

## Chapter 6 Part VII

### On Defending Safiyatu Hussaini and Amina Lawal

*Aliyu Musa Yawuri\**

#### **Introduction**

Several years ago, shortly before I argued Amina Lawal's case before the Sharia Court of Appeal of Katsina State, I presented a somewhat technical conference paper discussing the facts and the legal issues involved in the two cases of Safiyatu Hussaini and Amina Lawal.<sup>117</sup> Much of what I then discussed can be read in the proceedings and judgments published earlier in this chapter, which include summaries made by the appellate courts of the arguments of the lawyers. In this paper, I discuss less technical aspects of these two cases and the circumstances surrounding them.

#### **How I became involved**

My involvement with the cases of Safiyatu Hussaini and Amina Lawal came through my association with the Women's Rights Advancement and Protection Alternative (WRAPA). WRAPA is a Nigerian NGO, headquartered in Abuja, which is devoted to the promotion and protection of the human rights of women through education, political advocacy, and the provision of legal services. Its Secretary General, Mrs. Saudatu Shehu Mahdi, is a leading women's rights activist in Nigeria. She became one of the key coordinators of the appellate efforts in the two cases. I myself had been involved in human rights work for some years, mostly by way of doing pro bono criminal defence work, trying to ensure that accused persons were accorded their constitutional rights within the criminal justice system. When, sometime in 2001, a friend introduced me to WRAPA, I offered to assist in its work by providing pro bono legal services in the area of human rights; this gave me a singular opportunity to continue and expand my practice of human rights law. The agreement proceeded on this basis until recently when we agreed that I might charge fees for legal services rendered.

#### **Safiyatu Hussaini's case**

I first heard of the case of Safiyatu Hussaini Tungar Tudu when I read a newspaper report on her prosecution and conviction for the offence of *zina*. She had been sentenced by the Upper Sharia Court sitting in Gwadabawa, Sokoto State, to die by stoning. This judgment was pronounced on 9<sup>th</sup> October 2001; I must have read the news

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<sup>117</sup> A.M. Yawuri, "Issues in Defending Safiyyatu Hussaini and Amina Lawal", presented at the conference on Sharia Penal and Family Law in Nigeria and in the Muslim World: A Rights Based Approach, sponsored by the International Human Rights Law Group, Abuja with support from the German Embassy and held in Abuja on 5<sup>th</sup>-7<sup>th</sup> August, 2003. The conference papers, conference report, and list of participants are all published in J. Ibrahim, ed., *Sharia Penal and Family Law in Nigeria and in the Muslim World: A Rights Based Approach* (Nigeria: Global Rights, 2004); my essay is at pp. 183-204. The Amina Lawal appeal was argued in the Katsina State Sharia Court of Appeal on 27<sup>th</sup> August 2003.

of it shortly thereafter. I called the attention of Mrs. Mahdi to the report. WRAPA immediately instructed me to travel to Gwadabawa – a town situated about 70 km to the northwest of Sokoto City – to conduct preliminary enquiries on the proceedings leading to Safiyatu’s conviction. It was decided further that I should travel to Safiyatu’s village, Tungar Tudu – about 15 km to the east of Gwadabawa – to consult with Safiyatu and brief her on her constitutional right to appeal against the conviction and sentence.

When I got to Gwadabawa, I received maximum cooperation from the registrar of Upper Sharia Court there, who allowed me to go through the record of proceedings. This was still in its original form: written out by hand while the proceedings were in progress, probably by the judge who tried the case (although sometimes the record is written by the registrar instead), in a large record book also containing the records of many other cases, all interspersed together. I also met with the police prosecutor and discussed the details of the prosecution’s case with him. While I was there I met a female lawyer from the Federal Ministry of Women’s Affairs, Abuja, who told me that she too had come to make preliminary inquiries on Safiyatu’s case. My findings at the court convinced me instantly that Safiyatu had an arguable appeal. I arranged with the registrar for a certified true copy of the record of proceedings to be made up.

I proceeded to Tungar Tudu, a typical Hausa village in the semi-desert of Nigeria’s far northwest, where the people support themselves largely by farming. As tradition demanded, I called first on the village head. I explained my mission to him and asked him to accompany me to meet Safiyatu and her family. He obliged. I explained my mission to Safiyatu and her family and asked if she would like WRAPA to take up the appeal on her behalf. Safiyatu and her family accepted the offer and expressed deep appreciation and gratitude. I collected her written instruction to represent her in the appeal. Tungar Tudu is a very small village and its people are hospitable. I could feel the excitement in the air, and sensed the furtive glances directed at me by the villagers. I may mention that I myself am from Kebbi State, which was formerly part of Sokoto State, and I had much of my education in Sokoto, so I was very much at home with the people of Tungar Tudu, and they with me: we all spoke Hausa in much the same way and shared the same culture, even though I had acquired a university education and gone off to practise law in the nation’s capital.

On my way back to Abuja from Tungar Tudu and Gwadabawa, I stopped in Sokoto, where, on 26<sup>th</sup> October 2001, I filed a notice of appeal against the Gwadabawa judgment at the Sharia Court of Appeal, Sokoto, listing four grounds of appeal. We later learnt that the National Human Rights Commission, an agency of the Federal Government, had instructed Mr. Sadik Umar Esq. from Birnin Kebbi to file an appeal against the judgment. It also developed that BAOBAB for Women’s Human Rights, a Lagos-based NGO, had similarly instructed my friend and classmate at the university, Mr. Abdulkadir Imam Ibrahim, a Sokoto-based legal practitioner, to file another appeal. At this time the case had started to attract both national and international notoriety. Such Nigerian NGOs as the Women’s Aid Collective (WACOL), the Women’s Advocate Research and Documentation Centre (WARDC), the Legal Defence and Assistance Project (LEDAP), the International Human Rights Law Group (Nigeria) and quite a number of others, began to make contact with us. The Federal Ministry of Women’s Affairs, Abuja, the Federal Ministry of Justice, and a number of other federal ministries and agencies also

began to show interest and sought (and were given) periodic briefings on the case from WRAPA.

In late 2001 Mrs. Mahdi, the Secretary General of WRAPA, called a stakeholders' meeting at Abuja with the aim of evolving a common stand on Safiyatu's appeal. The "stakeholders" included a wide range of organisations and individuals (lawyers, academicians, scholars and activists) interested in two main things: first, saving the life of Safiyatu, and second, handling the appeal in such a way that the eventual judgment of the Sharia Court of Appeal would serve as a useful precedent for future *zina* cases. The stakeholders group continued its work during the subsequent appeal of Amina Lawal; in her press statement after the victory in Amina's case, Mrs. Mahdi said this about the group:

Special mention must be made of BAOBAB for Women's Human Rights, the National Human Rights Commission, the International Human Rights Law Group, Nigeria, Centre for Islamic Legal Studies, Institute of Administration Ahmadu Bello University, Zaria, the Federal Ministry of Women Affairs & Youth Development, and the Federal Ministry of Justice. Others are national women groups and community-based organisations that through sensitisation were able to assist the understanding of Nigerians on the rationale for the appeal of Amina. Individuals we must acknowledge for their sustained legal support include A.B. Mahmood SAN, Mrs. Maryam Uwais, Dr. Kole Shettima, Dr. Nnana Tanko, Barr. A.A. Machika, Hauwa Kulu Inuwa, Chinonye Obiagwu, Abdulkadir Imam (lead counsel to Safiyatu Hussaini Tungar Tudu). Others are Mal. Mustafa Hussain Isma'il and Amina Salihu. Another important group we must thank are the learned *ulamas* who individually and sometimes collectively supported the appeal and in many instances research to support the arguments of the grounds of appeal. These organisations and individuals brought in resources and logistic support to the process and WRAPA remains indebted to them.<sup>118</sup>

In short, a great many individuals and groups, Muslims and non-Muslims alike, contributed to the successful prosecution of both appeals. At the initial meeting of the stakeholders group in late 2001, I briefed those present on the steps I had taken in Safiyatu's appeal so far; others did so as well; and there was a general discussion about how we would proceed. Unfortunately we did not get clear at this meeting who was to argue the appeal when the time came; this was only resolved on the day of the argument.

Safiyatu's case was set for argument before the Sharia Court of Appeal in Sokoto on 14<sup>th</sup> January 2002. On that day, I appeared in court ready to argue the appeal on behalf of Safiyatu. My friend Abdulkadir Imam Ibrahim also appeared prepared to argue the case. The two of us approached Safiyatu to clarify her position as to who should represent her. Safiyatu said she wanted the two of us to appear for her. We pointed out that one of us must lead the team and actually argue the case. Safiyatu instructed Abdulkadir Imam do so, which he did very ably. During his argument he added six

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<sup>118</sup> "Text of Address by the Secretary General at a Press Conference on the Successful Outcome of the Appeal of Amina Lawal Held Tuesday September 30, 2003, WRAPA Headquarters, Abuja." Copy in the possession of the author.

grounds of appeal to the four I had filed – two of which, however, were essentially the same as two of my own. I will observe that three of the four grounds of appeal I filed succeeded. However, the one relating to the denial of her fundamental right to a fair hearing, because the trial court had not explained to Safiyatu her right to have a lawyer to represent her, failed.<sup>119</sup>

The judgment of the Sokoto State Sharia Court of Appeal – finding a number of errors in the proceedings and judgment of the Upper Sharia Court Gwadabawa, overturning Safiyatu’s conviction, and discharging and acquitting her – was handed down on 25<sup>th</sup> March 2002. As we had hoped, besides freeing Safiyatu the judgment set excellent precedents for any future *zina* cases. It held that only persons guilty of *zina* can submit themselves, if they feel they must, for prosecution and punishment, but that it is improper under Islamic law for the police or indeed any third party to initiate *zina* proceedings against persons suspected of this offence; it set very strict standards for the acceptability of confessions to *zina*; it held that a confession, even if valid, may be retracted, either by the accused or by his or her authorised representative, right up to the moment of execution of the judgment, and that after such retraction the confession is null and void and of no further effect; and it held that the pregnancy of an unmarried woman who has been divorced from her former husband for less than five years should presumptively be deemed a “sleeping pregnancy” ascribable to her former husband rather than being deemed evidence of *zina*.<sup>120</sup> All of these rulings, and the others made by the court, were grounded firmly in the Qur’an, the Hadith, and the books of *fiqh* in use by Muslim jurists in Nigeria and throughout the world, with references as appropriate also to the Nigerian Constitution and the laws of Sokoto State. I recall that immediately after the judgment, the Executive Governor of Sokoto State addressed a press conference at which reporters from print, radio and television news organisations from all over the world were in attendance. The Governor noted that his government had in no way interfered with the proceedings at any stage. He said that the Sharia legal system had vindicated itself. It had shown its capacity for self-correction and self-sustenance. I too felt this way about the judgment.

After her discharge, Safiyatu returned to live in her village of Tungar Tudu. She was briefly in the news again in September 2002 when she was taken to Rome and made an honorary citizen of the city. With this event neither WRAPA nor I had anything to do, as I will discuss further below.

### **Amina Lawal’s case**

As has been indicated, the judgment acquitting and discharging Safiyatu was handed down on 25<sup>th</sup> March 2002. It was immediately after the judgment was read, as I was travelling back to Abuja, that I received information that five days previously, on 20<sup>th</sup> March 2002, Amina Lawal Kurami had been convicted of *zina* by the Sharia Court in the town of Bakori, Katsina State and sentenced to die by stoning. I immediately called the Secretary General WRAPA and informed her of this development. She herself was

<sup>119</sup> Ed. note: the issue of right to counsel is discussed further in the introduction to this chapter.

<sup>120</sup> See my paper “Pregnancy as a Proof of Zina: A Study of Recent Cases in Sokoto and Katsina”, presented at the 5<sup>th</sup> Annual Judges Conference held at the Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria, 19<sup>th</sup>-20<sup>th</sup> December 2003.

travelling from Sokoto to Katsina; she proceeded to Amina Lawal's village, Kurami, in Katsina State where she met with Amina. Amina sought for and obtained WRAPA's commitment to support her appeal. Mrs. Mahdi instructed me to file the appeal immediately. Within days I met with Amina Lawal at Kurami and visited the trial court in Bakori where I made preliminary inquiries on the trial and ordered a certified true copy of the record to be made up. In this case the appeal lay, not directly to the Sharia Court of Appeal of Katsina State, but to the Upper Sharia Court in Funtua, where I filed a notice of appeal on 28<sup>th</sup> March 2002. Additional grounds of appeal were filed subsequently, as well as an application to relieve Amina Lawal of bail conditions which the Bakori court had imposed on her. The Funtua court granted the application on 3<sup>rd</sup> June 2002.

WRAPA again convened a stakeholders' meeting at Abuja. Almost everyone who had attended the earlier meeting was also present at this second one, and the discussions were along similar lines. I recall that during the meeting someone suggested that instead of pursuing the appeal through the Sharia courts of Katsina State, we should instead file a summons for declaratory judgment in the State High Court, seeking to nullify Amina's conviction and sentence on the ground that the application of Islamic criminal law by Katsina State was per se unconstitutional; this might have been based on any one or more of several grounds. There was a lengthy deliberation on this suggestion. I disagreed with it. My reaction was based on personal and professional reasons. As a Muslim, I am proud of Islam and its legal system. It is incompatible with my personal convictions to act in any way calculated to derail the application of Sharia. Secondly, at my initial and subsequent meetings with Amina Lawal, she had persistently maintained that she had no quarrels with the Sharia law per se. Her hope was that her appeal would succeed on grounds of misdirection, misapplication, or some technical or procedural flaws in the trial. Amina Lawal is a Muslim; she lives in a Muslim community. She believed that the Sharia, under which she was convicted and sentenced to death, should contain some mechanism that could allow her appeal and set her free. In other words, she yearned for legitimacy. I know as a matter of fact that the implementation of Sharia in the Muslim north enjoys tremendous support among the people. It is conceivable that had the High Court declared the application of Islamic criminal law to be in itself unconstitutional, and nullified Amina's conviction and sentence on that ground, there would have been an uproar. Amina Lawal would have become an outcast, a disgrace to her family and the society at large. Such judgment would have woefully failed in erasing the stigma of *zina*. So besides my own personal convictions in the matter, the suggestion to attack Sharia itself on constitutional grounds was against the express instructions of my client. All the same, and to be fair to the meeting, I suggested that should the sense of the meeting be otherwise, I could withdraw as a counsel and another lawyer could be appointed to argue the appeal in my place. In the end the meeting decided to drop the suggestion to approach the High Court, and I continued as lead counsel for Amina Lawal. The meeting continued with further discussion of strategy and legal issues to be raised in the appeal.

The Upper Sharia Court Funtua held hearings in the matter over several months, finally delivering its judgment on 19<sup>th</sup> August 2002. Although we raised many of the same issues (and some more) that had won the case for Safiyatu in Sokoto, the court rejected our arguments and upheld the judgment of the Sharia Court Bakori against

Amina Lawal. On the day the judgment was delivered the courtroom was crowded and the atmosphere was tense. A group of Muslim radicals numbering about fifty were present to see whether Sharia law would be enforced. There was a considerable presence of police and other security agents. Whenever the judge made a finding or a ruling which went against Amina Lawal, the group of radicals would chant the *takbir* (*Allahu akbar!* – Allah is the Greatest!). After the judgment the group broke into jubilation, chanting that Islam had overcome *kufr* (unbelief). Amina was shaken, though she maintained her outward appearance of calm. After the judgment WRAPA brought Amina to Abuja, to secure her safety, and secondly to complete some treatment that had begun at the National Hospital.

After deliberating on the judgment of the Funtua court and considering the grave errors committed therein, WRAPA instructed me to file an appeal against the decision before the Katsina State Sharia Court of Appeal, which I did on 21<sup>st</sup> August 2002. I also drew the attention of WRAPA to the fact that Amina Lawal was liable to be executed by stoning as per the judgment of the trial court as soon as she weaned her child, and that the child might be weaned before the appeal process was completed. This was especially worrisome because Katsina State, unlike most of the other Sharia States, had not adopted a Sharia Criminal Procedure Code laying down the steps to be gone through before a sentence of death could be executed, and what the effect of a pending appeal would be.<sup>121</sup> Consequently, WRAPA instructed me to file an application before the Sharia Court of Appeal seeking for an explicit order of the court staying the execution of Amina Lawal pending the determination of her appeal. This was duly granted.

After many further delays due to various factors, including on one occasion the absence of the Grand Kadi due to illness, and on another the absence of two of the other kadis who had been called to serve on election tribunals adjudicating disputes arising from the nationwide elections held in April and May 2003, the case was finally argued in the Sharia Court of Appeal in Katsina on 27<sup>th</sup> August 2003. I announced myself, Mariam Imhanobe and Hauwa Ibrahim as counsel representing the appellant, and State Counsel Muhammed Darma announced himself. Then an interesting thing happened. Like Safiyatu's case, this case had attracted both local and international attention – perhaps even more so. From early in the proceedings in the Sharia Court of Appeal a Senior Advocate of Nigeria (SAN) had appeared and said that he was representing Nigerian Bar Association (NBA). I had announced him as an observer on all the dates he appeared in court. However on 27<sup>th</sup> August 2003, when the appeal was to be argued, the learned SAN insisted he was not there merely to observe but would make his own separate submissions on behalf of Amina Lawal after I had completed mine. State Counsel objected, submitting that the NBA was not a party to the matter and therefore the learned SAN had no right of audience. Surprisingly the learned SAN insisted that Amina Lawal had not appointed any lawyer to represent her in the appeal and that all lawyers were appearing only as persons interested in seeing that justice was done. The Honourable Court asked the learned SAN not to press the issue, pointing out that at previous court sittings I had appeared as the counsel for the appellant. In the end the court ruled that the learned SAN had no right of audience and that he might choose

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<sup>121</sup> Ed. note: for the relevant provisions of the Sharia Criminal Procedure Codes, see §§254 and 260-67 of the Harmonised Sharia Criminal Procedure Code Annotated in Chapter 5.

to stay and observe the proceedings or he might go his way. He stayed, but said nothing further.

I proceeded to argue the twelve grounds of appeal that I had filed on behalf of Amina Lawal. Counsel for the State responded and the matter was adjourned for judgment. The judgment was delivered one month later, on 25<sup>th</sup> September 2003. To our great relief the appeal was allowed, the judgments of the two lower courts convicting the appellant for the offence of *zīna* were set aside, and Amina Lawal was discharged and acquitted. Again we obtained a strong judgment from the Katsina State Sharia Court of Appeal giving valuable guidance to the lower Sharia courts and setting valuable precedents for the future.

**On the decorum with which the appeals were conducted, and some breaches thereof**

As pointed out earlier, the two cases assumed both national and international importance. The nature of the sentences caused uproar and condemnation in many quarters. However, to the ordinary northern Nigerian Muslim, the judgments were seen as the success of Islam against unbelief (*kufr*). They raised the hopes and aspirations of Muslims that the Sharia would purge the society of all evils. The two principal NGOs that were involved in the prosecution of the appeals – WRAPA and BAOBAB – agreed from the start that the sensibilities of the Muslims must be recognised and respected. Every effort was made to avoid misinformation, sensationalism, or provocation that could prove counterproductive to the two cases. Even in our choice of legal strategy, as I noted above, we respected the need to tread softly and to balance many competing interests – the interests of the accused/appellant, the interests of Muslim individuals, groups and communities, the interests of the Federal Government of Nigeria, the interests of the NGOs both national and international involved in the prosecution of the appeals, and the interests of the international community. Naturally the interests of Safiyatu and Amina came first. But in the complex situation in which we found ourselves many other factors had to be taken into consideration in our conduct of the cases and in the way we also conducted ourselves.

It was out of this overriding need for proper decorum that WRAPA refused to participate in – indeed distanced itself from – the decision to take Safiyatu Hussaini to Rome where she was invested with the honorary citizenship of the city. Safiyatu herself surely had little understanding of what she was in for on this trip and seems not to have gotten the benefit she expected.<sup>122</sup> At the same time the spectacle predictably outraged many of Nigeria's Muslims and probably set back, in their hearts and minds at least, the very pro-women and pro-human rights agendas the sponsors of the trip said it was meant to advance.

It was for the same reason that WRAPA had cause to complain to BAOBAB about the conduct of Hauwa Ibrahim, one of the lawyers who associated herself with the cases. Hauwa Ibrahim attended the first stakeholders meeting on Safiyatu's case, in late 2001, as a consultant to BAOBAB, and then continued her involvement in both cases

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<sup>122</sup> See *Daily Trust*, 21<sup>st</sup> Nov 2002: "I Didn't Receive Money From Rome – Safiya", where Safiyatu is reported as saying on the BBC Hausa Service that she was promised money which she never received.

thereafter. She got into difficulty the first time in late 2002, when the London *Economist* identified her as one source of a story in which the *Economist*

alleged that Chinonye [Obiagwu, the National Coordinator of the Legal Defence and Assistance Project (LEDAP)] visited Sweden in October 2002 in a fund-raising drive and did receive an undisclosed amount of money from the Swedish public while claiming to be Amina's lawyer. The magazine further claimed that the duo of Hauwa and Sindi [Meder-Gould] who are “real” lawyers of Amina granted it interview wherein they denied knowing Chinonye as a human rights activist in Nigeria nor his alleged involvement in the defence of the poor woman during her trying moment.<sup>123</sup>

Obiagwu, who is well-known in Nigeria and internationally as a human rights activist and legal practitioner, and who of course had been involved in the Safiyatu/Amina stakeholders group throughout, promptly sued the *Economist*, Hauwa Ibrahim and Sindi Meder-Gould in the Lagos High Court, seeking a retraction, an apology, and damages, all of which he won from the *Economist* in an out-of-court settlement.<sup>124</sup> How the case was concluded with the other defendants is unknown to me. Then, while Amina Lawal's appeal was still pending in the Sharia Court of Appeal, and contrary to our collective decision, Hauwa Ibrahim granted an interview to the Hausa Service of the BBC. This is listened to regularly by millions of people in northern Nigeria, and Hauwa Ibrahim's statements elicited hostile reactions from many in the Muslim community. I believe honestly that Hauwa Ibrahim's action had the potential to jeopardise the process and the outcome of the then-pending appeal. WRAPA had to intervene to control the situation, among other things presenting a formal complaint to BAOBAB about Hauwa Ibrahim's behaviour and pleading that the organisation should call her to order. In their response to the complaint, BAOBAB indicated that as at the date when the complained-of behaviour occurred, Hauwa Ibrahim had ceased to be their consultant. It is interesting to note that Hauwa Ibrahim appeared in the cases of Safiyatu Hussaini and Amina Lawal on the platform of BAOBAB. At various times during the two appeals many lawyers attended court as part of the defence team on the platform of other bodies. For example, the International Human Rights Law Group, the Federal Ministry of Women Affairs, the Human Rights Commission, etc. sent in their lawyers to appear in the court.<sup>125</sup> Even private legal practitioners appeared in court in show of solidarity to the cause of women's human rights. But on the 25<sup>th</sup> of September 2003, when the Sharia Court of Appeal, Katsina sat to deliver its judgment in Amina Lawal's case, contrary to my earlier practice, I refused to announce the appearance of Hauwa Ibrahim – my reason being that Hauwa Ibrahim had no platform.

### **The case of Hauwa Ibrahim**

Both WRAPA and I became aware from time to time of various publications in which Hauwa Ibrahim was reported to have claimed to be the lead counsel in the appeal of Amina Lawal. In one it was also reported that she had argued the case, and moreover that the court had attempted to deny her audience

<sup>123</sup> *Vanguard*, 23<sup>rd</sup> May 2003: “How Amina Lawal Divides Human Rights Community”.

<sup>124</sup> *Ibid.*

<sup>125</sup> Ed. note: for the names and institutional affiliations of some of the lawyers who appeared see nn. 43 and 70, *supra* and accompanying text.



because a woman could not address the court as a defender. But since she held her ground, Ibrahim said, she was finally allowed to begin Lawal's defence.<sup>126</sup>

A recent very brief check on the Internet indicated that Hauwa Ibrahim has in fact acquired a great name in America and Europe, based largely on similar misconceptions about her involvement with the appeals of Safiyatu Hussaini and Amina Lawal.<sup>127</sup> She is said to have been

propelled [sic: but who propelled her?] into the media and international limelight while representing Safiya Hussaini.... Ms. Ibrahim and her team [sic] obtained an acquittal based upon substantive and procedural due process arguments, sparing the young mother's life. While returning home from the Hussaini case, Ms. Ibrahim learned of another case of alleged adultery and a sentence of death by stoning. Ms. Ibrahim accepted the case [sic].<sup>128</sup>

She is further reported to have been "Amina Lawal's lawyer" or the "lead counsel" in Amina's appeal;<sup>129</sup> to be "the first female lawyer from northern Nigeria";<sup>130</sup> and to be "one of the top defenders of women's rights in Nigeria".<sup>131</sup> Evidently based on these reported accomplishments Hauwa Ibrahim has recently done a year-long Humphrey Fellowship at the American University College of Law,<sup>132</sup> been a visiting professor at St. Louis University School of Law,<sup>133</sup> been a Yale World Fellow,<sup>134</sup> and won the European Parliament's Sakharov Prize. The European Parliament said this about her in its report of the award:

Hauwa Ibrahim is the only lawyer in her country opposed to Sharia (Islamic law) law [sic]. As a woman, however, she does not have the right to appear before the Islamic courts [sic]. Her colleagues have to speak in her place [sic: a different account than before]. As a Muslim she has been accused of betraying her religion. But who, other than her [sic], can defend people (mainly women)

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<sup>126</sup> [http://usinfo.state.gov/dhr/human\\_rights/women.html](http://usinfo.state.gov/dhr/human_rights/women.html): USINFO > Topics > Human Rights > Women in the Global Community: December 2003: "Nigerian Lawyer Saved Client by Confronting Issues, Not Shari'a Court", by Jim Fisher-Thompson, Washington File Staff Writer.

<sup>127</sup> Ed. note: all websites cited in the following were last accessed on 28<sup>th</sup> November 2006.

<sup>128</sup> <http://www.abanet.org/women/bios/ibrahm.html>: The ABA Commission on Women in the Profession: Past Margaret Brent Honorees: Hauwa Ibrahim.

<sup>129</sup> "Amina Lawal's lawyer": <http://www.pbs.org/frontlineworld/stories/nigeria/voice01.html>: "The Road North: Women Speak Out: Hauwa Ibrahim". "Lead counsel": [http://www.news.cornell.edu/Chronicle/04/5.6.04/Ibrahim\\_cover.html](http://www.news.cornell.edu/Chronicle/04/5.6.04/Ibrahim_cover.html): "The winning lawyer discusses death-by-stoning adultery case". The Cornell story also says among other things: "Ibrahim... described how she came to take on the case and the strategies that she and her team used to defend Lawal."

<sup>130</sup> <http://www.pbs.org/frontlineworld/stories/nigeria/voice01.html>.

<sup>131</sup> <http://www.yale.edu/opa/newsr/05-10-28-01.all.html>: "Yale World Fellow Hauwa Ibrahim Wins Top Human Rights Award".

<sup>132</sup> <http://www.abanet.org/women/bios/ibrahm.html>.

<sup>133</sup> <http://www.upenn.edu/pennnews/article.php?id=1043>: University of Pennsylvania Office for Communications, also showing Hauwa Ibrahim scheduled to give a lecture at the University of Pennsylvania on 9<sup>th</sup> November 2006.

<sup>134</sup> <http://www.yale.edu/opa/newsr/05-10-28-01.all.html>: "Yale World Fellow Hauwa Ibrahim Wins Top Human Rights Award".

[sic] condemned under Sharia law to horrifying punishments (lashing, stoning and amputation) for “deviant behaviour”? In a country where half the population is Muslim, and where deep divisions remain between the two communities, her Christian colleagues have little inclination to become involved in matters to do with Islam [sic]. Muslim lawyers, who are in the minority, are not particularly keen to experience the fate that has befallen her [sic]: harassment, threatening phone calls, being insulted in leaflets and a formal charge of libelling the judiciary.

But she won't be silenced. Revolt has given way to a determination to show that those sentenced to unjust punishments, or who are incapable of defending themselves, can be defended in a legal and peaceful manner.... The Constitution says that every citizen has the right to be defended before a court. Hauwa Ibrahim wants it to be applied, and she dares to question the Nigerian authorities directly about the constitutionality of applying Sharia law.

The activities of this lawyer who refuses to buckle down are a source of huge embarrassment to the authorities [sic]. It is especially thanks to her [sic] that cases of women condemned to inhuman treatment are known throughout the world. It was her ability to arouse international public opinion [sic] that made it possible to save the life of Amina Lawal, who was condemned to be stoned to death for having given birth outside of marriage. Death sentences continue to be handed down but they are not carried out – for the moment anyhow. However, the situation needs to be kept under close watch.<sup>135</sup>

I am amazed at so many misconceptions and mistakes, and wonder how so many prestigious institutions in the developed world got these ideas. I wish to correct at least those mistakes that concern me directly. As has been shown in the preceding pages, the truth is that Hauwa Ibrahim was not the lead counsel in either Safiyatu Hussaini's or Amina Lawal's appeals and the defence teams were not “her” teams. As pointed out earlier her appearance in the appeals was as a matter of professional courtesy and show of solidarity. To the extent that she did any legal work at all she did so as part of teams led by others. Nor, as the records of the proceedings show, did she argue the appeal in Amina's case. This was not because female lawyers are not permitted to appear or to speak in the Sharia courts – they are and do – but because other lawyers argued Safiyatu's and Amina's cases instead. In fact, Hauwa Ibrahim did speak briefly before the Upper Sharia Court Funtua, when at the end of my argument, out of courtesy and respect for the other lawyers on the defence team, I asked if they had anything to say to the court in addition to my submissions. Ms. Ibrahim took up this invitation. Whether she strengthened Amina's case by what she said, the reader may determine from the record.<sup>136</sup>

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<sup>135</sup> [http://www.europarl.europa.eu/news/public/focus\\_page/008-1530-293-10-42-901-20051017\\_FCS01528-20-10-2005-2005/default\\_p001c004\\_en.htm](http://www.europarl.europa.eu/news/public/focus_page/008-1530-293-10-42-901-20051017_FCS01528-20-10-2005-2005/default_p001c004_en.htm): European Parliament - News - Headlines - Focus - Ladies, Ibrahim and Reporters joint Sakharov prize winners.

<sup>136</sup> Ed. note: see pp. 73-74 supra.

### Concluding reflections

Nigerian Muslims are deeply committed to their religion; that explains the massive support the Muslims gave to the recent implementation of the Sharia criminal justice system in the North. Multiplicity of culture, ethnicity and religion created a divide, which in turn created mutual suspicion largely between the Muslims and Christians. I think it is this suspicion that moved a section of the Christians in the North to view the introduction of Sharia as a holy *jihad* designed to culminate in the eventual dethronement of the secular nature of Nigeria. The Muslim on the other hand nurses a certain fear of concerted designs by some persons within and outside the country to truncate the implementation of Sharia. The result being, when the Christian opines that the implementation of Sharia is unconstitutional, the Muslims view this opinion as a move to destroy Sharia. The two *zina* cases must be viewed within this context of mutual suspicion. I remember an incident at the Upper Sharia Court Funtua. I went to the court shortly after the court had delivered its judgment. I was there to arrange for a certified true copy of the record of the appeal to that court for purposes of the further appeal to the Sharia Court of Appeal. I went into the chambers of the presiding judge to exchange pleasantries as is the normal tradition. I met four persons in the chambers. The judge introduced me to these people as the lawyer to Amina Lawal. I left for the office of the registrar and while there these four people met me and proceeded to remind me that I am a Muslim and that it was a clear betrayal of my religion to allow myself to be used by western countries to destroy my religion. That when I decided to collect money and fight Sharia in the case of Amina Lawal, I thereby became a betrayer of my religion. This happened in the presence of the registrar and the registry staff. I received similar admonitions from family members, friends and other colleagues. These people have a fixed mindset. They are not ready to ponder, even if the facility is available to them, that the aim of Sharia is not to cut the hands and limbs of persons or to stone people to death. Allah is the most forgiving and merciful. It is within this spirit that the Sharia sets strict rules of procedure and evidence that must be complied with before a Muslim can be convicted of a crime. These people would often refuse to reason with you that the appeals filed against the two sentences were not meant to be indictments of the Sharia but rather challenges to the human errors committed during the trials. It is settled that the Sharia had long ago evolved an appellate system to review cases with a view to rectifying these human errors, and the results of the appeals in these two cases show that the system is working in Nigeria. I personally hold the opinion that despite the human deficiencies in the implementation of Sharia, the Sharia has brought a lot of positive changes in the society. But it is being implemented under the circumstances of mistrust that I have mentioned. It behoves a responsible counsel involved in the application of the laws and the correction of errors in their application to be circumspect. It is in view of this that we at WRAPA resolved not to sensationalise these two cases. Every day, all over Nigeria, thousands of lawyers, women and men, Muslims and Christians, working for government agencies, NGOs, and private law firms, under very difficult conditions, are doing their quiet best to make the legal systems of the Federation and of the States work the way they are supposed to work, and they are often succeeding. They do not occupy the media and international limelight, but they are the true heroes of the fight for the rule of law in Nigeria.