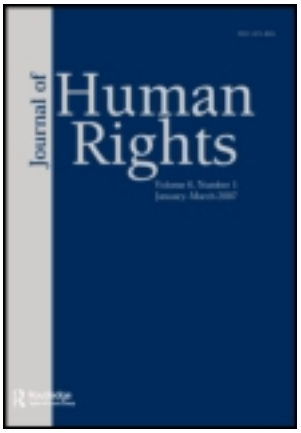

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Islam and the Language of Human Rights in Nigeria: "Rights Talk" and Religion in Domestic Politics

BRANDON KENDHAMMER

*How do Islamic political actors engage with international human rights discourse in new Muslim-majority democracies? While most scholarly research focuses on the role of transnational actors in shaping the local adoption of rights norms, this article focuses on how even incomplete democratization can empower religious actors to engage in meaningful local debates over how to define the relationship between religious values, democratic meanings, and rights. The article presents a case study of Nigeria, where Muslim activists have used "rights talk" to advance the implementation of Islamic law (*sharia*) under the post-1999 democratic regime. It also explores how these activists' use of rights language to pursue* sharia *policies that conflict significantly with international rights norms challenges human and women's rights groups in Nigeria, who must walk a careful line between appeals to universal norms and religiously grounded arguments in their own advocacy.*

How do Islamic political actors engage with international human rights discourse? And what are the effects of these engagements on local political and policy outcomes in Muslim-majority countries? One important arena in which these questions come together are contests over the relationship between Islamic law (*sharia*) and the rights of women, children, and non-Muslims (Abiad 2008). As Naz Modirzadeh has argued, the international human rights community has struggled mightily to find effective, intellectually consistent ways to understand and engage with Islamic law, particularly when it is not imposed from above but adopted with the ostensibly democratic participation of Muslim citizens (Modirzadeh 2006: 193).

Driven by debates about the universality of human rights concepts (Donnelly 2007) and the power of international norms and transnational activism to transform human rights policies (Keck and Sikkink 1998), human rights scholarship primarily treats the rights language used by Muslim activists seeking to expand the role of religion in public life as a "response" or "challenge" to universal human rights norms (Moosa 2001; Sachedina 2009). The result has been to inadvertently downplay the role of local political and religious context in shaping how Muslims who champion Islamic law think about and use rights discourse.

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This neglect is pressing in light of the growing number of movements to expand or defend *sharia* in new and uncertain Muslim-majority democracies (Hefner 2011). The question of how to define rights and of what sorts of rights claims will be admissible in public debate are part of a broader "culture war" within the global Muslim community in which political liberalization and democratization offer the possibility of wide-ranging debate around how Muslims might square religious values with protections for individual rights and freedoms (Hefner 2011: 40–41). Muslim activists who invoke the language of rights to debate the relationship between religion and state do so not simply to attack the international human rights community and its norms but as participants in local conversations about the nature of rights that are informed by popular efforts to define the parameters of democracy for Muslim societies.

This article considers how local democratic politics shape the use of rights language in the recent *sharia* implementation movement in Nigeria, the most prominent example of an effort to expand the scope of Islamic law through electoral and legislative politics. The controversy began in September 1999 when Ahmed Sani Yerima, the governor of Zamfara State, announced that his administration would implement *sharia* for criminal cases and reform its social policy in line with *sharia* injunctions. Between Zamfara's official "launch" of *sharia* in October (the *sharia* criminal code itself went into effect in January 2000) and 2003, 12 Muslim-majority states in northern[1] Nigeria enacted Islamic criminal codes for state courts and a series of wide-ranging social reforms intended to Islamicize private and public life (Paden 2005). The *sharia* implementation controversy led to a dramatic escalation of communal violence in religiously divided communities across northern Nigeria, claiming thousands of lives and displacing many more (Human Rights Watch 2005) and has had a durably negative effect on relations between Christians and Muslims in arguably the most religiously divided society in the world. *Sharia* implementation has also raised a series of unresolved constitutional conflicts around the right to religious practice and Nigeria's antiestablishment clause (Ostien and Dekker 2010).

In Nigeria, democratic politics have helped Islamic law's proponents—particularly those that offer a conservative, state-centric vision of *sharia*—to play a leading role in the country's debate over the relationship between public religion and international human rights norms. International organizations such as Amnesty International and Human Rights Watch condemned *sharia's* consequences (amputation for theft, discrimination against non-Christians, and restrictions on women's appearance in public places chief among them) as violations of international human rights norms (Human Rights Watch 2004). The local debate has focused instead on competing rights claims around Nigeria's constitutional efforts to balance communal, identity-based claims with national integration. Muslim activists present the Islamicization of law as a means of protecting the constitutional and human rights of Muslims in a multireligious state, depicting Muslims in the classic "rights talk" fashion—as (religious) rights-bearing subjects in need of state protection from violations of those rights. By framing *sharia* as a rights issue central to local Muslim conceptions of effective democracy, its advocates have successfully (and perhaps permanently) expanded the role of religion in the Nigerian public sphere.

Nigeria's *sharia* supporters are on much less secure ground, however, when it comes to rights issues in which international norms are more clearly embedded in local debates. Here, as with the controversies surrounding Nigeria's passage or domestication of international rights treaties—in particular, Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), the African Charter on Human and People's Rights (the "Maputo Protocols"), and the UN Convention on the Rights of the Child—Muslim activists challenge conventional human rights discourse, rejecting supposed Western ethnical

superiority and demanding recognition for community values rather than individual rights. The success of Muslim organizations (as well as their Christian counterparts, who have often adopted parallel approaches) in defusing efforts by local and international rights activists to domesticate international rights norms has come from avoiding rights language in favor of appeals to public morality, an issue many religious Nigerians believe to be indelibly linked to good government.

This article demonstrates how democratization in the Muslim world—even in a partial form—creates opportunities for religious voices to participate in local conversations about how to define rights and to prioritize rights claims. It begins with a discussion of how movements to defend Islamic law in uncertain Muslim democracies challenge the idea that democratization will lead to the convergence of international rights norms and local practice. It moves to a discussion of the *sharia* controversy in Nigeria, exploring how local debates about the shape of democracy in a deeply divided society can inform the use of rights language by contemporary Muslim activists. Finally, it considers domestic Muslim women's rights organizations in Nigeria, which function at the intersection of the rights language of *sharia* activists and international human rights norms. By couching their *sharia* advocacy (and its implicit and explicit challenge to the international rights framework) in rights language, the Nigerian *sharia* movement has pushed Muslim women's rights groups that might otherwise lean heavily on international norms in their activism to advocate for local reinterpretations of the Islamic legal tradition that challenge patriarchal assumptions and emphasize the protected status of women. While these efforts have yielded partial success in improving gender equality and combating the discriminatory effects of existing *sharia* practices, the *sharia* legal system in Nigeria remains a reality with ambiguous consequences for the development of human rights protections.

All *Sharia* Is Local: Islamic Law and Rights Talk in Theory

Human rights scholarship on the Muslim world has often focused on the efforts of transnational (Merry 2003; Moghadam 2005) and local activists (Waltz 1995; Badran 2011) who use the language of international human rights norms to pressure autocratic or partially liberalized regimes to adopt legal reforms that protect the rights of women and minorities. The story this research tells is one of qualified success, with domestic women's rights movements committed to the international human rights framework pressuring regimes in, for example, Tunisia (in the early 1990s) and Morocco (in 2004) to reform their family and personal status codes in favor of women's rights (Charrad 2001; Catalano 2013). But while a number of studies have looked at how religious (and particularly Islamist) actors respond to these reform movements with opposition or acquiescence (Buskens 2003; Clark and Young 2008) relatively little attention has been paid to how human rights norms and discourse influence their response to international and domestic reform pressure.

Since the early 1990s, much of the action surrounding the relationship between Islamic law and human rights has moved to emerging Muslim-majority democracies, which pose a different set of challenges for human rights activists. *Sharia* movements in democratic contexts challenge the expectation that, as the Muslim world democratizes, its mass values and governmental policies on issues of women's and human rights will converge with those of the international community. As Leonardo Villalon has observed, even incomplete and partial democratic transitions create openings for religious groups (including those that are initially skeptical of democracy) to engage in open, meaningful debates about the role of religion in democratic public life, contributing to the development of local meanings of democracy and rights that may depart in significant ways from global norms

(Villalon 2010). In Niger, Mali, and Senegal, these debates saw Islamic organizations launch successful, locally formulated challenges to family-law reforms that international and domestic women's rights groups had fought to place on the democratization agenda (Soares 2009; Kang 2010; Konold 2010).

Many human rights activists are rightly skeptical or hostile to movements that use the democratic process and the space it offers to advance an agenda that can be incompatible with guarantees of basic rights (like Modirzadeh, I believe that, as it is currently practiced, *sharia* often conflicts with international human rights law). Survey data, however, suggest that many Muslim citizens see *sharia* and democracy as compatible goals, with *sharia* serving as a solution to a host of endemic governance challenges (Esposito and Mogahed 2007). If human rights scholars and activists are to reckon with demands for Islamic law in new and uncertain Muslim-majority democracies, we must acknowledge that they are products of (and not merely responses to) public debates about how to reconcile religious values with democracy and rights protections.

One important product of these debates, both within Muslim communities and among rights scholars and activists, is an awareness that the Islamic legal tradition has always accommodated plural interpretations of the law and left considerable flexibility and discretion to Muslim rulers to adapt the *sharia* to the needs of their communities. As Asifa Quraishi argues, the process of legislating Islamic law offers both challenges (particularly in codifying aspects of the larger legal canon) and opportunities for advocating a vision of Islamic justice in line with principles of democracy and human rights (Quraishi 2008). This places the center of gravity for reform squarely at the local and national levels, where domestic interest group politics shape both the capacity of pro-women's rights organizations to mobilize in support legal reform and that of Islamist organizations to countermobilize to prevent it. When rights language is incorporated into political discourse in Muslim-majority states, it is often domestic mobilization that plays the key role. Susan Waltz argues that official governmental discourse in the Maghreb states in the 1980s and 1990s adopted human rights language as a result of the efforts of local nongovernmental organizations (NGOs) rather than those of international actors, whose agendas did not always line up with those of domestic rights groups (Waltz 1995). Moghadam and Gheytanchi (2010) found Moroccan family-law reform activists who relied on links with local civil society networks were more effective than Iranian activists who focused on attracting international attention and support.

None of this, however, means that more reformist or "human-rights compatible" visions of *sharia* have a political advantage in new and uncertain democracies. The support for proposals by Muslim scholars to re-read the *Quran* and *Sunna* in terms of core principles to facilitate a "Muslim reformation" by human rights organizations is disproportionate to the attention they receive in many Muslim communities. In Nigeria, the controversy surrounding the appearance of U.S.-based Sudanese scholar Abdullahi an-Na'im (a well-known proponent of such a *sharia* reform project) at a 2004 conference on the "*sharia* question" speaks to this reality. An-Na'im's paper, which argued that a modern state cannot effectively enact and enforce *sharia* as state law, inspired a walkout led by Sheihk Umar Kabo, the chair of Kano State's *sharia* Implementation Advisory Committee, and led to claims in the press by Muslim intellectuals that an-Na'im was secretly advancing an agenda of secularization in the guise of religious reform (Harneit-Sievers 2003). Very few Muslim voices during the height of the *sharia* debate in Nigeria criticized the validity of a state-sponsored *sharia* implementation project on religious grounds, and those who did (like Sanusi Lamido Sanusi, now the director of the Central Bank of Nigeria) were subject to vicious attacks in the northern press. The challenge of developing rights-based alternatives

to or reinterpretations of the *sharia* as it is currently practiced in countries like Nigeria falls primarily to local activists willing to work within the context of state-administered religious law.

Islam and the Politics of Religious "Rights" in Nigeria

In Nigeria, the contemporary debate over the place of Islamic law in a democratic society emerged on the eve of independence in 1959. Under British rule, the legal system for Muslims in Northern Nigeria operated from a heavily modified yet recognizable version of *sharia*, with "Native" courts administered by the colonial Native Administration that dealt (within limits prescribed by colonial policy) an uncodified version of Islamic criminal and personal law operating parallel to other Native Courts applying the "customary" law (as the British understood it) of non-Muslim communities, as well as Magistrate Courts using a British-designed legal code. In response to the Willink Report on minority groups (issued in 1958), which argued that jurisdictional conflict between the various court systems in the North undermined the goal of general civil and human rights guarantees, a panel of local and international experts on Islamic law proposed a set of reforms limiting the jurisdiction of *sharia* courts to family and personal law, adopting a written (but religiously influenced) penal code for all Northern courts and creating a regional *sharia* Court of Appeal (Anderson 1959). These proposals were adopted by the Northern Nigerian regional government in 1960. Despite their abrogation of *sharia*, at the time this compromise was seen as politically and religiously acceptable to Muslim leaders, who found that, in the words of Sir Ahmadu Bello, the Northern Region premier, nothing in the reforms was "in any way contrary to the tenets of our religion" (cited in Amune 1986: 221–222).

This bargain—in which *sharia* was formally abandoned in criminal law in exchange for the recognition of and state support for Islamic principles—functioned until the constitutional debate of 1977–1978, which followed the Nigerian Civil War (1967–1970) and a decade of military rule (Ostien 2006). While the draft constitution proposed to the Constituent Assembly included a Federal *sharia* Court of Appeals (FSCA) to serve as a replacement for the regional court (regions having been abolished in 1967 in favor of states), Christian delegates blocked the courts' creation following an unexpectedly heated debate. In response, Muslim delegates staged a walkout that nearly derailed the democratic transition. The FSCA debacle is notable because Muslim delegates relied on the language of "religious freedom" and "rights" to make their argument for federal recognition and incorporation of state *sharia* courts. As one Muslim delegate declared:

> To deny *sharia* . . . is like passing a Bill in Parliament. . .suspending all Christians in this country from attending Sunday worship . . . it is inconceivable that one should be restricted and denied the right to appeal to the highest court.. . .A Federal *Sharia* Court of Appeal is, therefore, necessary. (cited in Laitin 1982: 418)

The establishment of the FSCA was doctrinally trivial (courts of appeal are not central to Islamic jurisprudence), but the political argument—that, in the absence of positive state action to defend the *sharia*, the rights of Muslims were being denied—cast the question of Islamic law in the language of constitutional rights and state recognition. This identification of the state as a key factor in affecting the Islamicization of Nigerian society resonated strongly with a new generation of Islamic revival movements emerging

in the mid-1970s, centered in Northern universities and in a handful of new, Salafi-inspired religious organizations (Umar 2001). The agenda proposed by these new movements was simple: the reapplication of *sharia* in law and the use of *sharia* as a guiding principle for public policymaking (Sulaiman 1985: 55).

The second key development linking rights language and *sharia* advocacy was a series of policy reforms (known collectively as the "federal character" principle) embedded in the 1979 constitution, and meant to limit the use of ethnic and religious claims in the political sphere. The original intent of the "federal character" principle was to ensure ministerial positions were distributed along lines that reflected Nigeria's ethnic diversity, but its logic was soon adopted formally and informally as a mandate to enshrine ethnic identity and local citizenship as the basis for distributing a wide range of political goods and state resources. On the question of religion, the "federal character" was silent. Indeed, the 1979 constitution contained a non-establishment clause, and that 1999 successor contains language (paralleling that of the International Covenant on Civil and Political Rights) prohibiting the establishment of "privilege or advantage" on religious grounds (Ileseme 2001: 540–541). However both Muslim and Christian groups quickly recognized the principle as an effective tool for demanding their "rights" to the distribution of state resources in support of religious pursuits, and since the late 1970s both sides have formed a wide range of interest groups organized for that purpose. Religious activists on all sides use the language of rights and equality to argue that state sponsorship of Muslim (Christian) activism is necessary to "correct" the natural advantage of Christianity (Islam) in a secular, post-colonial state. Religious interest groups in Nigeria use federal character language to secure subsidies for their activities—money for constructing religious schools and places of worship, and the use of state media to offer religious programming—while arguing that state sponsorship of the other religion is unfair, and must be eliminated or balanced out (Kendhammer 2010: 141). One particularly notable example is the successful campaign by Christian activists to gain state sponsorship for an annual "Christian pilgrimage" (to Rome or Jerusalem) to balance out state funding for the *hajj* (Bianchi 2004: 248–252).

While both Muslim and Christian activists have mobilized with great enthusiasm to make rights-based demands on the Nigerian state, they differ in their vision of how the state ought to accommodate religious pluralism under democratic rule. Even as they seek state support, most Christian political activists acknowledge nonestablishment and the "secular" nature of the Nigerian government (if not Nigerian society), seeking the state's neutrality in the sense of impartial recognition for their religious claims. Muslim discourse, on the other hand, uses the language of religious rights to "subordinate the state to religious oversight" (Ileseme 2001: 543). Interpreting the intent of Nigeria's democratic constitution to the freedom of religious practice as more important than its intent to demobilize religious identities for political purposes, Nigerian Muslims argue for a greater role for the state in creating an Islamically good society alongside what they see as the "Christianized" secular society of southern Nigeria. As Simeon Ileseme suggests:

> Muslims are befuddled by what seems to be the Christian inability to seize on the moral impulse of the human rights provisions in the Constitution. They regard the constitutional entrenchment of human rights language as providing an opportunity to the religious people in general, and to the Muslims in particular, to radically transform the conceptions and premises of the political order. . .to employ religion to launch a moral challenge to past conventional legitimations of political life and to unleash different possibilities in the construction of a new one. (Ileseme 2001: 542)

The rhetoric of Nigerian Islamism relies on a narrative—shared by the many evangelical churches in southern Nigeria (Marshall 2009)—that emphasizes the role of moral decay and corruption in driving Nigeria into its current state (so the story goes) of political and economic disarray. As a result, Muslim rights discourse centers on the need for religious freedoms (including the freedom to implement *sharia*) to create the necessary conditions for society-wide moral reform.

The "Rights Talk" of Nigerian Islamist Activists and the *Sharia* Implementation Debate

Following Zamfara's *sharia* announcement in fall 1999, the "*sharia* crisis" became the biggest political story of the young Fourth Republic's life. In the Lagos/Ibadan press (home of the largest and most popular national newspapers), *sharia* was eviscerated by southern commentators, who mocked Yerima's rapid transformation into "a "Bedouin-bearded" Muslim and highlighted concerns that the rights of Christians in the north would be violated (Adegbamigbe 1999). A Human Rights Watch (HRW) report in 2004 identified five key areas (right to life; right to a fair hearing; right to be free from torture and cruel or inhuman punishment; right to not be discriminated against on the basis of sex or religion; right to privacy) in which *sharia* states failed to live up to Nigeria's international human rights treaty obligations as a result of their *sharia* policies. But although HRW claimed that local opposition to its criticism of *sharia* was based in anticolonial or anti-Western cultural nationalism ("They have described criticisms from the West as attacks against Islam and part of a campaign to impose Western values") (Human Rights Watch 2004: 103), these claims were less commonly employed in the local press than international observers have suggested (Kendhammer 2010: 218).

How did Muslim activists actually use rights talk to present, to analyze, and to debate the *sharia* issue? In the words of *sharia* advocates, democratization provided an "unprecedented opportunity" to Muslims wishing to express their preference for *sharia* (Abdul-Azeez 2000) and the legal framework necessary to ensure the protection of a right to religious freedom—in effect, an individual "right" to *sharia*. In states where the population (at least the "indigenous" population) is nearly entirely Muslim, they argued it would be undemocratic to suppress the will of the population to live under *sharia*. The will for *sharia*, they said, had been suppressed under military rule, during which northern states were often administered by non-Muslim military officers. Advocates of this version of rights language used the idea of political or civil rights from a variety of angles—emphasizing that *sharia* is the right of the majority and the product of a democratic outcome one moment, focusing on the need to protect Muslim rights "under siege" by the Christian nature of common law the next. In one instance, the Muslim right to *sharia* was compared to the religious protections offered to Americans under the First Amendment.[2]

This vision of religious rights and democracy was embedded into the many draft *sharia* implementation bills prepared by state *sharia* implementation committees, as in Sokoto State:

> WHEREAS the 1999 Constitution of Nigeria provides for a Federal System of Government in a Federation consisting of States and Federal Capital Territory based on the principles of democracy and social justice as guaranteed under chapter 1 thereof;

> AND WHEREAS almost one hundred percent (100%) of the people of Sokoto State are Muslims and are desirous of being governed by *sharia* law;
>
> AND WHEREAS by the provisions of S. 38 (1) of the Constitution every person is entitled to freedom of thought, conscience and religion amongst other fundamental human rights enshrined under Chapter IV of the Constitution. (in Ostien 2007: 9)

Despite emphasizing Article 38 (freedom of religion) over Article 10 (nonestablishment) in their constitutional theory, Nigerian *sharia* proponents were careful to acknowledge the primacy of the constitution over state laws (Suberu 2009: 553). Yerima agreed that *sharia* legislation would have to comply with the constitution, and, where there were conflicts, legislators accepted the constitution's authority (Ostien 2002: 166–167). State legislatures are empowered to enact laws governing criminal law and court procedure in Nigeria and to create courts or to amend the jurisdiction of existing courts (including *sharia* courts with jurisdiction in civil cases) and have nearly complete constitutional authority to regulate personal, family, and marriage law. Scholars of Nigerian constitutional law have generally accepted *sharia* implementation as legal with some statutory exceptions, although legal challenges to *sharia* are meeting with some success in state and federal courts (Ostien and Dekker 2010).

Sharia advocates defended their position that *sharia* was a right for Muslims by evoking *sharia's* potential for transforming the moral character of Nigerian society. As Yerima argued in November 1999, *sharia* was necessary because "past leaders in [Nigeria] failed to bring about the much-needed social and economic development due to our refusal to rely on the divine injunctions and apply them accordingly" (Yerima 1999). Yerima explicitly linked the idea of a "right" to *sharia* with its power to eliminate the moral corruption that many Nigerians (Muslims and Christians) identify as the root cause of their nation's political and economic instability:

> It is therefore surprising . . . that those who have taken it upon themselves to oppose our legitimate and constitutional rights have limited their interpretations of our actions to the amputation of the hand of a thief and other punishment for capital offences, as if they are legitimizing such social vices. (Yerima 1999)

Yerima is speaking in response to the rights claims of domestic and international opponents of *sharia* ("those") who argue that the content of Islamic law inherently violates the rights of women, criminals, and non-Muslims. Within the *sharia* debate, this response takes two forms. The first is to recast policies and laws typically seen as nonrights issues or rights violations as rights themselves. In 2000, Muslim women in Kano protested Governor Raibu Kwankwaso's "nonchalance" in implementing *sharia* because, without state intervention to help women find marriage partners, they were being denied their human rights ("Sharia: Women Protest KNSG's 'Nonchalance'" 2000). These women positioned political demands made on behalf of Muslims (here, policy intervention to provide dowries to unmarried women in order to attract suitors) as rights issues—particularly, the right to a spouse within a cultural context in which marriage is expensive to transact.

In the second form, the invocation of rights language is intended to criticize the use of rights arguments by *sharia* opponents and to wrestle definitional agency away from "Western" rights advocates. Ibrahim Shekarau, governor of Kano State from 2003 to 2011,

took this position in an editorial titled "Shari'a, Nigeria, and the West: Issues on Human Rights":

> Globalization . . . reflects the spread of global norms and values on matters pertaining to democracy, environment [*sic*] and human rights. The attempt by Kano and some other states in northern Nigeria to extend the application of shari'a to criminal spheres is wrongly interpreted to go against this new global order. Islam possesses internal mechanism [*sic*] that would make it adopt [*sic*] to changing circumstances. (Shekarau 2004: 14)

If *sharia* punishments seem out of step with human rights values, he continues, it is because critics are not aware of how *sharia* provisions apply:

> The punishment that it [*sharia*] provides for criminal offences and which the West and many human rights groups term as harsh and degrading to humanity could be seen from the viewpoint of deterrence. For example the proof required to convict the offence of adultery is, to say the least, unattainable. Similarly the conditions to be satisfied to administer the punishment of amputation in the case of theft are indeed difficult to prove. After all, the prophet Muhammad (PBUH) has demonstrated the degree of precautionary measures that one would take before a penalty could be invoked. (Shekarau 2004: 14)

Nigerian *sharia* activists repeatedly stressed their frustration with the international community's focus on the corporal punishment aspects of Islamic law, emphasizing instead the significance of community "rights" to security and social justice. The most controversial application of this logic centered on the aspect of *sharia* that also drew the most Western criticism: the prosecution of unmarried women for consensual and nonconsensual sexual encounters. The most controversial cases were the *zina*[3] prosecutions of three women—Bariya Magazu, Aminal Lawal, and Safiyatu Hussaini Tungur Tudu—who became pregnant out of wedlock and were sentenced to flogging (Magazu) or stoning (Lawal, Hussaini). The cases are discussed in detail elsewhere (Howard-Hassman 2004), but few scholars have looked critically at the use of rights language by *sharia* activists to defend the prosecution of sexual crimes.[4]

In the southern press, coverage of the Lawal and Hussaini cases featured stories about international human rights groups condemning the effects of *sharia* (Anaba 2002). In the northern press, pro-*sharia* religious leaders like the prominent cleric Sheikh Jafar Adam argued that the greater tragedy was the violation of the rights of Muslims around the world ("Sultan, Emirs Want Peace, Security" 2000; "Human Rights Group Flayed" 2002). The "Movement for Protection of People's Rights," an obscure group organized to counter Western criticism of *sharia*, injected itself into the debate in early 2001, arguing that Bariya had a "right" to be publically flogged. Following a (dubiously reported) claim to have interviewed Bariya while she was in custody, the group claimed that her (supposed) acceptance of the *sharia* court's sentence indicated that she was exercising her right to live under *sharia* whatever the consequences (Abdul 2001). As Attorney-General Bola Ige claimed in March 2001, the problem for opponents of *sharia* was that there were seemingly no Muslims, not even those who had suffered corporal punishment at the hands of the *sharia* courts, who viewed their rights has having been violated:

> Up till today, in spite of the fact that Bariya Magazu, that is the girl who was given a hundred strokes of the cane . . . I have received about 10,000 protests from within and outside Nigeria but the girl herself has not complained that her rights have been violated. . .the truth of the matter is if somebody willingly submits himself to the jurisdiction and says at the end of it Allahu Akbar, God is Great, how does the Attorney-General of the Federation go to court and say "you have violated the man's rights?" . . .The people about whom you are complaining have not complained, and I said I am waiting for someone whose rights have been violated to come and complain and then see whether I will not do anything. . . [N]ot one Moslem [*sic*] has gone to court to say his rights have been violated and no Christian has complained that he has been taken to the *sharia* court. (quoted in Uwujaren and Ebelo 2001)

The prosecutions of Bariya, Safiyatu, and Amina were not defended by all Muslim activists. Several prominent newspaper columnists spoke out against discrimination against the female defendants and specifically against the separate evidentiary standards applied to the accused fathers, who were either not charged or acquitted. *Sharia* advocates disappointed with the outcomes of the initial trials emphasized the protections of "due process" rights under *sharia*, critiquing the often questionable legal judgments made in the lower courts (Al-Bishak 2002) but defended the court's adherence to procedure and rules—including the appeals process that eventually freed Safiyatu and Amina (Ali 2002). In the wake of the negative international attention drawn by the *zina* prosecutions, state governors and appeals courts quietly avoided enforcing the capital and corporal punishments sometimes handed down by lower courts, rejecting the more strident interpretations of initial *sharia* proponents. These officials used a sort of rights language themselves, arguing that, as the underlying social conditions (of economic and social opportunity and equality) had not yet been met, it was inappropriate to apply the harshest sentences to the (mostly poor) offenders (Human Rights Watch 2004: 39).

Some *sharia* proponents argued that the occasional amputation or other harsh punishment was a reasonable price to pay to restore other rights (to safety and security). These punishments were also seen as preferable to the solution adopted in some southern Nigerian communities, where vigilantism had become a widespread alternative to state policing, or to a reliance on human rights NGOs. As Muktar Ibrahim Bature, an engineer from Kaduna, put it in his letter to the editor of the *New Nigerian* (responding to critics of Zamfara's first amputation):

> If amputating Bello Jangedi's right arm for stealing a cow (which is well over 10,000 Naira) after the due process of law and 30 days' grace for appeal is seen by people as "brutal," "barbaric," "uncivilized," and "a violation of human right [*sic*]," I wonder what words could be used to describe the practice in the Southwest, where a thief for stealing just a mere yam tuber (which might not be [worth] up to 100 Naira) is set ablaze without trial.. . .With the introduction of *Shari'a* in Zamfara, a single sentence of a 50,000 Naira fine against a man alleged for [*sic*] beating his wife is just enough to serve as a deterrent, and brings back sanity to over two million people of Zamfara. This is a typical case of womens [*sic*] rights protection, not Naira siphoning programs like the WRAPA [Women's Rights Advancement and Protection Alternative, a prominent Nigerian NGO led by Muslim women]. (Bature 2000: 6)

Sharia supporters argued that Christians residing in northern states would not be subject to *sharia*, and that they would not have their own religious rights violated. Paradoxically, this occasionally led to claims by Muslim activists that *sharia* was both a "strictly religious" matter, yet also a constitutionally protected right upon which the (secular) state must act. When confronted with the prospect that *sharia*-inspired laws would necessarily restrict the ability of Christians to participate in certain kinds of activities (drinking and gambling, for example), most activists were blunt—the violation of a person's "right" to alcohol was less important than the community's "right" to human dignity ("*Sharia* and the Constitution" 1999).

Rejecting Rights Talk: Domesticating International Rights Treaties

As in other Sahelian countries, Nigerian Islamists have mobilized selectively against reform projects tied to international human rights discourse. Muslim-majority states, even those as theocratic as Iran (whose parliament ratified CEDAW in 2003 only to see their vote overturned by the Council of Guardians) and Saudi Arabia (which ratified CEDAW with reservations in 2000), have generally recognized the basic legitimacy and authority of human rights norms emerging from the international community (Mayer 2008: 15). This is also true in Nigeria, where religious opposition emerged not around the treaties themselves but around the "domestication" of their provisions in federal legislation. While Muslim critics of federal human, women's, and children's rights legislation have indeed made occasional use of rights language in their efforts to defeat these proposals, they have typically adopted stances more commonly associated with Islamic critiques of "foreign" or "Western" rights. They do sometimes claim to be defending the "rights" of Muslims—for example, to polygamy or to child brides—but their use of rights talk is not intended to defend the "isolated rights-bearer" entitled to protection from a state that would forbid them from freely practicing their religion. Rather, it asserts the collective entitlement of a community to establish their own rules for conduct.

The 2003 Child Rights Act (CRA), passed over Islamist objection more than a decade after Nigeria ratified the UN Convention on the Rights of the Child and almost two decades after it ratified CEDAW (in 1986), was a key area of conflict in the wake of the *sharia* debate. Many of the CRA's provisions—in particular, the limitation against marriage for children under 18 (the age of consent in most Muslim-majority states was 13)—clashed with popular interpretations of *sharia* or specific *sharia* provisions. At the time, *sharia* implementation was (and in many ways, remains) in flux, and key issues that were relevant to the CRA—the age of criminal responsibility, for example, varied across jurisdictions—remained unresolved. Because many aspects of Islamic family and personal status law remain uncodified in northern states, opponents of legislation like the CRA are able to mobilize their constituencies around the uncertain consequences of reform, highlighting worst-case scenarios for Islamic legal independence and downplaying areas in which few Muslims would be affected. None of the current *sharia* states have passed legislation to bring their own laws into compliance with the CRA.

But how did the Islamist opposition mobilize against the CRA? While supporters relied almost entirely on a language of rights, Islamic opponents used a discourse of privacy and the private sphere to argue, paradoxically, that family and personal relations (key areas for *sharia*-inspired state regulations) are private and should not be subject to state meddling, and that concern with child rights obscures the broader moral decay that threatens Nigerian society. These arguments are present in a 2010 editorial in the *Daily Trust* (a northern-oriented newspaper) by Sheikh Sanusi Rayyan, arguing against state action to adopt CRA

provisions in Muslim areas. He argues that not only do the provisions of the CRA with respect to child marriage not reflect the culture and economic realities of rural villages but that such legislation is hypocritical—targeting Muslims acting according to the tenets of their faith, without criticizing the depraved behavior of southerners who allow rights violations to go on under their noses:

> In Nigeria today there are so many cases of moral depravity or immorality where children under 13 years are illegally molested sexually through rape, deliberate abduction or held as sex hostages by highly regarded people in the society. Some of these people are even under prescription of their devil agents to use only the so-called minors for their power, influence and wealth.. . .Is the age of marriage sincerely an issue in this country?
>
> The Child Rights Act does not reflect the reality of Nigeria socially and economically. . .Rather, it only serves the interest of a few elites and women activists in the metropolis and capitals who can afford to educate their children to obtain whatever certificate that is available at whatever age, find suitors for them in the age of spinsterhood and then marry them off. Everybody must therefore be subjected to these prohibitive elite preferences? What a justice! (Rayyan 2010)

This language deflects debate away from questions of rights and towards questions of morality and class (note Rayyan's argument that it is only wealthy elites who will be able to ensure their girl children have access to viable suitors once they have reached the "age of spinsterhood") around which Muslim and Christian activists are more likely to find areas of agreement. Religious organizations in both communities have rallied around restricting women's rights through the distrust of international actors, who they accuse of trying to level relations between men and women (in marriage, for instance) in contravention of conservative public values (Adamu and Para-Mallam 2012: 809), or in favor of reforms intended to address social problems without providing additional legal protections to women and children. Toyo (2006: 1305) highlighted the efforts of CRA opponents to decouple social reforms incorporated into its framework (the expansion of access to education for girls, for example) from the rights framework of the CRA legislation. By rallying supporters around an alternative bill to eliminate school and examination fees, opponents of the CRA in Bauchi State were able to short-circuit local debate over broader rights guarantees that might come into conflict with *sharia*.

Muslim activists muster support for federal morality legislation when it serves to "domesticate" religiously inspired values and skirts rights language that might challenge the role of public religion. A 2009 (since-defeated) bill on "Public Nudity, Sexual Intimidation and Other Related Matters" proposed, in effect, to mandate hemlines for Nigerian women as a means of stemming what its sponsors identified as a growing national deficiency in public morality. The bill also defined skimpy dressing as "sexual intimidation," which seemed to allow men to argue that a woman's dress "sexually seduced" him into rape (Pereira and Ibrahim 2010: 933). While in this case, supporters of the bill spoke specifically in terms of limiting constitutionally mandated rights in the interest of "public safety" and "public morality" (a move allowed under section 45[1]a of the 1999 constitution), the bill elicited support from both Muslim and Christian conservative factions, whose causal evaluations of Nigeria's political and economic problems both center on public morality (Pereira and Ibrahim 2010: 934). Similar justifications were offered for the 2011 bill prohibiting privately

contracted gay marriages and public displays of affection by gay couples, which received the support of a broad multireligious coalition.

An exception to the avoidance of rights language by Muslim CRA and CEDAW opponents occurred during the controversy surrounding (now federal senator) Yerima's reputed marriage to a 13-year-old Egyptian girl in 2010. Such a marriage is illegal under Nigerian federal law, but Zamfara has not brought its laws into compliance with the CRA or its provisions. Despite a public outcry when the marriage became public, Yerima asserted that not only was his marriage a matter of constitutionally protected religious freedom (citing Article 1, Section 61, which he interpreted as prohibiting federal regulation of marriages contracted under Islamic civil law) but also legal under state law (Agande 2010). Following challenges by women's rights groups and the National Human Rights Commission, Yerima was called in for questioning by the National Agency for the Prohibition of Traffic in Persons (NATIP), who recommended that he be prosecuted. In Yerima's defense, the trustees of one of Nigeria's largest Muslim political organizations, the Supreme Council for *sharia* in Nigeria, filed suit in federal court, arguing that these investigations violated Yerima's rights to privacy and to the practice of his religion. The status of the suit remains unclear, but the investigation appears to be dead as of 2012. The success of these tactics suggests that Islamic activists in Nigeria deploy rights language in increasingly confrontational ways to deflect criticism or legal challenges against Muslim elites.

Rights Language and Muslim Women's Rights Activism in Northern Nigeria

The claims of northern Nigerian Muslim women's rights organizations, which are generally strong proponents of domesticating international human and women's rights treaties, further complicate the Islamic "rights" narrative around the *sharia* issue. No prominent local Muslim women's organizations reject the *sharia* or deny the possibility that "*sharia*-compliant" practices might (with varying degrees of adaptation to bring them into accord with international rights norms) defend the rights of Muslim women in some ideal sense. They arrive at substantially different conclusions, however, about the prospect for crafting a *sharia* system that does not violate the rights of women in contemporary Nigeria.

Muslim women's rights groups in Nigeria emphasize the need to communicate about *sharia's* negative effects within a "Muslim discourse." While they (often) recognize universal human rights norms and wish to hold Islamist political movements accountable to the constitution, they also recognize that simply opposing the Islamicization of law is unlikely to be effective. They take *sharia* seriously as factor in shaping how women's rights will be protected (and they have urged international NGOs to do so, as well).[5] But in their struggle to balance the language of rights with the desire to couch their advocacy in terms that resonate with Muslim communities, Muslim women's rights activists face a different set of strategic problems than their secular counterparts. Organizations like Women's Aid Collective (WACOL), which does not position itself as a "Muslim" organization but which does appeal to *sharia* provisions that might advance women's rights in its advocacy, found it challenging to walk the fine line between appealing to domestic (and Islamic) and international collaborators. WACOL has deemphasized the use of the terms "equal" and "equality" when discussing Islamic protections for women's inheritance rights, while convincing their international supporters that such compromises are a necessity of working within Muslim communities (Ezeilo 2006: 41). Organizations with explicitly "Muslim" identities face a "double-edged sword," needing to criticize popular *sharia* implementation practices without sacrificing their religious legitimacy (Adamu 1999). These organizations' proposals often end up as unacceptable to potential supporters on both sides.

One of the most prominent Muslim women's organizations in northern Nigeria is BAOBAB, who identify strongly with international human rights norms and have been critical of *sharia* policies as violations of women's constitutional and human rights (Imam 2004; Imam et al. 2005). For BAOBAB, the problem with Nigerian *sharia* is that it codifies gender inequalities and local prejudices embedded in northern Nigerian culture (but not, they argue, inherent in Islam) into law. Ayesha Imam, BAOBAB's founding director, argues that *sharia* laws as they are implemented by states are "social construct[s]," and, that by fostering greater awareness of international rights discourse, Muslim women can combat the "fiction that there is only one unchangeable, uncriticisable system of Muslim laws," and that these laws are incompatible with international rights norms (Imam 2003; BAOBAB 2003: 3).

BAOBAB's 2003 statement on *sharia* argues that systematic misogyny in *sharia's* interpretation, application, and implementation exacerbates the fundamental problems—physical and economic uncertainty—faced by Muslim women. The problem is that that *sharia*-inspired laws in Nigeria either overtly target or are disproportionally applied against women, with social welfare programs targeting unmarried women as "prostitutes," *hisbah* groups attacking women out in public spaces (often as a result of economic need) who do not wear the *hijab* and judges making decisions that favor men over women, using their own interpretations of correct procedures as their justifications, and ignoring rules that might favor women on trial:

> Judges' notions of what is proper behaviour and overarching attitudes towards gender relations colour the way in which they receive and treat pleas from women as opposed to those from men. For example if *sharia* court judges (who have been so far all male) believe in men's right to marry young girls and or have themselves chosen their daughters' husbands, they are unlikely to be sympathetic to a young girl's rights or her misery in a forced marriage. (BAOBAB 2003: 9)

BAOBAB's leverage on northern religious and political elites is limited by the public perception that they are "anti-*sharia*." Despite her careful engagement with questions of Islamic jurisprudence and her clear public identification as a Muslim, Imam's activism has regularly been labeled as such by the Nigerian press. In 2002, following her selection as the John Humphrey Freedom Award winner by the International Centre for Human Rights and Democratic Development, Imam felt compelled to write a letter to the editors of *This Day*, protesting that, despite their headline ("Woman Wins Award for Anti-*sharia* Campaign, Gets $25,000"), she was a defender of *sharia*, exercising her "duty. . .to ensure that laws which claim to be based on Islam do not violate women's rights" as a result of their adulteration with personal and cultural gender biases (Edomaruse 2002). Imam's efforts to craft "a strategy that is neither wholly secular nor completely circumscribed by religious discourses" (Imam 2004: 133) succeeded in drawing domestic and international attention to discrimination against women under current *sharia* practices but have had a more limited influence on northern policymakers.

While BAOBAB seems to claim that *sharia* is not workable in Nigerian society as a result of this entrenched gender bias, other prominent Muslim women's activists argue that practical reforms could eliminate the existing biases in *sharia* application and could protect the "Muslim" rights of women. Fatima Adamu, a feminist scholar at Usmanu Danfodiyo University, follows BAOBAB in identifying a persistent male bias in the application and administration of *sharia*, and her work emphasizes aspects of *sharia* that might be used

to address persistent inequalities between men and women. She differs in that her work accepts many of the moral goals of *sharia* implementation—for instance, the right of a woman to seek work outside the home is tempered by the fact that she must maintain a "distinct appearance of modesty and dignity" in doing so (Sada, Amadu, and Ahmad 2005: 15–24). A woman's right to economic independence exists so that women may "safeguard [their] honor and moral integrity" (Sada, Amadu, and Ahmad 2005: 15–24).

Adamu and her collaborators on a British Council-sponsored project entitled "Promoting Women's Rights Through *Sharia* in Northern Nigeria" (Sada, Amadu, and Ahmad 2005) argue that if *sharia* can be properly implemented, it will protect the religious "rights" of women by providing them with greater security (in their person, in their marriage, economically, and in access to the political process) and better access to justice. But while Adamu and her coauthors apply the language of women's "rights"—to financial and emotional support in marriage, postdivorce support and custody, inheritance, education, and to the judicial system—these rights are not universal but brought into existence by Islamic law and doctrine. The report makes limited reference to constitutional rights protections or to international human rights treaties like CEDAW, both major touchstones for BAOBAB (Bunting 2011: 154), preferring the language of Islamic jurisprudence—identifying preferred policy outcomes as "meritorious" in religious terms.

This particular line of criticism has been the most successful in achieving meaningful reform in *sharia* practice. WRAPA's Islamic Family Law Project sought to make its case that discrimination against women within the existing *sharia* institutions stemmed from "ignorance [of Islamic doctrine] and indigenous traditional and cultural practices" directly to religious leaders, judges, and legal practitioners, highlighting perceived conflicts between key Islamic texts and *sharia* practices in individual states (WRAPA 2006: 3). WRAPA and the Centre for Human Rights in Islam-Kano (CHRIK) have designed educational radio programming and newspaper columns to encourage women to make use of the court system to demand their "rights" under Islam and to use religious claims to challenge judges, family members, and other social pressures that discourage women from pursuing cases or appeals over issues like land ownership, inheritance, and child custody. While specific data are hard to come by, reliable sources suggest that women are bringing and winning more cases to *sharia* courts now than in the early 2000s.[6]

Federation of Muslim Women Association of Nigeria (FOMWAN) (an explicitly Islamist organization, created in 1985 to "propagate Islam, educate Muslim women and ensure that they live according to the Quran and Sunnah"; Yusuf 2002a) is the mainstream Islamic women's organization least grounded in international rights norms. FOMWAN's critique of *sharia's* application takes umbrage not with the goal of Islamicizing the Nigerian legal system but with the strategies pursued by the male political leadership. As with Adamu, the public statements of FOMWAN and its leadership identify rights "in Islam" ("women in Islam have the right to own property") rather than in universal terms (Yusuf 2005: 7). FOMWAN's critique of *sharia* does not focus explicitly on rights violations but on the lack of state action through *sharia* to promote social justice and development as women's rights. They complain that *sharia* policies have emphasized superficial social transformations—as in Zamfara, where governmental orders for men to grow beards and school-age boys to wear turbans were (at least briefly) put into place—instead of those that would empower Muslim women, such as female education and access to healthcare (Yusuf 2002b).

Bilkisu Yusuf, a former editor of the *New Nigerian* and FOMWAN's major leadership figure, has been vocal in her defense of women's rights to political and social voice and visibility, taking stands against male religious leaders who accuse them of adopting

"secular" or "feminist" discourses and political stances—most notably Abubakar Abdul Gada, who claimed in 2001 that FOMWAN's members were a "congregation of women who are beyond the control of their husbands" (cited in McGarvey 2009: 178–179). Yusuf's response to this criticism was to evoke the language of rights in a way nearly identical to that used by *sharia* advocates more generally. Yusuf argued that as a result of the ignorance of the male Islamic leadership, "Muslims are having [during the *sharia* implementation era] a particularly difficult time accessing their constitutional right to live according to the tenets of their religion"—in particular, the right to Islamic education (Yusuf 2002a). FOMWAN has also advocated that women, even those in seclusion (*purdah*) demand their rights from their husbands and families to register and vote.

Despite attacks from conservative clerics, FOMWAN's adoption of a "religious rights" narrative makes their advocacy complimentary to rather than critical of most *sharia* implementation projects. Adamu herself has argued that FOMWAN's investment in reform policies and "religious rights" (such as access to female education) already sanctioned by the Muslim male elite (an issue promoted by, among others, several recent Sultans of Sokoto) limits their ability to offer a more substantive critique of current doctrinal practices (Adamu et al. 2010: 52–53; Para-Mallam et al. 2011: 43–45). FOMWAN's advocacy of CEDAW domestication has focused on reinterpreting international rights discourse into religious terms and grounding the defense of those rights in religious principles to the exclusion of universal rights discourse. When Yusuf argues that there is "nothing new to me as a Muslim woman" in CEDAW (quoted in Para-Mallam 2011: 43), the implication is that CEDAW domestication, while a valuable means of protecting some religious rights for women, is not itself integral to an Islamic rights agenda.

Sharia and the Politics of Rights in Nigeria

It is not my place to determine the ultimate goals of *sharia* proponents in Nigeria or to determine what constitutes a "legitimate" rights claim in Nigerian political debates. But the question remains: Does this "practical adoption of human rights discourse" in Nigeria "translat[e] into a conceptual rethinking of the relationship between Islam and human rights" that brings *sharia* practice more into line with international rights norms (Akbarzadeh and MacQueen 2008: 7)? There has indeed been a conceptual rethinking, but not in the direction anticipated or hoped for by international rights activists. *Sharia* activists in Nigeria have generally succeeded in using the language of rights to enact a set of policies that damage gender equality and offer few rights protections for vulnerable members of *society*, although as suggested above, rights advocates have succeeded in mitigating some of the worst effects. But it is also the case that the success of *sharia* activists is unthinkable outside the context of Nigeria's imperfect and uncertain democracy. The claims and arguments made by *sharia* supporters emerged from public debates about how to reconcile Nigeria's pluralism with democracy, and we must reckon with them not as rejections but as products of these debates.

The reality of *sharia* in present-day Nigeria is that no one is satisfied with it. The current Islamic law system is often dismissed by human rights advocates and *sharia* activists alike as "political *sharia*," a ploy by Muslim elites to advance their narrow interests. Yet, these accusations of "political *sharia*" suggest two very different readings of what the "real" motives behind the *sharia* movement are. For international and non-Muslim critics, *sharia* was political because it used "rights talk" disingenuously, concealing the movement's true goal—the creation of an Islamic state in Nigeria (Nmehielle 2004: 745–746). But many *sharia* supporters phrased their accusation differently. Among most Nigerian citizens—the

majority of whom support democracy—expanding Islamic law remains popular. They saw *sharia* implementation as suspect because it was *incomplete*, because politicians in the North had no intention of truly reforming society along Islamic lines in order to ensure social justice, development, and the rule of law. Instead, they hoped to attract enough support to entrench themselves in lucrative positions before abandoning religious commitments that might, if fully realized, serve as indictments of their own corruption (Kendhammer in press). Similar suspicions have contributed to the declining interest in government-led *sharia* projects in nations like Indonesia.

Demands for *sharia* in Nigeria are explicitly political claims in a larger debate about the relationship between group and individual rights in Nigerian constitutionalism. The constitutional reforms undertaken in the 1970s (the "federal character" principle in particular), have sharpened the political calculus for Muslim activists who choose rights "talk" from among a menu of possible discursive options for promoting public Islam. Muslim organizations (and their Christian analogues) channeled religious claims into formal politics, responding to political incentives by adapting their religious message to more closely parallel the emerging language of "rights" to ethnic and religious representation. By focusing on the language of constitutional rights to make distributive demands (in this case, not state resources like Nigeria's oil revenue, but rather the political space necessary to administer a controversial legal system), Muslim activists expanded the government's role in administering Islam.

Unlike most Muslim-majority nations (but like most West African countries), Nigeria does not have an explicitly Islamist national political party, and Islamist groups are rarely direct participants in the electoral process (Bleck and Patel n.d.). In fact, its constitution requires that parties be open to members irrespective of creed and banning religious symbols from official party materials. This has not, of course, prevented parties and candidates from using religious language or symbolism during their campaigns or from framing their agendas in religious terms (Miles 1988). It has, however, meant that political parties must balance Muslim and Christian interests. This helps us to understand why *sharia* advocates in Nigeria have so often made their case in terms of constitutional rights to religious freedom and recognition, even as most Islamists reject the language of rights when confronting treaties grounded in international rights norms. It also helps us to understand why politicians, rather than religious elites (many of whom were caught flat-footed by Yerima's proposal), took the leading role in advancing *sharia* at the outset of the Fourth Republic. While the Islamist community subsequently became an active participant in defining and implementing *sharia*, its origins as a political project in the hands of Muslim politicians like Yerima and Shekarau (who belong to ostensibly secular, multireligious political parties) has influenced the discursive choices of *sharia* activists. Rotimi Suberu, a leading expert on Nigerian politics, argues that these dynamics have contributed to what he sees as the moderation of the *sharia* movement. Despite their opponents' assertion that their intent is to create an Islamic state, *sharia* activists in government have consistently reiterated that *sharia* cannot be applied where the constitution does not permit it, such as the criminalization of apostasy (Suberu 2009: 553). This may be cold comfort to international rights activists, but it suggests that political motives, not religious fervor, have driven most *sharia* policies.

This moderation has not, however, brought the rights claims made by *sharia* advocates into greater accord with international discourse. Rather, they categorically reject the notion, proposed by Abdullahi an-Na'im (2008), that the state can and should be religiously neutral in Muslim communities. The position adopted by most *sharia* proponents is that the rights of Muslims can only be protected by an activist state that takes their side, offering explicit

recognition and support for their religious goals. Activists who appeal to a constitutional "right" to expand *sharia* and reform-oriented Muslim feminists who argue that *sharia* is capable of protecting women (as long as the patriarchal practices and institutions are removed or repaired) are both calling on the state to use religion as a means of protecting "rights" that Muslims possess by virtue of religion, not of universal humanity. The rights talk used by Nigerian Muslim activists rejects (or, at least, fails to systematically endorse) the notion of equality under the law as a guiding principle. By speaking (as some did with respect to the *zina* prosecutions) of a "right" to *sharia* justice, it is justice (religiously defined), not "rights," that is central.

The adoption of rights language by mainstream Muslim activists has not opened a substantially larger political space for Muslim feminists to shape the internal debate over *sharia*. One major reason is that most contemporary *sharia* movements are built not on the pluralism of the Islamic legal tradition but on its codification, offering an "official," state-sanctioned version of the law. This strategy limits the discursive space of those who would read Islamic law in terms that align with international rights norms. Muslim feminist perspectives from northern Nigeria have achieved a great deal of international attention as a result of the *sharia* controversy. But in terms of the popular debate, male-dominated pro-*sharia* rights talk has often crowded out the more "feminist" alternatives of FOMWAN and BAOBAB. The recent violence (since 2010) perpetrated by the radical, *salafi*-inspired *Boko Haram* sect (notable for targeting its Muslim opponents) has impaired the efforts of many of the most successful reformers and women's rights advocates, who depend on recruiting allies within Islamic institutions who are willing to endorse re-readings of the *sharia* more favorable to gender equality.[7] Just as local circumstances, practices, and conflicts determine if the actions of individual *sharia* courts will have a net progressive or restrictive effect on the rights of women, so do they influence the effectiveness of Muslim feminist discourse in reinterpreting the *sharia* in line with international rights norms.

Notes

1. Throughout the text, when using the terms "northern" and "southern," I am referring to the informal cultural and political divisions that most Nigerians recognize as existing between the separate territories first amalgamated into a single unit under British rule in 1914. The term "Northern Nigeria" refers to a specific colonial/First Republic political unit that went out of existence in 1967, but which once encompassed both the 12 *sharia* states (sometimes referred to as the "core north"), and the 7 culturally and religiously heterogeneous states now recognized informally as Nigeria's "Middle Belt."
2. See *New Nigerian* ("*Sharia*: True Test of Federalism" 1999: 5). I have not found other examples of this language, but its use does fit within the broader Muslim narrative of constitutionally based "religious rights" in Nigeria.
3. *Zina*, which is usually translated as adultery, also carries the additional meaning of any consensual sex outside marriage. In most schools of *fiqh*, proving *zina* requires four adult witnesses for a conviction. But under a rule of Maliki law (the school of jurisprudence that dominates in Nigeria), a pregnancy out of wedlock is taken to be de facto evidence of *zina*—and all three women were pregnant and unmarried.
4. Gunnar Weimann (2010: 175–178) has identified 18 cases of *zina* brought before *sharia* courts between 2000 and 2004. All the sentences of stoning (five in total) were lifted following acquittal on appeal.
5. On BAOBAB's efforts to stop the international petition drive to stop Amina Lawal's *zina* prosecution, see BAOBAB (n.d.).

6. This claim was made to me by leadership members of several Nigerian human rights organizations involved in monitoring court proceedings and assisting women pursuing court cases. Field Notes, September 28 and October 5, 2012.
7. Field Notes, September 28, 2012.

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