia Court of Appeal of a state.

Sections 275 to 279 of the 1999⁶ Constitution contain provisions in like manner as sections 240 to 244 of the 1979 Constitution for the establishment, jurisdiction, appointment of Grand Kadi and Kadis, constitution, practice and procedure of the Sharia Court of a State. And further appeals from the Sharia Court of Appeal of a State shall lie in to the Supreme Court of Nigeria.

Sections 260 to 264 of the Constitution provide for the establishment, jurisdiction appointment of Grand Kadi and Kadis, constitution, practice and procedure of the Sharia Court of Appeal of the Federal Territory, Abuja.

The claim that the Sharia is unconstitutional is therefore totally misconceived and without any foundation whatsoever.

THE SCOPE AND WIDTH OF SHARIA

The claim that Sharia is a State Religion and, therefore, violates section 10 of the Constitution is equally misconceived and mischievous. The religion of the Muslims worldwide is “**AL-ISLAM**” – total submission to the will of Allah. The Sharia is not the *religion* of Muslims as ordained primarily in The Holy Qur’an. It is rather the code of

1. The Nigeria (Constitution) Order-in-Council, 1951 during the tenor of Sir John MacPerson as the Governor of Nigeria. It was Nigeria’s second written Constitution, following The Nigeria (Constitution) Order-in-Council 1946, otherwise known as The Richards Constitution, named after the Governor, Sir Arthur Richards. He was later honoured with a peerage as Lord Milverton.

2. The 1954 Constitution, otherwise known as Lyttleton Constitution, named after Oliver Lyttleton, the British Colonial Secretary.

3. First enacted as Supplement to Official Gazette Extraordinary No. 62, Vol. 47, 30th September, 1960

4. First enacted as Supplement to Official Gazette Extraordinary No. 71, Vol. 50, 19th September, 1963.

5. Constitution of the Federal Republic of Nigeria (Enactment) Decree 1978 or Decree No. 25 of 1978

6. Constitution of the Federal Republic of Nigeria (Promulgation) Decree 1999 published as Decree No. 24 of 1999 in the Federal Republic of Nigeria Official Gazette No. 27 Vol. 86 dated 5th May 1999.

conduct – or laws – which govern the life of a Muslim. There are aspects of the Sharia which deal with the law on Trust, or the Sale of Goods, or Loans, Property and Bankruptcy. There is Sharia on Partnership, on Bailment, on Agency and on Mortgage transactions. There is Sharia on Wills and Testaments, and on Inheritance; on Marriage and Divorce. There is Sharia on Wives Maintenance, and Maintenance of Slaves, and also on Admission of Paternity and Fosterage. There is Sharia on Debts, Commerce, Security, Suretyship, Bailment, Defamation and on Slander. There is Sharia on Crimes – from assaults to theft, homicide and treason and on rebellion. And there is Sharia on Evidence.

It is the application of Sharia on crimes, especially theft and adultery, which has, however, given rise to the recent controversy in Nigeria.

The other misconception, which must be put to rest, was the mistaken belief of the Government of Zamfara State that the State Government **introduced** Sharia to that State in 1999⁷. Sharia is as old as the religion of **ISLAM** in Nigeria. It needed no introduction, with all the fanfare the State Government put up in 1999. It provoked unnecessary passion and controversy.

This writer was named **ABDUL LATEEF** in 1933 when he was born, and he married his wife in 1964, both in Lagos, and both events under the Sharia. His parents were born in Lagos, one in 1898 and the other in 1910. And they were married in 1929 under the Sharia, in like manner as the writer's grandparents in the second half of the 19th century.

The Preface to "**Maliki law**"⁸, a Summary from French Translations of the **MUKHTASAR OF SIDI KHALIL**, by F.H. Buxton of the Political Department, Nigeria, stated that the Summary was from "a translation of Dr. Perron's French version of the **Mukhtasar, Jurisprudence Musulmane**, a work in seven volumes" of 3,858 pages. It covers "**practically the whole field of Muhammadan (sic) Law**". It was in common use for several decades following the amalgamation of the Northern Protectorate and the Colony and the Protectorate of Southern Nigeria in 1914. It was for the use of the British Officer, in his executive rather than in his judicial capacity, "to supervise the procedure of Native Authority Court and to discuss general principles with an Alkali..." in the Northern Provinces of Nigeria under the colonial policy of Indirect Rule. The Alkali was the judge presiding over his court to settle disputes among the people in all aspects of the Sharia as discussed earlier.

7. Sharia Court of Appeal Law 1960, for example, repealed an earlier law, Northern Region No. 10 of 1956. See, generally, The Laws of Northern Nigeria, 1963 at page 1933.

8. Maliki Law, with Notes and Bibliography written in 1914 but published in 1916 by order of Sir Fredrick D. Luggard Governor General of Nigeria.

THE PENAL CODE LAW OF NORTHERN NIGERIA

Sir Ahamadu Bello, the Premier of the Northern Region of Nigeria, after a careful study of criminal aspects of the Sharia by jurists from Pakistan, Sudan and Nigeria, introduced the Penal Code Law in the Northern Nigeria in 1959 on the same lines as the Indian Penal Code Law. Under the Penal Code Law 1963⁹, the punishment for adultery in section 387 and section 388 for men and for women was “**imprisonment** for a term which may extend to 2 years or with fine or with both”. For the record, the customary law on adultery among all Muslims in Northern Nigeria remain the Sharia.

In later years, the Sharia, strictu sensu, was limited in its application to Muslims in Nigeria only to Family Law, the law on marriage, divorce and inheritance.

Let it be said at this stage that there are three broad legal systems or jurisprudence that are applicable in Nigeria: the Customary Laws of the various ethnic communities or nationalities; the Sharia; and the English Common Law, based largely on Craeco – Christian beliefs, in order of age of their reception in Nigeria. The Nigerian statute law, Federal or State, has over the years, incorporated English customary laws.

The English Common Law is a body of English customary laws, which have changed with times. “There *is abundant authority for saying that Christianity is part and parcel of the law of the land*”, as per Lord Finlay, Lord Chancellor of England¹⁰.

The Sharia, like the Canon law of the Roman Catholic Church, is immutable, being God’s laws. We are concerned however in this exercise only with the Sharia.

SHARIA IN THE WORLD OF ISLAM

Recent cases of theft and adultery in some States in the North of Nigeria where the Sharia applies are mired in controversy. **The question, which we however wish to answer in this short essay, is: What is the Sharia on “adultery” in the Muslim world, the world of Islam?**

But what is the Sharia on “adultery”, an issue, like theft, which is rocking the polity and indeed causing a huge chasm among Nigerians along religious lines. What punishment is prescribed under the Sharia for someone who commits adultery?

The order of precedence or the hierarchy in determining authority on the Sharia generally in Islam, and ipso facto the Sharia on adultery, is as follows:

1. The Holy Qur’an
2. The Hadith or Sunnah – that is, the pronouncements, deeds and conduct of Prophet Muhammad (S.A.W).

9. The Penal Code at page 1455 in vol. III of The Laws of Northern Nigeria, 1963.

It was first issued as a proclamation in 1917, applicable in the Northern Protectorate only.

10. See, Bowman V. Secular Society Ltd (1917) H.L. (E) 406 at p. 425

There are two other minor sources:

1. Ijma or the consensus of views of learned Muslim scholars, and
2. Qiyas or the logical deductions of each individual.

The Ultimate Authority however is Allah: And the Qur'an is the Word of Allah, which was revealed to the Holy Prophet (S.A.W). through Malaika Jibril it is otherwise called The Book of Allah (kitab Allah)

Surah 4, ayah 59 of the Holy Qur'an¹¹ says:

**O ye who believe!
Obey God, and obey the Apostle,
And those in charge
With authority among you.
If ye differ in anything
Among yourselves, refer it
To God and the Apostle
If ye believe in God
And the last Day:
That is best, and most suitable
For final determination.**

In Note 580 to surah 4, ayah 59 in **Yusuf Ali's** English Translation of the Holy Qur'an, the learned translator says:

**"All ultimate authority rests in God.
Men of God derive their authority from Him"**¹²

And in surah 4, ayah 82¹³, Allah says:

**Do they not consider
The Qur'an (with care)?
Had it been from other
Than God, they would surely
Have found therein
Much discrepancy.**

11. The Holy Quran (Text, Translation and Commentary) by A. Yusuf Ali 1975 edition at p. 198.

12. The Holy Qur'an (ibid) at p. 198

13. The Holy Quran (Text, etc) by A. Yusuf Ali (op cit) at p. 205

In surah 2, ayah 2 to 5¹⁴, the Holy Qur'an is described thus:

- V. 2 This is the Book;
In it is guidance sure, without doubt,
To those who fear God:**
- V.3 Who believe in the Unseen,
Are steadfast in prayer,
And spend out of what We
Have provided for them;
And who believe in the Revelation**
- V.4 Sent to thee;
And sent before thy time,
And (in their hearts)
Have the assurance of the Hereafter**
- V.5 They are on (true) guidance,
From their Lord, and it is
These who will prosper.**

And in surah 36, ayah 2 to 6¹⁵, Allah tells us that the Qur'an, "full of Wisdom, is a Revelation sent down by Him" to the Holy Prophet as a warning to mankind.

Surah 36 (Yasin)

Ayah 2 to 6 state:

- 2. By the Qur'an,
Full of Wisdom.**
- 3. Thou art indeed
One of the apostles**
- 4. On a Straight Way**
- 5. It is a Revelation
sent down by Him.
The Exalted in Might,
Most Merciful.**

14. The Holy Qur'an (Text etc) by A. Yusuf Ali (op cit) at pp 17 – 18

15. The Holy Qur'an (Text etc) by A. Yusuf Ali (op cit) at p. 1169.

6. **In order that thou mayest
Admonish a people,
Whose fathers had received
No admonition, and who
Therefore remain heedless.
(of the Signs of God)**

It is therefore very clear from the foregoing that the Qur'an is the Word of God, the Beneficent, the Merciful, the Ultimate Authority on Earth and in the Heavens, and that the Qur'an is a Revelation from Allah (S.W.T) to the Holy Prophet Muhammad (S.A.W) as a warning to mankind. It is **ONLY** when the words of the Qur'an are not clearly understood that a Muslim can turn to the Hadith or the Sunnah, the traditions of the Holy Prophet Muhammad (S.A.W), for better understanding of The Holy Qur'an.

Adultery is prohibited by surah 17, ayah 32 of the Holy Qur'an¹⁶ which states:

**Nor come nigh to adultery:
For it is a shameful (deed)
And an evil, opening the road
(To other evils)**

“**Adultery**” is also the subject matter of Surat – ul – Nur (Light), surah 24, ayah 1 to 10 of the Holy Qur'an¹⁷. Its words are very clear and unambiguous.

Surah 24.

Surah Nur, or Light'

In the name of Allah, Most Gracious, Most Merciful

1. **A surah which We
Have sent down and
which We have ordained;
In it have We sent down
Clear Signs, in order that
Ye may receive admonition.**
2. **The woman and the man
Guilty of adultery or fornication,
Flog each of them
With a hundred stripes:**

16. The Holy Qur'an (Text, Translation etc) by A. Yusuf Ali (op cit) at p. 703

17. The Holy Koran (Text, Translation, etc) by A. Yusuf Ali, 1975 ed. at pp. 896 - 898.

**Let not compassion move you
In their case, in a matter
Prescribed by God, if ye believe
In God and the last Day:
And let a party
Of the Believers
Witness their punishment.**

- 3. Let no man guilty of
Adultery or fornication marry
Any but a woman
Similarly guilty, or an Unbeliever:
Nor let any but such a man
Or an Unbeliever
Marry such a woman:
To the Believers such a thing
Is forbidden**
- 4. And those who launch
A charge against chaste women
And produce not four witnesses
(To support their allegations),
Flog them with eighty stripes;
And reject their evidence
Ever after; for such men
Are wicked transgressors.**
- 5. Unless they repent thereafter
And mend (their conduct)
For God is Oft – Forgiving,
Most Merciful.**
- 6. And for those who launch
A charge against their spouses,
And have (in support)
No evidence but their own,
Their solitary evidence
(Can be received) if they
Bear witness four times
(With an oath) by God
That they are solemnly
Telling the truth.**

7. **And the fifth (oath)
(Should be) that they solemnly
Invoke the curse of God
On themselves if they
Tell a lie.**
8. **But it would avert
The punishment from the wife,
If she bears witness
Four times (with an oath)
By God, that (Her husband)
Is telling a lie.**
9. **And the fifth (oath)
Should be that she solemnly
invokes the wrath of God
On herself if (her accuser)
Is telling the truth.**
10. **If it were not
For God's grace and mercy
On you, and that God
Is Oft – Returning,
Full of wisdom.
(Ye would be ruined indeed)**

ZINA MEANS ADULTERY OR FORNICATION

In his explanatory footnote on “**ZINA**” – the Arabic word for ‘adultery’ – in ayah 2 of surah 24, Yusuf Ali in the second edition as well as the 1975 edition of his English Translation of the Holy Qur’an, wrote.

“**Zina** includes sexual intercourse between a man and a woman not married to each other. It therefore applies both to adultery which implies that one or both of the parties are married to a person or persons other than the ones concerned; and to fornication, which, in its strict signification, implies that both parties are unmarried. The law of marriage and divorce is made easy in Islam, so that there may be less temptation for intercourse outside the well-defined incidents of marriage. This makes for greater self-respect for both man and woman. Other sex offences are also punishable, but this section applies strictly to **Zina** as above defined”¹⁸.

18. The explanatory note of “Zina” is numbered 2954 in The Holy Qur’an (Text, etc.) by A. Yusuf Ali (op cit) at p. 896 of the 1975 edition.

The above explanatory note was made by Yusuf Ali, I believe, in the first edition of **“THE HOLY QUR’AN. (Text, Translation and Commentary)”** published in Lahore on 4th April 1934. It was the same as Note 2954 in the second edition. It remained the same, unaltered, in the 1975 edition. His translation of ayah 2, for emphasis, reads:

**The woman and the man
Guilty of adultery or fornication,
Flog each of them
With a hundred stripes.**

And Yusuf Ali’s explanatory note on **ZINA** is also clear. The Arabic word **Zina** applies to both **“adultery”** and **“fornication”**.

In his **“Sharia: The Islamic Law”**, Abdur Rahman Doi wrote at page 236:

“Zina means sexual intercourse between a man and a woman not married to each other. It is immaterial whether one or both parties have their own spouses living or are unmarried. It is also immaterial whether it is with the consent of the parties. The word Zina applies to both adultery (where one or both parties are married to a person or persons other than the persons involved in the sexual intercourse) and fornication where both parties are unmarried....”¹⁹

19. Sharia: The Islamic Law by Abdur Rahman I. Doi,

Prof Doi was of the Centre of Islamic Legal Studies, and Faculty of Laws, Ahmadu Bello University, Zaria, Nigeria. He was a research scholar at Cambridge University, England. The edition was published by Ta-Ha Publishers, London, Rabi al Awwal, 1404 A.H.

Maliki Law, by F.H. Buxton (op cit) in a footnote at p. 329 states: “The word **Zina** includes both fornication with an unmarried person and adultery with a married person”.

Cf. Koran XXIV. 2 – 5; Exodus XXii. 16, 17, 25 – 29 (Hughes) The chapter is taken from Seignette.”

The Shorter Oxford English Dictionary on Historical Principles, Vol. 1 at p. 793, states that fornication “is extended to adultery” in scripture. According to the dictionary, both **“adultery”** and **“fornication”** also mean **“idol worshiping”**.

PUNISHMENT FOR ZINA : 100 LASHES ONLY

We must all bear witness that the Holy Qur'an as revealed to the Holy Prophet (S.A.W), does not prescribe "stoning to death" as a punishment for adultery. What Allah's Sharia prescribes for Zina, – the Arabic word meaning both adultery and fornication and which includes sexual intercourse between a man and a woman not married to each other, or between a married man and unmarried woman, or between an unmarried man and a married woman – is 100 lashes, and no more. **Where in the Arabic text of the Holy Qur'an is "stoning to death" prescribed for adultery by Allah?** Indeed, there is no reference to "stoning to death" anywhere in the Arabic text of surah 24, ayah 2 to ayah 10 of the Holy Qur'an as revealed to Rasulullah by Allah, or anywhere else in the Holy Qur'an !

STONING TO DEATH : CUSTOMARY LAW OF THE JEWS (TORAY), THE CHRISTIANS (OLD TESTAMENT), AND OF THE BEDOUIN

The practice of "stoning to death" as punishment for adultery was an ancient Jewish custom under the Mosaic laws. Stoning to death is also prescribed as punishment in The Holy Bible. The custom spread among the Bedouin and other ethnic groups in the Middle East and was still prevalent at the time of the Holy Prophet (S.A.W.)

Leviticus 20 v 10 on Biblical punishment for Adultery reads:

And the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death²⁰.

Deuteronomy 22 v 22 – 24 reads: **Holy Bible (KJV), (Old Testament)**

If a man be found lying with a woman married to an husband, then they shall both of them die, both the man that lay with the woman, and the woman: so shalt thou put away evil from Israel.

If a damsel that is a virgin be betrothed unto an husband, and a man find her in the city, and lie with her;

Then ye shall bring them both out unto the gate of that city, and ye shall stone them with stones that they die; the damsel, because she cried not, being in the city; and the man, because he hath humbled his neighbour's wife: so thou shalt put away evil from among you²¹.

In Jewish Encyclopaedia, **David Werner Amram** described the status of Adulterer as follows:

20. Leviticus 20 vs 10 in the Holy Bible (KJV), Old Testament

21. Deuteronomy 22 v 22 – 24 in The Holy Bible (KJV), Old Testament

The paramour was technically the adulterer (noef), and under the Biblical law suffered death together with the adulteress (noefet). His crime was held in the greatest abhorrence, and Raba and Rab voiced the general opinion when they said that nothing would excuse the wilful adulterer, nor would all his virtues save him from Gehenna (Soṭah, 4b). Even a lustful desire was deemed a moral crime, and the echo of "Thou shalt not covet thy neighbour's wife" rings throughout the Talmud and rabbinical writings, and is re-echoed in the New Testament (Ex. XX. 17; Eben ha-'Ezer, 21; Matt. v. 27, 28). The adulterer's folly is condemned and makes him liable to the jealous wrath of the outraged husband (Prov. Vi. 32-34; Job, XXXi. 9, 10)²².

Dr. Muhammad Muhsin Khan in **"The Translation of the Meanings of SAHIH AL – BUKHARI"**,²³ translated the narration of Abu Huraira and Zaid bin Khalid Al – Juhani when a Bedouin reported to the Holy Prophet (S.A.W.) that his own son committed adultery with his (son's) employer's wife. The people told him that it was obligatory that his son should be stoned to death. So in lieu of that, he ransomed his son by paying one hundred sheep and a slave girl. Then the Bedouin asked the religious scholars about it, and they informed him that his son must be given 100 lashes, and be exiled for one year and the wife of this (man) must be stoned to death". Allah's Apostle told the Bedouin that the slave girl and the sheep should be returned to the Bedouin, and the son was to receive 100 lashes and be exiled for one year, while the wife of his son's employer was to be stoned to death if she admitted her guilt.

Hilal Yayinlari in his translation of **SAHIH AL – BUKHARI**²⁴ narrated another episode when a man told Allah's Apostle that he had "committed illegal sexual intercourse". The Holy Prophet (S.A.W.) turned his face to the other side, but that man repeated his statement four times, and each time the Prophet turned his face to the other side. After he bore witness against himself four times, the Prophet said to him: 'Are you mad?' The man said, "No". The Prophet said 'Are you married?' The man said, 'Yes'. Then the Prophet (S.A.W.) said: "Take him away and stone him to death".

Yezid-b-Nnaim-b-Hajjal reported the case of Ma'ex-b- Malek, an orphan in care of his father, (who told Yezid the story) as published in Al-Hadis²⁵. Ma'ex confessed four times to the messenger of Allah that he committed adultery with a slave-girl, and was ordered to be stoned to death. During the process, he escaped and ran away. His pursuers caught up with him, and killed him.

22. Jewish Encyclopaedia, (The unedited full-text of the 1906 Jewish Encyclopaedia)

23. The Translation of the Meaning of Sahih Al-Bukhari (Arabic – English). Vol. III cap 885 at pp. 554 – 555

See also Muwatta "Imam Maliki", Translated with Exhaustive Notes by Prof. Muhammad Rahimuddin, chapter 493. XXIX Kitab Al Hudud at pp. 350 -351. (Serial No. 1524).

24. See also Muwatta "Imam Maliki", Translated by Prof. Muhammad Rahimuddin (1985 edition), and printed by Taj Printers New Delhi. Cap 493, serial No. 1520 involving a man called Mariz b Maliki).

25. Al-Hadis. (An English Translation and Commentary of MISHKAT-UL-MASABIH) by Al-Haj Maulana Fazlul Karim, Book II (1939 edition) at pp. 548 – 549.

“Afterwards, the pursuer came to the Prophet and narrated that to him. **He said: why have you not let him off, so that he might have repented and Allah also have accepted it.**”

A. Yusuf Ali, in his Introduction to surah 24 states that “false slanders about women (verses 11 – 20) is connected with ‘an Incident that happened to Hadhrat Aisha in A.H. 5 - 6 that fixes the chronological place of this Medina Sura”, that is 5 to 6 years after the Holy Prophet’s (S.A.W.) migration to Medina²⁶.

Marmuduke M. Pickthall however in “**The meaning of the Glorious Qur’an (Text and Explanatory Translation)**”,²⁷ states that “a weaker tradition places the revelation of VV.1–10 of surah 24 as late as the ninth year of the Hijrah”.

In “**The Religion of Islam**”,²⁸ Mohammed Ali related in the chapter on ‘Penal Laws’ the story of

stoning, we accept it. It is then related that the Holy Prophet (S.A.W.) went with them to their *madras* (the house in which the Torah was read), and asked “the Jews who desired to avoid the severer punishment of stoning for adultery and said one to another:” Let us go to this prophet, for he has been raised with milder teachings; so if he gives his decision for a milder punishment than them what punishment was prescribed in their sacred book. They tried to conceal it at first but the truth has to be admitted at last, and the Holy Prophet (S.A.W.) gave his decision saying: I give my judgment accordingly to what is in the Torah”.

These reports leave no shadow of doubt that stoning was the punishment for adultery under the Jewish law, and that it was in the case of Jewish offenders that this punishment was first resorted to by the Holy Prophet when he came to Medina. **There are other hadith which show that the same punishment was imposed on Muslim offenders but apparently this was before the revelation of surah 24 which prescribes flogging as the punishment for both the adulterer and the adulteress**, it being the practice of the Holy Prophet (S.A.W.) to follow the earlier revealed law until he received a definite revelation on a point. A suggestion to that effect is contained in a hadith²⁹:

26. See The Holy Qur’an (Text, etc) by A-Yusuf Ali (op cit) at p. 895

27. “The meaning of the Glorious Qur’an (Text and Explanatory Translation)” by Marmaduke M. Pickthall.

28. The Religion of Islam by Maulana Mohammed Ali, Lahore, 1990 edition at p. 558; See also Abu Dawud, Book ‘Punishment’, 37 : 25; See also Bukhari : 86:21, and Muwatta ‘Imam Maliki’ Translated by Prof. Muhammad Rahimuddin (op cit) at p. 349. Serial No. 1519.

29. Rul al –Ma’ani, Vol 6 at p. 6

“Shaibani says, I asked ‘Abd-Allah ibn Aufa: Did the Holy Prophet stone to death? He said, yes. I said, “Was it before the chapter entitled the light was revealed or after it?” **The reply was: I do not know.**

This statement of Abdullah bin Abi Auta is of great significance because the view is strongly held that “**rajma**” as a penalty for adultery effectively ceased after the revelation of surah 24.

The chapter entitled the light referred to by Shaibani is surah 24 which clearly prescribes flogging as a punishment for adultery or fornication, and the question shows clearly that the practice of stoning as punishment for adultery was in conflict with the plain injunction contained in that chapter. It is most likely that the customary law of stoning to death for the crime of adultery involving a married person persisted in the age. And that practice was accepted in later years as the Sunna of the Holy Prophet.

As stated in Al-Hadis,

“This apparent contradiction between the Quranic verse and tradition has been explained by a few jurists by saying that the verse of stoning to death has been abrogated during the time of the Prophet and therefore it did not find place in the Qur’an”³⁰.

The Khawariji, the earliest Muslim sect, entirely rejected **rajma** as a punishment in Islam.

There is one practical problem in the enforcement of “**rajma**” or stoning to death as allegedly contained in The Book of Allah.

In surah 4 ayah 25³¹, Allah says of the slave girls:

**If they fall into shame,
Their punishment is half
That for free women.**

If therefore a slave girl commits adultery under the Maliki Law, how is half of “stoning to death” meted out to her as a punishment?

30. Al-Hadis, An English Translation and Commentary of Mishkat-Ul-Masabic, by Al-Haj Fazlul Karim (op cit) at p. 530.

31. The Holy Qur’an (Text, etc) by A-Yusuf Ali (op cit) at p. 188

The footnote to the English text of The Noble Qur’an states:

“Female or male slaves (married or unmarried) if they commit illegal sexual intercourse, their punishment is fifty (50) lashes (half of that which free unmarried women); neither stoning to death nor exile.

KING FAHD PRINTING COMPLEX

In the English translation of the Holy Qur'an printed by King Fahd Holy Qur'an Printing Complex, Al-Madinah Al-Munawara, the publisher after quoting in full note 2954 to ayah 2 of surah 24 in Yusuf Ali's translation which states very clearly that **Zina** "applies both to adultery which implies that one or both of the parties are married to person or persons other than the persons concerned, and to fornication, which in the strict signification, implies that both parties are unmarried", added the following to Yusuf Ali's note:

Although **Zina** covers both fornication and adultery, **in the opinion of Muslim jurists**, the punishment laid down here applies only to unmarried persons.

Who, one may ask, are these Muslim "jurists" who add their gloss to the clear words of Allah? The printers, while acknowledging that "**Zina** applies both to adultery and fornication in ayah 2 of Yusuf Ali's English translation justify the "opinion of Muslim jurists".

But ayah 3 of surah 24 remains unaltered in King Fahd Printing Complex edition. It reads:

The adulterer cannot have sexual relations with any but an adulteress or an idolatress, and the adulteress non can have sexual relations with her but an adulterer or an idolater. To the believers such a thing is forbidden.

It may be noted that **Zina** appears in both verses 2 and 3 of surah 24. If Allah wished **Zina** in ayah 2 of surah 24 to apply only to fornication, He would not have revealed ayah 3 of the Apostle (may the peace and blessing of Allah be with him) as the adulteress, who "has already been stoned to death", cannot marry an equally dead adulterer if one or both of them were previously married. The adulterer and the adulteress, already stoned to death – if the "opinion of Muslim jurists" were to hold – could not thereafter have sexual relationships with each other. The opinion of Muslim jurist cannot be held up.

In recent times however, some Arab editors of the Holy Qur'an have imported into their English translation of surah 24 ayah 2 words which are not in fact contained in the original Arabic text of the Holy Qur'an.

THE NOBLE QUR'AN AND STONING TO DEATH TRANSLATORS

In the Translation of the meanings of The Noble Qur'an, the authors added in parenthesis to the English text the following words which are not contained in the Arabic text of surah 24 (Nur or Light), verse 2:

(This punishment is for unmarried persons guilty of the above crime, but if married persons commit it (illegal sex), the punishment is to stone them to death, according to Allah's Law.)

The interpolation of these English words in the English text of surah 24, verse 2 which are not part of the original Arabihfhg text is disingenuous and self-serving. Millions of non – Arabic – speaking Muslims outside the Arab world will assume that the words in parenthesis in the English tranhyslation of surah 24, verse 2 in the Noble Qur'an are part of the Arabic text, or that they are in part true or exact English translation of the Arabic text of surah 24, verse 2 of the Holy Qur'an. Those words at best are the opinion of the learned translators of The Noble Qur'an, and should have been a footnote to surah 24, verse 2 in the Noble Qur'an just as in the Holy Qur'an, (Text, Translation and commentary) by A. Yusuf Ali,

There is great danger in King Fahd Printing Complex importing into Yusuf Ali's explanatory note 2954 words which were not in the original text by Yusuf Ali. There is the greater danger of importing into the English translation of the Holy Qur'an' words which are not in the Arabic Text as revealed to Prophet Muhammad (may the peace and blessing of Allah be upon him). Such is the case in the English Translation of the meanings and commentary of "The NOBLE QUR'AN" by Dr. Muhammad Taqi-ud Din al Hilali and Dr. Muhammad Muhsin Khan at page 466. The English rendition of surah 24, ayah 2 in the Noble Qur'an³² reads in full as follows:

The fornicatress and the fornicator, flog each of them with a hundred stripes. Let not pity withhold you in their case, in a punishment prescribed by Allah, if you believe in Allah and the Last Day. And let a part of the believers witness their punishment. *(This punishment is for unmarried persons guilty of the above crime, but if married persons commit it, (illegal sex) the punishment is to stone them to death, according to Allah's Law)*".

32. Translation of the meanings of THE NOBLE QUR'AN in the English Language.

The Noble Qur'an English Translation of the meanings and commentary, by Dr. Muhammad Taqi-ud-Din al-Hilali and Dr. Muhammad Muhsin Khan, both of Islamic University al-Madinah al-Munawwarah and published by King Fahd Glorious Qur'an Printing Complex, Madinah, K.S.A., at p. 466.

The words in parentheses and italics were inserted in the English translation of verse 2 by the translators in the English Language. They are not in the Arabic text of ayah 2 of surah 24. Those words are not part of what Allah revealed to the Holy Prophet (SAW) in ayah 2 of surah 24. They are the opinion of the translators, and that opinion should have been part of their commentary in a footnote, and no more. As it stands, it is very misleading to anyone who cannot read, – or worse, anyone who does not understand – the Arabic text, as such a person would assume that the imported words in italics in the English translation are part of the Arabic text in the Noble Qur'an. It is disingenuous and does no credit to the English translators of the Arabic text. Allah knows best.

The interpolation complained about appears also in the English translation of ayah 8 of the Arabic text of surah 24. The translators rendering of the Arabic text reads:

“But she shall avert the punishment (of stoning to death) from her, if she bears witness four times by Allah, that he (her husband) is telling a lie”³³

The interpolation “of stoning to death” is not in the Arabic text of surah 24 ayah 8 of the Holy Qur'an. It is a segment of imagination of the “translators” of the Noble Qur'an. If the Allah wishes to prescribe “**stoning to death**” in ayah 8 or in any other ayah of surah 24 as a punishment, The Beneficent, The Merciful would have said so expressly, in the same way as He imposed the punishment of 100 lashes for “Zina”. The Glorious and The All wise made no distinction between “adultery” and “fornication” in surah 24 “Stoning to death” is imported into the English translation by the translators.

The Translation of the meanings of The Noble Qur'an in the English Language by Dr. Muhammed Taqi-ud-Din Khan and Dr. Muhammed Mushin Khan contains copious commentaries in the footnote at page 466. It is the translators' opinions or commentaries inserted in the English translation of the Arabic text of The Noble Qur'an that is most objectionable, most reprehensible. They should have relegated their opinion as well as their commentaries as footnotes to the Noble Qur'an.

It is not right for the two editors to import their own incorrect meanings of the Arabic text in their English translation of the Noble Qur'an. They should credit those English readers of the Noble Qur'an with sufficient understanding and intelligence to read the translators opinion commentaries or opinion or views in the footnotes, and not as part of the English transition. What the authors present to the world in the Noble Qur'an as the **English translation and the meanings** of the Arabic text of the authentic Holy Qur'an as revealed to the Holy Prophet (S.A.W.) in fact are not **the true correct meanings** of the Arabic text. The English translation contains the commentaries, prejudice and the opinion of the translators in several surahs of The Qur'an. The Noble Qur'an is a revised version of the Holy Qur'an.

33. The Noble Qur'an (English Translation of the meanings etc.) (op. cit.) at p. 467

As stated in this booklet, “stoning to death” is not the punishment for adultery in surah 24 in the Book of Allah. The English translators of The Noble Qur’an have however imported “stoning to death” in ayah 2 and ayah 8 of surah 24.

Whereas the translators state clearly that the message in ayah 2 is addressed to the **fornicatress** and **fornicator** only, the message in ayah 3 is addressed to both the **adulterer and fornicator**, and the **adulteress and fornicatress**.

Ayah 3 of surah 24 in the Arabic text in The Noble Qur’an occupies only two lines. The English translation of Ayah 3 occupies sixteen lines. It runs thus:

The adulterer – fornicator marries not but an adulteress-fornicatress or a Mushrikah, and the adulteress-fornicatress none marries her except an adulterer-fornicator or a Mushrik [and that means that the man who agrees to marry (have a sexual relation with) a Mushrikah (female polytheist, pagan or idolatress) or a prostitute, then surely he is either an adulterer-fornicator, or a Mushrik (polytheist, pagan or idolatress)]. And the woman who agrees to marry (have a sexual relation with) a Mushrik (polytheist, pagan or idolator) or an adulterer-fornicator, then she is either a prostitute or a Mushrikah (female polytheist, pagan or idolatress)]. Such a thing is forbidden to the believers (of Islamic Monotheism)³⁴.

MESSAGE IN AYAH 6 – 9 TO WIVES – ADULTERY ONLY

Let us examine ayah 6 to 9 more closely. Contrary to the impression given by the English translators of The Noble Qur’an that the message in surah 24, especially the punishment of 100 lashes in ayah 2 is for fornicatress and fornicator only, ayah 6 to 9 are addressed to married women or **wives**. The act complained of in Ayah 6 to 9 is adultery, not fornication³⁵, and the punishment for both is as prescribed in ayah 2.

The only true meaning of the subject matter in Allah’s message in surah 24, ayah 1 to 10 in the English Language is about **adultery** and **fornication** only, and the punishment prescribed for the offence is “100 lashes”.

THE ISSUES

There are three issues which stand out clearly in this treatise. They are:

1. Whether **“stoning to death”** was the customary law of the Jews (The Torah), the Christians, Bedouin and other communities in the region in the life time of The Holy Prophet (SAW)?
2. Whether **“stoning to death”** is in The Book of Allah or can be read into surah 24 as a punishment for adultery?
3. Whether **Zima** in surah 24 means adultery or fornication only, or both?

34. The Noble Qur’an (English Translation of the meanings etc.) (op. cit.) at pp. 466 – 467.

35. The Noble Qur’an (English Translation etc.) (op. cit) at pp. 467

In answer to issue No 1, many writings and the scriptures, and several commentators attest to the fact that “stoning to death” was the punishment for adultery in the region among the Jews, Christians and other communities during the lifetime of the Holy Prophet (SAW). The Suna attest to that fact.

In response to the second and third issues, we may examine *Al-Hadis. An English Translation and Commentary of Mishkat-ul-Masabih*³⁶, which had this to say:

- (a) *Sentence of Adultery. Adultery or fornication has been expressly made unlawful by the Almighty Allah (SWT) as otherwise the society would have been reduced to chaos and disorder. The Holy Qur’an proclaims : And do not go near fornication. Surely it is an indecency and evil as a method – 17:32Q. And do not compel your slave girls to prostitution when they desire to keep chaste – 24:33Q.*

Regarding the sentence of adultery, the Qur’an says : The adulteress and the adulterer, flog each of them – giving a hundred stripes; and let not pity for them detain you in the matter of obedience to Allah if you believe in Allah and the last day, and let a party of the believers witness their chastisement (24:2Q). In case of slave-girls, the punishment is half. The Qur’an says: ‘And when they (slave-girls) are taken in marriage, then if they are guilty of fornication, they shall suffer half the punishment which is inflicted upon free women – 4:25Q. It appears from these clear verses that the ordinance for adultery in case of free married and unmarried men and women are 100 stripes, and that for slaves and female slaves 50 stripes. **In meting out this punishment, the Qur’an draws attention to the fact that forgiveness on the part of one to whom wrong is done is, however, the best. It says : And the recompense of evil is punishment proportionate thereto, but whoso forgives and amends, he shall have his reward from Allah – 42:40Q.** Thus the Qur’an recognises the Jewish law of tooth for tooth in some cases as well as the law of Jesus, of turning another face in case one is slapped.

Some traditions occurring in this section prove beyond the shadow of doubt that in case of married male and female, the sentence is nothing short of death or extreme penalty of law; and in case of unmarried men and women, 100 stripes as the Qur’an lays down. **This apparent contradiction between the Quranic verse and tradition has been explained by a few jurists by saying that the verse of stoning to death has been abrogated during the time of the Prophet and therefore it did not find place in the Qur’an.**

36. Al-Hadis (An English Translation and Commentary) of Mishkat-ul-Masabih with vowel-pointed Arabic Text being a collection of the most authentic sayings and doings of the Prophet Muhammad (PBUH) selected from the most reliable collections of Hadis Literature, and containing all that an average Muslim and non-Muslim requires to know for guidance in all walks of life with suitable arrangements into chapters and sections by Al-Haj Maulana Fazlul Karim. Book II at pp. 529 - 530.

WE DO NOT FIND IT IN THE BOOK OF ALLAH

Muwatta Imam Maliki³⁷ relates the incident reported by Sa'id b. al-Musayyab that when **'Umar b al-Khattab** returned from Mina, he seated his camel at Ablah and, keeping stones in one place, put his sheet upon it and lay down on his back (making that a pillow) and then raised both his hands towards the sky and said : O Lord, my account has increased, my strength has decreased and my subjects have expanded; raise me up to Thee now so that I may not waste Thy commands or lessen my devotion of Thee. He then arrived at Medina and preached his sermon to the people saying: O people ! all paths have been opened out and all duties presented and you have been put on the plain paths. Let it not happen that you should stray to the right or the left. He then struck one hand over the other and said: See that you do not forget the verse about stoning and say :

***We do not find it in the Book of Allah;** the Apostle of Allah (may peace be upon him) had ordered stoning and we too have done so, after him.*

The attempt by the revisionists of The Holy Qur'an in their edition entitled The Noble Qur'an to deviate from the true meaning and import of Sural Nur, surah 24, V V. 1 to 10 of The Holy Qur'an can now be laid to rest. "Stoning to death" is not in The Book of Allah according to **Umar b. Khattab**, the Second Caliph (634 – 644) after Abu Bakr. And it cannot in any way be read into the surah Nur. **Zina** retains its double meaning: adultery or fornication, or both.

It behoves us as Muslims to rise in defence of the purity of the Holy Qur'an and the Hadith against human frailties. It is the uniqueness of the Holy Qur'an that the Arabic text remains the reference point, the source of knowledge and wisdom, and the true revelation from Allah to His Apostle. The English translation of the Arabic text should be the exact translation, word for word, of the Arabic text. There must be no gloss on the English translation of the Arabic text of the Holy Quran.

THE PRIMACY OF THE HOLY QUR'AN

In his Farewell Address to the Muslim World (the Ummah) in 10 A. H before his death, Allah's Apostle (S.A.W.) again reiterated the supremacy of the Holy Qur'an as the ultimate guide in the life of a Muslim, followed by the Sunnah or the Hadith.

He said in part:

Verily, I have left among you the **Book of Allah** and the **Sunnah** of His Apostle which if you hold fast, you shall never go astray.

37. Muwatta IMAM MALIKI (op. cit.) XXIX.kitab Al – Hudud. Cap 493. Serial No.1528 at pp 351 – 352

On the issue of adultery therefore, the law is as Allah revealed to His Apostle in surah 24, ayah 1 to 10. The punishment for adultery, as prescribed by Allah in The Holy Qur'an and revealed to the Holy Prophet (S.W.A), is **one hundred (100) LASHES** for the man and the woman found guilty of the offence. It is **not** "death by stoning" or "**stoning to death**". 'Rajma' or 'death by stoning was the Jewish or Bedouin custom as recorded in the Hadith and was the law, it would appear, before Allah's revelation of surah 24, verses 1 to 10 to the Holy Prophet (S.A.W.) The opinion of "Jurists" (ijma) or fatwa of a scholar cannot override the law as revealed by Allah in The Holy Qur'an. And to prove adultery, there must be four witnesses who will testify that they saw it all: the time and place and the parties to the crime, and the crime itself. If any of the witnesses is found to be lying, the evidence will be held unreliable and the offence adjudged "not proven". The unreliable or false witness will receive 80 lashes for his false testimony.

ALLAH FORGIVES ON REPENTANCE

It is important to emphasize one of the attributes of Allah, the Beneficent, the Merciful, and His capacity to forgive those who commit sins or crimes upon repentance of their sins.

In surah 25, ayah 68 to 71 of the Holy Qur'an³⁸, Allah condemns in particular three crimes – attributing another god with Him, or slaying another human being save by law established, or fornication. But "if there is true repentance as tested by a changed life in conduct, God's Mercy is available and it will transform the repentant's nature from evil to good", said Yusuf Ali in a footnote. Surah 25, ayah 68 to 71 state:

Ayah 68 **Those who invoke not,
With God, any other god
Nor slay such life as God
Has made sacred, except
For just cause, nor commit
Fornication; and any that does
This (not only) meet punishment.**

Ayah 69 **(But) the penalty on the Day
Of Judgment will be doubled
To Him, and he will dwell
Therein in ignominy.**

Ayah 70. **Unless he repents, believes,
And works righteous deeds,
For God will change
The evil of such persons
Into good, and God is
Oft – Forgiving, Most Merciful.**

38. The Holy Qur'an (Text, Translation etc) by A. Yusuf Ali (op. cit) at pp. 943.
See also footnote 3130 at pp. 943

Ayah 71 **And whoever repents and does good
Has truly turned to God is
With an (acceptable) conversion**

And again, in surah 39, ayah 53 and 54³⁹, Allah says:

Ayah 53. **Say: O my Servants who
Have transgressed against their souls!
Despair not of the Mercy
Of God for God forgives
All sins: for He is
Oft – Forgiving, Most Merciful.**

Ayah 54 **Turn ye to your Lord
(in repentance) and bow
To His (Will), before
The penalty comes on you:
After that ye shall not be helped**

We must also remember what Allah's Apostle himself was reported to have said when told of Ma'ez-b-Malek who was stoned to death after he was caught in hot pursuit following his confession of adultery and his failed attempt to escape from punishment:

“Why have you not let him off, so that he might repent and Allah also have accepted it?”

THE OFFENCE OF ADULTERY AND THE PENAL CODE

One of the legal difficulties those States in Nigeria where Sharia applies will encounter is the need to ensure certainty about the law. The law must be certain, otherwise the presumption that every citizen should know the law cannot hold.

The law or the Sharia on adultery must be properly enacted with utmost clarity as an integral part of the Penal Code. If Zamfara State wishes to make it an offence under the Penal Code Law, the judicial interpretation of the English translation of the Arabic text cannot be left to the imagination of the Judges or Kadis of the Lower Sharia Court or the imagination of the Grand Kadi and the Kadis of the Sharia Court of Appeal, however learned in Sharia they may be. There must be a part of the Penal Code that prescribes the law and its punishment. The Qur'an may be the source, but the offence and the standard of proof (evidence) and the penalty must be clearly stated in the Penal Code Law.

39. The Holy Qur'an (Text, Translation etc) by A. Yusuf Ali (op. cit) at p. 1253.

The proof of adultery as contained in the Qur'an must also be part of the Law of Evidence of the State – the strict proof which requires credible evidence of *four* witnesses who saw it all on the pain of eighty lashes for false evidence. The law or the penal code must also include a provision to accommodate expression of repentance which will earn the offender Allah's mercy and forgiveness according to surah 25, ayah 70 and 71, and surah 39 ayah 53 – 54 of the Holy Qur'an⁴⁰.

The main purpose of this treatise is to set out unequivocally that one hundred lashes is the punishment prescribed by Allah in the Holy Qur'an for adultery, if proved by four credible witnesses who saw it all according to surah 24 ayah 4. The penalty of "stoning to death" is NOT Allah's law. It was a Jewish custom, common in that part of the world, that part of the Middle East, before surah 24 of the Holy Qur'an was revealed to Allah's Apostle.

There are however problems ahead in the application of criminal Sharia in a multi – ethnic and multi – religious society like Nigeria. And this point was made by Zak-Zaky, the Shite Muslim leader in the Northern States who once stated publicly that the Sharia should not apply in Nigeria in the circumstances. It can only apply where the polity, the sovereign State, is predominately Muslim, and of course it must apply only to Muslims. And it must, like the Sharia on theft, apply to the high and the low in society, the rich and the poor, subject to the conditions set out by Allah in the Holy Qur'an.

There are other issues thrown up in the application of Maliki Law in Zamfara State in particular and other Northern States in general. Imam Maliki who founded the Maliki School of Jurisprudence was said to have led all his life in Saudi Arabia where his interpretation of the Holy Qur'an held sway. Maliki law applies to most of the predominantly Sunni population in West Africa. But there are other Schools, there are followers of Imam Shafi, of Imam Hanafi and of Imam Hambali. There are not only differences generally in the interpretation of one aspect of the Sharia or the other among the various Schools; there are differences in the emphasis placed on various aspects of the Sharia by the various Schools.

There are also the Shites, those Muslim who believe that Ali, the Holy Prophet's son-in-law, was the only legitimate Caliph who should have led the Muslim Ummah upon the death of the Holy Prophet (SAW). They regard the other Caliphs – Abu Bakr, Umar, and Hussein in succession – as usurpers. Whatever the differences in the laws or the Sharia as interpreted by the various schools within the two main divisions in Islam (the Sunni and the Shite), the law on adultery however is clear as espoused in surah 17, ayah 32, surah 24, ayah 1 to 10 of The Holy Qur'an.

40. Holy Qur'an (Translation etc) by A. Yusuf Ali (op cit)

SHARIA AND THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA

Another area of controversy is where there is conflict between the Sharia (as on adultery) and the Constitution of the Federal Republic of Nigeria 1999, how will a court of law resolve the conflict? For section 1 (1) of the Constitution states:⁴¹

This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.

We are not concerned here with the puerile argument that the Sharia violates section 10 of the Constitution, which it does not as earlier argued in this treatise.

We are concerned generally with the type of punishment under the Sharia which may be viewed as being in conflict with the fundamental human rights chapter in the Constitution – punishment like “stoning to death” or administering “100 lashes” in adultery, or “cutting off” of a thief’s hand, for example. The English Common law which all lawyers in Nigeria practise, and which binds most of us since its imposition by the British Colonial Regime over 100 years ago, as well as the customary laws of the various Nigerian ethnic nationalities or communities, - including the Sharia - are all subject to section 1 (1) of the 1999 Constitution. Any conflict between any Nigerian (Federal or State), statute law or the received common law of England or customary law on the one hand and the Federal Constitution on the other hand will be resolved in favour of the Constitution.

Section 34 (1) (a) of the Constitution of the Federal Republic of Nigeria, 1999⁴² reads:

**Every individual is entitled to respect for the dignity of his person, and accordingly
(a) no person shall be subjected to torture or to inhuman or degrading treatment.**

The Sharia applicable in Nigeria must take cognisance of that and other provisions of the Constitution.

Finally, those whom Allah has placed in authority over the people of Zamfara State, and all other States where the Sharia is applicable, should examine very carefully the reforms introduced by the Northern Regional Government in 1959/60, and the reasons for those reforms before the present Governors introduce radical changes to the Panel Code Law. Every effort must be made in the review exercise to keep clear of party politics and concentrate strictly on the legal basis for the reforms for the greatest good of the greatest number of our people. The review however must be such as will preserve the corporate existence of Nigeria, and in accordance with the Constitution of the Federal Republic.

41. The Constitution of the Federal Republic of Nigeria, 1999

42. Constitution of the Federal Republic of Nigeria, 1999. Chapter IV. Fundamental Human Rights Chapter. See also definitions of “torture”, “degrading” and “inhuman” in Shorter Oxford English Dictionary on Historical Principles. Vols 1 & 11.

Above all, deep thought must be given to the welfare of the child of an adulterous relationship who has come to the world in circumstances beyond his control. His welfare and future as a citizen of Nigeria must be guaranteed and protected under the law in every respect as will be accorded any other citizen of the country.

There is also the need for all the Kadis, either of the lower court or of the Court of Appeal, to be well guided and grounded in the Sharia. They must be very learned in the Sharia. The Kadis of the Court of Appeal must undergo a thorough course of study in the Sharia, preferably at a university. There should be no room for conservative thought; common sense should be one of the guides. Some of the recent judgments do not inspire much confidence in this regard.

May Allah show us the straight way. Amin.

43. Constitution of the Federal Republic of Nigeria, 1999. Chapter IV. Fundamental Human Rights Chapter. See also definitions of "torture", "degrading" and "inhuman" in Shorter Oxford English Dictionary on Historical Principles. Vols 1 & 11.