

# CHAPTER 3

## SANITIZING SOCIETY

### I.

#### Introduction to Chapter 3

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1. Sanitizing society as a goal of Sharia implementation.

Sharia implementation had many motivations: this is documented and discussed in Chapters 1 and 2 of this work. This chapter focuses on one of the central motivations: the desire to find a cure for the many social ills besetting Nigeria, or, in this case, besetting the Muslim North. The malaise, its putative cause, and the expected means of its cure, are well summarised in this passage from the Report of the Committee on the Implementation of Sharia Law in Kebbi State:<sup>1</sup>

The Sharia Committee after listening to oral advice and suggestions and having discussed the written memoranda received observes as follows:

(i) that the background to the call for the revival and full implementation of the Sharia in Kebbi State was the dissatisfaction of both the Government and the people with poor administration of justice as well as the collapse of the social and political institutions of our society which is manifested in the prevalence of social vices such as corruption, nepotism, tribalism, abuse of public office and position, drunkenness, cheating, fornication, armed robbery, gross violation of human rights among others, which are taking their toll on the national psyche on a daily basis under the very nose of the existing judicial system which is largely Western in its orientation and origin and which is so far removed from our cultural heritage that not surprisingly, it has failed to provide adequate remedy to all these evils;

(ii) that for the Muslims and non-Muslims alike, it is now time to look back to the good old days when Sharia was in full operation in some parts of this country. In those days, historical documents testify, there was security of life and property in all the territories where Sharia was being practised and people lived in harmony, peace and tranquillity;

(iii) that the social decay and moral decadence today is similar to what obtained during the *jahiliyyah* period in Saudi Arabia, and that almost as soon as the Sharia was implemented these vices evaporated into thin air;

(iv) that in Saudi Arabia today serious crimes and anti-social behaviour have been reduced to a minimum due to the implementation of the Sharia;

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<sup>1</sup> Quoted in the “White Paper on the Report of the Committee on the Implementation of Sharia Law in Kebbi State”, Chapter 2, 184.

(v) that seeing the effect of the implementation of the Sharia in this part of the country before the arrival of the British colonialists and the miracle it performed in Arabia during the early days of Islam as well as its effect in modern Saudi Arabia, the Muslims in Kebbi State call loudly for its entrenchment into our legal system once again as a remedy to our predicaments....

Prominent among the ills identified in this passage is “poor administration of justice”, blamed on “the existing judicial system which is largely Western in its orientation and origin”. The efforts made by the Sharia States to correct this problem, through the Islamisation of their court systems, will be documented and discussed in two later chapters of this work, on “Court Reorganisation” and “The Judges of the Sharia Courts”, both forthcoming. This chapter focuses on other social ills, documenting the efforts of the Sharia States to address them through legislation. Some further quotations from the Sharia Implementation Committee reports will serve to indicate some of the specific problems addressed:

Corruption. “Out of the societal moral decay, corruption has remained in the forefront.... [C]orruption has grown so powerful, contagious and pervasive [that] it eats up all our development programmes. Many policies...have failed to address these problems.” “Nigeria has tested rule under colonialism, military dictatorship and democracy as presented in Western sense, but still none has proved adequate and effective in curbing the menace of social injustice, corruption, bribery, bigotry and many other social malaise. Sharia is the only option left that is capable enough to tackle and reverse this trend.”<sup>2</sup>

Liquor, gambling, and prostitution. “All social menaces such as prostitution, selling and drinking of alcohol, and gambling should be fought with immediate effect.... Further, in doing this work, those involved in these dirty works should be urged to repent and be given assistance.” “I believe if we start with these, there will be significant reduction in the commission of immoral acts....”<sup>3</sup>

Unhealthy influences from the media. “Government should with immediate effect close all video houses and shops where drama cassettes are sold. Further, strict measures should be taken against cinema houses too.” “[I]t has been proved that these institutions have a great corrupting influence on youth. This is in addition to the fact that they serve as meeting places for criminal elements. Their harm is greatest in the LGAs [Local Government Areas] where recreational facilities are more limited.” “All immoral literature should be banned from circulation to ensure conformity with Islamic ethics and practices.”<sup>4</sup>

Unscrupulous market practices. “[U]nscrupulous people have filled our markets and nobody can stop them from what they are doing....” “The above [particularly the unscrupulous practices of self-imposed middlemen, discussed at length] are the main problems facing us and we hope that as the implementation of Sharia takes shape in this State, such practices will in time be wiped out...because they are harmful to both Islam

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<sup>2</sup> Chapter 2, 30, 94.

<sup>3</sup> Ibid., 57, 133.

<sup>4</sup> Ibid., 76, 105, 188.

and to Muslims.” “Government should ensure standard measuring units in term of weights and volume for goods to ensure fairness in business transactions. Price and quality control task forces should be established at various levels to supervise and enforce strict adherence to Islamic laws on business transactions.”<sup>5</sup>

A variety of matters related to girls and women.

Hawking. “Regulation of street hawking particularly by girls [should be imposed] in order to safeguard public morality.” “We are all living witnesses of what is happening as regards female hawking. This has become a way through which the behaviour of young girls is easily spoilt because of the constant mingling with bad boys.”<sup>6</sup>

Problems related to education. “Protection of young girls in schools has become something of great concern.... [S]ome parents are afraid of what will happen if they send their children to school.” “Principals and duty masters should check staff involved in immoral relationships with the female students.... Roll calls should be observed to check students sneaking out of the school at night or during the daytime.... During visiting days only girls’ parents or those authorised by the parents should be allowed to visit the girl students.” “Government should with immediate effect bring an end to co-education.” “Prevail on the Federal Government to separate female students’ campuses from those of male students in the existing universities...[or] to set aside one or two of the existing universities in the country exclusively for women; and to be staffed from the vice-chancellor to the lowest staff by women.”<sup>7</sup>

Dressing. “Mode of dressing should be strictly in accordance with Islamic injunctions. This should apply to our academic institutions as well.” “Government should prohibit [females] moving around the city half naked. And students’ uniforms in schools should be changed to conform with Islam.”<sup>8</sup>

Public transportation. “It has been observed that the “achaba” [commercial motorcycle] mode of transportation does not become Muslim women.” “Ensure separate commuter buses for males and females.”<sup>9</sup>

Social mixing of men and women. “[P]ublic entertainment in which men and women intermingle in an indecent and un-Islamic manner be it in the form of dancing, drumming, singing, music, beauty contest, fashion parade and the like [should be banned].” “[A]ll forms of immoral gatherings and activities during marriage and naming ceremonies (such as luncheons, picnics, cocktail parties and disco) [should] be banned and made illegal and punishable.”<sup>10</sup>

The high cost of getting married. “Government should readdress the issue of marriage in our society today with a view to eradicating certain negative innovations....” “[H]igh financial demands...contribute towards the accumulation of so many unmarried

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<sup>5</sup> Ibid., 52, 91, 96.

<sup>6</sup> Ibid., 22, 52.

<sup>7</sup> Ibid., 53, 187, 76, 165.

<sup>8</sup> Ibid., 96, 57.

<sup>9</sup> Ibid., 105, 96.

<sup>10</sup> Fika Local Government Prohibition of Certain un-Islamic Practices Bye-Law 2002, Part IV.8.d infra, §5; Chapter 2, 185.

youths. These...have become used to visiting prostitutes in brothels, and the women on the other hand are there in high numbers with nobody to marry them....” “During marriage contract the suitor shall pay only *sadaq* (dowry) to the bride in accordance with the Sunnah. Payment of all forms of levies and other traditional gifts such as *kudin mai unguwa*, *kudin ’yan banga*, *kudin tobassai* etc. should be made illegal and punishable under the law.” “[A] law [should be made] against extravagance during marriage celebrations that is, like inviting traditional singers and dancers and showering money on them.”<sup>11</sup>

## 2. What this chapter comprises.

a. Documentary materials. In Part IV the reader will find many of the legislative enactments made in the Sharia States aimed at suppressing the social vices just mentioned. Some of the enactments included in Part IV – some of the “Omnibus Laws” in Part IV.1 and the laws aimed at “Other Social Vices” in Part IV.8 – also address other problems that have not been mentioned.

i. Completeness of the materials. Every effort has been made – successfully, we believe – to collect all enactments of the Houses of Assembly of the Sharia States aimed directly at suppressing social vices, and all that we have collected are published in Part IV. Some of the statutes are lengthy. In three such cases we have omitted some sections, so indicating at the appropriate places in the texts, with information about what the omitted sections are about and how to find their language.

On the other hand, we managed to collect only a small sample of the enactments – “bye-laws” – of the Local Government Councils (LGCs), which are much harder to come by. For instance, we have no LGC enactment from Bauchi State, but it seems that many were made in the early days of Sharia implementation, as this passage from the September 2000 Report of the Bauchi State Sharia Implementation Committee attests:

1. At the time of writing, it is known that almost half of the LGAs [Local Government Areas] have passed such legislation to:
  - i. prohibit prostitution and close down brothels....
  - ii. ban all forms of gambling and games of chance.
  - iii. prohibit consumption and dealings in liquor in predominantly Muslim areas, i.e. not applicable to non-Muslims.
  - iv. ban all public video-viewing houses/centres....<sup>12</sup>

We have not even published all the LGC enactments we collected: particularly in cases of enactments from LGCs in the same State, they tend to copy from one another in identical terms. We believe that the bye-laws we managed to collect and have published provide a fair sample of what the LGCs have done.

In the case of most of the subjects dealt with in this chapter – corruption, liquor, gambling, etc. – there are, besides the new laws which deal specifically with these subjects, also sections of the new Sharia Penal Codes that are relevant. A separate chapter of this work – Chapter 4 – deals comprehensively with the Sharia Penal Codes. But for ease of reference we have extracted from Chapter 4 the sections of the Sharia Penal Codes relevant to the subjects dealt with in this chapter, and placed them with the

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<sup>11</sup> Chapter 2, 96, 86, 185, 30.

<sup>12</sup> Ibid., 105.

appropriate materials in Part IV. The reader should thus be able to get a full picture of the state of the law in the Sharia States, on the subjects dealt with in this chapter, from this chapter alone.

Of course the Sharia States have not attempted to address all their social problems with the sort of legislation included in Part IV of this chapter. Other methods have also been used – for instance, the establishment of Hisbah Corps charged with conflict resolution, peace-making, and personal guidance as well as with ensuring compliance with the dictates of the Sharia, and of Zakat Boards to collect and distribute *zakat* particularly to the deserving poor. These organisations will be documented and discussed in later chapters of this work. In Kano State, Governor Shekarau has set up a whole new Directorate of Social Reorientation, *A Daidaitu Sabu*, which has instituted a multi-faceted programme aimed at combating indiscipline and “restoring our cherished values”: “uprightness, good manners, patriotism, and respect for law and order”.<sup>13</sup> *A Daidaitu Sabu*, which got under way in 2005, deserves a separate study of its own; it is not covered in this work.

ii. Annotations. Several of the laws published in Part IV are derived from other laws enacted previously, whether by the Northern Region, other States, or the Federal Government. Where we have identified such relationships we have annotated the laws published in Part IV, showing, section by section, where they come from and any material variations from their sources. In the case of Sharia Penal Code sections, the annotations also show variations from Sharia State to Sharia State.

iii. We mention finally that as with all the other documentary materials published in this work we have corrected and standardised spellings etc., as is discussed more fully in the Preface to Volumes I - V, in Vol. I.

b. Scholarly essays. As has been seen, an important bit of the logic of Sharia implementation was that the laws and legal institutions inherited from the British colonial masters had failed, and perhaps would inevitably fail Nigeria; that the country was unwell as a result; and that the only cure, at least in the predominantly Muslim states, would be to reform the laws and institutions, to bring them back into conformity – at least more into conformity – with the classical Sharia: Allah’s rules for mankind, not those of the British. Then things would begin to improve. The laws reproduced in Part IV are the output so far of this programme of legislative reform on the subjects dealt with in this chapter.

How far have the laws actually changed? This is a principal question addressed in the two essays that follow this Introduction, Parts II and III of this chapter. Part II, on “Changes in the Law in the Sharia States Aimed at Suppressing Social Vices”, by Philip Ostien and M.J. Umaru, deals with corruption, liquor, sexual immoralities, gambling, and unedifying media. Part III, on “Sharia Implementation and Female Muslims in Nigeria’s Sharia States”, by Jamila M. Nasir, surveys a wide range of matters relating to its title, including the “variety of matters related to girls and women” listed above. The basic plan of the first essay is, subject by subject, to articulate the position of the classical Sharia; to

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<sup>13</sup> Malam Ibrahim Shekarau, *Social Re-Orientations: Inaugural Address and Action Plan* (Kano: Kano State Government, 2004), 1, 3.

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outline the law in the Northern Region of Nigeria and the States into which it was subsequently divided, to 1999; and finally to summarise the changes in the law made in the Sharia States since Sharia implementation began in 1999, with frequent reference to the materials in Part IV. This exercise can be tedious but it can also be revealing, and it seems to be the only way to determine the net effect to date, on the state of the law, of the efforts of the Sharia States to bring their laws on the subjects at hand into closer conformity with the Sharia. The second essay, on women, paints a complex picture of female Muslims in Nigeria's Sharia States, the roles they have been playing in Sharia implementation, and the changes in the law affecting them in particular.

What difference have the changes in the law made? This question is difficult to answer, for two reasons. First, because hard data on changes in social conditions in the Sharia States since 1999 – as to levels of corruption, rates of consumption of liquor by Muslims, divorce rates, etc. – are not available: the evidence is at best anecdotal. Second, because of the causation problem: even if it could be shown that conditions have – or have not – improved, the question would remain, what brought this about? – modification of the laws? insufficient modification of the laws? some other factor or combination of other factors? all of the above? It takes a great deal of careful collection and analysis of well-constructed data to approach these questions with any degree of confidence. The best the essays in Parts II and III can do is to give some impressions of how Sharia implementation has affected the incidence of the social problems the essays discuss.