

## Chapter 6 Part IV

### Bibliography of Islamic Authorities Cited in the Judgments and Elsewhere in this Work

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#### Introduction

1. Principles of selection for inclusion in the bibliography. This bibliography began with the list of Islamic authorities cited by counsel and courts in the Safiyatu Hussaini and Amina Lawal cases – which we compiled to assist us in verifying citations and quotations as we edited the proceedings and judgments in those cases for this chapter. It then occurred to us that it would be helpful to readers of the two cases who are unfamiliar with Islamic law, to provide some information about the authorities relied on. But there are also other lists of Islamic authorities given in this work – in Chapter 2 (Vol. II), where several lists of books are given which, in someone’s opinion, should be in the library of every Sharia Court;<sup>101</sup> and in Chapter 5 (Vol. IV), where two lists of books consulted by committees working on Sharia Criminal Procedure Codes are given.<sup>102</sup> Although there is much overlap, there is also much divergence among all these lists. We decided to include all the books on all the Chapter 2 and Chapter 5 lists in this bibliography, along with the authorities relied on in the proceedings and judgments presented in this chapter. That is what has determined which works have been included and which left out. The bibliography certainly does not include all Islamic authorities used by Nigerian courts or scholars or available from the booksellers. It is also not a bibliography of Islamic scholarship produced in Nigeria,<sup>103</sup> although some such works are included.

2. Problems encountered in compiling the bibliography. We have encountered a number of problems in compiling the bibliography and in verifying the citations and quotations in the judgments, which are worth mentioning because they suggest some needed reforms in the way these works are cited particularly in court judgments.

a. Too many titles for the same work. As the bibliography shows, most of the Islamic authorities referred to have at least two titles: long ones – their full titles in Arabic – and short “Hausa-ised” ones by which they are almost always referred to in Northern Nigeria, even in court judgments. The problem is that the short titles are not standardised. Sometimes the same work has more than one short title, e.g. *Adawi* (aka *Hashiyatul Adawi*) or *Irshadus Salik* (aka *Askari*). But an equally serious problem is that spellings vary wildly. For instance, the work entered in our bibliography under the title

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<sup>101</sup> See Chapter 2 (Vol. II), 56, 123, 183 and 211. See also the list of Recommended Text Books for the Basic Judiciary Course offered by the A.D. Rufa’i College for Legal and Islamic Studies, Misau, Bauchi State, Chapter 2 p. 28.

<sup>102</sup> See Chapter 5, 211 and 213.

<sup>103</sup> As to writing in Arabic in the Nigerian region, see J. Hunwick, “The Arabic Literary Tradition of Nigeria”, *Research in African Literatures*, 28 (1997), 210-223, and authorities there cited, which include Hunwick’s larger work *Arabic Literature of Africa, Volume 2: The Writings of Central Sudanic Africa* (Leiden: Brill, 1995).

of *Al-Sultanul Qada'iyya fil Islam* is spelled thus in the original versions of our texts: *Alsultul kala'iya fil islam*; *aisultatu kalaiya fil Islam*; *Al-suldatul Ada Iyya*. Some of the variations in spellings in the original documents are due to different soundings-out, but a lot of them are due to the carelessness of typists and proofreaders.

The reader of this work will see none of these variations. For each Islamic authority referred to, we have selected what we considered to be the short title by which it is most commonly referred to in the northern parts of Nigeria. The authorities are listed in the bibliography in alphabetical order by these short titles. The same short titles have been read back into the records of proceedings and judgments in the Safiyatu Hussaini and Amina Lawal cases reproduced in this chapter, and into the lists of authorities given in Chapters 2 and 5, with uniformity of spelling rigidly imposed. If the full Arabic title of the work is different from its usual short title in Northern Nigeria, the full title, transliterated into the Latin alphabet (without most diacritical markings), is then given in the bibliography, followed by the name of the author or compiler and other information about the book. Alternative short titles are also given in some cases.

b. Sometimes-ambiguous titles. The short titles – even when the same one is used consistently – can be ambiguous. Take for example *Ibn Kathir*, a short title used several times in the Amina Lawal case. Ibn Kathir was a scholar of the 14<sup>th</sup> century. The brief biography of him given in volume 1 of the English edition of *Tafsir Ibn Kathir* (see bibliography) lists twelve works by him; possibly there were others. Which of these works was relied on in the Amina Lawal case? We do not know.<sup>104</sup> A similar problem is presented by *Ibn Ashir*, a short title used in Chapter 2.<sup>105</sup> A different sort of example is presented by the short title *Ihkamul Ahkam*, used in both the Safiyatu Hussaini and Amina Lawal cases.<sup>106</sup> As the note to the entry under this title in our bibliography shows, there are at least three works referred to by this same short title in circulation in Northern Nigeria. We were only able to determine which one was relied on in the cases by looking up the citations. The reference to the same work in Chapter 2 dis-ambiguates the title by making it fuller: *Ihkamul Ahkam ala Tuhfatul Hukkam*.<sup>107</sup>

c. Which edition? Many of the works, even in the original Arabic, are in circulation in Northern Nigeria in many editions, differently divided into volumes and differently paginated. Citations to them in court judgments never refer to specific editions. This makes it difficult to look up passages cited. Similarly, some of the works – especially the most important ones – have been translated into Hausa and/or English. For example, Hausa editions of *Risala* and *Tubfa* are in wide circulation, and new Hausa editions of *Bulughul Marami* and *Sabihul Bukhari* are coming out. There are English editions of *Arba'una Hadith*, *Bidayatul Mujtabid*, *Bulughul Marami*, *Fiqhus Sunnah*, *Tafsir Ibn Kathir*, *Mukhtasar*, *Muwatta Malik*, and *Risala*, in addition to *Sabihul Bukhari* and *Sabihul Muslim*,

<sup>104</sup> For the citations to Ibn Kathir in the Amina Lawal case, see nn. 84-86 and 100 supra and accompanying text. The one work of Ibn Kathir included in our bibliography, a commentary on the Qur'an, is there because it has been translated into English and we have used its English versions of Qur'anic verses throughout this text.

<sup>105</sup> See Chapter 2, 183. We do not know if the work of Ibn Ashir included in this bibliography is the one intended in the Kebbi State White Paper.

<sup>106</sup> See pp. 28, 34, 68 and 69 supra.

<sup>107</sup> Chapter 2, 211.

all in wide circulation. Citations to all these works are by the same short titles and seldom indicate whether it is an Arabic, Hausa or English edition that is being referred to.

d. Authorities not in circulation. A number of the authorities listed in Chapter 2 are very difficult to lay hands on in contemporary Northern Nigeria. Indeed, as to fully half of the twenty works listed on p. 56 of Chapter 2, which the Sharia Implementation Committee of Bauchi State was urged “in the name of Allah...[to] supply...in each Sharia Court because of their importance”, we could not find any copy among the Islamic scholars or booksellers of Jos or Kano whom we consulted. The same is true of one of the authorities relied on by the Upper Sharia Court Funtua in Amina Lawal’s case: *Misbabuz-zujaj*. These works have fallen out of print and out of circulation, and it is only by happenstance that any given judge or scholar will have a copy in his possession; yet these neglected works can still be cited as good authority in the courts.

The last point may not be perceived to raise any problem: the Islamic law canon remains open and continues to grow. But the other points could be addressed, by standardisation of short titles, spellings, and citation forms, and enforcement of the rules via more careful proofreading of texts before they are released for public consumption, all with the goal of increasing the professionalism of judges and scholars and improving the quality of their work-product.

3. Misc. information about the bibliography. All works included in the bibliography are in Arabic unless otherwise noted. All dates given are Gregorian. We have given publication information about the editions which Mr. Garba believes are most widely used in the northern parts of Nigeria, but as has been noted there are often many editions of the same work available in Nigeria and we have not undertaken any study of which are “most widely used”.

4. Acknowledgements. For their generous assistance in the considerable work of creating this bibliography we extend our heartfelt gratitude to Sheikh Alhassan Sa’id Jos, the leader of *Izala B* in Plateau State; Justice Kabiru Adam, Kadi of the Sharia Court of Appeal of Plateau State; Justice Isma’ila Adam, Kadi of the same court (rtd.); Sheikh Balarabe Daud, Deputy Chief Imam of the Jos Central Mosque; Imam Khalid Aliyu, lecturer in the Department of Religious Studies, University of Jos; Sheikh Abdulrahman Lawal, *Murshid Jama’atul Nasril Islam* Jos North and lecturer in the Department of Religious Studies, University of Jos; Sheikhs Na’annabi and Mukhtari Adam, Islamic scholars residing in Jos; Ramzi Ben Amara, a post-graduate student of the University of Bayreuth; and Malam Ibrahim dan Niger, a bookseller who travels frequently to Sudan, Egypt, and other places in the Middle East in connection with his business and was of great help in Kano in our efforts to track down some of the works included in the bibliography. Finally, we thank Professor Muhammad S. Umar, lately of Arizona State University, now of Northwestern University, who encouraged, advised and assisted us in many ways both in Jos and from abroad. He provided much information we could not get ourselves, and saved us from many errors. Sometimes differences of opinion remained; there are also some unsettling differences between our work and that of others regarding dates and other matters which we have not been able to resolve; we can only say in conclusion that responsibility for all remaining errors rests with us.

### Bibliography

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*Al-Fatawa al-Kubra*. "The Great *Fatawa*" of Ibn Taimiya, always included in *Fatawa* q.v.

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*Al-Qur'an*. The sacred scripture of Islam, revealed to the Prophet Muhammad over the years 610-632. A canonical text was established in 651-52. There are many Arabic editions available in Nigeria, the most common coming from publishing houses in Saudi Arabia. There is one complete translation into Hausa, by Sheikh Abubakar Gumi, the long-time Grand Kadi of the Sharia Court of Appeal of the Northern Region of Nigeria: *Al-Kur'ani Mai Girma da kuma Tarjaman Ma'anoninsa Zuwa ga Harshen Hausa* (Medina: sponsored by late King Fahd, 1991, 1 vol; reprinted many times since). A fresh translation into Hausa has been started by a group of scholars based in Kano, led by Basheer Ahmed Mohyidin: *Alkur'ani Mai Girma (Fassara da Bayani)*. The first volume, comprising *Suratul Baqara* through *Suratul Anfal*, came out in 1986 (Madras, India: Continental Book Centre); no subsequent volume has appeared. Several English versions of the Qur'an are available in Nigeria, including *The Holy Qur'an: Text*,

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- Askari*. See *Irsbadus Salik*.
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<sup>108</sup> There is a second commentary on *Risala* by the same author, *Khirsbi* q.v.

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*Khirshi. Sharh al-Khirshi ala Risala*, by Allamah al-Muhaqqiq Sheikh Aliyu ibn Ahmad ibn Mukram al-Sa'idi al-Adawi (Adawi) (d. 1775) This is further commentary on *Risala* by Adawi, printed on the margins of *Hashiyatul Adawi* q.v. (Cairo: Dar al-Fikr, reprinted many times, 2 vols).<sup>110</sup>

*Lamiyyat al-Zaqqaq; Zaqqaqi. Matn Lamiyyat al-Zaqqaq fi Fiqh al-Malikīyya*, a book of *fiqh* by Ibn al-Hassan Aliyu ibn Qasim ibn Muhammad al-Maghribi, al-Fasi, al-Tajibiyyi, famously known as al-Zaqqaq (d. 1506). This is a short poem on judicial procedure. Edition widely used in Nigeria published by Alhaji Muhammad Dan Age (Sokoto, n.d., 1 vol).

<sup>109</sup> There are two other books used in Nigeria that go under the name of *Ihkamul Ahkam*. *Al-Ihkam fi Usul al-Ahkam*, by Abu Muhammad Ali Ibn Ahmad Ibn Hazm (Ibn Hazm), edited by Ahmad Muhammad Sahkir and published by Dar al-Afaq al-Jadidah (Beirut, 1980, 4 vols); and *Al-Ihkam fi Usul al-Ahkam*, by Ali bn Muhammad Sayf al-Din al-Amidi (Al-Amidi), edited by Abd al-Razzaq Afifi and published by Al-Maktab al-Islam (Beirut, 2<sup>nd</sup> ed. 1982, 4 vols). These are both books of *fiqh* giving guidance for judges in arriving at and giving judgments in cases. Neither of these is referred to in the texts printed in this chapter or elsewhere in this work.

<sup>110</sup> There is a second commentary on *Risala* by the same author, *Adawi* q.v.



*Lauwalli da Sani*. See *Jawabirul Iklili*.

*Mawabibul Jalili*. *Mawabib al-Jalil li-Sharh Mukhtasar Khalil*, by Abi Abd Allah Muhammad ibn Muhammad ibn Abd al-Rahman al-Tarabulusi al-Maghrabi al-ma'ruf bi-al-Hattab (Hattab) (d. 1547). A commentary on *Mukhtasar* q.v. Edition available in Nigeria published by Maktabat al-Najah (Tarabulus, Libya, 1969, 6 vols).

*Mawabibul Khallaq*. *Mawabib al-Khallaq ala Sharh al-Tawudi li-Lamiyyat al-Zaqqaq*, a book of *fiqh* by Abu al-Shita' ibn al-Hasan al-Ghazi al-Sinhaji (d. 1946). This is a super-commentary on the commentary of Muhammad al-Tawudi (d. 1795) on *Lamiyyat al-Zaqqaq* q.v. of Ali ibn Qasim (d. 1506). It discusses judicial procedure. Edition available in Nigeria published by Al-Maghrab al-Aqsa Matba'at al-Ummiyya (Rabat, Morocco, 1955, 2 vols.) and Dar al-Fikr (Cairo, n.d., 1 vol).

*Mayyara*. *Sharh al-Mayyarat al-Fasi ala Tuhfat al-Hukkam fi Nukt al-Uqud wa al-Ahkam*, by Abi Abdullahi Muhammad ibn Ahmad ibn Muhammad al-Malikiyyi al-Mayyara (Mayyara) (d. 1426). This is a commentary on *Tuhfa* q.v. Edition widely used in Nigeria published by Dar al-Kutub al-Ilmiyah (Beirut, n.d., 2 vols).

*Misbabu*. *Misbab al-Salik fi Madhab Imami Malik*, by Sheikh Abdulwaseef Muhammad (dates unknown). Contains the text of a different work, *As'balul Masalik* q.v. and commentary thereon. Edition available in Nigeria published by Dar al-Fikr (Beirut, n.d., 1 vol).

*Misbabuz-zujaj*. *Misbab al-Zujaja fi Zawa'id ibn Majah* by al-Hafiz Shihab al-Din Abu al-Abbas Ahmad ibn Abi Bakr ibn Isma'il ibn Salim ibn Qaymaz al-Busiri al-Kinani al-Misri (d. 1436). A supplement to the collection of hadiths, entitled *Sunan Ibn Majah* made by Muhammad ibn Yazid ibn Majah (d. 887).

*Mudawwanah*; *Mudawwanatul Kubra*. *Al-Mudawwana al-Kubra*, a work of *fiqh* ascribed to Imam Malik ibn Anas (d. 795), transmitted through a chain of narrators ending with Imam al-Sahnun ibn Sa'id al-Tanuki (d. 854) who made the extant compilation. This is the original work of Maliki *fiqh*. Edition widely used in Nigeria published by Dar Sader (Beirut, n.d., 6 vols).

*Mughni*. *Kitab al-Mughni wa Sharh al-Kabir*, two books of *fiqh* from the Hanbali *madhab*, apparently always published together. *Al-Mughni* is by Muwaffaq al-Din Abdullahi ibn Ahmad ibn Muhammad ibn Qudama (d. 1223) and *Sharh al-Kabir* is by Ibn Qudama's junior brother Shams al-Din Abi al-Faraj Abd al-Rahman ibn Muhammad ibn Ahmad ibn Qudamah al-Maqdisi (also known as Ibn Qudama) (d. 1283). Discuss a wide variety of issues in *fiqh* (*ibadat*, *mu'amalat* etc.). Edition widely used in Nigeria published by Dar al-Hadith (Cairo, 1996, 16 vols). Although these are Hanbali works they are often consulted in Nigeria; they are felt not to be in conflict with Maliki law in most instances.

*Mukhtasar*, *Mukhtasar Khalil*. *Mukhtasar al-Allama Khalil fi Fiqh al-Imami Malik*, a book of *fiqh* by Sheikh Khalil ibn Ishaq ibn Musa ibn Shu'aib al-Ma'ruf bi al-Jundiyyi (Khalil) (d. 1365). Discusses a wide range of issues in both *ibadat* and *mu'amalat*. It is often regarded as the most advanced text in Maliki law. Edition widely used in Nigeria published by Dar al-Fikr (Beirut, reprinted 1999). Much of *Mukhtasar* was translated into English in 1916, "by order of Sir F.D. Lugard", for the use of colonial officials in

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*Muslim*. See *Sabihul Muslim*.

*Muwatta Malik; al-Muwatta*. This is a collection of hadiths by Imam Malik ibn Anas (d. 795), the founder of the Maliki *madhhab*. The Arabic edition commonly used in Nigeria has the hadiths plus commentary by Sheikh Jalal al-Din Al-Suyuti (d. 1505) and is entitled *Tamwir al-Hawalik Sharh ala Muwatta Imam Malik* (Egypt: Maktabat al-Thaqafa al-Diniyya, 2004). There are two English editions of the hadiths (without commentary) readily available in Nigeria: *Al-Muwatta of Imam Malik ibn Anas: The First Formulation of Islamic Law*, translated by Aisha Abdurrahman Bewley (Inverness, Scotland: Madinah Press, 2001, 1 vol), and *Al-Muwatta by Imam Malek b. Anas*, rendered into English by F. Amira Zrein Matraji, corrected and revised by Dr. Mahmoud Matraji (Beirut: Dar al-Fikr, 2001, 1 vol).

*Qamus*. The word ‘*qamus*’ means ‘dictionary’. There are two frequently referred to as such in Nigeria: *Al-Qamus al-Asriyya*, an Arabic/English Arabic dictionary by Elias A. Elias and Ed. E. Elias (Cairo: Elias Modern Press, 1962, 1 vol), and *Al-Qamus al-Mubid*, an Arabic/Arabic dictionary by Al-Mujaddaddin Muhammad ibn Yakub al-Firuzi Abadi al-Shairazi (Cairo: Al-Amiriyya, 1981, 1 vol). See also *Al-Manwid al-Qarib*.

*Qawaninul Fiqhiyyah. Qawanin al-Ahkam al-Shar’iyyah wa Masa’il al-Furu al-Fiqhiyyah*, by Abu Abdallah Muhammad ibn Muhammad ibn Ahmad ibn Juzayy al-Qalbi (Ibn Juzayy) (d. 1340). This is a commentary on the jurisprudence of five Sunni *madhahib* – Maliki, Hanafi, Shafi’i, Hanbali and Dhahiri) with emphasis on the Maliki. Edition widely used in Nigeria published by Dar al-Ulum Lilmalabin (place of pub. not given, 1974, 1 vol).

*Risala. Matn al-Risala*, a work of *fiqh* by Abu Muhammad Abdullahi ibn Abdurrahman ibn Abi Zayd al-Qayrawani (Ibn Abi Zayd) (d. 996). Discusses various issues in *ibadat* and *mu’amalat*. Arabic edition available in Nigeria is in 1 vol. but gives no publication information. There are also Hausa and English editions of *Risala* in use in Nigeria. Hausa: *Fassarar Matanin Littafin Risala Tare da Darasi*, translated by Malam Bello Muhammad Andalus Dausayi Kano (showing the *Risala* in Arabic on facing pages) (Kano: Sani Muhammad Danjiniri, n.d., 1 vol). English: *Matn ar-Risala* by Ibn Abi Zayd Al-Kairawani, rendered into English by F. Amira Zrein Matraji, corrected and revised by Mahmoud Matraji (Beirut: Dar al-Fikr, 1994, 1 vol).

*Sabihul Bukhari; Bukhari. Sahih al-Bukhari*, a collection of hadiths by Abu Abdullah Imam Muhammad ibn Ismail ibn Ibrahim ibn al-Mughirah al-Bukhari (Bukhari) (d. 870). Arabic edition widely used in Nigeria published by Al-Maktabah al-Islamiyya (Istanbul, 1981, 8 vols.). English edition widely used in Nigeria (with facing Arabic) is *Sahih Al-Bukhari*, translated by Dr. Muhammad Muhsin Khan (Beirut: Dar al-Arabia, 1980, 8 vols.). The first volume of a Hausa edition was brought out in 2005: *Fassarar Sabihul Bukhari Juzu’i Na 1*, published (and apparently translated) by Kwamitin Talifi da Ilmantarwa (Committee for Publications and Education) established by the Kano State Government under Governor Ibrahim Shekarau.

- Sabihul Muslim; Muslim. Sabih al-Muslim*, a collection of hadiths by Imam Muslim ibn al-Hajjaj al-Qushayri al-Naysapuri (Muslim) (d. 875). There are many editions used in Nigeria; two are published by Dar al-Fikr (Beirut, 2004, 1 large vol) and Muhammad Muhammad Tamir (no publication info given, 3 vols). An English edition widely used in Nigeria is translated by Dr. Ahmed Zidan and Mrs. Dina Zidan and published by Islamic Inc. Publishing and Distribution (Cairo, n.d., 2 vols). Another English edition now available in Nigeria is published by Dar al-Kutub al-Ilmiyya (Beirut, 2005, 4 vols).
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- Tafsir Ibn Kathir. Al-Misbab al-Munir fi Tahdhib Tafsir Ibn Kathir*, or *Tafsir al-Qur'an al-Azim*, by Imam Abu al-Fida' ad-Din Isma'il ibn Umar ibn Kathir al-Qurayshi (Ibn Kathir) (d. 1373). This is a commentary on the Qur'an. Edition widely used in Nigeria published by Dar al-Fikr (Cairo, n. d., 4 vols). Also available in English under the title *Tafsir Ibn Kathir (Abridged)* (Riyadh, Houston, New York, Lahore: Darussalam: 2nd ed. 2003, 10 vols). The English edition goes verse by verse through the Qur'an, among other things giving an English translation or "interpretation" of each verse and commentary on it.
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*Zaqqaqi*. See *Lamiyyat al-Zaqqaq*.

### Analytical outline of the bibliography

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