



REASSESSING THE ROLE OF *SHARI'AH* LAW IN THE MODERN JUSTICE SYSTEM OF NIGERIA: ISSUES AND CHALLENGES

By

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Abstract

Nigeria's legal system is characterized by pluralism, where English common law, customary law, and Sharī'ah law co-exist. Sharī'ah serves as a key moral and legal framework, particularly for millions of Muslims in Northern Nigeria, guiding personal status, family, commercial, and, in some states, criminal matters. However, the 1999 expansion of Sharī'ah into criminal law has raised constitutional questions, human rights concerns, and practical challenges, including overlapping appellate structures and a shortage of legal practitioners trained in both Islamic and secular law. This paper reassesses the role of Sharī'ah in Nigeria's contemporary justice system, exploring its historical foundations, institutional framework, and practical applications. Using a doctrinal and analytical approach, it examines constitutional provisions, state Sharī'ah penal codes, court structures, and leading judicial decisions. The paper highlights the strengths of Sharī'ah in promoting justice, social equity, and moral governance through principles such as Maqasid al-Sharī'ah. At the same time, the research identifies structural and operational hurdles that limit its effectiveness. These include jurisdictional ambiguities between Sharī'ah and secular courts, inconsistent application across states, political interference, and limited professional capacity among judges and legal practitioners. The paper concludes that for Sharī'ah to function effectively within Nigeria's pluralistic legal order, there is a need to professionalize Sharī'ah courts, harmonize state penal codes, and integrate traditional Islamic scholarship with modern legal training. When properly supported, Sharī'ah can continue to offer an indigenous, culturally relevant, and effective mechanism for justice in Nigeria.

Keywords: Shari'ah law, Maqāsid al-Sharī'ah, Shari'ah Penal Codes, Nigerian Justice System, Legal Pluralism and Constitutional Jurisdiction

1.0 INTRODUCTION

Nigeria operates a plural legal system in which English common law, customary law, and Islamic law coexist within a constitutional framework. Within this structure, *Sharī'ah* law occupies a position of enduring legal and social significance, particularly in Northern Nigeria.¹

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¹Doi., *Sharī'ah: The Islamic Law* (1st edn, Ta-ha Publishers Ltd., London 1984) 2



Derived principally from the *Qur'an* and the *Sunnah*, *Shari'ah* represents more than a body of religious prescriptions; it embodies a comprehensive normative system regulating personal conduct, family relations, commercial dealings, and criminal responsibility.²

Historically dominant in much of Northern Nigeria prior to colonial rule, *Shari'ah* was restructured and limited under British administration, particularly in criminal matters.³ The return to democratic governance in 1999 marked a turning point, beginning with legislative reforms in Zamfara State and subsequently in other northern states, which expanded the application of *Shari'ah* to include criminal jurisdiction alongside personal status and civil matters.⁴ This development generated sustained constitutional debate and international scrutiny.⁵ Nonetheless, more than two decades later, the debate has not disappeared. Instead, it has evolved. Questions now extend beyond whether *Shari'ah* should exist within the Nigerian justice system to how it operates in practice, how it interacts with other legal systems, and what challenges affect its effective application.⁶

Against this background, this paper critically examines the role of *Shari'ah* in the contemporary Nigerian justice system, tracing its historical evolution, institutional configuration, substantive scope, and the challenges affecting its effective application.

2.0 NATURE OF THE NIGERIAN JUSTICE SYSTEM

Nigeria's legal and justice system did not emerge from a single tradition. The country itself took its present political form in 1914 following the amalgamation of the Northern and Southern Protectorates under British administration.⁷ Before that period, the peoples who now constitute Nigeria existed as distinct political and cultural communities, each with its own structures of governance and justice.⁸ In the north, the Sokoto and Kanem-Borno empires operated organised political systems in which *Shari'ah* served as the principal legal framework. Governance combined monarchical authority with advisory institutions, and Islamic law regulated both public administration and private life.⁹ In the western region, particularly among the Yoruba, political

²K. A. Adegoke, 'Shari'ah Issue in the Contemporary Nigeria, 1979-2003' in A O Sanni and M A Muhibbu-din, (eds.), *Transformation in Arabic and Islamic Studies in Nigeria, Studies in Honour of Musa Ali Ajetonmobi*, Nigeria Association of Teachers of Arabic and Islamic Studies (NATAIS) (Department of Arabic, UsmanuDanfodiyyo University, Sokoto, Nigeria,) 109-110.

³O. A. Ayanlele., 'The Shariah Legal System in the Nigerian Judiciary From 1960 To Date' in A O Yusuf (edn) *Nigerian Judiciary: Perspectives And Profile* ((FHL Publication, 2006) 608.

⁴M. T. Ladan., 'The Development and Application of Sharia in Northern Nigeria: Issues and Challenges' <<https://library.fes.de/pdf-files/bueros/nigeria/50282.pdf> > accessed on 18th February, 2026.

⁵ P. Ostien and A. J. Dekker., 'Sharia and National Law in Nigeria' in O J M (ed) *Sharia Incorporated A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present* (Leiden University Press, Leiden, 2010) 555. <<https://hdl.handle.net/1887/16594>> accessed on 18th February, 2026.

⁶A. S. Olajide., 'Sharia Law in Nigeria: Challenges and Strategies For Effective Implementation' [2023] <<https://www.researchgate.net/publication/373158903> > accessed on 18th February, 2026.

⁷F. A. Daniels, 'Historical Survey of Amalgamation of the Northern and Southern Police Departments of Nigeria in 1930' *European Scientific Journal* [2012] (8) (18) 211.

⁸M. S. Abdulkadir, 'Islam in the Non-Muslim Areas of Northern Nigeria, 1600-1960' *Ilorin Journal of Religious Studies (IJOURS)* [2011] (1) (1)2.

⁹S. Biobaku., 'The Pattern of Yoruba History' <www.disaukzn.ac.29/webpage/dc/asjan58.14/asjan58.14.pdf> accessed on 18th February, 2026.



authority centred on the Oba within a system shaped largely by custom and tradition.¹⁰ In the east, many Igbo communities maintained republican and largely acephalous structures where councils of elders resolved disputes in accordance with communal norms.¹¹ These pre-colonial systems demonstrate that legal pluralism was already a lived reality long before colonial intervention.¹²

Colonial rule, however, fundamentally restructured this landscape. English law was introduced and gradually entrenched as the dominant formal legal order.¹³ Through instruments such as the Colonial Laws Validity Act 1865 and subsequent Orders-in-Council, British legal principles were extended to the colony. The reception of English law occurred through three principal channels: the common law of England, the doctrines of equity, and the statutes of general application in force before 1 January 1900.¹⁴ Over time, these principles became deeply embedded in judicial training, court procedures, and legislative drafting. Even after independence in 1960, received English law continued to influence Nigerian jurisprudence, subject to constitutional authority.¹⁵

Alongside statutory law, customary law retained formal recognition. Customary law reflects the traditions and practices of Nigeria's diverse ethnic communities. It is unwritten, dynamic, and community-based, yet subject to judicial scrutiny.¹⁶ For a custom to be enforceable, it must pass validity tests: it must not be repugnant to natural justice, equity and good conscience, nor incompatible with any existing law or contrary to public policy.¹⁷ Courts may take judicial notice of a custom or require it to be proved by evidence.¹⁸ Although these tests were colonial innovations, they remain part of the post-independence legal framework and continue to shape debates about the legitimacy and adaptability of indigenous norms.¹⁹

Shari'ah law occupies a distinct but equally recognised position within this plural structure. Derived from the *Qur'an* and *Sunnah*, it governs matters of personal status, family relations, and other aspects of life for Muslims.²⁰ Islamic law is part of the sources of Nigerian law as the 1999 Constitution recognises Islamic law of the Maliki School of jurisprudence in respect of Islamic personal law and provides for the establishment of *Shari'ah* Courts of Appeal in states that require them.²¹ In practice, these courts operate primarily in northern states with significant

¹⁰ N. Tobi., *Sources of Nigerian Law* (M.J. Professional Publishers Ltd, Lagos 1996) 1-2.

¹¹ *ibid.*

¹² Alkali and Others, 'Nature and Sources of Nigerian Legal System: An Exorcism of A Wrong Notion' *International Journal of Business, Economics and Law*, [2014] (5) (4) 2.

¹³ R. N. Nwabueze, 'The Dynamics and Genius of Nigeria's Indigenous Legal Order' *Indigenous Law Journal*, [2002] (1) 155.

¹⁴ The Interpretation Act, s.45.

¹⁵ Nigeria Independence Act, 1960 (8 and 9 EL.2.2, C55)

¹⁶ D.J. Bederman, *Custom as a Source of Law* (Cambridge University Press, USA 2010) 4.

¹⁷ *Lewis v Bankole*, (1908) 1NLR 81; *Mariyama v SadikuEjo* (1961) NRNLR 81

¹⁸ Evidence Act, 2011, s.14 (1) as amended.

¹⁹ Alkali and Others (n 12) 7.

²⁰ A. B., Mahmud, *Supremacy of Islamic Law* (Hudahuda Publishing Company Zaria) 5.

²¹ The Constitution of Federal Republic of Nigeria 1999 (as amended) s. 275.



Muslim populations. While *Shari'ah* applies formally to Muslims, its presence within state judicial institutions situates it firmly within Nigeria's constitutional framework.²²

The nature of *Shari'ah* is often described as both stable and adaptable. Its divine origin is understood by adherents as providing moral certainty and normative consistency.²³ At the same time, Islamic jurisprudence recognises the role of *ijtihad* (independent legal reasoning) which allows scholars and jurists to interpret and apply foundational principles to new circumstances. This dynamic quality is guided by the objectives of the law (*Maqāṣid al-Sharī'ah*), commonly identified as the protection of faith, life, intellect, property, and lineage.²⁴ In contemporary discourse, these objectives are increasingly invoked as ethical foundations for addressing modern challenges, including financial crimes and environmental responsibility.²⁵

The coexistence of statutory law, customary law, and *Shari'ah* thus reflects a model of state-centred legal pluralism. This structure allows Nigeria to accommodate its religious and cultural diversity within a single constitutional order. However, it also creates areas of friction. Tensions may emerge where principles from one legal tradition appear to conflict with constitutional guarantees or diverge sharply from another normative system.

3.0 HISTORICAL EVOLUTION AND DEVELOPMENT OF *SHARI'AH* LAW WITHIN THE NIGERIAN JUSTICE SYSTEM

The history of *Shari'ah* within the Nigerian justice system is closely linked to the arrival and spread of Islam in the region. Islam reached the Kanem-Borno Empire in the eleventh century, and by 1084 C.E., during the reign of Mai *HummeJilmi* of the *Sayfawa* dynasty, it had assumed the status of state religion²⁶ *Shari'ah* was not merely adopted as a personal faith commitment; it became the formal legal framework of governance. Islamic principles shaped political authority, judicial administration, and social regulation.²⁷ Learned scholars (*ulama'*) served as judges (*alkalis*), advisers, and administrators, embedding Islamic law within state institutions.²⁸

From Kanem-Borno, Islam expanded across northern territories. Over time, *Shari'ah* became the operative legal order in several Hausa states and later found fuller institutional expression under the Sokoto Caliphate established after the 1804 *jihad* led by Usman danFodio.²⁹ The Caliphate consolidated Islamic governance across large parts of Northern Nigeria, integrating judicial,

²²Alikali and Others, (n 12) 6.

²³M. J. Dasuki., 'Human Rights and Dignity in Islam: A Critical Analysis of Nigeria's *Shari'ah* Courts and Economic Development' *At-Turath: Journal of Islamic Heritage and Civilisation* [2025] (1) (1) 12.

²⁴*ibid.*

²⁵A. Haruna, 'Youth Perception and Understanding of *Shari'ah* Law in Jigawa State: A Study of College Students in Ringim' *Scholarly Journal of Advanced Legal Research*, [2025] (5) (2) 4 <<https://doi.org/10.5281/zenodo.17506228>> accessed on 18th February, 2026.

²⁶P. O. Olatunbosun, *History of West Africa from A.D. 1000 to Present Day in a Corrective Perspective* (Fatiregun Press and Publishing Company, Ilesha 1981) 55.

²⁷K. A. Adegoke, *Right of Ahl-adh-Dhimmah in an Islamic State* (An Unpublished Ph.D. Thesis, Department of Religions, University of Ilorin, 2006) 15.

²⁸Y. A. Quadri, *Shari'ah: The Islamic Way of Life*, (Shebiotimo Publications, Ijebu-Ode, 2000) 54.

²⁹*ibid.*



political, and economic life within a structured Islamic framework.³⁰ *Shari'ah* courts functioned as central organs of justice, and legal administration was closely aligned with religious authority.³¹ The influence of *Shari'ah*, however, was not uniform across what later became Nigeria. In parts of the western region, Islam had been present since at least the seventeenth century, yet its legal application differed in character. While religious observance (*ibadat*) was strong, the broader socio-legal dimension (*mu'amalat*) did not assume the same state-backed institutional depth as in the north.³² In the south eastern region, where predominantly republican and acephalous communities existed, indigenous customary systems remained the primary source of justice.³³

Colonial conquest at the turn of the twentieth century significantly altered the trajectory of *Shari'ah*.³⁴ Although British administrators initially pledged non-interference in religious matters, their policy gradually subordinated Islamic law within a colonial framework.³⁵ *Shari'ah* courts were retained but restructured. They were subjected to supervision, procedural modification, and limitations particularly through the introduction of the 'repugnancy' standard, which prevented the enforcement of punishments considered inconsistent with British notions of natural justice and humanity.³⁶ Over time, English legal principles increasingly influenced court practice, and *Shari'ah* courts were progressively secularised in structure and procedure.³⁷

Further reforms occurred in the late colonial period. By the 1957 constitutional arrangements, Islamic criminal law in the north was replaced with a Penal Code modelled largely on Sudanese and English influences.³⁸ This development, which took effect around independence in 1960, marked a significant shift: *Shari'ah's* criminal jurisdiction was effectively curtailed, leaving Islamic law primarily within the domain of personal status.³⁹ Post-independence constitutional developments preserved *Shari'ah* within a limited but recognised framework. The 1979 Constitution formally provided for *Shari'ah* Courts of Appeal in states that required them, with jurisdiction largely confined to Islamic personal law.⁴⁰ This arrangement was maintained in subsequent constitutional instruments, including the 1999 Constitution. Thus, while *Shari'ah* remained constitutionally acknowledged, its scope was clearly defined within the broader federal structure.⁴¹

³⁰Sulaiman, *A Revolution in History: The Jihad of Usman Dan Folio* (Mansell Publishing Limited, London 1986) 3.

³¹Ladan (n 4).

³²J N D Anderson, *Islamic Law in Africa* (HMSO, London) 222.

³³*ibid.*

³⁴Ayanlele (n 2) 609.

³⁵M. A. Ajetunmobi, '*Shariah in Nigeria*' (University of Ilorin, 1988)10.

³⁶M. Tabiu, '*Shari'ah Federalism and Nigerian Constitution*' <www.nmnonline.org> accessed on 19th February, 2026.

³⁷Ayanlele (n 2) 609.

³⁸*ibid.*

³⁹S. M. Jamiu, '*Colonial Impact on the Application of Shari'ah in Nigeria*' *Journal of Nigeria Association of Arabic and Islamic Studies* [2005] (6) (1) 27.

⁴⁰*ibid.*

⁴¹J. B. Jimoh and O. O. Ojelabi, '*Democratic Disturbances in Nigerian Politics (1999-2003)*' *International Journal of Law Contemporary Studies*, [2005] (1) (2) 27.



A major turning point occurred in 1999 when Zamfara State introduced expanded *Shari'ah* legislation, including aspects of criminal law. Several other northern states followed. This development reignited national debate and, in some instances, communal tension. Violent clashes, particularly in Kaduna State in 2000 and subsequent years, revealed the depth of religious and political sensitivities surrounding the issue.⁴² The reintroduction of *Shari'ah* criminal jurisdiction became a focal point for discussions about constitutional limits, religious freedom, and national unity.

Today, *Shari'ah's* jurisdiction remains primarily concentrated in personal law matters such as marriage, divorce, inheritance, and related issues, though some northern states maintain broader legislative frameworks. Its contemporary position reflects both continuity and transformation: continuity in its enduring relevance to Muslim communities, and transformation in its adaptation to constitutional democracy and a plural legal order. The historical journey of *Shari'ah* in Nigeria therefore reveals not a static legal tradition, but an evolving institution shaped by political change, colonial restructuring, and ongoing constitutional negotiation.

4.0 LEGAL AND INSTITUTIONAL FRAMEWORKS OF SHARI'AH IN THE NIGERIAN JUSTICE SYSTEM

4.1.0: LEGAL FRAMEWORK

The legal framework governing *Shari'ah* in Nigeria consists of constitutional provisions, state enactments, and institutional statutes that regulate how Islamic law is applied and enforced within the broader legal and judicial system of Nigeria. They include:

1. The 1999 Constitution of Federal Republic of Nigeria

The Constitution of the Federal Republic of Nigeria is the supreme law of the land and the foundation upon which all other laws derive their validity.⁴³ Under Section 1, any law inconsistent with its provisions is null and void to the extent of the inconsistency. This establishes constitutional supremacy and confirms that every statutory or judicial application of *Shari'ah* must operate within constitutional limits.⁴⁴ The Constitution provides the legal basis for the operation of *Shari'ah* within Nigeria's justice system. Section 6 vests judicial powers in the courts and expressly recognises the *Shari'ah* Court of Appeal of the Federal Capital Territory, Abuja, and the *Shari'ah* Courts of Appeal of the states as superior courts of record.⁴⁵ Their jurisdiction is limited primarily to matters of Islamic personal law, including marriage, inheritance, guardianship, and related questions affecting Muslims.⁴⁶

The Constitution further provides for appeals from the *Shari'ah* Courts of Appeal to the Court of Appeal.⁴⁷ It also includes provisions for the establishment, appointment of the Grand *Khadi* and *Khadis*, jurisdiction, constitution, and procedures of the *Shari'ah* Court of Appeal of the Federal

⁴²ibid

⁴³The CFRN, 1999 s.1 (3)

⁴⁴Famfa Oil Ltd. v. AG Federation & NNPC [2003] 18 N.W.L.R (Pt. 852) 453 SC.

⁴⁵The CFRN, 1999 s.6 (3)

⁴⁶ibid, s. 6 (5) (f) and (g)

⁴⁷ibid, s.244



Capital Territory, Abuja.⁴⁸ By default, the existence of *Shari'ah* Courts of Appeal implies the existence of lower courts in which Islamic law is applied and from which appeals can be made to these higher courts.⁴⁹ Although the Constitution does not expressly create lower *Sharī'ah* courts, it empowers state Houses of Assembly to establish courts below the superior courts of record.⁵⁰ This authority forms the constitutional basis for the establishment of *Sharī'ah* trial courts in various northern states. This framework affirms the legitimacy of *Sharī'ah* as part of Nigeria's plural legal system.

Nevertheless, certain constitutional provisions pose challenges to the enforcement of *Sharī'ah* in Nigeria. For instance, Section 36(12) provides that no person shall be convicted of a criminal offence unless the offence is defined and the penalty prescribed in a written law enacted by the National Assembly or a State House of Assembly. This means that criminal aspects of *Sharī'ah* must be codified through valid legislative processes; uncodified religious prescriptions cannot ground criminal liability.⁵¹ Additionally, tension arises under Section 38(1), which guarantees freedom of thought, conscience, and religion, including the right to change one's religion. This provision creates constitutional difficulty for the classical *Sharī'ah* position on apostasy (*al-riddah*), particularly where it is treated as a capital offence. Any enforcement of such a rule would face serious constitutional scrutiny on grounds of inconsistency with fundamental rights.⁵²

2. Case Law

Judicial decisions have significantly shaped the place of *Sharī'ah* within Nigeria's legal order. Through constitutional interpretation and doctrinal clarification, the courts have defined its scope, affirmed its distinct character, and set limits on its application within the broader justice system.⁵³ A landmark case emphasizing the sacred and universal nature of *Sharī'ah* law is *IlaAlkamawa v. Alhaji Hassan Bello & Another*.⁵⁴ In that case, the Supreme Court of Nigeria drew a clear distinction between Islamic law and customary law. Justice Bashir Wali emphasised that Islamic law is not tied to any particular tribe or locality but constitutes a complete and universal legal system.⁵⁵

This characterisation elevated *Sharī'ah* beyond the category of indigenous customary norms and recognised it as a coherent juristic tradition with its own internal logic and authority.⁵⁶ Justice Niki Tobi further the binding force of Islamic law, for Muslims, derives from religious obligation

⁴⁸ibid, ss.260- 264

⁴⁹Ostien and Dekker (n 5) 579.

⁵⁰The CFRN 1999, s.6.

⁵¹M. Duku, 'The Aftermath of 21st Century Sharia Implementation in Northern Nigeria' *Media of Law and Sharia* [2016] (3) (2) 103.

⁵²J. M. Busari, 'Shari'ah as Customary Law? An Analytical Assessment from the Nigerian Constitution and Judicial Precedents' *Ahkam*, [2021] (21) (1) 35.

⁵³Ladan (n 5).

⁵⁴(1998) 6 SCNJ 127)

⁵⁵A. R. Yusuf, and E. E. O. Sheriff, '*Succession under Islamic law*' (Malt house Press Limited, Lagos, Nigeria 2011) 26.

⁵⁶ibid



rather than communal acceptance in the customary sense. According to him, any deviation from the divine commands of the Qur'an disqualifies an individual from being considered a Muslim.⁵⁷

The courts have also addressed colonial-era doctrines that historically constrained indigenous legal systems. In *Tsamiya v. Bauchi Native Authority*⁵⁸ the court declined to subject Islamic criminal law to the repugnancy test that invalidated native laws considered contrary to natural justice, equity and good conscience. The decision signalled judicial recognition that *Shari'ah* could not be dismissed merely because it differed from English law.⁵⁹ This marked an important step in disentangling Islamic law from colonial evaluative standards. These judicial pronouncements have not only clarified the distinct and universal nature of *Shari'ah* law but have also solidified its legitimacy within Nigeria's legal landscape

3. State-Level *Sharia'h* Penal Laws

The introduction of *Shari'ah* penal legislation at the state level marked a significant turning point in Nigeria's post-1999 legal landscape. The movement began in Zamfara State in 1999, shortly after the return to democratic rule, when the state government enacted a comprehensive *Shari'ah* Penal Code. This initiative was presented as a response to popular demand within predominantly Muslim communities for a justice system more closely aligned with Islamic moral and legal principles.⁶⁰ Subsequently, several northern states enacted similar laws through their respective Houses of Assembly. These statutes codified Islamic criminal offences, including *hudud* and *qisas* categories such as theft (*sariqah*), adultery (*zina*), and alcohol consumption (*shurb al-khamr*).⁶¹ Importantly, these offences were not applied as informal religious norms but as state-created crimes under written legislation, thereby attempting to satisfy the constitutional requirement under section 36(12) that criminal liability must be grounded in written law.

Alongside the penal codes, states enacted *Shari'ah* Criminal Procedure Codes⁶² and established graded *Shari'ah* Courts with jurisdiction to try offences under these laws.⁶³ In principle, the jurisdiction of these courts is limited to persons who profess Islam or who voluntarily submit to their authority. This consent-based structure is often cited as a constitutional safeguard within Nigeria's plural framework.⁶⁴ The validity of *Shari'ah* penal codes has been affirmed in cases such as *Zarami Maina vs. YaMairam Wakil and Wakil Fannami* at the Court of Appeal.⁶⁵ In that matter, the Court of Appeal addressed whether the *Shari'ah* Courts of Borno State were lawfully constituted. The court upheld their validity by reference to the relevant state legislation

⁵⁷A. A. Oba, 'Islamic Law as Customary Law: The Changing Perspective in Nigeria' *The International and Comparative Law Quarterly*, [2002] (51) (4) 54.

⁵⁸(1957) N.R.N.L.R. 73 at 81

⁵⁹*ibid.*

⁶⁰I. Y. Abikan and T. Abdul Fatai, 'Implications of Provisions of *Shari'ah* Criminal Procedure Codes of Some States of Nigeria Ousting the Power of Governor and Attorney-General of the State in *Hudud* and *Qisas* Offences' *Crescent University Law Journal*, [2022] (7) 101.

⁶¹*ibid.*

⁶²Such as *Shari'ah* Criminal Procedure Code Law of Zamfara State, 2000, *Shari'ah* Criminal Procedure Code Law, Sokoto State, 2000; Kano State *Shari'ah* Criminal Procedure Code Law, 2000 etc.

⁶³Abikan and Abdul Fatai, (n 60) 102.

⁶⁴For instance, the *Shari'ah* Penal Code Law of Kano State, 2000, s.3.

⁶⁵CA/J/194S/2003



establishing them. At the same time, it faulted procedural irregularities that denied the appellant a fair hearing and ordered a rehearing before the Upper *Sharī'ah* Court.⁶⁶ The decision is significant for two reasons: it affirmed the legal existence of *Sharī'ah* courts while reinforcing that they remain subject to constitutional standards of due process. However, despite formal legitimacy, enforcement of *Sharī'ah* penal laws faces persistent constraints. Tensions occasionally arise between penal provisions and constitutionally guaranteed rights, particularly in relation to fair hearing and freedom of religion.⁶⁷

4.2.0: INSTITUTIONAL FRAMEWORK

The institutional framework for *Shari'ah* in Nigeria encompasses the mechanisms and structures that facilitate its implementation and enforcement. These include *Shari'ah* courts, *Hisbah* (Islamic moral policing), and other supporting institutions that ensure the practical application of *Shari'ah* law:

1. States *Sharia'h* Courts (Lower And Upper *Sharia'h* Courts)

State *Sharī'ah* Courts form the operational backbone of Islamic adjudication in northern Nigeria. Established under state legislation pursuant to constitutional authority, they reflect the recognition of Islamic personal law within Nigeria's plural judicial order.⁶⁸ While the Constitution provides for *Sharī'ah* Courts of Appeal at the state level,⁶⁹ the lower tiers of *Sharī'ah* courts are created by state laws enacted by the respective Houses of Assembly.⁷⁰ This provision has enabled northern states, such as Zamfara, Kano, Kebbi, Niger, Kastina, Sokoto among others to establish comprehensive *Shari'ah* judicial systems through statutes like the *Sharī'ah* Courts Law. For example, the Kano State *Sharī'ah* Courts Law 2000 replaced the former Area Courts system with a structured hierarchy of *Sharī'ah* Courts and Upper *Sharī'ah* Courts, conferring jurisdiction over Islamic civil and criminal matters. Similar statutory frameworks exist in other northern states, particularly following the reintroduction of *Shari'ah* criminal legislation from 1999 onward.⁷¹

In terms of structure, *Sharī'ah* Courts are generally divided into Lower and Upper *Sharī'ah* Courts.⁷² The Lower *Sharī'ah* Courts typically exercise first-instance jurisdiction over civil matters grounded in Islamic personal law, including marriage, divorce, inheritance, guardianship,

⁶⁶ibid.

⁶⁷H. Bourbeau and Others, *Shari'ah Criminal Law In Northern Nigeria Implementation Of Expanded Shari'ah Penal And Criminal Procedure Codes In Kano, Sokoto, And Zamfara States, 2017-2019* (United States Commission On International Religious Freedom USCIRF 2019) 59. <https://www.uscirf.gov/sites/default/files/USCIRF_ShariahLawinNigeria_report_120919%20v3R.pdf> accessed on 19th February, 2025.

⁶⁸Ladan (n 5).

⁶⁹The CFRN 1999 (as amended) s.6(5)(k)

⁷⁰ibid, s. 4 (7).

⁷¹M. L. Yusufari, 'Shari'ah Implementation in Kano State' <<https://www.gamji.com/article3000/NEWS3706.htm>> accessed on 19th February, 2026.

⁷²P. Ostien and Others, *Nigeria's Sharia Courts (December 31, 2017). Chapter 2 of Sharia Implementation in Northern Nigeria Twenty Years On: Six Research Reports and an Overview* M. Tabiu, A.R. Mustapha and P. Ostien, eds., Forthcoming <<https://ssrn.com/abstract=3370453>> accessed on 19th February, 2026.



and contractual disputes between Muslims. Their criminal jurisdiction is usually limited to less severe offences as defined by state penal enactments.⁷³ In contrast, Upper *Shari'ah* Courts possess broader authority. They adjudicate more serious criminal matters under state *Shari'ah* penal codes and also serve as appellate courts reviewing decisions from the Lower *Shari'ah* Courts.⁷⁴

The decision in *Commissioner of Police v. Danladi Dahiru*⁷⁵ illustrates the functional capacity of Upper *Shari'ah* Courts in exercising criminal jurisdiction under state legislation. In this case, the Upper *Sharia* Court in Kano convicted an individual of theft under the *Sharia* Penal Code law of Kano state,⁷⁶ sentencing him to amputation.⁷⁷ The case drew national attention and highlighted both the evidentiary standards applied in *Shari'ah* proceedings and the constitutional scrutiny that often follows such judgments. It also demonstrated that *Shari'ah* courts operate within a broader appellate and supervisory judicial framework.⁷⁸

2. *Sharia* Court of Appeal

The *Shari'ah* Court of Appeal occupies a central position in the administration of Islamic law within Nigeria's judicial structure. It functions primarily as an appellate and supervisory court in matters of Islamic personal law.⁷⁹ Its establishment is rooted in the 1999 Constitution, which provides for a *Shari'ah* Court of Appeal for the Federal Capital Territory and permits any state that requires it to establish one.⁸⁰ Section 262 of the Constitution establishes a *Sharia* Court of Appeal in the Federal Capital Territory, while Section 275 allows its establishment in any state where required. These provisions empower the court to serve as an appellate and supervisory body for matters of Islamic law.⁸¹ A Grand *Kadi* presides over the court with the assistance of other *kadis* as may be prescribed by the House of Assembly of the state.⁸² This structure ensures that appellate review in Islamic personal law matters is conducted by judges trained in Islamic jurisprudence.

Constitutionally, the jurisdiction of the *Shari'ah* Court of Appeal is primarily confined to civil proceedings involving questions of Islamic personal law.⁸³ These include matters relating to marriage (*nikāh*), divorce (*talāq*), child custody (*ḥadānah*), endowment (*waqf*), gifts (*hibah*), and

⁷³P. Ostien and Dekker, (n 4)

⁷⁴*ibid.*

⁷⁵*Commissioner of Police vs. Danladi Dahiru* (Case No. CR/171/2001)

⁷⁶The Kano *Sharia* Penal Code Law, 2000, s.133.

⁷⁷*Commissioner of Police vs. Danladi Dahiru* (Case No. CR/171/2001)

⁷⁸M. L. Yusufari., "Sharia Implementation in Kano State" < available at: <https://www.gamji.com/article3000/NEWS3706.htm>> accessed on 19th February, 2026.

⁷⁹J. W., Gunnar, 'Islamic Criminal Law in Northern Nigeria: Politics, Religion, Judicial Practice' (Amsterdam: Amsterdam University Press, 2010) 65-66.

⁸⁰*ibid.*

⁸¹The CFRN, 1999 (as amended) ss. 262 and 275 (1).

⁸²*ibid.*, s. 275 (2) (a-b)

⁸³*ibid.*, s. 277 (1)



inheritance (*mīrāth*). Additionally, the court exercises jurisdiction in civil proceedings where all parties, irrespective of their religion, consent in writing to the application of Islamic law.⁸⁴

In some northern states, the *Sharia*'h Court of Appeal plays an advisory role in civil appellate sessions of the state's High Court of Justice. This arrangement, enabled by the laws of northern Nigeria,⁸⁵ allows a *Kadi* from the *Sharī'ah* Court of Appeal to participate in appeals involving civil matters other than Islamic personal law.⁸⁶ The aim is not to extend constitutional jurisdiction, but to ensure doctrinal accuracy where Islamic principles are implicated in civil proceedings. Following the reintroduction of *Sharī'ah* penal codes in states such as Zamfara State, questions arose regarding whether the *Sharī'ah* Court of Appeal could entertain criminal appeals from lower *Shari'ah* courts citing the clause of Subsection 1 of Section 277 of the constitution.⁸⁷

However, appellate courts have consistently maintained that the constitutional jurisdiction of the *Shari'ah* Court of Appeal remains limited to Islamic personal law. In *Dauda Adamu Helende v Samaila Musa & Others*,⁸⁸ the Court of Appeal ruled that disputes involving inherited farmland fell under the jurisdiction of the *Shari'ah* Court of Appeal only when directly connected to inheritance under Islamic law.⁸⁹ Similarly, cases like *Alhaji Keri & Others v. Bafashi Azuga Makada & Meri Azuga Makada* it was held that disputes over land, where not directly tied to inheritance or other personal law questions, fall outside the competence of the *Shari'ah* Court of Appeal.⁹⁰ These decisions reinforce constitutional limits while preserving the court's defined mandate.

3. Court Of Appeal

The Court of Appeal serves as the next tier in the appellate hierarchy for *Shari'ah* matters within Nigeria's justice system, receiving appeals from the *Shari'ah* Courts of Appeal.⁹¹ Its role is critical in ensuring that decisions in Islamic personal law are reviewed with both procedural rigor and doctrinal accuracy. Section 237(2)(a) and (b) of the 1999 Constitution explicitly requires that the Court of Appeal include justices who are knowledgeable in Islamic personal law. This provision ensures that at least three justices with expertise in *Shari'ah* adjudicate cases originating from the *Shari'ah* Courts of Appeal. By doing so, the Court of Appeal guarantees that complex issues in Islamic family law, inheritance, guardianship, and related matters are examined by judges familiar with the principles and nuances of Islamic jurisprudence.

⁸⁴Shariah Court of Appeal Law (Cap 122) s.11.

⁸⁵The Laws of Northern Nigeria, ss. 62-63.

⁸⁶K. A. Olatoye, 'Introduction of Islamic Law in Nigeria' in D. F. Asaju, General studies of Book of Reading: Philosophy, Science and Technology (Lagos State University of Lagos) 159.

⁸⁷Ladan (n 4)

⁸⁸CA/S/24S/2016

⁸⁹ibid

⁹⁰CA/S/79S/2013

⁹¹Olatoye (n 86) 5.



4. Supreme Court

The Supreme Court represents the apex of Nigeria's judiciary and serves as the final appellate body for all legal matters, including those governed by Islamic law. Appeals concerning Islamic matters that originate from the Court of Appeal are ultimately adjudicated by the Supreme Court, affirming its role as the ultimate authority in the interpretation and application of *Shariah* law within the Nigerian legal system.⁹² The inclusion of Islamic law within the jurisdiction of the Supreme Court highlights the comprehensive nature of Nigeria's legal pluralism. This structure ensures that even the most complex and contentious disputes rooted in Islamic jurisprudence can be resolved at the highest judicial level. The Supreme Court's decisions on Islamic matters contribute to the development of case law, setting precedents that shape the future application of *Shariah* across the country

5. *Hisbah*

The *Hisbah* institution is a central element of Shari'ah law enforcement in northern Nigeria, rooted in the Islamic principle of promoting good and preventing evil, as enshrined in the Qur'an and Hadith.⁹³ *Hisbah* groups operate as social and religious regulatory bodies, ensuring public adherence to Shari'ah across societal, commercial, and religious practices.⁹⁴ In states such as Zamfara, Kano, and Sokoto, *Hisbah* commissions are formally established through state laws.⁹⁵ These laws define their structure, functions, and governance, with chairpersons and commissioners appointed by state governors.⁹⁶ Their responsibilities include monitoring compliance with *Shari'ah*, promoting Islamic values, and offering moral guidance.⁹⁷ For example, the Sokoto *Hisbah* Law charges the commission with ensuring conformity in worship, dress code, and social interactions.⁹⁸

Hisbah agents also serve as mediators in family disputes and minor conflicts, occasionally acting as alternative dispute resolution mechanisms.⁹⁹ Typically, agents are local recruits, often without formal legal or Shari'ah training, and are equipped with uniforms and sticks rather than firearms. They may report offenders to law enforcement, refer cases to Shari'ah courts, or administer limited punitive measures.¹⁰⁰

⁹²The CFRN, 1999 ss.230-236

⁹³Nigeria Stability and Reconciliation Programme, "Sharia Implementation in Northern Nigeria over 15 Years, Policy Brief No 2: The Case of Hisbah".

⁹⁴I. N. Sada, 'The Making of the Zamfara and Kano State Sharia Penal Codes' Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook in ed Ostien P. (Spectrum Books, 2007 Ibadan, Nigeria), 22–32.

⁹⁵Such as the Zamfara *Hisbah* Law 2003, Sokoto *Hisbah* Law 2014, and Kano *Hisbah* Law 2003.

⁹⁶Nigeria Stability and Reconciliation Programme, "Sharia Implementation in Northern Nigeria over 15 Years, Policy Brief No 2: The Case of Hisbah.

⁹⁷The Kano, *Hisbah* Law 2003, s.7 (5).

⁹⁸The Sokoto *Hisbah* Law 2014.

⁹⁹H. Bourbeau and Others, *Shari'ah Criminal Law In Northern Nigeria Implementation Of Expanded Shari'ah Penal And Criminal Procedure Codes In Kano, Sokoto, And Zamfara States, 2017–2019* (United States Commission On International Religious Freedom USCIRF 2019) 16. <https://www.uscirtf.gov/sites/default/files/USCIRF_ShariahLawinNigeria_report_120919%20v3R.pdf> accessed on 19 February, 2026.

¹⁰⁰ibid



Hisbah commissions have contributed positively to public order and conflict resolution. In Zamfara and Sokoto, agents engage in public sensitization and assist law enforcement in crime prevention.¹⁰¹ In Kano State, the *Hisbah* Commission has been instrumental in mediating disputes and fostering community harmony, often stepping in to resolve family conflicts or minor legal issues.¹⁰² Establishment laws designate commissions as corporate entities capable of being sued for actions exceeding their mandates, while individual agents enjoy protection from personal liability when acting within their authority.¹⁰³

However, the institution faces significant challenges. Many agents lack sufficient knowledge of Shari'ah law, legal procedures, and human rights, leading to errors and potential violations.¹⁰⁴ Infiltration by politically or criminally motivated individuals undermines credibility. Comparisons with vigilante groups arise due to unregulated enforcement and ad hoc measures, highlighting concerns over standardization, accountability, and respect for due process.¹⁰⁵ These challenges underscore the tension between the moral enforcement goals of *Hisbah* and the protection of citizens' rights within Nigeria's plural legal system.¹⁰⁶

5.0 CONTEMPORARY APPLICATION OF SHARI'AH LAW IN THE JUSTICE

SYSTEM OF NIGERIA

The application of *Shari'ah* law in the contemporary Nigeria primarily focuses on personal status matters such as marriage, divorce, inheritance, and family issues for Muslims.¹⁰⁷ Historically, *Shari'ah* law has played a significant role in the legal landscape of northern Nigeria. However, in 2000, several northern states took a bold step by introducing full *Shari'ah* legal systems that included criminal law, a development that sparked intense debate both nationally and internationally.¹⁰⁸ This expansion of *Shari'ah* beyond personal matters to criminal law raised questions about its compatibility with Nigeria's secular constitution¹⁰⁹ and its implications for human rights.¹¹⁰ To implement this system, *Shari'ah* courts were established to adjudicate cases involving Muslims in areas of personal status, commercial transactions, and criminal law.¹¹¹

¹⁰¹ *ibid.*

¹⁰² Premium Times, 'Kano Hisbah Arrest 11 Women for Allegedly Conducting Same-sex Marriage' Premium Times, (December 18, 2018) <<https://www.premiumtimesng.com/regional/nwest/301751-kano-hisbah-arrest-11-women-for-allegedly-conducting-same-sex-marriage.html>> accessed on 19 February, 2026

¹⁰³ A. Sanni, 'The Shari'ah Conundrum in Nigeria and the Zamfara Model: The Role of Nigerian Muslim Youth in the Historical Context' *Journal of Muslim Minority Affairs*, [2007] (27) (3) 117.

¹⁰⁴ M. Duku, 'The Aftermath of 21st Century Sharia Implementation in Northern Nigeria' *Media of Law and Shari'ah*, [2022] (3) (1) 98-106.

¹⁰⁵ *ibid.*

¹⁰⁶ *ibid.*, 106.

¹⁰⁷ The Constitution of the Federal Republic of Nigeria 1999 (as amended) s.277 (1) and (2).

¹⁰⁸ Ayanlele (n 3) 610.

¹⁰⁹ The Constitution of the Federal Republic of Nigeria 1999 (as amended) ss.10 and 38

¹¹⁰ M. Ebrahimi and K. Yusoff, 'Islamic Identity, Ethical Principles and Human Values' *European Journal of Multidisciplinary Studies*, [2017](2) (6) 326.

¹¹¹ Ladan (n 4).



These courts operate parallel to the state judiciary but are limited to Muslim or non-Muslims litigants who voluntarily submit to their jurisdiction.¹¹²

Personal status law remains the most commonly applied aspect of *Shari'ah* in Nigeria specifically in the Northern part of the country. It governs various aspects of family life for Muslims, including marriage, divorce, custody, and inheritance.¹¹³ *Shariah* outlines the conditions for valid marriages, the rights and duties of spouses, and the procedures for divorce, such as *talaq* (repudiation) and *khul'* (mutual agreement for divorce).¹¹⁴ Custody is determined based on the welfare of the child, with priority given to mothers in early childhood, while guardianship responsibilities remain with the father. *Shari'ah* inheritance law, guided by *Surah An-Nisa*, prescribes fixed shares for heirs, ensuring equitable distribution among relatives according to Islamic principles¹¹⁵ allows the testator to allocate up to one-third of the estate for non-heirs or charitable purposes.¹¹⁶ *Shari'ah* courts adjudicate disputes over wills and complex family arrangements, particularly in polygamous households or cases involving stepchildren.¹¹⁷

In addition, Shari'ah-compliant commercial practices have grown in Nigeria¹¹⁸ particularly through Islamic finance, which prohibits interest (*riba*) and promotes profit-and-loss sharing arrangements.¹¹⁹ Mechanisms such as *Murabaha* (cost-plus financing), *Mudarabah* (profit-sharing), and *Musharakah* (partnership financing) are applied in banking and business transactions.¹²⁰ The Central Bank of Nigeria has authorized banks to offer Shari'ah-compliant accounts, reflecting demand for alternative financial systems.¹²¹ State-level initiatives, such as Kano State's Sharia Commission¹²² and Zamfara State's Market Affairs Committee, promote compliance in market transactions, mediate disputes, and enforce Islamic business ethics.¹²³ Local by-laws, such as in Yobe State, prohibit practices contrary to *Shari'ah*, including non-standard measures and the sale of prohibited animals.¹²⁴

¹¹²S. Ibrahim., 'The Conception of Law' in *the Islamic State and the Challenge of History*(Mansell Publishing Co., London 1987) 61.

¹¹³The Constitution of the Federal Republic of Nigeria 1999 (as amended) s. 262.

¹¹⁴BAOBAB., 'Divorce- The Dissolution of a Marriage in Muslim Personal Laws in Nigeria' <<https://edojudiciary.gov.ng/wp-content/uploads/2016/10/Divorce-The-Dissolution-Of-A-Marraige-In-Muslim-Personal-Laws-In-Nigeria.pdf> 1 > accessed on 19th February 2026.

¹¹⁵*Surah An-Nisai*.4 v 11-12

¹¹⁶Mondaq, 'How Sharia Law Impacts Will Making In Northern Nigeria' (2024) <<https://www.mondaq.com/nigeria/wills-intestacy-estate-planning/1550216/how-sharia-law-impacts-will-making-in-northern-nigeria>> accessed on 19th February 2026.

¹¹⁷ibid

¹¹⁸I. A. Abdulkareem and Others., 'Shariah Compliance Practice: An Analysis of Trends Among Islamic Banks in Nigeria' *International Journal of Business and Society* [2022](23) (1) 137.

¹¹⁹ibid

¹²⁰O. M. Rasheedat, 'Assessment of Islamic Principles of Business Practices and their Relevance to the Contemporary Society' <https://jwf.com.ng/coin_2015_papers/assessment_of_islamic_principles_of_business_practices_and_their_relevance_to.pdf 4 > accessed on 19th February 2026

¹²¹Abdulkareem (n 118) 138.

¹²²Kano State Sharia Commission Law 2003, s.4(5).

¹²³Ostien (n 5)

¹²⁴ibid, 233.



The most controversial aspect of Shari'ah is its application to criminal law.¹²⁵ Following the 1999–2000 reforms in northern states, laws such as the Sharia Court (Administration of Justice), Sharia Court of Appeal (Amendment), Sharia Penal Code, and Sharia Criminal Procedure Code were enacted.¹²⁶ Zamfara state, for instance, arrived at these by way of five laws. *Shari'ah* Court (Administration of Justice and Certain Consequential Changes);¹²⁷ *Shari'ah* Court of Appeal (Amendment) Law;¹²⁸ Area Courts (Repeal) Law;¹²⁹ *Shari'ah* Penal Code Law¹³⁰ and Sharia Criminal Procedure Code Law.¹³¹

These criminal provisions have faced constitutional challenges, particularly regarding human rights and the supremacy of federal law.¹³² Nonetheless, *Shari'ah* criminal law continues to function in most northern states for Muslims under the jurisdiction of Shariah courts.¹³³ Shari'ah courts also provide culturally aligned ADR mechanisms, emphasizing reconciliation, fairness, and expediency.¹³⁴ Many Muslims prefer these forums due to their lower cost, familiarity, and alignment with Islamic principles, particularly in family and commercial disputes.¹³⁵

6.0 IMPACTS OF *SHARI'AH* LAW IN THE NIGERIAN JUSTICE SYSTEM

The implementation of Shari'ah law has significantly shaped Nigeria's justice system, influencing its structure, operation, and societal outcomes. Operating alongside statutory and customary laws, Shari'ah reflects the country's legal pluralism and the diverse moral, cultural, and religious values of its population.¹³⁶ While its formal jurisdiction is concentrated in Northern Nigeria, its effects extend beyond these states, impacting broader legal and social practices.¹³⁷

Shari'ah law has played a pivotal role in redefining moral governance within the justice system. By emphasizing principles of justice, fairness, and accountability, it provides a normative framework that guides judicial and administrative decisions.¹³⁸ Prescribed penalties for offenses

¹²⁵M. Duku, 'The Aftermath of 21st Century Sharia Implementation in Northern Nigeria' *Media of Law and Sharia* [2016](3) (2)103.

¹²⁶I. K. E. Oraegbunam., 'Sharia Criminal Law, Islam and Democracy in Nigeria Today' <<https://www.ajol.info/index.php/og/article/view/71768/60724191>> accessed on 19th February 2026.

¹²⁷Law No. 5, 1999

¹²⁸Law No. 6, 2000

¹²⁹Law No. 13, 2000

¹³⁰1999

¹³¹Law No. 18, 2000

¹³²Oraegbunam (n 126).

¹³³The Constitution of the Federal Republic of Nigeria 1999 ss. 257 and 262 and Area Courts Law, Cap. A9, Revised Edition of Laws of Kwara State 2007 s.54 (3)

¹³⁴S. A. Z. Omotoyosi and Others. 'The Critique of Alternative Dispute Resolution under Islamic Law and Its Relevance in the Contemporary Nigeria' *JurnalSyariah*, [2023] (310) (2) 258.

¹³⁵*ibid* -260.

¹³⁶Duku(n 125) 101-102.

¹³⁷*ibid*, 102.

¹³⁸Ladan (n 4)



such as theft, corruption, and immorality serve as both deterrents and expressions of moral order, fostering discipline within communities and reinforcing respect for law.¹³⁹

Shari'ah law has also enriched Nigeria's justice system through its focus on social equity and wealth redistribution.¹⁴⁰ Mechanisms such as *Zakah* (almsgiving) and *Awqaf* (endowments) have institutionalized the redistribution of wealth to benefit disadvantaged populations. These practices promote restorative justice, addressing economic inequalities and providing assistance to marginalized groups.¹⁴¹ While most visible in regions under formal *Shari'ah* jurisdiction, these principles have informed debates about integrating equitable and welfare-oriented measures into statutory law nationwide.¹⁴²

Another critical impact is *Shari'ah* law's contribution to access to justice for Muslims and the wider Nigerian populace. *Shari'ah* courts enhance access to justice for Muslims by offering culturally and religiously aligned dispute resolution. By adjudicating family and personal status matters efficiently, these courts reduce the burden on secular courts while ensuring outcomes are consistent with Islamic values.¹⁴³ Their presence strengthens the justice system's legitimacy, particularly among Muslim communities, and promotes legal inclusivity in a pluralistic society.¹⁴⁴

Similarly, *Shari'ah's* regulatory framework contributes to societal well-being through prohibitions on activities such as alcohol consumption, gambling, and adultery. These measures have been associated with reduced alcohol-related offenses, lower incidences of sexually transmitted diseases, and improved public order. By aligning moral behaviour with legal enforcement, *Shari'ah* has indirect public health and safety benefits that complement the broader justice system.¹⁴⁵

More so, a hallmark of *Shari'ah* law is its emphasis on reconciliation and community harmony. Courts and *Hisbah* commissions often mediate disputes, promoting amicable settlements and reducing adversarial litigation.¹⁴⁶ This restorative approach conserves judicial resources, fosters social cohesion, and provides a model for incorporating alternative dispute resolution methods into Nigeria's statutory legal framework.¹⁴⁷

¹³⁹Duku (n 125)

¹⁴⁰ibid

¹⁴¹A. Bello and M. Abdulmumini., '*Zakat and Waqaf: A Panacea to Poverty and Sustainable Development in Nigeria*' (2023) <<http://dx.doi.org/10.13140/RG.2.2.19040.05124>> accessed on 19th February 2026.

¹⁴²ibid

¹⁴³Duku (n 125) 102.

¹⁴⁴Olajide A., '*Sharia Law in Nigeria: Challenges and Strategies for Effective implementation*' (2023) available at: https://www.researchgate.net/publication/373158903_Sharia_Law_in_Nigeria_Challenges_and_Strategies_for_Effective_implementation>accessed on 19th February, 2026.

¹⁴⁵Duku (n 125) 102.

¹⁴⁶ibid

¹⁴⁷M. M. Rahman, '*Islamic Perspective of Alternative Dispute Resolution (ADR)*' <<https://www.aarcentre.com/ojs3/index.php/jaash/article/view/140/367>> accessed on 19th February, 2026.



Overall, *Shari'ah* law has left a lasting imprint on Nigeria's justice system. It enhances moral governance, promotes social equity, facilitates access to justice, and supports community cohesion.

7.0 ISSUES AND CHALLENGES AFFECTING THE EFFECTIVE APPLICATION OF SHARI'AH LAW

The application of Shariah law in the contemporary Nigerian justice system faces several issues and challenges despite its constitutional recognition. They include:

1. Constitutional Limitations

One of the significant challenges confronting the application of Shariah law in Nigeria is its interaction with the 1999 Constitution. While the Constitution guarantees freedom of religion¹⁴⁸ and recognises *Shari'ah* Courts of Appeal under Sections 275–279, it simultaneously establishes a constitutional supremacy clause and maintains secular nature of Nigeria that is not founded upon any official religion.¹⁴⁹ This dual posture produces recurring tensions, particularly where *Shari'ah* is extended beyond Islamic personal law into the realm of criminal justice. Further constitutional limitations arise under Section 36(12), which provides that no person shall be convicted of a criminal offence unless the offence and its penalty are prescribed in a written law enacted by the National Assembly or a State House of Assembly. This requirement has significant implications for *Shari'ah* criminal law. Any rule derived solely from classical Islamic jurisprudence, without legislative domestication through proper statutory enactment, risks being declared unconstitutional.¹⁵⁰

Section 38(1), which guarantees freedom of thought, conscience, and religion, presents an additional point of friction. Certain classical juristic positions on apostasy (*al-Riddah*), particularly where treated as a capital offence, stand in direct tension with constitutionally protected religious freedom.¹⁵¹ In practice, this creates a legal dilemma: when *Shari'ah* criminal rulings are challenged on fundamental rights grounds, appellate courts tend to interpret them through the lens of constitutional supremacy, often leading to modification, restrictive interpretation, or nullification.¹⁵² Attempts to constitutionally expand the jurisdiction of *Shari'ah* beyond 'Islamic personal law' have also encountered political resistance. For example, proposals such as the 2024 amendment bill sponsored by Honourable Aliyu Misau, which sought to remove the qualifier "personal" from constitutional provisions on *Shari'ah* jurisdiction, were rejected by the National Assembly amid concerns about national religious balance.¹⁵³ Such legislative

¹⁴⁸The Constitution of the Federal Republic of Nigeria 1999 (as amended) s.38.

¹⁴⁹*ibid*, s.10.

¹⁵⁰Duku (n 125) 103.

¹⁵¹J. M. Busari., '*Shari'a* as Customary Law? An Analytical Assessment from the Nigerian Constitution and Judicial Precedents' *Ahkam*, [2021] (21) (1) 35

¹⁵²A. H. Yadudu., '*The Separation of Church and State: Nigeria's Constitutional Contrivance*' *Journal of the Nigerian and Comparative Law*, (1994) (1) (2) 37.

¹⁵³People and Power., '*House Of Representatives Rejects Bill To Expand Islamic Law in Constitution*' [2024] <<https://peopleandpowerngr.com/2024/10/house-of-representatives-rejects-bill-to-expand-islamic-law-in-constitution/>> accessed 20th February, 2026.



setbacks reflect the broader constitutional sensitivity surrounding the scope of *Sharī'ah* in a multi-religious federation.

2. Lack of Qualified Personnel

The effective administration of *Sharī'ah* within Nigeria's justice system depends heavily on the competence of judicial officers and legal practitioners who understand both Islamic jurisprudence and the broader constitutional framework. A persistent challenge, however, is the shortage of adequately trained personnel capable of operating confidently within this dual structure.¹⁵⁴ The complexity of Nigeria's dual legal system requires judges and legal professionals to possess not only grounding in classical *fiqh* but also familiarity with constitutional law, rules of evidence, criminal procedure, and appellate standards. In practice, gaps often exist. Some judicial officers are well-versed in traditional Islamic scholarship but lack exposure to contemporary statutory interpretation and procedural safeguards. Others may have formal legal education yet insufficient depth in Islamic jurisprudence. The result can be inconsistency in rulings, procedural irregularities, and vulnerability to successful appeals in higher courts.¹⁵⁵

Another structural weakness lies in the absence of a uniform and institutionalized training framework that systematically integrates Islamic legal studies with modern judicial education. While general judicial training bodies such as the National Judicial Institute provide continuing education for judges, specialised and sustained programmes tailored specifically to the unique demands of *Sharī'ah* adjudication remain limited.¹⁵⁶ This gap leaves many judicial officers under prepared for complex cases that require harmonising constitutional guarantees with Islamic legal principles.

3. Poor Public Opinion

Another major obstacle to the effective application of *Sharī'ah* in Nigeria is the problem of public perception. For many Nigerians, *Sharī'ah* is viewed through a narrow and often sensational lens. It is frequently portrayed as harsh, outdated, or incompatible with contemporary democratic values.¹⁵⁷ This perception has shaped public debate and, in some cases, influenced judicial and political responses to its implementation.¹⁵⁸ A central issue is the tendency to reduce *Sharī'ah* to its penal dimension. Public discourse—particularly in the media often focuses on *hudud* punishments such as amputation, stoning, or flogging. This emphasis overshadows broader principles embedded in Islamic jurisprudence, including justice, due process, social welfare, equity, and moral accountability. As a result, both Muslims and non-Muslims may

¹⁵⁴Olajide A (n 144)

¹⁵⁵Dasuki (n 125) 41

¹⁵⁶ItoeroEze-Anaba., *Integrating Human Rights in the Shari'ah Court System in Nigeria – An Analysis of Papers at the Training Workshops for Shari'ah Court Judges* (LEDAP, 2004) 11.

¹⁵⁷K. K. Oloso and O. U. Ibrahim., “The Application of Al-Uqubat (Islamic Criminal Law) in Contemporary Nigerian Society: Current Issues and the Way Out’ *International Journal of Advanced Legal Studies and Governance*, [2011] (2) (1) 57.

¹⁵⁸ibid.



develop a distorted understanding of *Shari'ah*, seeing it primarily as punitive rather than as a comprehensive moral and legal system.¹⁵⁹

Internal divisions within the Muslim community also complicate the issue. Some educated and urban Muslims question the practical relevance of criminal *Shari'ah* within a plural and constitutionally secular state. They argue that governance should prioritise universal civic principles over religiously grounded legal norms.¹⁶⁰ This internal debate weakens unified advocacy for *Shari'ah* and reflects broader tensions between tradition and modern statehood. Another contributing factor is limited public education about the holistic scope of *Shari'ah*. Beyond criminal law, *Shari'ah* encompasses personal status law, commercial ethics, charitable obligations, and dispute resolution mechanisms. Yet these aspects rarely receive equal attention in public discourse. The absence of sustained enlightenment initiatives allows misconceptions to persist.¹⁶¹

Without adequate public enlightenment campaigns, many Nigerians remain unaware of the broader social and ethical goals of *Shariah*, leading to hostility and rejection. To address this challenge, there is a need for public education and awareness programmes that present a balanced and accurate picture of *Shari'ah* law.

4. Inference from International Communities

Nigeria's implementation of *Shari'ah* particularly its criminal dimension has attracted sustained attention from international actors. Human rights organizations, foreign governments, and multilateral institutions frequently scrutinise aspects of its enforcement, placing the Nigerian government in a difficult position of reconcile domestic legal pluralism with its international treaty obligations.¹⁶² Much of the criticism centres on punishments associated with *hudud* offences, such as flogging, amputation, and stoning. These sanctions are often described by advocacy groups as incompatible with modern human rights standards, especially under instruments like the United Nations Convention against Torture.¹⁶³ Because Nigeria is a party to several international human rights treaties, critics argue that certain applications of *Shari'ah* criminal law risk breaching its global commitments. For example, the U.S. Commission on International Religious Freedom has repeatedly raised concerns about blasphemy prosecutions and recommended designating Nigeria as a "Country of Particular Concern." This creates diplomatic pressure and periodic calls for reform. Although such resolutions are not legally binding within Nigeria, they shape international opinion and influence diplomatic engagement.

Global media coverage amplifies these dynamics. High-profile cases tend to receive widespread attention, frequently framed around severe punishments without equal emphasis on procedural

¹⁵⁹A. R. Al-Sheha, *Misconceptions on Human Rights in Islam* (Al-Waseelat Publishers, Lagos 2001) 11.

¹⁶⁰*ibid*

¹⁶¹Ladan (n 4)

¹⁶²Human Rights Watch, "Political Shari'a"?: Human Rights and Islamic Law in Northern Nigeria, A1609' [2004] <<https://www.refworld.org/reference/countryrep/hrw/2004/en/19627>> accessed 20th February 2026.

¹⁶³*ibid*.



safeguards, appellate reversals, or the broader civil dimensions of *Shari'ah*.¹⁶⁴ While the media's focus on human rights concerns is understandable, it often overlooks the broader principles of *Shariah* that promote justice, compassion, and social welfare.

5. Political Meddling and Inconsistent Standard

Political dynamics significantly affect the operation of *Sharī'ah* within Nigeria's federal structure. Although its reintroduction in several northern states after 1999 was framed as a moral and religious reform, in practice, implementation has at times been shaped by electoral considerations and partisan interests. When *Sharī'ah* becomes entangled with political competition, it risks being instrumentalised for legitimacy, public support, or identity mobilization rather than applied as a principled legal system. This politicisation weakens institutional credibility and raises doubts about neutrality in enforcement.¹⁶⁵ States such as Zamfara State, which was among the first to expand *Sharī'ah* to criminal matters in 1999, developed legislative frameworks that differ in content and scope from those of Kano State, Sokoto State, or Yobe State. Variations may exist in evidentiary standards, sentencing approaches, institutional oversight, and enforcement intensity.¹⁶⁶

8.0 CONCLUSION

Sharī'ah law remains a significant component of Nigeria's plural legal system, particularly in the northern states where it operates alongside statutory and customary law. Its strongest and least controversial application lies in Islamic personal law, providing clear rules on marriage, inheritance, family relations, and commercial transactions, and offering culturally aligned, accessible mechanisms for dispute resolution. Its extension into criminal jurisdiction, however, has generated constitutional debate, political tension, and international scrutiny. Institutionally, *Sharī'ah* courts, the Court of Appeal, and *Hisbah* commissions have enhanced access to justice, promoted social discipline, and introduced restorative mechanisms such as *Zakah* and mediation. Yet, effective application is constrained by constitutional limitations, shortage of qualified personnel, and inconsistent implementation across states, political interference, and negative public perception both domestically and internationally. The contemporary experience of *Sharī'ah* in Nigeria therefore reflects the challenge of balancing religious legal identity with constitutional supremacy. Its continued relevance will depend on institutional reform, harmonization of state laws, professionalization of practitioners, and adherence to constitutional boundaries. Ultimately, *Shari'ah's* role is central to building a justice system that is indigenous, culturally responsive, and functionally effective within Nigeria's pluralistic democracy.

¹⁶⁴Safiyyatu's case," Women's Aid Collective (WACOL), 2003. For further background on the case, see Chapter 3 of "Baobab for Women's Human Rights and Shari'a Implementation in Nigeria: The journey so far," Baobab for Women's Human Rights, Lagos, 2003; and "At last, court frees Safiyya," *The Punch*, March 26, 2003.

¹⁶⁵O. Vincent and N. Orlu, 'Sharia Law in the Northern States of Nigeria: To Implement or Not to Implement, the Constitutionality is the Question' *Human Rights Quarterly*[2004] (26) (3) 730.

¹⁶⁶*ibid.*