

LAWYERS, LAW REPORTING AND THE SHARIA COURTS OF APPEAL IN NIGERIA

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ABSTRACT

The Sharia Court of Appeal (first created in 1960) is a superior court of record that hears appeals from the area courts and Sharia courts in Islamic personal law cases only. Appeals from the Sharia Courts of Appeal go to the Court of Appeal and finally, to the Supreme Court. Lawyers gained the right of audience in the Sharia Courts of Appeal and qualified for appointment as Kadis of the court in 1985 and 1999 respectively. Reports of the Sharia Courts of Appeal judgments are hard to come by. An exception is the Kwara State Sharia Court of Appeal that has published its Annual Reports for the years 1993 to 2015. The Annual Report was renamed Law Reports and the Law Reports for 2016 and 2020 have been published. This paper gives a conceptual and historical background to Islamic law reporting, analyses the 2000 Annual Report and 2020 Law Report (the maiden editions respectively) and examines the prospects of reporting cases of the court. The study finds some differences in the formats of the annual reports and the law reports; inconsistencies in the court's referencing style and the transliteration schemes, and that the reports are useful to lawyers and academics alike. The paper recommends that the

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judgments in the court should not be unduly long; that the referencing style and transliteration scheme for Arabic sources should be standardized; and that while the reports be encouraged and sustained, the concept of stare decisis should not become entrenched in Islamic courts.

Keywords: *Islamic law reporting, judicial precedent (stare decisis), dīwān al-qādī (sijill), kadi, Nigerian Sharia court of appeal*

INTRODUCTION

The Nigerian legal system consists of three distinct legal traditions, namely, the common law, Islamic law, and customary law under a united judiciary dominated by the common law.² The Sharia Courts of Appeal are very important in the administration of Islamic personal law in the country. The Sharia Court of Appeal of the defunct northern region, which was created in 1960³ to replace the Muslim Court of Appeal,⁴ became the final court for Islamic personal law cases.⁵

The 1999 Constitution recreated the Sharia Court of Appeal for the Federal Capital Territory and as an optional court for any state in the federation that wants to establish the court.⁶ It is an appellate court that hears

² Abdulmumini Adebayo Oba, 'Religious and Customary Laws in Nigeria,' *Emory International Law Review*, vol. 25/2 (2011): 881-895; Abdulmumini Adebayo Oba, 'Harmonization of Shari'ah, Common Law and Customary Law in Nigeria: Problems and Prospects,' *Journal of Malaysian and Comparative Law*, vol. 35 (2008): 119-145.

³ Sharia Court of Appeal Law, Cap. 122, Laws of Northern Nigeria, 1963.

⁴ The Muslim Court of Appeal was formally established by law in 1956 but commenced in 1957; Elliot Alexander Keay & Sam Scruton Richardson, *The Native and Customary Courts of Nigeria* (London: Sweet and Maxwell, 1966), 57.

⁵ Section 12, Sharia Court of Appeal Law, Cap. 122, Laws of Northern Nigeria, 1963; Appeals from the court does not lie to the High Court, section 53(2)(a) and (b), Constitution of Northern Nigeria, Cap. 1, Laws of Northern Nigeria, 1963; Abdulmumini Adebayo Oba, 'Sharia Court of Appeal in Northern Nigeria: The Continuing Crises of Jurisdiction,' *American Journal of Comparative Law*, vol. 52/4 (2004): 859, 862-863

⁶ Section 260(1) and section 275(1), Constitution of the Federal Republic of Nigeria, 1999 ("1999 Constitution"): "There shall be for any State that requires it a Sharia Court of Appeal for that State". The latter section was lifted verbatim from section 240(1), Constitution of the Federal Republic of Nigeria, 1979 ("1979 Constitution"). There are a Sharia Court of Appeal in the Federal Capital

appeals from the area courts and Sharia courts which are the courts of first instance that hear all Islamic civil cases including matters relating to Islamic personal law.⁷ Appeals from these courts in all other Islamic civil matters go to the High Court. Appeals from the Sharia Court of Appeal and the High Court go to the Court of Appeal (unlike appeals from the Muslim Court of Appeal that went to the High Court) from whence they go to the Supreme Court, which is the apex court in the country. For this study, “Islamic courts” are the area courts, Sharia courts and the Sharia Courts of Appeal.

Reports of the decisions of the Sharia Court of Appeal are hard to come by mainly because the law reports in the country focus mainly on the decisions of the Supreme Court and Court of Appeal. This is not surprising given that the doctrine of *stare decisis* operates in the courts. However, the Kwara State Sharia Court of Appeal provides a refreshing exception to the paucity of reports of judgments of the Sharia Courts of Appeal as the only Sharia Court of Appeal in the country that publishes reports of its judicial and extra-judicial activities. The first sets of the Sharia Court of Appeal, Ilorin Annual Reports (SCAIAR or “the Annual Reports”) for 2000, 2001, and 2002 respectively were published in 2003 with a promise to the reports for the earlier years. The annual reports are now available for the years 1994-2015. In 2021, the Annual reports became a formal law report known as the Kwara State Sharia Court of Appeal Law Reports (KSCALR or “the Law Reports”) with the publication of the 2016 and 2020 Law Reports.⁸

There has been a review of the first set of the Annual Reports.⁹ There is thus a need to follow up with a review of the Law Reports. The interval between 2000 and 2020, and the transition from the Annual Report to the Law Report format present an opportunity for us to see what has remained

Territory and all the northern states (Adamawa, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Kwara, Kogi, Nasarawa, Niger, Plateau, Sokoto, Taraba, Yobe, Zamfara) except Benue State. The official website of the Benue State Judiciary states that “as at 2023, comprises nineteen Judges for High Court and four Judges for Customary Court of Appeal”, Benue State Judiciary, ‘About Us,’ The Judiciary Benue State, <https://benuejudiciary.org.ng/>, accessed on 3 February 2024.

⁷ In some states, the jurisdiction of Area Courts also includes customary law.

⁸ Tajudeen Adebajo, ‘Kwara Sharia Court Launches Law Report,’ *The Nation Online*, 7 January 2022, <https://thenationonline.net/kwara-sharia-courtlaunches-law-report/>, accessed on 25 May 2022.

⁹ Abdulmumini Adebayo Oba, ‘The Sharia Court of Appeal: Accounting to the Public in Kwara State,’ *The Jurist - An Annual Publication of the Law Students' Society*, University of Ilorin, vol. 10 (2005): 161-168.

the same, what has changed, and what new developments have occurred in the court and its activities concerning law reporting.

This paper examines the models of reporting the activities of the Sharia Courts of Appeal, the influence of lawyers thereon, and some formal aspects of the court's judgments. The paper discusses the backgrounds to the study, then analyses law reporting in the Kwara State Sharia Court of Appeal by contextualizing the transition from the Annual Reports to the Law Reports, identifying the differences between the form and contents of the 2000 Annual Report and the 2020 Law Report, and making some observations on some formal aspects of the judgments in the reports. The paper also looks at the challenges and prospects of reporting the judgments of the Sharia Courts of Appeal. The paper concludes with suggestions to remedy the challenges to reporting the judgments of the court, and suggestions of some possible areas for future research.

HISTORICAL AND CONCEPTUAL BACKGROUND

In the early period of the Islamic era, a court consisted of a single Kadi.¹⁰ The idea of a court constituted by multiple judges was a later development.¹¹ Islamic lower courts in Nigeria followed this pattern.¹² However, the Sharia Court of Appeal since its establishment has always constituted of more than one judge.¹³ Similarly, while judicial review had been part of Islamic

¹⁰ Emilie Tyan, 'Judicial organization,' in *Law in the Middle East*, eds. Majid Khadduri & Herbert J. Liebesny (Washington, D. C.: Middle East Institute, 1955), 245-248.

¹¹ Mohammad Hashim Kamali, 'Appellate Review and Judicial Independence in Islamic Law,' *Hashim Kamali.Com*, <https://hashimkamali.com/index.php/component/k2/item/160-appellate-review-and-judicial-independence-in-islamic-law>, accessed on 16 August 2022. An earlier version of the article was previously published in *Islamic Studies*, vol. 29/3 (1990): 215-245.

¹² For example, section 4(2), Area Courts Law, Cap. 13, Laws of Kwara State, 1994 provided that "All questions of Islamic personal law shall be heard and determined by the Area judge or any member [of an area court] learned in Islamic law sitting alone".

¹³ With the exception of 1979-1999 when the 1979 Constitution was in force and at least two Kadis constituted the court (see section 243, 1979 Constitution), the court had always been constituted by three Kadis, see section 4(3), Sharia Court of Appeal Law, Cap. 12, Laws of Northern Nigeria, 1963, and sections 263 and 278, 1999 Constitution.

judiciary from the earliest times,¹⁴ the emergence of the formal appellate system court within a hierarchal structure is another later development.¹⁵

Law reporting in the modern sense was not present in classical Islamic law. However, documentation of judicial judgments has been present in Islam from the earliest times.¹⁶ Some judgments of the Prophet (SAW) are preserved in the books of *aḥādīth* and various compilations of the prophetic judgments.¹⁷ In addition, many judicial decisions of the Prophet's Companions, their successors were documented. Reports of legal cases (*nawāzil*) decided by *qādīs* and the responses (*fatāwā*) of scholars to hypothetical law questions have come to us through Islamic law texts and manuals.¹⁸ From the earliest period of Islam, *qādīs* have always had scribes (*kātib*) who kept records of the proceedings and the archives of the court (*dīwān al-qādī*)¹⁹ which were kept in the house of the *qādīs* or that of the scribe.²⁰ According to Al-Khassaf,²¹ the court's *dīwān* or archive consists of *maḥḍars*²² ('record of proceedings') and *sijills*,²³ ("a collection of the

¹⁴ David S. Powers, 'On Judicial Review in Islamic Law,' *Law & Society Review*, vol. 26/2 (1992): 315-342.

¹⁵ Mohammad Hashim Kamali, 'Appellate Review and Judicial Independence in Islamic Law'.

¹⁶ Wael Hallaq, 'The *Qādī's Dīwān (Sijill)* before the Ottomans,' *Bulletin of the School of Oriental and African Studies*, vol. 61/3 (1998): 415, 421-436.

¹⁷ I. A. Haroon, 'Preface,' (2011) SCAIAR, vii; Abū 'Abd Allāh Muḥammad ibn Faraj al-Mālikī al-Qurtubī, *Aqḍiyah Rasūl Allāh Ṣallā Allāh 'Alayh wa Sallam*, 2 vols. (Qāhirah: Dār al-Haytham, 2006).

¹⁸ Delfina Serrano, 'Legal Practice in an Andalusī-Maghribī Source from the Twelfth Century CE: The *Madhāhib al-Hukkām fī Nawāzil al-Aḥkām*,' *Islamic Law and Society*, vol. 7/2 (2000): 187, 187-189.

¹⁹ Wael Hallaq, 'The *Qādī's Dīwān (Sijill)* before the Ottomans,' 420-422; Muhammed Khalid, Rudolph Peters & David S. Powers, 'Qadis and their Courts: An Historical Survey,' *Dispensing Justice in Islam: Qadis and their Judgments*, eds. Muhammed Khalid, Rudolph Peters & David S. Powers (Leiden and London, Brill, 2006), 2-3.

²⁰ Emilie Tyan, 'Judicial organization,' 254-255; Wael Hallaq, 'The *Qādī's Dīwān (Sijill)* before the Ottomans,' 422-424.

²¹ Abū Bakr Aḥmad Ibn 'Umar al-Khaṣṣāf, *Kitab Adab al-Qādī*, with a commentary by Aḥmad Ibn 'Alī al-Jaṣṣāf, ed. Farhat J Ziadeh (Qāhirah: Qism al-Nashr bi al-Jāmi'ah al-Amrīkiyah, 1979); Imam Khassaf, *Adab al-Qadi (Islamic Legal and Judicial System)*, ed. Al-Sadr al-Shahid, trans. Munir Ahmad Mughal (New Delhi: Adam Publishers and Distributors, 2005).

²² Singular: *maḥḍar*, plural: *maḥḍār*.

²³ Singular: *sijill*, plural: *sajillāt*.

mahqars of individual cases ... [together with the *qādī*'s judgment]).²⁴ Copies of these records were given to the parties and the court retained a copy, which constitutes the official record of the cases.²⁵ This effectively preserved the judgments of the *qādīs* in these jurisdictions. Although many scholars believe that *sijills* originated in the Ottoman era, there have been discoveries of *sijills* in other places dating as far back as the 11th Century.²⁶ These *sijills* now serve as the main primary sources of information for contemporary studies of the judiciary of many past caliphates and emirates.²⁷

It is generally acknowledged that many of the *qādīs* in pre-colonial northern Nigeria were highly trained competent Islamic scholars.²⁸ However, it appears that there is no evidence that *qādīs* in the pre-colonial era Sokoto and Kanem-Bornu Caliphates that became northern Nigeria kept *sijills*.²⁹ However, it is unlikely that these *qādīs* kept no records of their proceedings and judgments. Firstly, the *qādīs* both caliphates had been literate in Arabic for centuries before the advent of colonialism. Secondly, the leaders and scholars of the Sokoto caliphate had access to many classical Maliki texts which they relied on to guide the administration of the caliphate generally and the judiciary.³⁰ Abdullahi Fudi³¹ in his writing about the judiciary in his *Diya al-Hukkam* cited Ibn Farhun for the fact that *qādīs*' administrative staff should include a scribe.³²

²⁴ Imam Khassaf, *Adab al-Qadi (Islamic Legal and Judicial System)*, 125; Wael Hallaq, 'The *Qādī's Dīwān (Sijill)* before the Ottomans,' 422; Muhammed Khalid, Rudolph Peters & David S. Powers, 'Qadis and their Courts: An Historical Survey,' 21.

²⁵ Imam Khassaf, *Adab al-Qadi (Islamic Legal and Judicial System)*, 125.

²⁶ Wael Hallaq, 'The *Qādī's Dīwān (Sijill)* before the Ottomans,' 422-436.

²⁷ Muhammed Khalid, Rudolph Peters & David S. Powers, 'Qadis and their Courts: An Historical Survey,' 3.

²⁸ Ahmed Beita Yusuf, *Nigerian Legal System – Pluralism and Conflict of Laws in the Northern States* (New Delhi: National Publishing House, 1982), 36.

²⁹ Murray Last, 'The Book in the Sokoto Caliphate,' in *The Meanings of Timbuktu*, ed. Souleymane Bachir Diagne (Dakar: CODESRIA/HSRC, 2008), 135 and 151; Allen Christelow, 'Islamic Judicial Councils and their Socio-political Contexts: A Trans-Saharan Comparison, in *Dispensing Justice in Islam: Qadis and their Judgments*,' eds. Muhammed Khalid Masud, Rudolph Peters & David S. Powers (Leiden and London, Brill, 2006), 298 and 310.

³⁰ Ahmed Beita Yusuf, *Nigerian Legal System – Pluralism and Conflict of Laws in the Northern States*, 39.

³¹ Abdullahi b. Fudi was the brother of the Uthman b. Fudi, the founder and leader of the Sokoto caliphate.

³² Abdullahi B. Foduye, *Guide to Administrators Diya' al-Hukkam*, ed. and trans. Shehu Yamasa (Sokoto: The Islamic Academy, 2000), 20. See the discussion on

Documentation of Islamic courts' records took a new turn with the advent of colonialism. The colonial authorities adopted a system of indirect rule in northern Nigeria which allowed them to continue using the existing governmental structures. The existing Alkali court system was allowed to continue but the colonial authorities took control of the court in terms of the establishment of courts, appointment and discipline of the judges, and jurisdiction of the court.³³ Appeals from the Alkali courts went to colonial administrative officials.³⁴ The colonial authorities started the preservation of proceedings of courts in the archives. The colonial period gave rise to, among other things, "a large body of documents in Arabic [consisting of] case registers of the *alkali* (Arabic: *qādī*) or Muslim judge's courts, and of the emir's judicial councils".³⁵ Murray Last asserted that "the judicial records of the Emir's Court in Kano instituted only in the colonial era".³⁶ Allen Christelow who published a selection of judgments from these records observed that there was a note attached to a record book at the National Archives in Kaduna identifying it as the first record book of the court but Christelow pointed out that this is not correct because "an earlier record book, dating back to 1910, is kept at the emir's palace in Kano".³⁷ The confusion leading to that note may be due to the relocation of the Emir's court. In the pre-colonial era, *qādīs* heard cases in their own houses.³⁸ This practice continued until the earlier colonial period.³⁹ Thus, the absence of

scribes in Ibn Farḥūn, Ibrāhīm Shams al-Dīn, *Tabṣīrah al-Ḥukkām fī Usūl al-Aqdīyah wa Manāhij al-Aḥkām*, vol. 1 (Bayrūt: Dār al-Kutub 'Ilmiyyah, 2001), 39-40.

- ³³ Elliot Alexander Key & Sam Scruton Richardson, *The Native and Customary Courts of Nigeria*, 20, 25-27.
- ³⁴ Elliot Alexander Key & Sam Scruton Richardson, *The Native and Customary Courts of Nigeria*, 39-40; Auwalu Hamisu Yadudu, 'We Need a New Legal System,' in *On the Political Future of Nigeria*, eds. Ibrahim Sulaiman & Siraj Abdulkarim (Zaria: Hudahuda, 1988), 1 and 4-5.
- ³⁵ Allen Christelow, *Thus Ruled Emir Abbas: Selected Cases from the Records of the Emir of Kano's Judicial Council* (East Lansing: Michigan State University Press, 1994), 1.
- ³⁶ Murray Last, 'The Book in the Sokoto Caliphate,' in *The Meanings of Timbuktu*, 135 and 151.
- ³⁷ Allen Christelow, *Thus Ruled Emir Abbas: Selected Cases from the Records of the Emir of Kano's Judicial Council*, xviii.
- ³⁸ Ahmed Beita Yusuf, *Nigerian Legal System – Pluralism and Conflict of Laws in the Northern States*, 39.
- ³⁹ For example, Ubah noted that up to 1909, the Chief Alkali of Kano heard cases in his own house until a building was later provided for him to use a court, C. N.

the pre-colonial judicial records may simply be because *qādīs* heard cases in their homes and the court records that remained in their homes eventually perished as no official effort was made to retrieve these records.

Law reporting is crucial to a seamless operation of the doctrine of binding precedents (*stare decisis*) in the common law courts where the concept is applicable as a foundational concept.⁴⁰ However, the doctrine was not applicable in the classical era of Islamic law. The establishment of common law courts by the colonial authorities inspired the idea of formal law reporting in Nigeria. The early law reports were official reports published by the government and they contained only judgments of superior courts. These started with the publication of the *Nigeria Law Reports* by the Judicial Department in 1916.⁴¹ The other official law reports that followed in the colonial era had the same coverage.⁴²

The possibility of reports of Islamic courts came to the fore with the establishment of the Sharia Court of Appeal of Northern Nigeria as the first superior court of record in the country in 1960. However, lawyers were not allowed to appear before the court and the qualifications for appointment as Kadi of the court were based purely on Islamic law requirements.⁴³ The Case Notes of Northern Nigeria (NNCN) which commenced in 1961 published reports of selected cases decided by superior courts in Northern Nigeria including the judgments of the Sharia Court of Appeal.⁴⁴ With the creation of states out of the defunct regions in 1967, the Sharia Court of Appeal was

Ubah, *Government and Administration of Kano Emirate 1900-1930* (Nsukka: University of Nigeria Press, 1985), 149.

⁴⁰ Akintunde Olusegun Obilade, *Nigerian Legal System* (London: Sweet and Maxwell, 1998), 111-114; Gary Slapper & David Kelly, *The English Legal System*, 18th ed. (Abingdon and New York: Routledge, 2017), 137.

⁴¹ See the history of Law reporting and Law Reports in Nigeria in Akintunde Olusegun Obilade, *Nigerian Legal System*, 136-144.

⁴² These included the Selected Judgments of the West African Court of Appeal (WACA) 1930-1955, Law Reports of Northern Region of the Federation of Nigeria (NRNLR) 1956-1961, and Selected Judgments of the Federal Supreme Court of Nigeria (FSC) 1956-1960, and those in the independence era such as (All NLR) reported judgments of the superior courts, Akintunde Olusegun Obilade, *Nigerian Legal System*, 137-140.

⁴³ Sections 5 and 20(1), Sharia Court Law, Cap. 122, Laws of Northern Nigeria, 1963 respectively.

⁴⁴ Unlike the traditional law reports, the cases in the NNCN are cited by case number and not pages, Elliot Alexander Keay & Sam Scruton Richardson, *The Native and Customary Courts of Nigeria*, xxxi. This author has not seen any citation of the notes beyond 1963.

decentralized in Divisions and with the creation of additional states in 1976; the Divisions of the court gave way to separate Sharia Courts of Appeal for the states.

The next impetus to Islamic law reporting is the 1979 Constitution which opened an appeal route from the Sharia Courts of Appeal to the Court of Appeal.⁴⁵ The Constitution mandated that such appeals should be heard by a special panel of the Court of Appeal consisting of at least three justices of the court who are also learned in Islamic law.⁴⁶ The official law report of the Court of Appeal titled the *Reserved Judgments of the Court of Appeal* started including judgments of the Islamic law panels of the court.⁴⁷ In 1980, the Centre of Islamic Legal Studies of the Institute of Administration, Ahmadu Bello University published the maiden edition of the *Shari'ah Law Reports* which was devoted exclusively to reporting the judgments of the Sharia Court of Appeal. The editors of the report noted that they were "resuscitating" the *Case Notes of Northern Nigeria* (NNCN).⁴⁸ However, unlike the *Case Notes of Northern Nigeria* which also reported judgments of the High Court, the *Shari'ah Law Report* published only judgments of the Sharia Courts of Appeal.

Another development was that in 1985 the Court of Appeal held that the Constitution has impliedly nullified the laws prohibiting lawyers from appearing before the Sharia Courts of Appeal.⁴⁹ Thus, for the first time since the creation of the court in 1960, lawyers gained the right to appear and argue cases for parties before the court. Lawyers also started appearing before the area courts. This opened the possibility of the introduction of the doctrine of judicial precedent to Islamic courts by lawyers who are accustomed to using the doctrine in the English-style courts. In 1993, the *Sharia Law Report of*

⁴⁵ Section 223, 1979 Constitution.

⁴⁶ Section 226(a), 1979 Constitution.

⁴⁷ *Albasa v. Sani* (1982) CA (Pt. 1) 27.

⁴⁸ Musa Ali Ajetunmobi, 'Shari'ah Law Reporting in Nigeria', *Hamdard Islamicus*, vol. 11/2 (1988): 77-78 citing the editorial notes to the (1980) (1), *Shari'ah Law Reports*. The second volume of the report (1985) (2), *Shari'ah Law Reports*, was published in 1985, apparently, no other volume of the law report was published after this volume.

⁴⁹ *Karimatu Yakubu v Paiko* (1961-1989) 1 Sh. L. R. N. 126. See analyses of this case in Muhammed Tabi'u, 'The Right of Audience of Legal Practitioners in Shari'ah Courts in Nigeria,' *Journal of Islamic and Comparative Law*, vol. 15-17, (1985-1987): 17-26; Abdulmumini Adebayo Oba, 'Do Lawyers have a Right of Audience in the Sharia Court of Appeal? *Karimatu Yakubu and Anor v. Alhaji Yakubu Paiko and Anor* Revisited,' *LASU Law Journal*, vol 4/2 (2002): 183-197.

Nigeria (Sh.L.R.N.)⁵⁰ was published. It reported judgments in some Islamic law cases decided by the Sharia Court of Appeal, the Court of Appeal and the Supreme Court. The law report was meant to be published periodically but there was no other volume beyond the first.

The 1999 Constitution provided a measure which turned out to be a major impetus to the reporting of judgments of the Sharia Court of Appeal. The Constitution listed legal practitioners of not less than ten years standing who also have a “recognised qualification in Islamic law from an institution acceptable to the National Judicial Council” as the first category of persons who could be appointed as a Kadi of the Sharia Court of Appeal.⁵¹ Another development came in 2006 when in some states, being a lawyer became the sole qualification for appointment as an area court judge.⁵² In the Sharia courts,⁵³ being a legal practitioner was accepted as one of the qualifications for becoming a judge in those courts.⁵⁴ The presence of lawyers as judges in the area courts and Sharia courts extended the influence of the common law principles in the court.⁵⁵ The post-1999 era witnessed an increase in the reporting of the judgments of the Sharia Courts of Appeal. The *Law Report of Northern Nigeria* (NNLR)⁵⁶ started including judgements of the Sharia

⁵⁰ *Sharia Law Reports*, vol. 1 (1961-1989) ed. Yahaya Mahmood (Ibadan: Spectrum Books Ltd, 1993.)

⁵¹ Section 276(3)(a), 1999 Constitution.

⁵² For example in Kwara State, see section 4 A(1)(a) and (b), Area Courts Law, Cap. A9, Laws of Kwara State, 2007 (inserted by Kwara State Law Revision (Miscellaneous) (Amendment) Law, 2006).

⁵³ Sharia courts were established by some states in northern Nigeria in the post 1999 revival of Islamic law in parts of northern Nigeria.

⁵⁴ For example, in Kano State, being “a legal practitioner in Nigeria with sound knowledge of Islamic law and has been so qualified for a period not less than 7 years”, or a “degree in Islamic Law from a recognized University” are acceptable, see sections 11 (1) (d) and 11(2), Kano State Sharia Courts Law, 2000. Similarly, in Sokoto State, see sections 4(1) (b) and 4(2) (b), Sharia Courts Law, 2000. Kaduna State accepts a Bachelor of Laws degree with specialization in Islamic law from a recognized University with at least two years practical experience”, see section 7 (1) (a), Sharia Courts Law, 2001.

⁵⁵ Abdulmumini Adebayo Oba, ‘Neither Fish nor Fowl’: Area Courts in the Ilorin Emirate in Northern Nigeria,’ *Journal Legal Pluralism and Unofficial Law*, vol. 58 (2009): 69 and 73-84.

⁵⁶ The NNLR started in 1956 as the *Law Report of the Northern Region of Nigeria* (NRNLR) and became *Law Report of Northern Nigeria* (NNLR) in 1962; Akintunde Olusegun Obilade, *Nigerian Legal System*, 140. It was published formerly by the Government Printer, Kaduna and now by the Judiciaries of the Northern States of Nigeria and the Federal Capital Territory.

Courts of Appeal. In 2006, the *Sarauniya Law Report (SLR)*⁵⁷ which was dedicated to reporting Islamic law cases decided by the Court of Appeal and the Supreme Court emerged. It published four volumes between 2006 and 2007 before it ceased production.

In the early and mid-2010s, there was a further development to legal education in the country which merged Islamic legal education and common law legal education by allowing graduates of Islamic law from universities in the Middle East and North Africa to spend two years in selected faculties of Law auditing some core law courses as a prerequisite to attending the Nigeria Law School where they would be called to the Bar after successful completion of the course.⁵⁸ Eventually, lawyers now dominate the lists of appointments as Kadis. With this development, kadis and lawyers in cases before the court started relying more on judicial precedents.⁵⁹ During this period, the *Sharia Quarterly Law Report*,⁶⁰ published fifteen volumes from 2013 to the third quarter of 2016 when it became moribund. In addition to the judgments of the Court of Appeal and the Supreme Court, it reported some judgments of the Sharia Courts of Appeal.

Other major Law reports in the country that focused on the judgments of English-style courts such as the *Nigerian Weekly Law Report (NWL)*,⁶¹ and the *Law Pavilion Electronic Law Report (LPELR)*⁶² now include Islamic law cases decided by the Court of Appeal and the Supreme Court but rarely (if ever) judgments of the Sharia Courts of Appeal. Overall, Reports of the Sharia Courts of Appeal judgments (and those of the High Courts') were not as extensive as the judgments of the Court of Appeal and the Supreme Court. Generally, these law Reports do not concern themselves much with cases of the Sharia Courts of Appeal.⁶³ Perhaps the belief is that cases that come before the Sharia Court of Appeal rarely attract any interest

⁵⁷ Hapsatu S. Ahman (ed.), *Sarauniya Law Report* (Kaduna: Sarauniya Law Publications, 2006).

⁵⁸ Ibrahim Abikan Abdulqadir & Hussein Ahmad Folorunsho, 'The Status of Shari'ah in the Nigerian Legal Education System: An Appraisal of the Role of *Mada'ris*', *IJUM Law Journal*, vol. 24/2 (2016): 453 and 472-477.

⁵⁹ See discussions on this below.

⁶⁰ Yunus Ustas Usman (ed.), *Sharia Quarterly Law Report* (Kaduna: Fauz Law Firm, 2013).

⁶¹ Gani Fawehinmi (ed.), *Nigerian Weekly Law Report* (Ikeja, Lagos: Nigerian Law Publications, 1985).

⁶² Ope Olugasa, *Law Pavilion Electronic Law Report* (Ikeja, Lagos: LawPavilion Business Solutions, 2005).

⁶³ John Ohireime Asein, *Introduction to Nigerian Legal System*, 2nd ed. (Lagos: Ababa Press, 2005), 88.

beyond those of the parties to the case and lawyers who use cases as tools of the trade.⁶⁴

The Sharia Court of Appeal, Ilorin Annual Reports which became the Kwara State Sharia Court of Appeal Law Reports published by the Kwara State Sharia Court of Appeal is the only official law reports dedicated to reporting the judgments of a Sharia Court of Appeal.

METHODOLOGY

The paper adopted the doctrinal legal method that relies on primary and secondary sources. The primary sources include statutes and judgments of courts, especially the judgments of the Kwara State Sharia Court of Appeal as contained in the 2000 Annual Report and the 2020 Law Report. Those two reports are significant because they were part of the maiden editions of the Annual Reports and The Law Reports, respectively. The years 2000 and 2020 are also significant in that the 1999 Constitution added lawyers who have qualifications in Islamic law to categories of persons appointable as Kadis. The content and textual analyses of the two reports helped ascertain the similarities and differences in the two models of reporting the activities of the court, the impact of lawyers as Kadis and advocates in the court, the use of judicial precedents in the court, and in assessing the formal aspects of judgments of the court. The two law reports also offered a longitudinal perspective of the court and its activities in 2000 and 2020. The secondary sources which included books, journal articles, and online resources supported the primary sources in contextualizing the Annual Reports and Law Reports and in ascertaining the challenges and prospects of reports of judgments of the Sharia Courts of Appeal in the country.

LITERATURE REVIEW

The literature on Islamic law reporting in Nigeria generally is rather scanty. There are (at least to the best of my knowledge), three existing literatures on

⁶⁴ However, some judgments of the Sharia Courts of Appeal have attracted intense public attention and are reported in multiple law reports. These include *Karimatu Yakubu* and *Anor v. Yakubu Paiko* and *Anor* (1961-1989). 1 Sh. L R. N. 126 that allowed lawyers to appear in the Sharia Courts of Appeal, *Safiyatu Hussaini v Attorney General, Sokoto State* (2003) NNLR 439-64 (Sharia Court of Appeal, Sokoto State); *Amina Lawal v The State* (2003) NNLR 488 (Sharia Court of Appeal, Katsina State) where the courts allowed the appellants' appeal against their conviction for adultery and set aside the sentences of stoning to death imposed by the lowers respectively.

Islamic law reporting in the country. Ajetunmobi published an article on Islamic law reporting in 1988 where he pointed out the dearth of Islamic law reports in the country.⁶⁵ He analyzed the judgments reported in the first edition of the *Shari'ah Law Reports* was published in 1980, and another edition published in 1985. The materials in the article were taken from his PhD thesis and was published posthumously “over a quarter of [a] century” later in 2007.⁶⁶ There is also Oba’s review of the maiden editions of the Annual reports.⁶⁷ The review argues inter-alia that the annual reports suffice and that there is no need to “upgrade” to a law report format. This paper takes a fresh look at the 2000 Annual Report and also analyses the 2020 Law Report against the background of some aspects of the 2000 Annual Report. This paper goes further than the previous works by focusing on law reporting in the Sharia Court of Appeal in more recent times, analyzing some stylistic aspects of the judgments, and delving into the challenges and prospects of reporting cases of the court.

DATA ANALYSIS AND FINDINGS

1. Contextualizing the Transition from Annual Reports to Law Reports

The 2000 Annual Report and the 2020 Law Reports reflect the transition from Annual Reports to Law Reports. According to the then Grand Kadi, the Law Report is a “re-branded, repackaged, and standardized” version of the Annual Report.⁶⁸

a) From the Annual Reports to the Law Reports

In 2003, the then Grand Kadi introduced the Annual Reports of the Sharia Court of Appeal with the presentation of the reports for 2000, 2001, and 2002 to the public with a promise to publish the reports of the preceding years retrospectively.⁶⁹ Since then, the court has published the reports for the years

⁶⁵ Musa Ali Ajetunmobi, ‘Shari’ah Law Reporting in Nigeria’, 77; Abdulmumini Adebayo Oba & Ismael Saka Ismael, ‘Challenges in the Judicial Administration of Muslim Estates in the Sharia Courts of Appeal in Nigeria,’ *Electronic Journal of Islamic and Middle Eastern Law (EJIMEL)*, vol. 5 (2017): 81 and 83.

⁶⁶ Musa Ali Ajetunmobi, *Shari’ah Legal Practice in Nigeria, 1956-1983* (Malet: Kwara State University Press, 2017), 126-128 and Appendix VII.

⁶⁷ Abdulmumini Adebayo Oba, ‘The Sharia Court of Appeal: Accounting to the Public in Kwara State,’ 161-168.

⁶⁸ (2020) KSCALR vi.

⁶⁹ The publication of the Annual Reports is one of the important achievements of Hon. Justice Ambali as Grand Kadi. In addition to authoring scores of monographs and other academic contributions, his Lordship as Kadi had

1994 to 2015. The reports were widely welcomed by legal practitioners, academia, and the public. The reports, which are the first and still the only one of its types, offered an opportunity for detailed scrutiny of the activities of the court.

The naming of the reports as Annual Reports rather than Law Reports is deliberate. It may be because the court was aware that judicial precedence does not apply in Islamic courts.⁷⁰ Although the court had expressed an intention to establish an appropriate body consisting of Kadis, academia, and distinguished Islamic scholars to carry out the task of Islamic Law Reporting, no such body was subsequently established. It is thus noteworthy that the court did not address the reports to legal practitioners. The avowed aim of the court in publishing the annual reports is to let the public know of its activities.⁷¹ The court also expressed the hope that annual reports “will serve as good materials for students to relate to the theory of Islamic Law to its practice in our society” and will “enhance research in the field of Islamic Law and encourage fascinating comparison between what Islamic Law offers and what obtains in other competing legal systems in the society”.⁷² Most importantly, the court welcomes constructive criticism of its activities.⁷³

In 2017, the then Grand Kadi⁷⁴ constituted a Law Report Committee,⁷⁵ which commenced the production of Law Reports in 2021 with the publication of the Reports for the years 2016 and 2020. The choice of the law report format is deliberate. The court directed the Annual Reports primarily to the public so that they could be aware of the activities of the court for them to make suggestions towards improving the services rendered

authored the hugely successful and much-cited *Muslim Family Law in Nigeria*, which is now in its third edition: M. A. Ambali, *The Practice of Muslim Family Law in Nigeria*, 3rd ed. (Lagos: Princeton and Associates Publishing, 2014).

⁶⁹ Abdulmumini Adebayo Oba, ‘The Sharia Court of Appeal: Accounting to the Public in Kwara State,’ 162.

⁷⁰ Abdulmumini Adebayo Oba, ‘The Sharia Court of Appeal: Accounting to the Public in Kwara State,’ 162.

⁷¹ (2000) SCAIAR v.

⁷² (2000) SCAIAR vi.

⁷³ (2000) SCAIAR v.

⁷⁴ Hon. Justice M. O. Abdulkadir, Hon. Grand Kadi (2017-2022), see the back cover of (2020) KSCALR.

⁷⁵ The Law Report Committee consisted of the Grand Kadi as the Editor-in-Chief, all the six Kadis, the Chief Registrar and Deputy Chief Registrar (Litigation) of the court, and four other officials of the court as members while the Deputy Chief Registrar (Res., Doc., and Pro) is the secretary of the committee.

by the court and secondly to researchers in the field of Islamic Law and comparative law.⁷⁶ The Law Reports, which have “all the features and contents of conventional standard law reports”, are directed mainly to legal practitioners.⁷⁷

The court has published its Annual Reports for the years 1994 to 2015 and the Law Reports for 2016 and 2020 have been published. Despite of the intention of the court to publish its reports from the inception of the court in 1975,⁷⁸ the reports from 1975 to 1992, 2017 to 2019, and 2021-2023 are yet to be published. When the first sets of the Annual Reports were published, they were not sold but distributed free of charge. It was suggested that the reports should also be available for anyone who wants to purchase them as this will enhance the reach of the reports.⁷⁹ The court has since made the annual reports and law reports available for sale.

b) Personnel Changes from Annual Reports to Law Reports

All the Kadis of the 2000 court have retired and left the court, and in 2020, none of them remained in the court. The Kadis of the court in 2000 were different from the Kadis in 2020 in terms of educational background and professional qualifications.⁸⁰ Of the six Kadis in the court in 2000, only two also qualified as lawyers while in 2020 all but one of the seven Kadis in 2020 are also qualified lawyers.⁸¹ The two sets of Kadis represent different

⁷⁶ (2000) SCAIAR v-vi.

⁷⁷ (2016) KSCALR vii.

⁷⁸ The Sharia Court of Appeal of Kwara State was formally established in 1975 after the state had been under the jurisdiction of the Sharia Court of Appeal of the Northern Region and then the Sharia Court of Appeal for Kwara State and North Central State; see Musa Ali Ajetunmobi, *Shari'ah Legal Practice in Nigeria, 1956-1983*, 96.

⁷⁹ Abdulmumini Adebayo Oba, 'The Sharia Court of Appeal: Accounting to the Public in Kwara State,' 168.

⁸⁰ On the evolution of Islamic legal education in Nigeria, see generally Auwalu H. Yadudu, 'Colonialism and the Transformation of Islamic Law in the Northern States,' *Journal of Legal Pluralism*, vol. 32 (1992): 127-128; Abdulmumini Adebayo Oba, 'Re-Conceptualizing Islamic Legal Education in Nigeria: The Case for Professionalization,' *Al-Maslaha*, vol. 2 (1999-2003): 85 and 92-95, Abdulmumini Adebayo Oba, 'Lawyers, Legal Education and Shari'ah Courts in Nigeria,' *Journal Legal Pluralism and Unofficial Law*, vol. 49 (2004): 113, 122-126 and 133-134; Ibrahim Abikan Abdulqadir & Hussein Ahmad Folunsho, 'The Status of Shari'ah in the Nigerian Legal Education System: An Appraisal of the Role of *Mada'ris*', 472-477.

⁸¹ The Kadis of the Kwara State Sharia Court of Appeal as gleaned from the 2000 Annual Report are M. A. Ambali (GK), I. A. Haroon, A. K. Imam-Fulani, M. A.

generations of Kadis and are different in many respects due partly to some profound changes in qualifications for the office of Kadis brought by the 1999 Constitution and in legal education by the introduction of the 'remedial' program by the Nigerian Law School that took place in the interval between 2010 and 2020 noted above. The 2000 court represents largely, the older generation of Kadis whose educational background was in Islamic studies and who were full Islamic scholars without any affiliation to the common law in academic and professional terms.⁸² The 2020 court is the new generation court consisting of Kadis with various backgrounds such as Islamic studies, the combined common and Islamic law programs from Nigerian universities, and graduates of Sharia from universities in the Middle East and North Africa who have also completed the Nigerian Law School Bar examination and are qualified as legal practitioners.

Another profound change is that the number and frequency of lawyers appearing before the court has increased tremendously. In 2000, of the 19 judgments and rulings reported, lawyers appeared for both parties in eight cases, for only one of the parties in seven cases and no lawyers for either of the parties in four cases. In ten cases reported in 2020, lawyers appeared for both parties in all but one case where a lawyer appeared for only one of the parties. While there was an increase in the appearance of lawyers in 2020, the non-inclusion of the cases decided by the court does not make this conclusion conclusive. However, it is safe to assume that these changes ushered in, among other things, stronger influences of the legal practitioners as kadis and lawyers resulting in a stronger influence of the common law concepts on the court.

Oredola, A. K. Abdullahi & S. O. Muhammad, KK. The Kadis of the court as indicated in the 2020 Law Report are M. O. Abdulkadir (GK), A. Kamaldeen, A. R. Ibrahim, M. A. Oniye, A. Z. Dagbo, S. O. Hanafi & A. A. Sayi, KK, their educational backgrounds are Bachelor degree in from Cairo (1), combine Common and Islamic Law (5), and Islamic studies (1).

⁸² For example, the Sokoto State Sharia Court of Appeal consisted of the Grand Kadi and three Kadis in 2002, while the Katsina State Sharia Court of Appeal consisted of the Grand Kadi and four Kadis in 2003. Of these judges, only the Grand Kadi of Katsina State was a qualified lawyer, see Philip Ostien, 'Brief Biographies of the Judges who ruled on the Cases,' in *Sharia Implementation in Northern Nigeria, 1999-2006: A Sourcebook*, vol. 5 (7), ed. Philip Ostien (Ibadan; Spectrum Books Ltd., 2007), Chapter 6 Pt. 6, 125-128.

2. Form and Structure of the Annual Reports and the Law Reports

The Annual Reports have four informal sections which are the front matter, case flow management, judgments and rulings of the court, and reports of estate distribution. The Law Reports retained these, but they are now formally divided into the front matter, and three parts titled cases reported, report of Estate Distribution, and Cases Management. The case flow management shows that in 2000, the court had 24 cases carried over from the previous year and 20 new cases. Of the 44 cases, the court finalized 19 cases while 25 cases were pending. In 2020, the court had 42 cases carried over from the previous year and 33 new cases. Of the 75 cases, the court finalized 42 cases while 33 cases were pending. In terms of cases reported, the 2000 Annual Report contains nine rulings and ten final judgments while the Law Report 2020 has four rulings and six final judgments.⁸³ The names of the lawyers appearing for the parties were indicated in each case in both reports.

The Law Reports introduced some innovations. The cover page contains highlights of important issues in the cases reported. The back cover and the inner back cover of the Law Reports now contain the profile of a past or current Grand Kadi.⁸⁴ There is a list of the editorial members of the law report, a list of the Kadis of the court, and an index of the issues in the cases reported. Each case reported has a list of cases and statutory authorities cited, and names of counsel in the case. The short citation of cases is also indicated on top of the pages reporting the cases. The format of the law report conforms to that of traditional law reports with each case starting with “catchwords”⁸⁵ and head notes describing briefly the major issues in the case.⁸⁶ However, unlike English law reports, there are no summaries of the case but direct quotations excerpted from the judgment reflecting what the editors think to be the key holdings in the judgment as has been a practice in Nigeria starting with the *Nigerian Weekly Law Reports*. The advantage of

⁸³ The matters in the final judgments in 2000 were inheritance (1), validity of marriage (1), dissolution of marriage (2), dissolution of marriage and child custody (1), paternity dispute (1), maintenance and child custody (2), enticement with criminal intent of a married woman (1), and contempt of court (1) while in 2020 the matters were inheritance (1), dissolution of marriage and child custody (2), maintenance and child custody (2), and contempt of court (1).

⁸⁴ (2016) KSCALR, back cover.

⁸⁵ Glanville L. Williams, *Learning the Law*, 14th, ed. A. T. H. Smith (London: Sweet and Maxwell, 2010), 52.

⁸⁶ This is the structure of English law reports, see Glanville L. Williams, *Learning the Law*, 52.

the excerpts over summaries is that summaries may not adequately depict the contents of the judgments, but excerpts will not. However, excerpts make the law reports more voluminous and repetitive since the excerpted materials are also replicated in the judgment. There is also no guarantee that the excerpts would capture all the important parts of the judgment. In any case, the editorial inputs to a case in a law report are not judicial precedents as they are not part of the court's judgment. The usefulness of the editorial work lies in their making the judgments more accessible and the law reports more convenient to use. The 2020 Law Report contains some apparent editing errors such as incomplete citation of cases,⁸⁷ inaccurate description of the names of the parties⁸⁸ and omission of the name of counsel that appeared in a case.⁸⁹ These are perhaps due to the haste in the production of the report.

In 2000, the court distributed two estates while in 2020 the court distributed seven estates. The reports on estate distribution will not receive much attention here, as they have been the subject of extensive analysis in a previous paper.⁹⁰ The only comment here is that an earlier review suggested that the names of the heirs and landed properties involved in the estate distribution exercise by the court should be coded to protect the privacy of the heirs.⁹¹ Thus, instead of stating the actual address and location of a property it could be referred to as "Property B" and the heirs could be referred to as "Son 1" to prevent the readers of the reports from having detailed and precise knowledge of heirs and the location of the landed properties. However, the court has not implemented this suggestion in the law reports.

3. Scope of the Court's Activities Reported

The Law Report contains a less detailed report of the activities of the court regarding cases and estate distribution than the Annual Report. The court decided that the law reports "will not contain every bit of the judicial activities of the court". Unlike the Annual Reports that reported all the rulings and judgments delivered by the court, the Law Report contains

⁸⁷ (2020) KSCALR 7, 23, 27, 47, 52, 94, 180 and 185.

⁸⁸ (2020) KSCALR 18, 85, 86, 203 and 204.

⁸⁹ (2020) KSCALR 23.

⁹⁰ Abdulmumini Adebayo Oba & Ismael Saka Ismael, 'Challenges in the Judicial Administration of Muslim Estates in the Sharia Courts of Appeal in Nigeria,' 81-94.

⁹¹ Abdulmumini Adebayo Oba, 'The Sharia Court of Appeal: Accounting to the Public in Kwara State,' 167.

“selected ... cases that are not only contentious but have holdings that are recondite, poignant, and reportable on point of substantive and procedural laws”.⁹² An analysis of the case management flow in the 2020 Law Report and the actual number of cases reported shows that of the 42 rulings and judgments decided by the court in that year, only 10 were reported in the Law Report. Both reports show that the court often sat outside its headquarters located in Ilorin.⁹³

With due respect, fewer details are not a virtue here given the controversies and animosities that have posed existential threats to the court every time the country wanted to draft a new constitution.⁹⁴ In addition, the Sharia Court of Appeal has been controversial with many opposed to the existence of the court.⁹⁵ Nigeria is still battling with the challenges of integrity in public and private spheres. Since the Sharia Court of Appeal presumably, has nothing to hide, the more details of the activities of the court that go to the public, the more the public will be able to scrutinize the activities of the court. This will help reduce and perhaps eliminate the prejudices and fears that the court evokes in the minds of some Christians and other opponents of the court. Giving a more detailed report of the activities of the court shows transparency. It also presents more materials for researchers to work on. In estate distribution, details sometimes show the vital social dynamics behind the estate and its distribution.

4. Observations on Some Aspects of the Judgements

The 2000 and 2020 reports show that the Sharia Court of Appeal usually writes only one judgment which is signed by all the kadis that heard the case. However, in 2020, there were two judgments in a case due to one of the Kadis writing a dissenting judgment.⁹⁶ The judgments are in the English language with quotations from the Qur’an, hadith and other Arabic texts

⁹² (2020) KSCALR vi-vii (preface).

⁹³ In 2000, the court sat in Ilorin in 17 cases and in one case each in Lafiaji and Offa while in 2020, the court sat in Ilorin 6 cases, Lafiaji/Pategi 2 cases, and Offa one case.

⁹⁴ Auwalu Hamisu Yadudu, ‘The Prospects for Sharia in Nigeria,’ in *Islam in Africa: Proceedings of the Islam in Africa Conference*, eds. Nura Alkali *et al.*, (Ibadan: Spectrum Books, 1993), 48-54; Anthony Nnaemezie Aniagolu, *The Making of the 1989 Constitution of Nigeria* (Ibadan: Spectrum Books Ltd, 1993), 36 and 50-73.

⁹⁵ Abdulmumini Adebayo Oba, ‘Sharia Court of Appeal in Northern Nigeria: The Continuing Crises of Jurisdiction,’ 888-891.

⁹⁶ *Adebisi v. Adebisi* (2020) KSCALR 85 and 116.

written in the Arabic language with translations provided side by side. Even where published translations of the texts are available, the translations in the judgments are usually done by the kadi who wrote the judgment.

The observations regarding the judgments reported in the annual reports and the law reports are on the number of cases cited in the judgments, the length of the judgments, and the transliteration and the referencing style used in the judgments. The 2000 Annual Report, and the 2020 Law Report share the same approach to transliteration of Arabic terms and referencing style but differ in the length of judgments and use of judicial precedents.

a) Transliteration Schemes

The basic texts of the Maliki School are in Arabic, which is the original language of Islamic Law while the English language is the official language in the courts.⁹⁷ Although area courts, Sharia courts and the Sharia Courts of Appeal often conduct their proceedings in the Hausa Language, especially in the core north, the original language and English translations of the proceedings are required in appeals to the Court of Appeal.⁹⁸ In both cases, transliteration of Arabic terms and words to render them pronounceable in the English language is necessary. There is no official transliteration scheme in the country for the courts. Judges and lawyers use any transliteration scheme they want. In reality, there are no specific transliteration schemes in use and transliterations are rather arbitrary, depending on personal preferences at the material time.⁹⁹ For example, in the 2020 Report, some

⁹⁷ *Ojengbade v. Esan* (2002) All FWLR (Pt.90) 1406 SC; *Lawson v. Afani Continental Co. (Nig) Ltd* (2002) FWLR (PT.109) 1736; *Makudawa v. Mallam* (2015) LPELR-25964(CA); *Bako v. Abubakar* (2014) LPELR-23975(CA). See discussions of these in C. Ogwezzy Michael, 'Communication of an Interpreter and Fair Trial under Nigerian Criminal Justice System', *International Journal of Legal Discourse*, vol. 1/1 (2016): 213 and 225-226; Onyekachi Umah, 'Can Nigerian Courts use Documents not Written in English Language,' SABILAW.ORG, Daily Law Tips (Tip 511), <https://sabilaw.org/can-nigerian-courts-use-documents-not-written-in-english-language-daily-law-tips-tip-511-by-onyekachi-umah-esq-llm-aciabuk/>, accessed on 31 July 2022.

⁹⁸ Order 25 rule 1, Court of Appeal Rules, 2021.

⁹⁹ Ahmed S. Garba & Philip Ostien, 'Sixty Authoritative Islamic Texts in Use in Northern Nigeria,' in *Sharia Implementation in Northern Nigeria, 1999-2006: A Sourcebook*, vol. 5, ed. Philip Ostien (Ibadan; Spectrum Books Ltd., 2007), Ch. 6, 108 and 108-110, <https://ssrn.com/abstract=1496531>, accessed on 30 March 2022.

Kadis variously rendered the book *Tuḥfah al-Ḥukkām*¹⁰⁰ as *Tahfatul-Hukkaam*,¹⁰¹ *Tuhfat al-Ahkam*,¹⁰² *Tahfatul Hukkam*¹⁰³ and *Tahfatul Hukkaam*,¹⁰⁴ while the 2000 Report also referred to “*Tuhfatul Hukkam*”¹⁰⁵ and “*Tuhfah*”.¹⁰⁶ There is a need for standardization of the transliterations used by the courts.

b) Referencing Style

Both reports show that Islamic texts and manuals are generally cited in the judgments without giving the names of the authors and bibliographical details. At times, the texts also have alternative names.¹⁰⁷ Thus, references such as “*Askari*” or “*Irshād al-Sālik*”¹⁰⁸ refer to the same texts.¹⁰⁹ Everyone understood those citations referred to well-known texts of the Maliki school. However, this creates a problem for researchers and others in locating the information in the pages cited in the judgments, as there are many publishers and editions of these works.¹¹⁰ For ease of reference, judgments should cite such texts with full details of not only the author and title but also the publisher, place of publication, year of publication, and edition (if any). There are many referencing styles. The courts should adopt any of them or develop one of their own.

The above shows inter-alia that there are differences in the formats of the 2000 Annual report and the 2020 Law report. There are also differences in the length of judgments, the number of counsel appearing before the court, and the number of cases cited before the Kwara Sharia Court of Appeal in 2000 and 2020. These differences may be attributable to the impact of lawyers as Kadis and advocates in the court.

¹⁰⁰ Ibn ‘Āsim, Abū Bakr ibn Muḥammad al-Andalusī al-Gharnāfī, *Tuḥfat al-Ḥukkām fī Nukat al-‘Uqūd wa al-Aḥkām*. (Qāhirah: Dār al-Afāq al-‘Arabiyyah, 2011).

¹⁰¹ *Ridwan v. Maryam* (2020) KSCALR 18 and 25.

¹⁰² *Ridwan v. Maryam* (2020) KSCALR 29.

¹⁰³ *Etsunu v. Mohammed* (2020) KSCALR 203.

¹⁰⁴ *Adebiyi v. Adebiyi* (2020) KSCALR 85 and 132.

¹⁰⁵ *Haruna v. Mankolo* (2000) SCAIAR 21 and 23.

¹⁰⁶ *Haruna v. Mankolo* (2000) SCAIAR 21 and 25.

¹⁰⁷ Ahmed S. Garba & Philip Ostien, ‘Sixty Authoritative Islamic Texts in Use in Northern Nigeria,’ 108.

¹⁰⁸ Ibn ‘Askar, Shihāb al-Dīn ‘Abd al-Raḥman ibn Muḥammad, *Irshād al-Sālik ilā Ashraf al-Masālik fī Fiqh al-Imām Mālik* (Bayrūt: Dār al-Fikr, n.d.).

¹⁰⁹ Ahmed S. Garba & Philip Ostien, ‘Sixty Authoritative Islamic Texts in Use in Northern Nigeria,’ 108.

¹¹⁰ Ahmed S. Garba & Philip Ostien, ‘Sixty Authoritative Islamic Texts in Use in Northern Nigeria,’ 109.

c) Length of Judgements

There is a manifest difference in the length of judgments delivered by the court in 2000 and 2020. The judgments of the Sharia Court of Appeal are increasingly voluminous. A good illustration of this point in the Law Report can be found in *Etsunu v. Mohammed*,¹¹¹ where the court delivering its ruling on an uncontested application to withdraw an appeal quoted passages from eight Islamic texts¹¹² and listed nine other “Arabic references”,¹¹³ and took almost seven pages to conclude that the application was granted.¹¹⁴ In the Annual Reports, rulings on applications to withdraw appeal rarely go beyond two or three short sentences. For example, in *Oba v Nurudeen*,¹¹⁵ the court, after stating in a sentence that the application to withdraw the appeal, this sentence followed:

“Court: we hereby strike out the appeal in line with the Islamic procedural law contained in *Al-Fawakihud Dawwani*, commentary on *Risalah* by Ahmad B. Ghumin Volume II page 298 that says: “Plaintiff is the party that will be left alone and

¹¹¹ (2020) KSCALR 203 and 208-212.

¹¹² The texts repeating the same legal position quoted by the court are “*Tabsirat*, vol. 2 [Ibn Farḥūn, Ibrāhīm Shams al-Dīn, *Tabṣīrah al-Ḥukkām fī Usūl al-Aqḍiyah wa Manāhij al-Aḥkām*, 242]”; “Zaidan, *Nizaamul Qadai...* [‘Abd al-Karīm Zaydān, *Niẓām al-Qaḍā’ fī al-Sharī‘ah al-Islāmiyyah* (Bayrūt: Muassasah al-Risālah, 2002), para. 159, 90 and para. 225, 127]”; “*Addrul Muhktaar wa Rradul Muhtar*, vol. 5 [Muḥammad Amīn, *Radd al-Muḥtār ‘alā al-Durr al-Mukhtār Sharḥ Tanwīr al-Abṣār* (Bayrūt: Dār al-Fikr, 1966), 542]”; “*Fawaakihul Dawaani*, vol. 7 [Aḥmad ibn Ghunaym Sālim al-Nafarāwī, *Al-Fawākīh al-Dawānī alā Risālah Ibn Abī Zayd al-Qayrawānī* (Bayrūt: Dār al-Fikr, 1995), 256]”; “*Mawaahibul Jaleel*, vol. 8 [Al-Ḥaṭṭāb, Muḥammad ibn Muḥammad ibn ‘Abd al-Raḥman, *Kitāb Mawāhib al-Jalīl fī Sharḥ Mukhtaṣar Khalīl*, 6 vols. (Bayrūt: Dār al-Fikr, 1978), 277]”; “*Al-Fiqhul-Islamy wa Adillatihi* [Wahbah al-Zuhaylī, *al-Fiqh al-Islāmī wa Adillatuhu*, vol. 8 (Bayrūt: Dār al-Fikr, 2001), 389]”; “*Al-Mulkhaz al-Fiqhee*, vol. 2 [Ṣāliḥ al-Fawzān, *al-Mulakhaṣ al-Fiqhī* (Qāhirah: Dār al-Ghad al-Jadīd, 2007), 292]”; “*Al-Mawsu’at al-Fiqhiyyah al-Kuwaitiyyah*, vol. 20 [Ministry of Awqāf and Islamic Affairs, Kuwait, *Al-Mawsū‘ah al-Fiqhiyyah al-Kuwaitiyyah* (Kuwait: Wazārat al-Awqāf wa al-Shu‘ūn al-Islāmiyyah, 1983), 278]”; and “*Al-Fiqh al-Maysar*, by Abdullahi al-Tayyaar”, vol. 8 [‘Abd Allāh al-Ṭayyār, *Al-Fiqh al-Maysar* (Riyāḍ: Madār al-Waṭan, 2012), 96]”.

¹¹³ (2020) KSCALR 203 and 212.

¹¹⁴ (2020) KSCALR 203 and 206-213.

¹¹⁵ (2000) SCAIAR 3.

*[and the court will] terminate the proceedings on the strength of his silence – i.e. discontinuation.”*¹¹⁶

Similarly, in *Adebiyi v. Adebiyi*,¹¹⁷ the dissenting judgment alone took 19 pages and seven authorities to state, essentially, the proposition that the mother is best entitled to the custody of the child. The case that is to stay execution of judgment concerning child custody took 51 pages of the law report. In contrast to this, *Otte v. Ajadi*¹¹⁸ cited to the court, but which the court did not comment on, where an application for a stay of execution in a case involving custody of a child which the court resolved effectively in two and a half pages. It is respectfully submitted that the approach of the court in *Otte’s* case is preferable to the unneeded jurisprudential journeys embarked on in *Adebiyi’s* case.

The lengthiest case reported in the 2000 Annual report was a case of 13 pages.¹¹⁹ It is fair to point out here that the spacing of the lines in the Annual Reports and the Law Reports, which are 1.0 and 1.5 respectively, are different. The spacing used in the Annual Report is better because it saves precious paper, especially now that climate change is of great concern to the world. Prolixity is not a virtue in Islamic law judgments. This is unlike the common law, where judges embark on long academic expositions of the law for the benefit of the bar and the “development of the law”.

d) Use of Judicial Precedents

The increase in the number of lawyers appearing in cases before the court noted above shows a noticeable increase in the frequency and volume of cases cited as judicial precedents in the court. In 2000, a total of four cases were cited in three out of the nineteen judgments and rulings reported.¹²⁰ The cases cited were not used by the Kadis as the cases were either distinguished or declared irrelevant by the court. In 2020, out of the ten judgments and rulings reported, cases were cited in all but two rulings.¹²¹ The lowest number of cases cited in a case was three while the highest was twenty-seven.¹²²

¹¹⁶ (2000) SCAIAR 3-4.

¹¹⁷ (2020) KSCALR 85.

¹¹⁸ (1998) SCAIAR 112.

¹¹⁹ *Aderibigbe v. Aderibigbe* (2000) SCAIAR 18.

¹²⁰ (2000) SCAIAR 45, 66, 84 and 86.

¹²¹ No cases were cited in *Etsunu v. Mohammed* (2020) KSCALR 203 and 206; *Olore v. Zainab* (2020) KSCALR 269 and 272.

¹²² *Ndaman v. Gondan* (2020) KSCALR 3 and 7; *Kuburat v. Adeoti* (2020) KSCALR 214 and 222-223 respectively.

5. Challenges and Prospects of Islamic Law Reporting

Generally, law reports such as the *Law Pavilion* and to some extent, the *Nigerian Weekly Law Report* that include Islamic cases among their reports of judgments of the Court of Appeal and the Supreme Court have continued to flourish. Islamic cases from these reports are frequently cited in the courts (including the Sharia Courts of Appeal) and in scholarly works. However, the law reports that report only Islamic law cases or only the judgments of the Sharia Courts of Appeal have shown little prospect. The Islamic law cases reported in the *Case Notes of Northern Nigeria* and the *Shari'ah Law Reports* did not enjoy much patronage from scholars and the courts.¹²³ The *Sharia Law Report of Nigeria* ended with just one volume and the *Sharia Quarterly Law Report* has become moribund. Perhaps the reports were not financially profitable to the publishers. The Annual Reports have fared much better in terms of citations and frequency of publication. The Annual Reports have become one of the main sources of cases on Islamic personal law in the country. However, the court has not published the reports for 2017-2019 and 2021-2023. The court depends on the government for funding. Perhaps

¹²³ Obilade's extensive discussion of law reports in his *Nigerian Legal System* did not mention or cite any of these two law reports, Akintunde Olusegun Obilade, *Nigerian Legal System*, 136-144. The NNCN was mainly cited in matters relating to historical aspect of the criminal law in northern Nigeria. Elliot Alexander Key & Sam Scruton Richardson, table of cases had 17 cases from the NNCN; eleven are criminal cases decided by the High Court while judgments of the Sharia Court of Appeal listed are six, see Elliot Alexander Key & Sam Scruton Richardson, *The Native and Customary Courts of Nigeria*, xiii-xix; 340-345, 348 and 355; and 126, 232, 233 and 267 respectively. Karibi-Whyte's historical work on the Nigerian criminal law cited six criminal cases (they are all appeals from native courts to the High Court) from the NNCN but did not include the NNCN in its list of abbreviations for law reports, see A. G. Karibi-Whyte, *History and Sources of Nigerian Criminal Law* (Ibadan: Spectrum Law Publishing, 1993), xviii and 199-203. The legal anthropologist Ahmed Beita Yusuf cited a case of the Sharia Court of Appeal from the NNCN (*Madagali v. Risku* NNCN, 27, 1963); another case *Ishaku v. Hadeija N. A.*, 25, NNCN, 1962) which the author described as having facts similar to *Madagali's* case without expressly stating that the case was decided by the Sharia Court of Appeal, see Ahmed Beita Yusuf, *Nigerian Legal System – Pluralism and Conflict of Laws in the Northern States*, 133 and 158. He also listed a case *Wada v. Kano N. A.* NNCN, 15, 1962 which I cannot locate the case in the text of the book. The *Shari'ah Law Reports* did not attract much interest. Only a journal article has come to the knowledge of this author referenced cases from this law report is Musa Ali Ajetunmobi, 'Shari'ah Law Reporting in Nigeria'.

the court needs to look beyond government funding to sustain the annual reports. Lack of funding is also a factor in the case of the *Shari'ah Law Reports*.¹²⁴

Apart from funding, several factors could be responsible for the dearth and the lack of financial viability of the reports of judgments of the Sharia Court of Appeal. Firstly, the absence of the concept of *stare decisis* in the Islamic legal system is an important reason why law reporting may not thrive in the Sharia Court of Appeal. However, this factor is losing its vitality with the counterargument that judicial precedent does apply in the Sharia Court of Appeal.¹²⁵ In fact, as the 2020 Report shows, cases are regularly cited in the court. Nonetheless, the controversy as to the binding nature of juridical precedents remains as the attitude of the Kadis to this varies and there has not been a definitive ruling on the applicability and the ambit of the concept in the court.

Secondly, the use of the judgments of the Sharia Courts of Appeal to legal practitioners is limited because until 1979, the court was a final appellate court for matters of Islamic personal law and because the court's jurisdiction is narrow, being restricted to matters of Islamic personal law only. Even now, the Sharia Court of Appeal is at the lowest hierarchy of superior courts in the country, its judgments do not have much use as precedents as they can only be binding on the area courts and Sharia courts if judicial precedent applies in these courts. However, this does not mean that the Sharia Court of Appeal would discountenance own judgments because, under the doctrine of judicial precedent, previous judgments of a court have a persuasive effect on that court.¹²⁶ In practice, judgments from the reports are now regularly cited in the court. In *Kuburat v. Adeoti*,¹²⁷ of the 27 cases cited in the judgment, 16 were from the Annual Reports and another was an unreported case of the court.

Thirdly, most cases before the Sharia Court of Appeal simply involve the application of well-known laws to the facts that are neither novel nor complicated. It appears that this is now changing as lawyers now raise technicalities and complicated "issues of law" in cases before the court.¹²⁸

¹²⁴ Ahmed Omer, 'Note from the Editor,' *Shari'ah Law Reports*, 1985 (2), iv.

¹²⁵ Yunus Ustaz Usman, 'Editorial Comment,' *Shari'a Quarterly Law Report* (Pt. 1), 2013 (1), xv-xvi. This argument is highly disputed. However, a detailed analysis of the argument is beyond the scope of this paper.

¹²⁶ Akintunde Olusegun Obilade, *Nigerian Legal System*, 131 (High Court).

¹²⁷ (2020) KSCALR 214.

¹²⁸ (2020) KSCALR 214. However, a consideration of this matter is beyond the scope of this paper.

The fourth factor is that Islamic courts in the core north conduct their proceedings mainly in Hausa Language which is recorded in Hausa language written with Arabic alphabets.¹²⁹ The colonial authorities subsequently adopted Roman alphabets in place of Arabic alphabets.¹³⁰ However, quotations from the Qur'an, hadith and Islamic law manuals are written in their original Arabic language.¹³¹ This means that some court officials need to translate judgments which are written by the Kadis in long hand into the English language after the court has delivered the judgments and the court rarely has trained translators.¹³² This is usually a slow, technically demanding, and expensive process that may discourage prospective law reporters. For example, the Women's Aid Collective (WACOL) was the first to publish the famous adultery/stoning case of *Safiyatu Hussaini T/Tudu v Attorney General Sokoto State*¹³³ said that:

“Obtaining a copy of the judgment was a daunting task. The initial copy obtained was written in Hausa language but with the kind assistance of Dr M. T. Ladan we finally got an English copy that also required re-working. We attempted to edit

¹²⁹ This is known as *Ajami Boko*, see Nikolai Dobronravine Vine & John E. Philips, 'Hausa Ajami Literature and Script: Colonial Innovations and Post-Colonial Myths in Northern Nigeria,' *Sudanic Africa*, vol. 15 (2004): 85 and 96; Abdulmumini Adebayo Oba, 'Lawyers, Legal Education and Shari'ah Courts in Nigeria,' 118; C. N. Ubah, *Government and Administration of Kano Emirate 1900-1930*, 150. *Ajami* predated colonialism, see Nikolai Dobronravine Vine & John E. Philips, 'Hausa Ajami Literature and Script: Colonial Innovations and Post-Colonial Myths in Northern Nigeria,' *Sudanic Africa*, vol. 15 (2004); A.O. Hashimi, 'Ajami Tradition in Non-Islamic Society: The Roles of Ajami-Arabic Scripts in Keeping Records and Documentation,' *KIU Journal of Humanities*, vol. 5/2 (2020): 373-379.

¹³⁰ Abdulmumini Adebayo Oba, 'Lawyers, Legal Education and Shari'ah Courts in Nigeria,' 118; Nikolai Dobronravine Vine & John E. Philips, 'Hausa Ajami Literature and Script: Colonial Innovations and Post-Colonial Myths in Northern Nigeria,' 93-94

¹³¹ For a facsimile copy of a page from a judgement of the Sokoto Sharia Court of Appeal, see Philip Ostien, Sama'ila A. Mohammed & Ahmed S. Garba, 'Introduction to Chapter 6,' in *Sharia Implementation in Northern Nigeria, 1999-2006: A Sourcebook*, vol. 5, ed. Philip Ostien (Ibadan; Spectrum Books Ltd., 2007), Chapter 6/3, 7.

¹³² For example, five out of the ten cases in the (1985) (2), *Shari'ah Law Reports*, were reported in their Hausa original using *Ajami Boko*, (1985) (2), *Shari'ah Law Reports*, 20, 26, 33, 36 and 40 respectively.

¹³³ Now officially reported in *Safiyatu Hussaini v Attorney General Sokoto State* (2003) NNLR 439.

without altering the form or substance of the parties' argument and the rulings of the court. The judgment was long and not easy to follow, particularly by those not versatile in Islamic law..."¹³⁴

However, this factor is losing relevance as English is now also widely used as the language of the court.

Sixthly, the selection of cases for inclusion in the report was probably a factor in the demise of the *Sharia Quarterly Law Report*. Many of the judgments of the Court of Appeal reported in the law report are also available in the *Law Pavilion* and the *Nigerian Weekly Law Report* which law reports are online but the *Sharia Quarterly Law Report* is not. Most of the judgments of the Sharia Courts of Appeal reported in the *Sharia Quarterly Law Report* are from the Kwara State Sharia Court of Appeal which also publishes its reports. Thus, only a few cases in the *Sharia Quarterly Law Report* are exclusive to it.

Lastly, the lack of political will in the Sharia Courts of Appeal is also an important factor. For example, the editor of the *Shari'ah Law Reports* attributed the delay in publishing the second volume in 1985 when the first volume was in 1980 to the Sharia Courts of Appeal of many states not making their judgments available to the Centre.¹³⁵ This complaint would perhaps apply to the NNLR similarly. Out of the forty-four cases of the Sharia Courts of Appeal published by NNLR in 2002 and 2004 to 2008 shows the following distribution of cases reported among states: Kwara (18), Adamawa (9), Borno (5), Zamfara (4), two each from Taraba, Plateau, and Kogi, and one each from Kaduna, and the FCT. Similarly, the distribution

¹³⁴ Women's Aid Collective (WACOL), *Safiyatu's Case* (n.p: Women's Aid Collective (WACOL), 2003), iii-iv. The translation of the judgment in the book was done by a Deputy Director, Litigation, High Court of Justice, Sokoto, Women's Aid Collective (WACOL), *Safiyatu's Case*, iv. The avowed aim of WACOL in "reproducing" the judgment was "to make it readily accessible as precedent for scholarly and activists work, Women's Aid Collective (WACOL), *Safiyatu's Case*, iv. There is another translation of the judgement by Aliyu M. Yawuri & Ahmed S. Garba, 'Proceedings and Judgments in the Safiyatu Hussaini Case', in *Sharia Implementation in Northern Nigeria, 1999-2006: A Sourcebook*, vol. 5, ed. Philip Ostien (Ibadan: Spectrum Books Ltd., 2007), Chapter 6 Part II, 32-51. The official report of the case is now available (2003) NNLR 439. I have not checked the various reports of the case for textual consistency.

¹³⁵ Ahmed Omer, 'Note from the Editor,' iv. Unlike that first volume that contained judgments from six states, the second volume has judgments from only two states.

for the thirty-eight (38) cases from the Sharia Courts of Appeal published by the *Sharia Quarterly Law Report* (2013-2016) is as follows: Kwara (25), FCT (6), Plateau (2), Borno (4) and Niger (1). It is not clear why many of the Sharia Courts of Appeal do not submit their judgments to law reporters for publication. Perhaps, getting the judgments of the Kwara State Sharia Court of Appeal are easier because the records of the court are in English language.

Despite the foregoing, there are other reasons why law reporting and reliance on judicial precedent are bound to increase in Islamic courts generally. First, the original Maliki manuals of the law that are frequently relied upon in the courts are written in Arabic.¹³⁶ Although some of them have been translated into English, many are yet to be translated. In any case, there are also scores if not hundreds of commentaries to the basic texts that probably won't be translated into English soon. Thus, lawyers who are not literate in Arabic but practice in Islamic courts would find the reports of the judgments particularly useful. They can cite cases as precedents directly, glean references for previous cases, or even cite the Islamic texts from previous cases. In addition, the law reports have usefulness beyond their use as precedents in the courts. Secondly, Islamic scholars and jurists have pointed out that the reporting of Islamic law enables students, scholars, practitioners, jurists and judges to have an insight into the activities of Islamic courts.¹³⁷ It has been also argued that the reporting of the judgments of the court in law reports will enhance research in the field of Islamic law, and encourage comparative law studies that will enable non-Muslims to appreciate the beauty of Islamic law.¹³⁸ The relative constancy and comprehensiveness of the Annual Reports have provided a good opportunity for in-depth analysis of the judgments and extra-judicial activities of the court in many studies.¹³⁹

With the increasing role of lawyers as kadis and advocates in Islamic courts in the country, and the increasing scholarly attention to Islamic law across the world, one can predict that the usefulness of the reporting of cases decided by the Sharia Court of Appeal will increase.

¹³⁶ Ismael Saka Ismael & Abdulmumini Adebayo Oba, 'Judicial Practice in Distribution of Inheritance (*mīrāth*) in Islamic Courts in Nigeria,' *De Jure: Jurnal Hukum dan Syari'ah*, vol. 11/1 (2019): 1 and 7-8.

¹³⁷ Musa Ali Ajetunmobi, *Shari'ah Legal Practice in Nigeria, 1956-1983*, 126

¹³⁸ (2000) SCAIAR vi and (2001) SCAIAR vi.

¹³⁹ Abdulmumini Adebayo Oba & Ismael Saka Ismael, 'Challenges in the Judicial Administration of Muslim Estates in the Sharia Courts of Appeal in Nigeria'.

RECOMMENDATIONS

The recommendations of the study are as follows:

1. Contents of the Law Reports

The court is advised to increase the information in subsequent Law Reports to match those provided in the Annual Reports as this will maximise the usefulness of the law reports especially to researchers.

2. Formal Aspects of Judgements

The formal aspects of presenting the judgments can be improved in several ways. Firstly, the judgments should not be unduly lengthy but brief and straight to the point. The purpose of the judgments should be to decide the rights of the parties and not to expound the law for the benefit of members of the Bar.

Secondly, the Body of Grand Kadis, which is a gathering of all the Grand Kadis in the country, could standardize the transliteration schemes used in the Sharia Courts of Appeal by designing a translation scheme or using any of the recognized transliteration schemes. It is perhaps safer to use a recognized transliteration scheme from amongst those available globally that is closest to the actual Arabic pronunciations. Thereafter, the Grand Kadis can make the Courts Rules or Practice Directions to give effect to their decisions on these matters in their various jurisdictions. In the alternative, the President of the Court of Appeal can delegate the justices who sit on the court's Islamic law panels to look into the matter of transliteration schemes and come up with a scheme for the courts.

Lastly, in matters of citation of books and other materials, there are many standard referencing styles. The courts should adopt any of them that incorporate full bibliographical details. Alternately, the standardisation of referencing styles that could be adopted by all courts in the country could emanate from a Practice Direction by the Chief Justice of Nigeria.

3. On Judicial Precedent

The Kadis should take a cautious approach to the issue of binding judicial precedents. In the first place, the controversy remains unsettled. Secondly, the Kadis should not allow judicial precedents to displace the Maliki texts as the basic sources of Islamic law in their courts. Thus, the Kadis and judges of Islamic courts should use previous judgments not as binding precedents

but as *guides* to what the law is or could be. In this light, Kadis or judges of lower could also adopt the reasoning and authorities from a previous case without declaring that they are bound by the case.

4. Expanding and Sustaining the Publication of the Reports

As the reports of the activities of the Kwara State Sharia Court of Appeal from 1975-1993 and 2017-2023 are still pending, the Hon. Grand Kadi is urged to look into publishing the reports for the previous years. The Grand Kadis of the Sharia Court of Appeal of the Federal Capital Territory and other states in the northern states should consider seriously, the idea of publishing judgments of their courts' respectively. The Body of Grand Kadis could also consider separating reports of judgments of the Sharia Courts of Appeal from the *NNLR* and establishing a separate law report to be known as the *Northern Nigeria Sharia Law Report* (NNSLR) or simply, the *Nigeria Sharia Law Report* (NSLR). The Body can also consider publishing the judgments of the defunct Sharia Court of Appeal of the northern region of Nigeria. There is also the option of publishing all or any of the proposed reports online at the websites of the courts. The Body of Grand Kadis and the Attorneys General of the northern states are urged to rise to this challenge. As all these will require a lot of funding to achieve, the relevant state governments should provide sufficient funds for effective law reporting generally and Islamic law reporting in particular. It is also important that lawyers support the law reports by purchasing the reports and thus making them viable.

5. Areas for Further Studies

This study recommends that further studies are needed to ascertain the impact of lawyers and the common law on the substantive law, practice, and procedure applicable in the Sharia Courts of Appeal.

CONCLUSION

The idea of judgment documentation has been known in Islamic law from the earliest times. It was also known in pre-colonial northern Nigeria even though these judgments have not survived that era. The advent of colonization brought more formal judgment documentation. Law reporting is also known in Islamic law but not in the extensive manner of law reporting in common law jurisdictions. This may be due to the use of judicial precedents as a major source of law in common law. Initially, lawyers were not eligible for appointments as kadis and could not appear as advocates in

Islamic courts in northern Nigeria. This changed radically with the advent of the 1979 and 1999 Constitutions that respectively granted lawyers the right of audience in the Sharia Courts of Appeal and made lawyers who have additional Islamic law qualifications eligible for appointment as kadis. Both developments constituted a great impetus to the reporting of the cases of the court.

The Annual Reports of the Kwara State Sharia Court of Appeal was a major development in the reporting of judgments of the Sharia Courts of Appeal in Nigeria. The transition from the Annual Reports to the Law Reports by the Kwara State Sharia Court of Appeal was a radical move by the court. Initially, the court deliberately opted for annual reports rather than law reports in deference to Islamic law's aversion to the use of binding judicial precedents. There are several differences in the form and contents of both reports as shown in the 2000 Annual Reports and 2020 Law Reports. Unlike the Annual Reports, the Law Reports are patterned after the law reports of common law courts. The Annual Reports contains a comprehensive report of the activities of the court whereas the Law Reports contain only selected cases and fewer details about the estate distribution carried out by the court. The judgments in the Law Reports are much lengthier and show more reliance on judicial precedence. In all, the Law Reports reflects the increasing presence and influence of lawyers as Kadis and judges of the court that has taken place between 2000 and 2020. The cases in both reports show that there is no standard referencing style for books and no standardized transliteration scheme in use for Arabic sources.

The reports of cases of the Sharia Courts of Appeal face many challenges. There is the question of funding as the law reports of the court are not likely to be self-funding. That the jurisdiction of the court is limited to matters of Islamic personal law only and not all aspects of Islamic law reduces the usefulness of the law reports. Again, most cases in the court require the application of well-known rather than complicated principles of law. Reporting of the judgments of the Sharia Courts of Appeal is handicapped by the fact that proceedings in many of the courts are in Hausa rather than English language thereby raising the need for translations to English. Despite of these challenges, the prospect of the reports of judgments of the court is bright. Lawyers and researchers who do not have access to the original Arabic Islamic law texts or are not literate in Arabic language can rely on the reports to ascertain the applicable Islamic law principles in the cases reported. The reports will also enhance research on the judgments and other activities of the court. In conclusion, the reports of judgments of the Sharia Courts of Appeal are very useful to legal practitioners, scholars and the

general public and therefore should be sustained but the use of judicial precedents should not be entrenched in Islamic courts in the country.

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