

# WILSON SABIYA A PRE-ZAMFARA HERO

In this chapter you will hear the voice of the late Wilson Sabiya, a pastor of the Lutheran Church of Christ in Nigeria (LCCN), the fruit of the Sudan United Mission, Danish branch, at the time headquartered in Numan, Adamawa State. He was also some-time lecturer at Unijos. Sabiya was a powerful advocate for Christian interests during the days of the first CA of the 1970s.<sup>1</sup>

He practised his strident advocacy and protests in the context of his own denomination, in TEKAN and in CAN. A 1990 issue of *TC* features a report about Sabiya's arrest by the Military Government of erstwhile Gongola State that demonstrates the kind of shenanigans to which the Muslim-dominated Gongola Government exposed Christians but also the hero status Sabiya had won with the people.<sup>2</sup> Toyin Falola had every reason to describe Sabiya as "one of the heroes of the anti-sharia controversy in central Nigeria."<sup>3</sup> I have dedicated Volume 5 to the memory of this fearless Christian writer and activist. It was a great loss to the church and to Nigeria when Sabiya was taken out of circulation by

a long-lasting illness to which he finally succumbed in 2004—humanly speaking, prematurely. The best, we had hoped, was yet to come.

I hereby treat you to three of Sabiya’s papers on sharia and related issues—powerful, pungent, blunt. I thank God for these important contributions that retain their relevance even 30 years later. True, some of the specifics of Sabiya’s papers have been overtaken by events, but the underlying issues of the BZ era such as perceived goals, attitudes and fears, are startlingly similar to those of the AZ days. I definitely could not have said it better or even as well, even though I did edit where the material deviated too far from publishing standards. These lectures were produced on the “ancient” stencil system! As stencils used to go, the wording is not always clear and so I had occasionally to resort to the imagination to determine the intended wording. I believe I have done so responsibly. Without marking them, I have also taken the liberty to italicize some of his statements to ensure you notice them. I am glad to have the opportunity to give these documents wider circulation, something for which Sabiya would have been pleased, I am sure.

Though a reading of the first two papers might result in some people dismissing him as a rabid anti-Muslim crusader, the third paper shows that he grew up in an irenic environment in which Christians and Muslims lived together not only peaceably but intimately. While that was so on his local level, at the regional and national level things were already moving in a different direction during his childhood. With hindsight, he recognized that even the Sardauna, revered by many Christians, was already putting the screws on to prepare for battle. It was, to the best of my knowledge, to be Sabiya’s last publication and, thus, his final word to us.

Readers of earlier volumes and earlier chapters in this volume will recognize the many issues discussed in these papers as familiar.

I encourage you to draw from your earlier readings in order to enrich your appreciation of Sabiya's texts. When he generalizes, you should be able to fill in the details from those other volumes and chapters.

Earlier in this volume I indicated that I did not select papers on basis of my agreement with them, but, rather, on their representative nature. There is at least one important aspect of Sabiya's contributions I disagree with. I detect a strong residue of the dualism that comes with traditional Lutheran two-kingdom theology. As a Reformed theologian I cannot swallow that. That difference became almost immediately clear when we first met in 1977. Very soon into the discussion he stopped dead in his tracks to ask, "Are you of Reformed background?" Yes, I was and am. Not many Nigerians would have caught onto this at the time. Sabiya's noticing it showed an awareness well beyond that of the average seminary graduate. Readers of my Volume 5 know that I am especially enamoured with the Reformed emphasis on wholism, and especially displeased with the dualism that would separate religion and culture, two related points where the two traditions happen to deviate sharply from each other.

Another, though related, issue on which I disagree with Sabiya is his use of secularism and its derivatives. I have devoted the entire Volume 5 to that subject and thus will not repeat my objections to it. But I do serve you notice that I dislike his use of it. For one, it leads to *confusion* in the minds of both Christians and Muslims. Secondly, it represents a *residue of the dualism* I mention in the previous paragraph that carries in its wake an anti-Christian tradition that robs Christians of full enjoyment of the Christian faith. It also *trivializes* Christianity and thus plays into the hands of Muslims who ridicule Christians because of the narrow channel in which they have poured their faith. These also happen to be central points throughout this series. I am glad to acknowledge that Sabiya has largely overcome these features of his tradition, but there are occasional signs of

their residue. While I am happy to share with you these Sabiya papers, when I run into these residues my stomach churns a bit.

I am proud to (re-)introduce my warrior brother Wilson Sabiya to succeeding generations as well as to the international community. In the meantime, may he rest in perfect peace—and smile in the knowledge that his work is hereby given wider circulation not only but also continues to contribute to the unresolved crisis.

## ▲ DOCUMENT 1

---

THE DRAFT CONSTITUTION:

THE RELIGIOUS PROVISIONS PROVIDE A STATE RELIGION AND DENY NON-MUSLIMS HIGH EXECUTIVE OFFICES<sup>4</sup>

Nigeria is a country that has experienced terrible blood sacrifices for her unity. The grief and agony of those sacrifices are still with us. We therefore do not need any more blood sacrifices. One thing is certain, *there is no alternative to Nigerian unity. Nothing can replace the unity of this country.*

In this article we intend to plead with Nigerian leaders and citizens that we do not need religious bloodshed to seal the unity we so much need. *It is our contention that the religious provisions in the Draft Constitution are nothing but a time bomb to drench and flood this country with blood. The provision is nothing short of a declaration of cold war or Jihad versus Crusade.* Certainly we would all agree we must at all costs avoid *jihad* versus *crusade*.

Muslims enjoy many privileges. These take the form of appointments to executive posts in almost all the ten Northern States.<sup>5</sup> Then there are the Federal appointments from Northern States and the amenities provided Muslims to enable them to fulfill their religious obligations. This stands in stark contrast to the treatment of Christians who are by-passed in terms of appointment and who have their institutions that were established to serve everybody regardless of their religious beliefs, confiscated. *All of*

*this amounts to declaring the Northern states Islamic states. Christianity is simply regarded as not wanted in the Northern states. But when a Government is given the constitutional right and obligation to enhance and promote one religion at the expense of others, religious war is inevitable. We are strongly convinced that if we are to avoid the catastrophe, we have to discuss the issues objectively, interpret each other honestly and truthfully, and do everything out of God-fearing love for the unity and the survival of our beloved country.*<sup>6</sup>

We intend to do just that in this article. We are going to discuss the Sharia Court and the Islamic law provisions in this article. We believe the provisions regarding Islam have declared this country an Islamic state and have reserved the high executive offices at federal and state levels for Muslims only. This we intend to prove.

#### CHRISTIANITY AND THE NATIONAL LIFE

Before we discuss the issue, we need to clear some wrong impressions and misconceptions created in recent publications, notably in the *NN*. We do not have to discredit and misinterpret religions other than the one we profess to make our case. To misinterpret and discredit other religions is merely to arouse emotions and explosive sentiments in the adherents of that religion. This could easily lead to bloodshed. However in discussing religions other than our own we can help the adherents of such religions to see how others understand their religion. Our discussions must be conducted with concern for the stability, unity and faith, peace and progress of our beloved country.

Thus we view with disgust and total apprehension the way in which Ibrahim Sulaiman interpreted Christianity in the *NN* of July 15 and 22, 1977. First, *Malam Sulaiman was wrong to say that, "The controversy over the relevance of the sharia mainly centres on the meaning attached to religion."* It is very unfortunate to advance such a claim. Nobody is questioning the *relevance* of the

sharia to a Muslim, and, we repeat, to a *Muslim*. Nor is anybody questioning the meaning a Muslim attaches to religion. The issue, put bluntly, is the *declaration of Islam as state religion to be enforced, propagated and maintained by the state* at the expense of non-Muslim taxpayers.<sup>7</sup>

It is in this light that we understand the actions taken by some state governments. These actions include the systematic confiscation of church institutions, the inauguration of Pilgrims Welfare Boards and the appointments of Grand *Khadis*. Then there is the establishment of only Islamic institutions in some of our universities, the appointment of only Islamic teachers in many of our primary and post-primary institutions, all paid and maintained by the state at the expense of non-Muslims. As Ibrahim Sulaiman put it, “Anything outside Islam is superfluous and irrelevant.” But the most mischievous, spiteful and insulting is Suleiman’s claim that “The Christian idea of religion is that it is a private affair between man and what he worships, and that it has nothing to do with public life. Life according to Christianity,” he claims, “is separate from the state; Caesar, from God; religion, from politics.”<sup>8</sup>

It is obvious—and we pitifully sympathise with Sulaiman—that he does not know any better. Jesus came that we may have life and have it more abundantly. Jesus declared “I am the Truth, the Way and the Life.” If this is not the total way of life, we want to know what is. When Jesus said “Give to Caesar what is Caesar’s and to God the things of God” (Matthew 21:22), He was referring to a colonial situation. He was answering a question about obedience, not defining the broad concept of the entire Christian life. He did not declare the separation of the secular and the sacred, but the unity of the two in one person. His answer shows the unity of the secular and the religious in an individual Christian.<sup>9</sup>

At that time the Jews were ruled by Romans whom they considered Pagans. The Jews did not feel it right to obey a Pagan government, a government not based on the laws of

Yahweh, the Torah. They came to Jesus with the question in order to obtain a license to disobey the Pagan government. They were disappointed, because Jesus told them that Caesar had authority to demand obedience though representing a colonial government.

The Holy Bible says:

*Everyone must obey the state authorities, because they have been put there by God. Whoever opposes the existing authority opposes what God has ordered; and anyone who does so will bring judgment on himself. For rulers are not to be feared by those who do good, but by those who do evil. Would you like to be unafraid of the man in authority? Then do what is good, and he will praise you, because he is God's servant working for your own good. But if you do evil then be afraid of him, because his power to punish is real. He is God's servant and carries out God's punishment on those who do evil. For this reason you must obey the authorities—not just because of God's punishment, but also as a matter of conscience. That is also why you pay taxes, because the authorities are working for God when they fulfil their duties. Pay then, what you owe them: pay them your personal and property taxes, and show respect and honour for them all (Romans 13:1–7).*

In other words, Christians are asked to regard Christian and non-Christian government leaders as ordained by God. However, obedience to such leaders does not exonerate a Christian from his Christian commitment to God. Here is a practical example. The writer of this paper comes from Gongola State. He is a committed Christian, in fact, an ordained clergyman. The governor (Caesar) of Gongola State, Colonel M.D. Jega, is a committed Muslim, in fact, more committed than some imams we know. We visited Governor Jega at the Government House and twice during our visit he went out to pray, even though we were there less

than two hours. Jesus was referring to a situation where the Governor happens to be a non-Christian. As a Christian I have to accept him as ordained by God to be my Governor. I must obey him. I am enjoined by my faith to obey him “when they fulfil their duties,” because he is God’s ordained Governor for me. The Holy Bible says:

*Remind your people to submit to rulers and authorities, to obey them, and to be ready to do good in every way (Titus 3:1). For the sake of the Lord submit to every human authority: to the Emperor, who is the supreme authority, and to the governors, who have been appointed by him to punish the evildoers and to praise those who do good. For God wants you to silence the ignorant talk of foolish people by the good things you do. Live as free people; do not, however use your freedom to cover up any evil, but live as God’s slaves (1 Peter 2:13–16).*

But my obedience to Governor Jega does not excuse me from fulfilling my commitment to God as a Christian. Thus Ibrahim Sulaiman is ignorant of Christians and his wrong and spiteful understanding of Christianity can only help to inflame, and hasten the doomsday.<sup>10</sup>

Christianity is not just a way of life but also a declaration of war against injustice, oppression and all forms of inhumanity of man to man. Jesus declared that He came “to bring good tidings to the afflicted, to bind up the broken-hearted, to proclaim liberty to the captives and the opening of the prison to those who are bound, to proclaim the year of the Lord’s favour.” He also said: “In the world you have tribulation, but be of good cheer, I have overcome the world.” Where in these statements can you find the idea of the separation of the secular and the sacred? A Christian is the expression of the unity of God’s government through the spiritual institution, the church, and the secular



institution, the government. Christianity is out to teach, heal and reform society. Thus there is no conflict between the secular and the sacred, because both institutions are established by God for the government of the world. "The earth is the Lord's and the fullness thereof," says the Word of God. We as Christians therefore believe that by ordaining government, God has also given us instruments of government, which is the Constitution, with which we are to curb evil and administer justice. *What cannot be mixed is the Church as an institution with government as an institution. For the Christian both government and church are like Father and Mother, each has a specific role for the upbringing of the child under God.*

Sulaiman said, "The sharia is the only law recognised by a Muslim to be binding on him, all other laws being invalid and products of selfishness and human desires." Honestly, may God help us. For such a situation or concept will be possible only in an Islamic state. Is Nigeria an Islamic state? Shall we then construe his claim to mean that a Muslim does not recognize any law other than the sharia and therefore the Nigerian Constitution is "invalid and the product of selfishness?"

#### GOVERNMENT FAVOURS ISLAM

To us the above is the crux of the matter. We want to reiterate strongly here: We do not see anything wrong with the Sharia Court. What we reject is that the government is establishing this new regime at the expense of non-Muslim taxpayers. It may be the job of *Jama'atul Nasril Islam* to set up Sharia Courts, but not the government's. If the government is establishing Islamic institutions and appointing Islamic officials exclusively for Muslims, while at the same time it is confiscating properties and institutions of other religions, then the government has declared itself Islamic and the country an Islamic state. For not only our institutions but even our taxes are being confiscated to run Islamic institutions.

We therefore plead that if the government has become the financial and institutional custodian of Islam, justice demands the same treatment for all religions.

We do not see how a government can be financially and institutionally involved with a particular religion, using public funds, and claim not to have declared that religion the state religion. At the very least, it has accorded that religion the status of the legally established religion. Neither do we see how a government can systematically confiscate institutions belonging to a particular religion and claim not to have declared that religion illegal. At the very least, it has declared that religion a *persona non grata* in the state. If we are going to be honest with ourselves we should admit that, judging from executive appointments—e.g., leading positions such as chairman, commissioner, secretary—and the massive support given to Islamic institutions from public funds, that Islam is the legally established religion to the various governments of Nigeria. We should also admit that, judging by the restrictions on and treatment meted out to Christians by the various governments in the country, Christianity has in effect been declared a *religio non grata*. This is now the fact of life in the country.

Our recommendation is that since Nigeria has declared herself a *secular state*,<sup>11</sup> she has no business establishing, appointing and financing religious institutions to enforce sectarian morals. Each religion, under the provision of freedom of religion, can establish such institutions at their own expense. If the government involves herself, how can she intervene when such institutions use religion to perpetrate injustices? It is a gross injustice to burden a taxpayer with the expense of an institution from which he does not only not benefit but also is inimical to him and spiteful.

It is necessary here to refer to the article by a Special Correspondent in the *NV* of August 12, 1977. His main argument in the first part was that three court systems have been

operating in the country. Correction: in a part of the country. Our argument however is that the court systems have been discriminatory. In the former Northern Region where the so-called three court systems existed, the customary law was defined as “native law and custom,” as was Islamic law. “It is as native law and custom, that Islamic law is enforced in Northern Nigeria more extensively than anywhere else in the world outside the Arabian Peninsula,” declared one writer. The Customary Courts were and are still manned by Muslim Presidents and *Alkalis*. It is in these courts that a Muslim judge judges non-Muslims based on the sharia. Customary Courts in the Northern States are nothing but Sharia Courts in disguise to enforce the sharia on non-Muslims.

In most cases only Islamic Area Courts exist. Thus all non-Muslims are tried by the sharia. The non-Muslims in the northern part of the country have been paying taxes to facilitate their own enslavement to the sharia system. We are saying therefore that it is criminal to make non-Muslims in this country slaves to Islam and be forced to pay tribute for the protection, application, promotion and enforcement of Islam. We have had enough of this crime. We want to be free and we will go to any extent to gain that freedom.

#### THE SHARIA AND RIGHTS OF NON-MUSLIMS

Let us examine the sharia concept of the state and its functions in order to see the real issues at stake. According to the Qur’an, the sharia is a divine law for mankind. Thus the sharia “refuses to recognise the coexistence of non-Muslim communities, except perhaps as subordinate entities.” Is that why Christian hospitals and schools were confiscated and Christians are denied executive positions in government in order to reduce Christian communities to subordinate entities? Thus “broadly speaking, the sharia imposes four kinds of rights and obligations upon every man:”

- (a) the rights of Allah which every man is obliged to fulfil
- (b) his own rights over his own self
- (c) the rights of other people over him
- (d) the rights of those powers and resources which God has placed in his service and has empowered him to use for his benefit.

[Two lines illegible due to poor stencil.]

“We fulfill the needs of these rights by following Allah’s law as contained in the Qur’an and the sharia.” According to *The Eternal Message of Muhammed* by A. Azzam:

*Islam has established certain sacred principles of law for all mankind; therefore, it is not the prerogative of a nation—as a whole or in part, whether in agreement with the Head of State or not, whether represented by a constituent assembly or not—to tamper with the eternal charter of rights and duties (obligations) ordained by God for all men, singly and collectively, in a particular land and throughout the human race. By virtue of this factor the Islamic order is superior to others. It predicates rights and duties, human equality.*

Pages 119–120 of the Draft Constitution provide that “every citizen shall have equality of rights, obligations and opportunities before the law,” but this provision shall not “invalidate the rule of Islamic law.” Therefore Islamic law must predicate national law, because the sharia is a sacred law for all mankind. “Neither the Nation nor the Head of State nor both together can go beyond justice and equity as directed by the sharia, even if it were to be done in the name of national sovereignty and the right of a country to what is called self-determination.” Because it is “related to divine directive, the sovereignty of the sharia may not be repudiated by any individual or collective action or by any other force.” Thus “the right arising from national sovereignty, as conceived by the interpreters of modern democratic constitutions, is qualified by and

subject to the general rights of humanity at large, as determined by Islam.”

Anyone who examines the religious provisions in the Draft Constitution in the light of the above will be appalled. One thing is certain: Non-Muslim members of the Draft Constitution Committee were ignorant of the provision of the sharia. The Islamic Law divides the world into two: *Dar-el-Islam* and *Dar-el-Harb*. The latter is the non-Muslim world. The *Dar-el-Harb* includes the people of the scriptures (Christians, Jews etc.) and idolaters. According to the sharia, the people of the Scriptures (*al-kitab*) may retain their own religion and become subject to a Muslim ruler, provided they agree to pay a special tax (*jizyah*) for the privilege. Thus they come under the status of *dhimmi*.

The *dhimmi* is a pledge of protection which “grants security to individuals or whole communities, (non-Muslims) living in the realm of Islam. The Muslims pledge guardianship and protection in the name of God, of His Prophet, and of the Muslims in exchange for the yearly *jizyah*, the individual poll tax or community tribute.”

The term *dhimmi* then implies second-class citizenship. “Islamic law recognizes only Muslims as persons with full legal capacity. A Muslim is the natural person under Muslim law who enjoys full citizenship rights; all others enjoy varying degrees of rights, depending on the type of relationship they have established with the Muslims.”

The state must of necessity be an Islamic state. This has to be so because “the state is the biggest and most important institution of a society which has accepted to implement Islam, the will of God.”

The government must be Islamic. In such a state, “the condition upon which a *dhimmi* could secure or retain a high post was that he should become a convert to Islam.”<sup>12</sup>

We shall show below that, if the present Draft Constitution is

accepted, no non-Muslim would be qualified to hold such executive posts as the President, the Governor, Chief Justice, Attorney-General, Executive Head of Civil Service, Inspector-General of Police or Commissioners for Local Government and Internal Affairs. In some cases *dhimmis* “were looked on as friends of foreign powers and were worse treated.” Thus Christians were not only denied executive posts in the North but were maltreated because they were friends of the “Pagan south.” These Islamic law provisions are, according to Islam, divine provisions meant for all mankind. Therefore “no nation, King, Head of State, or layman can repudiate human rights and duties on the pretext that the nation is free in the exercise of its full sovereignty.”

One more point to be made. The Qur’an imposes on Muslims the duty of commanding others (non-Muslims) to do the right deed as provided by the sharia and to restrain them from doing wrong as prohibited by the sharia. In Qur’an 9:73 God tells the Prophet: “O Prophet, strive against the unbelievers and the hypocrites. Be harsh with them. Their ultimate abode is hell, a hapless journey’s end.” As far as Islamic law is concerned, “It is the duty of true believers, where they can, to extend the *Dar-el-Islam* (Muslim Kingdom) at the expense of the *Dar-el-Harb* (non-Muslim Kingdom).”

Islamic law thus insists that the sharia is the only valid constitution for any nation. The sharia must be supreme. The Draft Constitution has done just that. No human constitution should supersede the divine constitution. “Islamic law is not a local and traditional law, but it is a divine, written and universal law,” according to Justice Bashir Sambo. The honourable judge quotes the Qur’an: “So judge them by that which Allah hath revealed and follow not their desires, but beware of them lest they seduce thee from some part of that which Allah hath revealed unto thee.” He continues, “The first thing to note carefully with regards to the Islamic religion is that it is a universal religion whose principles are divine.” “If one reads comments by either atheists or those

Nigerians whose religion may be only theoretical, one will see that they regard Islamic religion to be the same as their own concept of what religion is.”

#### MUSLIMS REGARD NIGERIA AN ISLAMIC STATE

We hope we have given a fair idea of the provisions of the Islamic law. Where then does Nigeria stand in the provision of the sharia? Is Nigeria *Dar-el-Islam* or *Dar-el-Harb*? We can only examine the utterances of Muslims to know how they categorize Nigeria. Whatever non-Muslims think is irrelevant and does not count as far as Muslims are concerned.

According to Alhaji Muhammadu Dodo, Grand *Khadi*, Kaduna State: “One surprising thing is the trend which the debate on the Constitution is taking, the way the non-Muslim—about 25 per cent in population—is all out against the existence of the sharia which, he ought to know, is part and parcel of the life of the Muslims who number about 75 per cent in population in this country.”

Dr. Suleiman Kumo agreed: “Since more than 75 per cent of the population of this country are Muslims, the type of legal system to be recommended by the Draft Constitution should reflect the aspiration of the Muslims.”<sup>13</sup> Based on the above then, Nigeria is a *Dar-el-Islam*. Therefore the Constitution should “reflect the aspiration of Muslims.”

Bluntly put, we *must* adopt Islamic constitution and the sharia. It is because of this that Sharia Court judges are appealing for the removal of Section 17, for it is against state religion. This cannot be tolerated, because it is a foregone conclusion that Nigeria is an Islamic state.

One is however surprised at the number-games being played. Some non-Muslims have claimed that, according to the 1963 Census, 45- 47 percent of the population are Muslims; 35-37 percent, Christians; 18 percent, others. When an eminent person like

Dr. Suleiman Kumo claims more than 75 per cent for Muslims, one cannot help smiling. It is a great pity that some would want us to write a constitution based on religious percentages. It is equally a pity that God-fearing people will publicly and shamelessly engage in falsehoods. *The honest truth is that no one knows the religious composition of our population. We are writing a Constitution for the unity, peace and progress of all Nigerians, not for religious groups.*<sup>14</sup> Thus for eminent personalities like Dr. Kumo to claim that Muslims number more than 75 percent is the biggest joke of the year. We never knew Islamic law sanctions a believer to lie.

The late Premier of Northern Nigeria, Ahmadu Bello, has proved beyond doubt that the above claims by Alhaji Dodo and Dr. Kumo are totally false. That is the reason the Premier went all out for Islamic evangelism. From the converts he gained, one hundred—, ninety—, sixty—, and forty thousand, one can easily see that Muslims were indeed in the minority in those areas. The numbers were indicative of the small numbers of Muslims in those areas. What prompted a Premier to turn into an evangelist? Was it not the realization that Muslims were in the minority country-wide? Or is Dr. Kumo saying that the Premier's evangelism converted more than 75 percent of the population to Islam?

If we analyse the Northern States, one will find the following:

- (a) In 35 percent of the states Muslims are in the majority;
- (b) In 30 percent of the states Christians are in the majority;
- (c) In 45 percent of the states religions are mixed, with the numerical strength of each religion varying from area to area.<sup>15</sup>

The balance countrywide was in favour of non-Muslims. That was the situation that converted a Premier overnight into an evangelist. The declaration of Islam as a state religion is therefore irresponsible and reckless.

Moreover to contend that British laws are imperialistic is to forget that sharia laws are also imperialistic. The fact that the



sharia imperialism preceded British imperialism does not indigenize the former. We cannot therefore see the rationale of replacing one imperialistic law with another. Nigeria has no privileged group who are free to import foreign laws and force it down our throat as indigenous.

It is the non-Christians who guess the number of Christians in the country. Christians, however, have complete numerical statistics. They have complete records of everything they do: of Sunday service attendance, of conversions from other religions to Christianity, of births and deaths, and of marriages and baptisms. Thus Christians in the Northern part of the country know in which states they are in the majority and where they are in the minority. We therefore strongly recommend that we stop this number-game, because it will get us into religious politics and that could spell the doom of this country.

We also want to dismiss the myth of the so-called “natural differences” which term is understood to mean “Muslim North” and “Pagan South.” Alhaji Dodo says we should “adopt a Federal Constitution which will take care of the natural differences between the Northern and Southern parts of the country and between Muslims and non-Muslims.” “This is because,” he continues, “it is the sharia that is mainly applied to the Muslims in the Northern part of the country, while it is the customary laws that are applied to the peoples of the Southern part of the country.”<sup>16</sup>

In other words, Muslims live in the North and Pagans in the South. Can't we display a lesser insanity? We are constrained to strongly warn our fellow compatriots that the issue of these so-called “natural differences” between the North and South has been a primary cause of untold sufferings in this country. If we are going to produce a constitution based on accommodating these so-called “natural differences,” we may as well forget about Nigeria as a nation. The creation of nineteen states<sup>17</sup> has exposed the claim of “natural differences” as a political gimmick that was

supposed to prove false the claims of a religious empire for selfish ends.

The creation of states has demonstrated that there still are so-called “natural differences” between the so-called “Northerners” and “Southerners.” We see “natural differences” as we are still crying for more states. It will be high treason to talk at the CA of “Northern voice” or “Southern voice.” It is also illegal to hold meetings for “Northern voices” or “Southern voices.” Every member must carry the mandate of all his electors and promote Nigerian unity, not to champion sectional interests. Muslim writers are asking that Nigeria be declared officially a traditional Islamic state as the Northern States have already been declared by actions. They are fighting for the former by way of the present Draft Constitution and for the latter by way of government practices that already have proven them to be Islamic states. After the creation of the new states, in the ten “Northern States” only Muslims were appointed as Military Governors, while Muslims also dominated other high offices: secretaries to the military governors, chief justices and attorney generals, commissioners of local governments, chairmen of statutory boards and corporations, resident federal electoral commissioners and nearly all other executive appointments.

Moreover, Muslim institutions have been set up. *Dhimmi* institutions were all confiscated and the *dhimmis* were reduced to the status of *jizyah* payers for the upkeep of Islam. Non-Muslims should not enjoy equal rights with a Muslim.

The issue before the CA is not whether there should be a Federal Sharia Court of Appeal, “so that the application by choice of the Islamic Law to certain transactions between the citizens of this country may be harmonized.” Neither is the Sharia Court argument about “the harmonization of the Islamic Law as it *applies to all the citizens of this country* who choose the Islamic law to govern their transactions.” We are not questioning the existence of Sharia Courts. What we are revolting against is the fact that non-

Muslims are subjected to Islam and are forced to pay tribute for the upkeep and enforcement of Islam, the royal religion. We have reached the limits of extreme insanity. We cannot legalize one religion at the expense of others. The issue before the CA therefore is whether they should legalize the payment of tribute by non-adherents for the upkeep and the enforcement of the moral laws of one particular religion. In a democracy, where we are striving for justice and equality before the law, there cannot be any privileged group.

Chapter III, Section 35 (1), Paragraphs (a) and (b) of the Draft Constitution states:

*A citizen of Nigeria of a particular community, ethnic group, place of origin, religion or political opinion shall not by reason only that he is such a person be accorded either expressly by or in the practical application of, any law in force in Nigeria or any such, executive or administrative action, any privilege or advantage that is not conferred on citizens of Nigeria of other communities, ethnic groups, place of origin, religion or political opinion.*

If the Sharia Court provision and the establishment of Pilgrims Welfare Boards do not violate that provision, we do not know what does. We cannot be asked to pay tax and be deprived of representation. Why should non-Muslims be asked to pay for the maintenance of Islamic institutions from which they do not benefit? We hope the CA will sense the danger in the provision and abrogate it with immediate effect.

One other pointer to the danger in the Sharia Court provision is the provision that the oath of President shall be administered by the “Chief Justice of Nigeria or any other justice of the Supreme Court, or the president of the Federal Court of Appeal or Grand *Mufti*.” If the president of the Court of Appeal and the Grand *Mufti* are members of a subordinate court, why then elevate the occupants of the subordinate court to the rank of the Justices of

the Supreme Court? Section 150 (5) provides that “in respect of appointments to the offices of Justices of the Supreme Court, the president shall have regard to the need to ensure that there are among the holders of such offices persons learned in Islamic Law and persons learned in Customary Law.” Section 180 (1) provides that the Supreme Court of Nigeria shall “consist of a Chief Justice and such numbers of Federal Justices not being less than fifteen.” Given the above provisions, what circumstances do we envisage that will eliminate the Chief Justice and fifteen other Justices and make it necessary to descend to a lower court for the administration of the oath to our President? Since Section 137 provides that “all former Chief Justices of Nigeria and all former Grand *Muftis*” shall belong to the Council of State, one has to conclude that the provision which confers power on the Grand *Mufti* to administer the oath to the President is designed to elevate the Sharia Court to an additional Supreme Court. If that is not the case, why exclude all former Presidents of the Court of Appeal from membership in the Council of States, while former Grand *Muftis* are included?

We want to clearly state here that our objection is that the Sharia Court is conferring privileges on Muslims at the expense of non-Muslims in violation of Chapter 11, Section 35 (1) (a) & (b). It is criminal to force non-Muslims to pay for an exclusive institution that is inimical and detrimental to their interest. Why should other religious groups be made to pay for an institution that denies the validity of their religion, in fact an institution that seeks to undermine their religion?

#### ONLY MUSLIMS QUALIFY FOR EXECUTIVE OFFICES

We promised above to show how Islam has been declared a state religion and bars non-Muslims from holding Executive Offices. We now turn to that promise.

We should note here that Chapter 11 of the Draft Constitution lays down policies for future governments of Nigeria.

It is a manifesto for future governments to seek to fulfill: "It shall be the duty and responsibility of all organs of Government, and all persons or authorities exercising executive, legislative or judicial functions to conform to, observe and apply the provisions of this chapter of the Constitution." Section 11 (1) paragraph (a) of this Chapter provides that: "Every citizen shall have equality of rights, obligations and opportunities before the law." But curiously Section 11 (2) of the same Chapter provides that: "The provisions of paragraph (a) of subsection (1) of this section shall not invalidate a rule of Islamic Law or Customary Law."

What this amounts to is that the sharia and customary law will define "equality of rights, obligations and opportunities before the law" of every citizen. But more important: "It shall be the duty and responsibility of all organs of Government and all persons or authorities exercising executive, legislative or judicial functions to conform to, observe and apply the provisions of this Chapter of this Constitution which provides" that "every citizen shall have equality of rights, obligations and opportunities before the law" according to Islamic law and Customary law.

In other words, the definition in the Islamic laws and Customary laws of "every citizen shall have equality of rights, obligations and opportunities before the law" shall hold for every citizen of this country, not only to Muslims. It will not only hold for every citizen, but "it shall be the duty and responsibility of all organs of Government and all persons or authorities exercising executive, legislative or judicial function" to ensure that it is "conformed to, observed and applied." Every citizen must abide by them. If this does not declare Islam the state religion we want to know what else it could possibly mean. By the above provision Islamic Law predicates the Nigerian Constitution. Hence Nigeria by implication has opted for an Islamic state, and the Sharia Court at Federal Level must predicate the Supreme Court.

The obvious conclusion then is that Muslims must predicate

the government of this country. The non-Muslims must be barred from holding any executive office. In other words, if the provision that “every citizen shall have equality of rights, obligations and opportunities before the law” may not invalidate Islamic Law, then no non-Muslim can qualify for President, Governor, Chief Justice, Attorney-General, Commissioner for Local Government or Commissioner for Internal Affairs. This is because section 7 (1) of the chapter stated that “it shall be the duty and responsibility of *all* organs of government and all persons or authorities exercising executive, legislative or judicial functions to conform to, observe and apply the provisions of this chapter of this Constitution.” Will Muslims agree that a non-Muslim “exercising executive, legislative and judicial functions” can “conform to, observe and apply the supremacy of Islamic Law” in matters of “equality of rights, obligation and opportunity before the Law” of *every citizen*? Can non-Muslims be allowed by Muslims to interpret Islamic Law? The answer certainly is “No!” If we are going to abide by the Constitution and if the present Draft is adopted, then honesty demands that *only* a Muslim can be President, Governor, Chief Justice, Attorney-General, Commissioners of Internal Affairs and Local Government. They are the ones “exercising executive, legislative and judicial functions” and must ensure that Islamic law is not invalidated, in respect of the provision that “every citizen shall have equality of rights, obligations and opportunities before the law” as defined by the sharia. I do not see how Muslims will keep quiet when the provision is clear. Under this provision, the Supreme Court cannot challenge the Sharia Court’s definition of Islamic law, because the Supreme Court has no jurisdiction over Islamic law or other Islamic matters.

Since the Islamic law predicates the national law, it follows logically that the Sharia Court must predicate the Supreme Court. It also follows logically that Muslims must predicate the executive functions of government, if Islamic law is to be pro-

tected. This receives even further emphasis in Schedule Six of the Draft Constitution in the statement that in taking the oath of office, the President must swear to “strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria.” How can a non-Muslim President take such an oath when we all know that according to sharia only Muslims “have equality of rights, obligations and opportunities before the law” and that the non-Muslims are completely denied any “equality of rights, obligation and opportunity before the law” with Muslims? How can he swear when the sharia “recognizes only Muslims as persons with full legal capacity?” How can he swear when only a Muslim is considered a natural person under Muslim law and only a Muslim enjoys full citizenship rights, while all others enjoy varying degrees of rights, depending on the type of relationship they have established with the Muslims? How can he when this is the Islamic law which the Draft Constitution says should not be invalidated? What will qualify a non-Muslim to administer Islamic law? We are convinced that as soon as the Draft Constitution is approved, if indeed it will be, the Muslims will demand their right to predicate the government of this country. This we base on the Indonesian experience. The Indonesian Constitution provides for the “sovereignty of the people with an obligation of adherents of Islam to follow Islamic Law.”

Based on this provision the Muslims declared that only a Muslim can be President. They argued that only a Muslim President can ensure the obligation on Muslims to follow Islamic law. In the same vein, if the Draft is adopted, Muslims can rightly and constitutionally argue that only a Muslim President, Governor, Chief Justice etc. can ensure that Islamic law of “equality of rights, obligations and opportunities” is observed and applied to *every citizen*. In fact the Muslims of this country have stronger constitutional right to argue than their Indonesian coun-

terparts. The Indonesian provision as quoted above is vague. It does not say that the state is to enforce the obligation of Muslims to follow Islamic law. In our case, the Draft Constitution clearly states that “it is the duty and responsibility of all organs of Government and all persons or authorities exercising executive, legislative or judicial functions to conform to, observe and apply the provisions of this Chapter of this Constitution.”<sup>18</sup>

What we need to ask here is what has necessitated the provision for the Sharia Court of Appeal? It is needed if we have a Muslim state so that it can enforce sharia. But from where has this need for a Muslim state originated? All along we have lived peacefully. The Sharia Court of Appeal in Kaduna is the Supreme Court for Muslims. To create another Supreme Court at the Federal level has for us sinister ulterior motives.

We want to warn that it is now becoming clear that only a Muslim is allowed the full facility for practising his religion, while every effort is exerted to prevent a Christian from practising his. Anyone who denies that we are heading for a religious war is deceiving himself. If the religious provisions are adopted by the CA, then the political parties to be formed will have religious colouring. This country will be split into religious camps. Definitely, if the provisions are adopted, politics in 1979 will be so bitter that it will be difficult to return to civilian rule. Well, the ball is in our court.

## ▲ DOCUMENT 2

---

THE CONSTITUENT ASSEMBLY AND THE SHARIA  
CONTROVERSY: THE HOUR OF DECISION: SHARIA OR  
JIHAD (CHAOS)?<sup>19</sup>

A MESSAGE TO SHARIA ADVOCATES, SECULARISTS AND  
THE COMPROMISERS IN THE CONSTITUENT ASSEMBLY

After a thorough research of the Draft Constitution, we are convinced that the *Sharia Provision* is the *apex of a grand plan*.



The sharia is the *Crown* of a completed plan and the declaration of our *D-Day*. Read the facts and draw your own conclusions. We are convinced that by the time you have read the entire paper, you will be fully convinced that *to entrench the sharia in the Constitution is to constitutionally legalize Northern domination and ownership of Nigeria and a Constitutional Declaration of Islam as the state Religion*. Note that Islam claims to be the religion of the North.

#### A. THREE APPROACHES

Judging from the debates on the general principles of the Draft Constitution in the CA, the members could be classified into three groups with regard to the sharia controversy:

##### 1. The Sharia Advocates

*Now, I must, at this juncture, Mr. Chairman, sound a note of warning to all of us. Nigeria has seen a lot and we are able to survive. On this question of Sharia, Mr. Chairman, Hon. Members, I must be honest and sincere to all of us. I am not here to deceive anybody. I am here in the interest of Nigeria, and as a Nigerian Citizen, I owe it as a duty to tell the truth wherever I may be in the interest of the nation. This sharia issue is a test case and it will certainly determine whether Nigeria will continue to remain as a political entity. Yes.*<sup>20</sup>

The quotation above summarizes the numerous warnings by sharia advocates, including, surprisingly, the Federal Complaints Commissioner, that if a Federal Sharia Court is not provided for, there will be “chaos” in the country. One needs to ask here, “Why the sudden violent demand for a Federal Sharia Court of Appeal?” *Sharia forbids equality between Muslims and non-Muslims.*

The Sharia “refuses to recognize the coexistence of non-Muslim communities except perhaps as *subordinate* entities.” This is because *sharia* “recognizes only Muslims as persons with full legal

*capacity. A Muslim is the natural person under Muslim Law who enjoys full citizenship rights, while all others enjoy varying degrees of rights, depending on the type of relationship they have established with the Muslims.*"<sup>21</sup>

It is in the light of the above that we should understand the threat from the sharia advocates. The sharia decrees that Muslims are superior to non-Muslims. If the non-Muslims are going to reject the implementation of Allah's injunction, the only alternative left is "chaos," because according to sharia advocates, Muslims will not stand for so-called equal treatment before the law. The choice before non-Muslims then is either sharia or *jihad*, because the sharia is "related to divine directives, and the sovereignty of the sharia may not be repudiated by an individual or collective action or by any other force."<sup>22</sup> What the sharia advocates are telling non-Muslims is that the Muslims are not giving them any choice. "The state is the biggest and most important institution of a society which has accepted to implement Islam, the will of God."<sup>23</sup> Thus Alhaji B.O. Tofa, Member of the CA, declares: "As far as I am concerned, there is no Constitution but that of the Qur'an, and no laws but those of the sharia. If therefore we want to make peace, unity and strengthen the country, these things we all yearn for."<sup>24</sup>

Does it follow that Tofa wants sharia to replace the Draft? The sharia advocates have told us again and again that sharia is Islam and Islam is sharia. It is totally the Muslim way of life. Yet they claim that the establishment of the Sharia Court will not infringe on non-Muslim rights. This assertion is baffling in the light of sharia claims and injunctions. For if according to the sharia, the non-Muslims can only "enjoy varying degrees of rights depending on the type of relationship they have established with the Muslims,"<sup>25</sup> then the sharia will define the place of non-Muslims in Nigeria. Thus to entrench the Sharia Court in the Constitution is to legalize the inferiority of non-Muslims and the superiority of Muslims. The sharia will then reshape the

Constitution. In other words the Constitution cannot then violate the sharia. The sharia, the divine will, must be supreme.

#### a. The Northern Non-Muslims' Experience

The claim therefore that courts cannot be used as an instrument of evangelism is totally false. The sharia is Islam and Islam is sharia. It follows that the court cannot implement one without the other. Sharia is a total way of life. It is evangelism, politics, economics; you name it; it is dictated by sharia. It is a violation of sharia to implement it only partially.

Moreover if our experience in the Northern states is something to go by—and certainly it is—, then the Sharia Court is meant to ensure that Muslims have their rights upheld and maintained at the expense of non-Muslims. It must also ensure that no equality of rights is accorded non-Muslims. The non-Muslims in the Northern states are suffering a lot of inequalities in treatment. The sharia has nullified the Customary Law. The sharia is systematically imposed on non-Muslims at the Area Courts.

#### b. Place Of Non-Muslims

The sharia is the imposed governing judicial system in the Northern states. The Area Court edict provides as follows: “An Area Court shall consist of the following member or members: (a) an Area Judge sitting alone or (b) an Area Judge sitting with one or more members, one of which must be a man learned in Islamic Law.” The edict then goes on to provide that in the case of (b) “All questions of Muslim personal law shall be heard and determined by any member of an Area Court learned in Muslim Law sitting alone.” One would see that the (a) provision above must be a Muslim learned in Islamic Law. In fact, a circular letter to “All [Northern] Attorney/Solicitors General” states: “In the Native Courts law, ‘*alkali*’ was defined as a person learned in Muslim law, appointed as alkali in accordance with provisions of the law. The

word ‘*alkali*’ is not used in the Area Courts Edict, but it is of course still essential that persons appointed as sole judges in Muslim areas should be persons learned in Muslim law.”

The sum total of the Area Court Edict provisions are the following:

i. There are areas in the Northern states which are declared Muslim areas. In such areas the judge must be a Muslim learned in Islamic law sitting alone and the courts are Sharia Courts. Yet there are no areas declared as non-Muslim areas. Thus by implication all areas are Muslim areas.

ii. In other areas there will be a Muslim learned in Islamic law sitting as president with one or more members. The member could be Christian, Traditionalist or Muslim. In other words, there are Muslim areas that have non-Muslims to be catered for. What is important here is that “all questions of Muslim personal law shall be heard and determined by any member of an Area Court learned in Muslim Law sitting alone.”<sup>26</sup>

This is the greatest insult to non-Muslims. No case of Muslim personal law would be tried in the presence of non-Muslim judges, but all cases of non-Muslim personal laws are not only tried in the presence of Muslim judges, but are presided over by a Muslim judge. This sort of thing creates the impression that the Muslims are sacred, while the non-Muslims are profane. When therefore cases of personal laws of sacred Muslims come up in the Area Courts, the profane non-Muslim judges must leave the bench, leaving the sacred Muslim judge “sitting alone” to try the case. The profane non-Muslim should only be too glad to have the sacred Muslim judge try their cases of personal laws.

This is not all, however. The Edict also provides that Area Courts should execute any decrees or orders of the Sharia Court of Appeal. Now the Sharia Court of Appeal has decreed in the case of *Liman vs Risku*, a farm dispute, that “if the local custom and tradition contradicts the Muslim Law, they should not be followed.”<sup>27</sup>

Thus all the Area Courts then really are Sharia Courts, since the Area Courts must uphold the supremacy of Islamic law.<sup>28</sup>

The sharia is therefore imposed on non-Muslims. The Area Court judges impose *ushira* (ten percent) to be taken off the property of a deceased non-Muslim. In Bauchi, for example, in 1963, the Christian Church protested against this imposition of the sharia on them. The judge replied in these words: "With regard to your letter that sharia has ruled against you, the sharia has a say on a Muslim, Christian as well as on a Pagan. Based on the power conferred on us by the sharia, all Muslims, Christians and Pagans alike, the sharia takes *ushira* from their inheritance." The Christians in Bauchi appealed to the Provincial Commissioner and got a reply in these words: "I have investigated this matter and found that the *alkali* has taken action in accordance with the Native Courts (Civil procedure) rules 1960, Chapter XXVI, sub-section (3) of Section I. It should be noted here that the Penal Code which replaces criminal code is a modification of Maliki law."<sup>29</sup>

It is therefore false to say that sharia is applied to Muslims only. Most of the Northern States enforce the application of sharia in one form or the other to non-Muslims. Where there are only Sharia Courts termed "Area Courts," non-Muslims have no other place to go. Moreover, the Draft Constitution has replaced the State High Courts with the State Sharia Court of Appeal. Section 185 (1) provides that "The High Court shall not have or exercise any appellate or supervisory jurisdiction over any court to the extent that such court administered Islamic law."<sup>30</sup>

We have seen above that all the Area Courts are Sharia Courts since, "if the local custom and traditions contradicts the Muslim law, they should not be followed."<sup>31</sup> Thus in the Northern states, gradually the Area Courts were converted to Sharia Courts and the Customary law was replaced with "Muslim law." The State Sharia Court of Appeal, which was established to administer Muslim per-

sonal law, has now replaced the State High Court under the present Draft Constitution.

It is therefore obvious that once the sharia is allowed at the federal level in any form, it will gradually replace the Federal Courts. The rationale is that “the Islamic order is superior to others. It predicates rights and duties, human equality.”<sup>32</sup> This subterranean attempt to an eventual legal declaration of Nigeria as an Islamic state must be repulsed right away. *The secular state is the only answer to our ills*. Legally then, the non-Muslims in the Northern states are considered as either non-entities or as subordinate entities, who have to live under the Islamic law.

For the advocates of the sharia to say that the sharia could coexist with a secular Constitution is unbelievable, because as quoted above, for them the Qur’an is the only constitution; sharia, the only law. The divine law must not submit to the supremacy of human laws. The sharia can only exist as the supreme law.

## 2. The Secularists

“My simple understanding of a secular state is that it is one which allows all forms of religion to coexist without any of them being the religion of the entire country.”<sup>33</sup>

What the secularists are saying is that the state should not adopt any religion. There should only be freedom of religion. The state should keep clear of involvement in religion. “The key doctrine of democracy is that laws are impartial and impersonal. A democratic state cannot be expected to enforce rules based on personal religious scruples.” This is the very thing sharia refuses to accept. The goals of Islam are about “*the salvation of human beings and the establishment of a society founded on divinely revealed norms (the sharia)*. Therefore law, faith and morality are necessarily united to further those goals.” We must not forget that “law is the expression of the culture and character of a people. As it stands, the sharia is the paramount expression of an Arab

society which flourished some twelve centuries ago. That society is long dead.”<sup>34</sup> How can we then in this day and age duplicate that experience in Nigeria? For a peaceful coexistence “we must separate the demands of law from the demands of morality.” Sharia, however, puts the two together.

The advocates of a secular state in India recommend that “the state shall endeavour to secure for its citizens a uniform code throughout the territory of India” [think: Nigeria].<sup>35</sup> In other words, the idea of the secular state means “all religions are entitled to equality of treatment.” In Nigeria, however, there is no equal treatment as we will postulate below. “We must introduce a uniform personal law for the purpose of national consolidation. There is no necessary connection between religion and personal law. Law is an expression of the needs and values of a particular society; the law is inherently distinct from religion.”<sup>36</sup>

The sharia is the source of much confusion by combining law and religion, law with the will of God, and by its failure to distinguish between moral obligation and legal necessity. How can we, for example, constitutionally legalize the assertion that Islam has “a special claim to truth?” It will be wrong for the state to constitutionally assume the responsibility of enforcing the moral scruples of Islam, Christianity or any other religion. “The religion of Islam ... is only one religion among many. As such, the state cannot enforce obedience to its organizational commands” without declaring itself an Islamic state. “Only religion can make a rule of conscience, as the conscience is entirely the individual’s own affair.”<sup>37</sup>

*How can the Nigerian government constitutionally declare that only Muslims have “rules of conscience” that need to be enforced at the expense of all? I think this is the problem (and we shall elaborate below) we are facing in Nigeria.* Some governments in this country have identified themselves very closely with the promotion of Islamic practices. Unfortunately, even the FG is deeply involved in

encouraging and promoting Islam at the expense of all. Muslims cannot even imagine a government neutral to, or not dictated by, sharia. I will return to the subject of government involvement in religion below.

### 3. The Compromisers

“Why not get only the Federal Court of Appeal as we have now and then get people who are versed in Islamic law to be members to consider appeals that come from Sharia Courts?”<sup>38</sup>

We are aware that the compromisers at the CA are divided in two groups. There are those that want to leave sharia at state level and those who want a Sharia Court of Appeal division in the Federal Court of Appeal. If there is any group that we are worried about, it is the compromisers. We are worried because they assume that sharia could coexist with the secular court system, which is absolutely false.

A. R. Azzam insists on the superiority of Islam in this context: [Here Sabiya quotes the same paragraph also found in Document 1.<sup>39</sup> Please turn there.]

In the light of the above quote, it is not possible that sharia should exist as a division in the Federal Court of Appeal. Eventually the Federal Court of Appeal would become a division in the Federal Sharia Court of Appeal.

Justice Sambo reiterates the popular view that “Islamic law is not a local and traditional law but it is a divinely written and universal law.” Then he quotes from the Qur’an, saying, “So judge them by that which Allah hath revealed and follow not their desires, but beware of them lest they seduce thee from some part of that which Allah hath revealed unto thee.”<sup>40</sup> Thus, wherever the Constitution or the laws of Nigeria go against sharia, it is the sharia that prevails. Sharia is the divine constitution. Another member of the CA, A. D. Gari, adheres to the same opinion. He said, “People who are versed in Islamic law will con-



stitute the Federal Court of Appeal. This law has been in existence and is a divine law. No Muslim or Christian will ever reject a divine law.”<sup>41</sup>

Given all these strong Muslim opinions and declarations, *it is obvious that the likelihood of compromise with respect to sharia is very slim*. Those who think they can make sharia a division of the Federal Court of Appeal had better just support sharia. They are supporting and elevating it even more than those who are advocating a separate Sharia Court. For according to sharia, “It is the duty of true believers, where they can, to extend the *Dar-el-Islam* at the expense of the *Dar-el-Harb*.” Furthermore, sharia “imposes on believers (Muslims) the commanding of others to do the right deed (as provided by the sharia) and to refrain from doing the wrong deed (as prohibited by the sharia).” Based on the above, *it is considered a virtue to impose sharia on non-Muslims, because in doing so, one is helping the non-Muslim do the right deed and refrain from evil deeds*.

Another group of compromisers wants to leave sharia at state level, not elevate it to federal level. This group gives the impression that their thinking is still in terms of the infamous “North-South dichotomy.” What they are in effect saying is “The North is Muslim. If they want sharia, they may have it.” *But since when has the North become Muslim?* This amounts to legalizing the false claim of Northern Muslims. The North has falsely been declared an Islamic state by them. The sharia is therefore their unifying factor, as one eminent Northerner recently said:

*I had informed you that I was undertaking a serious inquiry. Here is what I have found out from Yoruba elders, who are not Muslims. According to them, careful observation will reveal that those who are dedicated to this conspiracy (against sharia) are not Ibos nor Southern Yorubas. No, it is the Northern Christians who are the ring-leaders. Theirs is the politics of religious jealousy. The word “Islam”*

*to them means evil. However, as for the Southerners, their conspiracy is not out of religious jealousy. They base it on the fact that Muslims should not be given a court at federal level, because it will unite the North. Theirs is not from religious jealousy. For them anything that will unite the North is their enemy. They understand that, if the North is united, it will mean leadership of Nigeria will come from the North because of its population. That is their issue; no more, no less.*

Another eminent “Northerner” wrote: “Our North is in the deep seas. All of us, Muslims and Christians, are sinking. My prayer is that we save ourselves first before we start the search for common understanding with this and that group.”<sup>42</sup>

Thus it is obvious that the Sharia Court is looked upon as a political tool to unite the North. It is to maintain the North–South dichotomy and the domination of the North over the South. J. O. Aghimien, a member of the CA of 1979, commented, “Mr. Chairman, from the utterances and behaviour of some protagonists of this particular system, one begins to fear whether there is not more than meets the eye.” How true!

The choice is therefore clear. To allow the Sharia Court at any level is to divide Nigeria into first and second class citizens. The Sharia Court is to decide the permanent leadership of Nigeria. We are being called upon to decide between sharia and chaos. We either entrench the sharia in the Constitution or we face chaos. It is either the sharia or Nigeria will cease to remain as a political entity. Where then is the room for compromise?

May we at this juncture ask for the result of the compromise of the First Republic? The second partner in that compromise government was named a *junior partner*. Dr. Azikiwe then protested that in an alliance there is no *junior* or *senior*. Dr. Azikiwe did not realise that the sharia “refuses to recognize the coexistence of non-Muslim communities except perhaps as subordinate entities.”<sup>43</sup>

The Northern People's Congress (NPC) was a sharia party; its government was a sharia government. To them to oppose the NPC was to go against sharia, against the will of God. Therefore it was justifiable to kill, maim or imprison opponents, because they were against Allah's government. The late Premier Ahmadu Bello was the head of an Islamic government dedicated to implement the will of Allah. Thus he went out preaching Islam. The Sharia Courts were jailing those that opposed the Premier and Allah's government. "The basis of the Islamic attitude towards unbelievers is the law of *war*; they must be either *converted* or *subjugated* or *killed*."<sup>44</sup>

The NPC government and its Premier went out *converting, subjugating, killing, maiming, and imprisoning* in the name of sharia. *The memory is still fresh in our minds*. What the sharia advocates are asking is the constitutional entrenchment of *jihad*. They want the non-Muslims to give them the constitutional right to conduct *jihad* against them. And the Muslims have the guts to say that, unless the non-Muslims give them that constitutional right, there will be chaos. Where is the room for compromise then? To entrench sharia in the Constitution is to give legal right for *jihad*; not to entrench sharia means there will be "chaos" or *jihad*. Let the compromisers in the CA compromise the destiny of non-Muslims to permanent second-class citizens against whom *jihad* will be conducted for conversion, subjugation or killing. The compromisers are then out to give the "North" a permanent political entity with power to make and unmake Nigeria at will through *jihad*.

A group of people last year formed an organization called "Council for Unity and Solidarity" (CUS). They had three aims they insisted on: 1) Nigeria must remain a secular state; 2) Sharia must be rejected; 3) Nigerian unity is not negotiable. Its members are from the Northern states. This group feels that Nigeria is for all of us. No single group can arrogate to itself the ownership of Nigeria so as to dictate single-handedly whether

Nigeria remains a political entity or not. For this group, the Civil War was fought to keep Nigeria *one* politically and geographically. It was not a *jihad* against Ibos. No one is to be degraded to second-class citizenship. Every section of this country has equal claim to the leadership. Neither should anyone have the constitutional or legal right to conduct a religious war against other Nigerians.

The Southern states should choose where to cast their dice: with CUS or with the advocates of sharia. *There is no space for compromise anywhere.*

#### B. THE GRAND PLAN

A careful examination will reveal that the demand for a Federal Sharia Court of Appeal comes as the apex of a Grand Plan<sup>45</sup> to turn Nigeria into an Islamic state, if she is not one already. In 1962 in the Northern House of Assembly, Sir Ahmadu Bello had this to say:

*I would like to remind the Hon. Members that one hundred and fifty years ago this country was ruled by a certain people who formed part of the Native Authority System. They dealt seriously or leniently with those that obstructed their administration. They were succeeded by the British some fifty-nine years ago. History has now repeated itself... Let no one think that this government intends to ruin the system. I for one have been born and bred by the system and will therefore never attempt to cut down a tree planted by my ancestors, but only prune it in order to make it flourish.*<sup>46</sup>

The Federal Sharia Court of Appeal is the apex of the systematic application of that plan. With the system firmly planted in the North, there is the need to apply it to the Federation as a whole. One man commented, “Islamic law is in fact applied throughout

the Federation of Nigeria, particularly in the North, under the provisions concerning the application of native law and custom.”<sup>47</sup>

The threat of “chaos” therefore is a warning to those who refuse to accept the conquest of cold *jihad*. Either the non-Muslims accept the conquest peacefully or through the total chaos of *jihad*. “The basis of the Islamic attitude towards unbelievers is the law of war; they must pay the poll-tax under humiliating conditions.”<sup>48</sup> Up to now we are not convinced of the reasons for the taking over of Christian hospitals and schools. The argument that it was done to “relieve the churches of a burden” is unconvincingly shallow.<sup>49</sup>

How can our governments find it morally wrong to financially support the church institutions which are serving all communities, but find it morally right to support the Pilgrims Welfare Boards, Sharia Court of Appeals and the yearly *Hajj*—all of which are for the exclusive use of Muslims? How can a government find it wrong for the church voluntarily to carry the “burden:” to help *all* people at the church’s own expense, but find it right to assume the responsibility to enable Muslims to fulfill the demands of their religion *that serves only Muslims but at the expense of all of us*? Why must governments treat Muslims as a privileged class? Why must non-Muslims be made “to pay taxes under humiliating conditions?”

### C. CONSTITUENT ASSEMBLY MUST REMOVE THE INJUSTICES

The injustices that non-Muslims are forced to bear in humiliation are many, but the principal ones are the following:

1. Pilgrimage Arrangements
  - a. The Pilgrims Welfare Boards

These boards have as many as eleven members in each of

the nineteen states. How much is the Chairman paid? N3,500? The Secretary? Level 07? 09? How many permanent members? And their salaries? How many part-time members? How much are they paid? How many buses? How many cars? How many typewriters and clerks? How many offices? How much is spent on infrastructure facilities? In short, how much is their yearly budget? How much is spent on the Federal Pilgrims Welfare Board?

Whatever amount is spent, the fact remains that it comes from the taxes we all pay, but it is for the exclusive use and benefit of Muslims only. Thus as it is written, “The non-Muslims must pay poll-taxes under humiliating conditions.” We pay for the State Pilgrims Welfare Board and Federal Pilgrims Welfare Board. If this is not slavery for non-Muslims, we want to know what it is.

#### b. The Yearly *Hajj*

It was announced last year that the FG sent 25 people on *hajj* or pilgrimage. If the story is true, then it is very disturbing, because this means the FG was officially declaring this country an Islamic state by using federal money to cater for the interests of Islam as a religion. *Thus this country is no more a secular state, since the FG has given Islam preferential treatment or official recognition up to the point of using national funds for upholding its institutions.*

It is pertinent to ask here the implications of sending 25 people on *hajj*. Does it mean that the FG was responsible for their air ticket of N318 each, the N218 to be paid to the government of Saudi Arabia and the N500 allowance for each pilgrim? Or were the officials given the estacode, that “fat” allowance for the expense of those on official assignment abroad? Did any state Government send officials too? How many? Using public funds?

We were also told of a large support group that accompanied the pilgrims: (1) doctors and nurses—how many? (2) security guards—how many? (3) loaders to load the pilgrims' belongings—how many? How far did the government assume their expenses? If it was true that over 100,000 Nigerians went on pilgrimage this year, how many medical personnel, security guards and loaders accompanied them at the expense of all Nigerians? How much money was spent on their air tickets, accommodation, travel expenses, etc.?<sup>50</sup>

## 2. The Sharia Court of Appeal—An Insult to Judiciary.

The composition of the State Sharia Court of Appeal is a mockery of the judicial profession and, in fact, a mockery of justice itself. The Sharia Court of Appeal Edict states in Section 5: "A person shall be qualified to be a judge if he is: (1) a Muslim; (2) not less than thirty-five years of age; (3) a person who has been an adviser on Muslim law in the service of a native authority for not less than ten years; or (4) the holder of a certificate that he has satisfactorily completed a recognised course of study in sharia at a university, college, or school approved by the governor in council."<sup>51</sup>

From the above, the Sharia Court of Appeal judge does not have to have a degree in Islamic Law. He does not have to have ten years practice. The kind of school attended by the person needs only the approval of the governor. All the person needs educationally is to have a recognised course of study in sharia at a university, college or school approved by the governor in council. Thus simply put, educationally, to be a Sharia Court of Appeal judge, you need only to satisfactorily complete a course of study and be approved by the governor in council. But the Sharia Court of Appeal is a High Court, because the judges of the Sharia Court of Appeal enjoy the same status with High Court judges. The Grand *Khadi* is also a Chief Judge.

One is therefore surprised that simply belonging to a particular religion could confer one with privilege and status that would normally take others years of hard study and ten years of practice. We know, for example, a person who was appointed Chief Education Officer of a state. When his appointment was challenged by a better-qualified candidate, the appointed candidate was reassigned and appointed a judge of the Sharia Court of Appeal. Thus we now have an educator enjoying the status of High Court Judge! How many years was he on the bench? How many years has he studied sharia? He may have taken no more than a course in sharia as part of normal courses. Or was he appointed simply because he is a Muslim? *Is not this an insult to the laws governing the appointment of High Court Judges?* This promotion from Education Officer to a consolidated salary of N14,200 plus other benefits is a mockery of, an insult and a grave injustice to our judicial system.

Another shocking example was that of a dropout from ABU Law School. He was forced to drop out because he failed his law courses. He was employed in one of the Northern states on level 07, that is on a salary of N2,400. This man was appointed judge of the Sharia Court of Appeal, far above his classmates who were able to pass the law courses. The man is now enjoying the consolidated salary of N14,200 plus benefits.

Another one was on level 08 but was also appointed to the Sharia Court of Appeal. How do we expect our High Court judges to feel sitting with these people as equals on the same bench, enjoying the same benefits, a people whose only qualification is belonging to a particular religion? Qualifications for a High Court judge are that “he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters, and he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years.”<sup>52</sup>

The person who is so qualified is forced to sit on the bench



with a law school dropout, who qualified for that position because of his religion. Religion therefore becomes a qualification; in this case a particular religion, namely Islam.

But what is more painful is that non-Muslims are also paying for these insults and injustices. Non-Muslims are made to pay to be insulted. Only slaves are forced to do what non-Muslims are forced to bear in this country. “The sharia refuses to recognize the coexistence of non-Muslim communities, except perhaps as subordinate entities, but *does* recognize that a Muslim is the natural person under Muslim law to enjoy full citizenship rights.”<sup>53</sup>

Muslims are not only legally enjoying more than their rights, but they also legally deprive non-Muslims of their rights. It is very unfortunate that this country has been declared an Islamic state through the barrel of a gun. In that state non-Muslims are insultingly enslaved and “paying taxes under humiliating conditions,” as they watch Muslims use public funds at will for the fulfillment of Islamic religious practices, and Muslims enjoying status, which it takes non-Muslims years of study and practice—[or from which they are barred altogether-Boer]. *All those privileges simply because they are Muslims!*

The non-Muslims are crying for liberation. Let freedom and justice reign at the gates, so that non-Muslims may for once breathe the air of dignity, rather than continue to suffer the suffocating air of perpetual humiliation.

#### D. CONCLUDING COMMENTS

*This we consider to be the crux of the sharia problem.* Nigerian unity is threatened by sharia advocates, because non-Muslims are trying to reverse the country to a secular state. Should the latter succeed, it would mean pulling down Islam from its present royal pedestal. It is the attempt to restore a measure of dignity to non-Muslims that is paining sharia advocates.

In terms of appointment to high posts, no one suffers like Northern non-Muslims. Any high post given to a non-Muslim in the Northern States in most cases will either be a Southern Christian or an expatriate. The demarcation is clear: the North is Islamic; the South is Pagan and needs to be converted, subjugated by Islam by forcing them to pay tribute to the Islamic community. For sharia advocates it is not, therefore, puerile and parochial to threaten the unity of this nation on the basis of one religion. It is their legitimate right conferred on them by the government of this country when she opened the public treasury for the full use by Muslim institutions and communities. Since the various governments of this country have conferred superior dignity on one religion and reduced the adherents of other religions to mere tax-payers, why should not the sharia advocates threaten the unity of this country to thwart any attempt to reduce their privileged status?

Who among us would honestly volunteer to give up such privileged position? For the federal and state governments, A. B. Ahmed claims that “The odour of Muslims is the same thing to the state as the ritual dance of the ‘Bori’ or the incantations of the worshippers of Sango, the god of thunder. The state has no religious faith, no favourites, and it regards all religions equal in rights and limitations.” This is not true. The Muslim odour is superior to that of non-Muslims. Also the Nigerian governments may claim they do not have “religious faith,” but they certainly do have a “favourite religion” in Islam. Islam has both state and FG support. The state places no limitations on Islam, yet it has placed limitations on the Christian Church. The hope for the restoration of equality of rights between religions now lies with the CA. The CA should not “allow fanatics to threaten and insult us, because we reaffirm our belief in the fact that the *only hope for unity in this great country lies in a strictly secular state.*”<sup>54</sup> *The right to this belief constitutes for us the sine qua non of any*

*meaningful life in this polity, just as the sharia is the sine qua non for its ardent protagonists. "The only difference is that while some people advocate diversity and thinly-disguised apartheid, we emphasise unity at the federal level, and we are not afraid to say so, loud and clear."*<sup>55</sup>

The banned United Muslim Party had this to say: "Muslims in Nigeria officially number 13,900,000. Christians number only 9,966,000. Pagans or other denominations, North, East, West and in the colonies number 10,549,000." They declared themselves to favour "one Nigeria in which everyone, irrespective of colour, creed, tribe, or race, can live and work happily together."<sup>56</sup> Their statistics were based on the 1952 census, the most reliable census to date.

In a New Year message, the late Sir Ahmadu Bello had this to say: "The interests of the state should and indeed must take precedence over those of the tribe or of a political grouping. Our watch-word should henceforth be not who is right, but what is right for Nigeria." With these quotations we call on the CA to give us a Constitution that will cater for *all Nigerians*, that will restore the dignity of every Nigerian and that will unite this country. They should not allow the Constitution to be an instrument of a privileged religious, political or sectional group for the oppression of others.

Well, Members of the Constituent Assembly, the ball is in your court. Play it well.

### ▲ DOCUMENT 3

---

#### THE RELEVANCE OF DIALOGUE IN NIGERIA<sup>57</sup>

I was born into a Pagan family. When I was three years of age, my father converted to Christianity. My father had a very good Muslim friend. They were so close that when I was born, it was the Muslim that named me "Rajil." When my younger brother

was born, it was the Muslim that named him “Hamashuta,” meaning “let the older one rest.” Again, when another male child was born into the family, the *Mallam* named him “Mallum.” My father had many other Muslim friends and when we became older, we would also mix freely with Muslims. There was never a time that religion divided the community. My father and the Muslim friend often discussed the similarities between the Bible and the Qu’ran, but these discussions were not evangelistic; I never heard my father ask the Muslim to become a Christian and ditto the Muslim. The *Mallam* ate anything set before him.

When we come to our extended family, there are Muslims among them. In fact, my brother, who was a Christian, became a Muslim. Our youngest brother has three of his daughters while I have two of his sons, but they are all practicing the religion of their choice. There are many families like ours.

One feature in Christian-Muslim relations in Kilba are the Christians who convert to Islam. Those who convert to Islam retain their Christian names as surnames, e.g. Buba Guyas, Mohammed John, Usman Mathias, Mohammed Ezra, Adamu Joel, etc. Those who have converted to Islam never succeeded in dragging all their grown-up children along with them into Islam. Even the younger ones, when they were grown up, they rejected Islam as their older brothers have done. Yet it did not create rancour in the family.

In Kilba, Christians are eighty percent. If elections were to be based on religion, no Muslim in Kilba would ever have been elected to any office. But today there is one Muslim in the LGC and the Chairman is a clergyman. Thus Christians and Muslims found themselves living together as neighbours. There was openness and willingness to share and communicate with one another. At the wider scale, Muslims and Christians encountered one another both at the market place and during festivals or cere-

monies such as weddings. Thus there was a positive and respectful relationship. There was no animosity. During independence, when elections were conducted into the Regional House and Federal House of Representatives, in Kilba Muslims were elected in both positions. Christians did not complain. What I am trying to say is that religious discrimination was not visible. There was no enmity between Muslims and Christians, while dialogue took place without rancour.

Unfortunately, things changed for the worse. It was reported that the Sardauna of Sokoto told Azikiwe, "You do not understand, we are not the same." This was the beginning of our misunderstanding. The Sardauna declared, "Since independence, we Muslims have felt it our duty to impose our religion upon every non-Muslim and to convince everybody to become a Muslim."

Christians have always been ready for dialogue, but when the government refused to provide aid for building churches and church institutions, the dialogue became difficult. After all, they were supporting Muslims with building mosques. Things got even worse when religious fanaticism arose. It played havoc with any remaining dialogue. Again, we were mixing together freely in mission and government schools and welfare institutions, but with the take-over of Christian schools and hospitals by the government, that great line of social communication was cut. Another context for daily dialogue gone. Despite the hostility of the government to Christians they remained accommodating and open for dialogue, but not the fanatical Muslims.<sup>58</sup> Fanatical Muslims are not for dialogue. They claim that the basis of the Islamic attitude towards unbelievers is the law of war: They must be converted, subjugated or killed.

As if things were not bad enough, violence and polarization became the order of the day. There were the religious riots that

engulfed Kafanchan, Kaduna and Bauchi.<sup>59</sup> Increasing polarization of students along religious lines produced riots in secondary schools and at the universities. Then the Muslim feeling of superiority reared its ugly head. This drove them to design separate uniforms for Muslim students. At that front, too, the dialogue was cut and replaced by high tension between students. Thus in Yelwa Secondary School<sup>60</sup> riots broke out because a Christian student talked to a Muslim girl. Muslim students began to regard Christian students with disdain and thought of them as profane. In a confidential report by a Commissioner of Police it said that the fanatics and radicals are out to install an Islamic state of the Iranian type in Nigeria.

All these created doubts in the minds of Christians. Relationships became more difficult and bitter because of this new negative atmosphere. It was not conducive to dialogue, but, instead, frightened Christians. Christians had to re-examine Muslim-Christian relations and were forced to take a militant stand to counter Islamic fanaticism. An Advisory Council for Religious Affairs was created by the FG for the sole purpose of dialogue between Christian and Muslim leaders, but these leaders could not agree on the form the dialogue should take. The barrier was that of equality vs inequality between them. CAN was created to counter this Islamic resurgence and superiority feeling.

Throughout all of this Christians and Muslims were drifting further and further away from each other. This is because the Muslim sense of superiority naturally was reflected in all their dealings with Christians. Its development was encouraged by the Christian sense of inferiority and timidity.<sup>61</sup>

One thing that is observable is that Christian leaders have failed to educate their members on the meaning and obligations of Christian ethics. Muslims always claim that theirs is a total way of life. They are therefore more committed to their ethical

demands than are Christians. We remember that Bashir Tofa declared at the CA that “there is no constitution but the Qur’an and no law but the sharia.” We also remember the famous utterance of Gumi that if Christians will not accept the leadership of Muslims, then Nigeria must be divided. Muslims feel that they are always on the permanent path of *jihad*. Not always violent, but subtle. In government they want to hold important ministries. From the word go, the Muslims are always waging cold war against Christians. Thus, religious dialogue is absolutely necessary if we want to live in peace, not in pieces, in Nigeria. If we are going to conduct religious dialogue, we must keep in mind that never would a Muslim accept equality in any relationship or equality before the law with a Christian.

It is possible that Muslims will be open to dialogue with Christians once Christians become economically and socially equal to Muslims. But at this stage, when Muslims are economically superior to Christians, dialogue will be academic without practical results. At this point it is difficult to lose our suspicions, fears and mistrust of each other and enter into a relationship of confidence, trust and friendliness.

True dialogue requires us to respect the identity of the person with whom we are in dialogue. That is lacking among Muslims. Dialogue must allow one the freedom to be committed and to be open to witness, to change and to be changed. Genuine dialogue is possible only when we accept that the objective is not to convert a partner to our faith. As for Muslims, a dialogue is acceptable only if it is for the conversion of the Christian. Also because of the riots, it is very difficult for both individuals and groups to erase the mutual fears and mistrust that currently exist and to work towards the sole purpose of creating a new relationship of mutual trust. Dialogue must also be in an atmosphere of living and building the world anew together. Muslims may accept living and acting together,

because they cannot do otherwise, but building the world together is another matter.

In dialogue we strive for the elimination of poverty and destitution and to build a new world of peace, justice, prosperity and mutual trust. This compounds the difficulties because the elimination of poverty and destitution includes Christians and Muslims sharing of the national cake, a goal that is always controversial. It is controversial because Muslims insist that they are the natural leaders to divide the cake and no one else. Dialogue in Nigeria therefore is cosmetic if, indeed, it will ever take place. This is because currently Muslims are not prepared to accept these conditions for dialogue.

As I said above, the Advisory Council on Religious Affairs failed, because Muslims would not accept equality. During the last CA, Dan Suleiman was appointed Military Governor of Plateau State in order to contain the eminent dangers developing in the state because of the crisis about sharia at the CA. There were ten of us Christians and ten Muslims. At the first meeting we decided that we were going to travel throughout the local governments of the state to explain the issues and urge for a dialogue. However, the Muslims withdrew. They explained that if they should travel together with Christians, fellow Muslims would think they had succumbed to Christians.

Then there is the issue that both Christians and Muslims understand their faith as giving them a mission mandate. This is another reason for the Islamic resurgence and radicalism and has led to confrontation and bitter enmity between Christians and Muslims. Christians are merely reacting to Islamic confrontation. But the confrontation will get worse, if the present militant attitude continues. *I conclude that dialogue is relevant and even necessary, but, because of crises that erupt so frequently, at this point it is not practicable.*

I propose that the Interfaith Dialogue Centre be assigned to



engage in deep research to discover how we can make dialogue practicable, meaningful and fruitful in this situation.

