



Received: 2025-06-17

Accepted: 2025-09-22

Published: 2025-12-15

Original Article

***Maqāṣid al-Shari'ah* and the Role of *Shari'ah* Court's Jurisdiction in Combating Violence in Northern Nigeria**

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ABSTRACT

Northern Nigeria affected with different kind of violence since year 2000, when the activities of Boko Haram started. It continues threaten the peace and stability as well as damage the lives and property of the people in the region. The paper provides the scope and historical overview of *Maqāṣid al-Shari'ah* in combating violence among the people of the area. The paper also highlighted the significant role of *shari'ah* courts and their jurisdiction using Islamic principles to reduce its occurrences. In the paper, a discussion is presented on how the Islamic legal system has been utilized to address issues of violence and conflict, as well as the challenges faced in maintaining law and order in northern Nigeria. The data used in analyzing the paper are information from library and fieldwork. The findings of the paper revealed that, the five principles of *maqāṣid al-shari'ah* actively contribute to reducing or combating violence in Northern Nigeria.

Keywords: Maqāṣid al-Shari'ah, Shari'ah Courts, Violence & Northern Nigeria.

Introduction

Nigeria as a human society as well as a sovereign state experienced numerous challenges in maintaining law and order. Lack of accurate and reliable data on the level of insurgency prevailed in the communities has complicated the issue of violence in the country. Violence management actors, including the *Shari'ah* courts, often do not get access to accurate information on the number of incidences of violence, number of casualties, and the property lost as a result of violence as study revealed.¹ Thus, many a times the measures taken to maintain law and order in Nigeria are based on assumptions and speculations about such numbers.²

¹ Akhir, N. S. M., & Ibrahim, N. (2019). Analysis of Violent Act from the Islamic Spiritual Perspective. *International Journal Academic Research Business and Social Sciences*, 9(3), 1298–1306

² Ibid.

The persistence of the violence and the security challenges day after day in Nigeria gradually resulting to the most tedious situation of the Nigerian state since its return to democratic rule in May, 1999 where even the security operatives are gotten it very difficult to control, maintain peace, detect or prevent these forms of crime.³

The problems of armed robbery, kidnappings for ransom, ritual killings, Fulani herdsmen attacks, assassinations, terrorism, insurgency, internet fraud and ponzu schemes and other fraudulent practices became the greatest challenges to the police force in Nigeria.⁴

Violence in Nigeria has been characterized in various forms, natures, regions, states and places: In south – south region of Nigeria (Bayelsa State) gender based violence have rated among the key problems which its effects is not restricted in one community among the communities of the region, but has become an encompassing problems in Nigeria that eluding both national and international attention.⁵

Gender based violence has continued to be a menace, in Bayelsa state despite the effort of the government put in place, where several measures to address the menace were deployed to eradicate it, but is not enough. Some of the effect of violence include among others are: sexual and reproductive damage to women psychological trauma on the victims, impedes socio-economic development of society.⁶

Islamic law, as *Maqasid al-Shari'ah* set to overcome different kind of violence that are basically in line with principles required by the *shari'ah*, that can be implement as part of the *hudud* or *ta'azir*, based on the understanding of the *Qur'an* and Hadith.⁷

The research objectives are specifically to identify *Maqasid al-Shari'ah* and the role of *Shari'ah* courts in combating violence in Nigeria. The study however, employed both qualitative and quantitative methods in the collection of data. The social learning theory is applied as the theoretical framework for the study.

The Concepts Islam, Muslim, *Maqāsid al-Shari'ah* and Violence

Islam is a complete way and code of life, which contains all dimension of human life in this world. The laws of Islam complement the Universal call to all mankind. These objectives mainly revolve around well-being as well as interest of mankind in this world and in the hereafter. More so, wiping out of hardship and mischief among Muslims is the core interest of *Maqāsid al-Shariah* which also attempts to bring ease and benefits to life and training of individual's

³ Agboga, V. (2021). Beyond decentralising the Nigerian Police: how Lagos state circumvented debates on police reforms. *Journal of Contemporary African Studies*, 39(1), 135-150.

⁴ Ibid.

⁵ Fiemotonga, C. et.al. (2024) Violence against Women in Nigeria: Examining the Effects in Bayelsa State, Nigeria. *Global Journal of Arts, Humanities and Social Sciences* 13, 79-90 & Chukwu, C. C., & Ume, I. S. (2020). Violence against women as an obstacle to women's productivity in Nigeria: A challenge to recreate contemporary Nigerian society. *Brazilian Journal of Biological Sciences*, 7(15), e425-e425.

⁶ Ibid.

⁷ Mayasari, S., & Azizah, N. (2025). A Review of Islamic Criminal Law on Non-Penal Policies in Combating Sexual Violence in Banda Aceh City. *Jurnal AL-MAQASID: Jurnal Ilmu Kesyarahan dan Keperdataan*, 11(1), 63-91.

sensibility and characters purposely to achieve the benefits of this world and the bliss of the hereafter.⁸

The word Muslim is an Arabic word which literally means surrender. While in technical meaning, the term is used on a person who embraces Islam, acknowledge Prophet Muhammad ﷺ and the holy Book of Allah as his guidance.⁹ Muslim is a name for person who accepts Islam. Beside this name, some several titles appear in the *Qur'an* referred only to Muslim such as *Muttaqin* and *Mu'uminin*.¹⁰

Maqasid in a singular form derived from Arabic word *Maqṣad* or *Maqṣid* which literally means 'destination'. Its origin is *qasada* with various meanings as to intend, to mean. *Qasada* ila means to go to, to head you for (*tawajjuh*), to take and to be bound for. Another derivative from *Qasada* is *Qasd* which means intention (*Niyyah*) purpose, aim, end, intent, goal and objective (*Ghayah*).¹¹

With respect to *Shari'ah*, many books on Islamic Law and Jurisprudence (*Al-Fiqh*) are dotted with the meaning of Islamic Law (*Shari'ah*). Some of the definitions given by the jurists are; *Shari'ah* is an Arabic word derived from its origin *Shara'-a*. *Shara'afi* thus means to begin, to start, to commence, to go into, to enter upon. But *Shara'a* has an elementary meaning of 'creating' like to enact. Thus, the word *Shari'ah* is understood as law (*Qanun*) or code. Hence, *al-Shari'ah al-Islamiyya* is translated as Islamic law. Its literal meaning however is path or street.¹²

In the opinion of M.A. Ambali defined *Shari'ah* as:

The word "*Shari'ah*" is adopted by jurists of Islamic law for the ordinances that Allah ordains for His worshippers so that they may be faithful and striving towards where lies their salvation here in this life and hereafter.¹³

Professor Abdullah Shehu Sokoto, as quoted by Sadiq, opined that *Shari'ah* is defined as: "an act of rules which regulate the conduct and affairs of People for settling all differences and avoiding all disputes"¹⁴

Looking at the above definitions and many other more, we can see that *Shari'ah* is defined literally as a path. Technically, the key words that appear in almost all the definitions, defined it as the law(s) prescribed by Allah that guide man to the attainment of His pleasure. It is the way that leads to success in world and beyond, thus, it is the totality of Islamic teachings and system, which was revealed to Prophet Muhammad ﷺ in the *Qur'an* as well as deducible from the

⁸ Issa, U. A., & Mustapha, I. (2025). Islamic Perspectives on the Use of Artificial Intelligence Tools for Achieving Sustainability in Education. *Rima*, 4(1). 76-85.

⁹ Muhsinin, M. (2019). Semantics study of the word ' Muslim' in al-Quran. *Humanities & Social Sciences Reviews*, 7(4), 1026-1030

¹⁰ Ibid.

¹¹ Monzur-E-Elahi, M. (2011). The Objectives and Intents of Islamic Shari'ah As a Paradigm of Development Strategies and Policies. *IIUC Studies*, 7, 321-336.

¹² Ibid.

¹³ Ambali, M.,A., *The Practice of Muslim Family Law in Nigeria*, 2nd edition, Tamaza Publishing Company Ltd, Zaria Nigeria, 2003, 202

¹⁴ Yusahu S., *A History of the Application of Islamic Law in Nigeria*, Palgrave Macmillan, (Forth Worth, Texas, U.S.A , 2017), 8

Prophetic divinely guided lifestyle known as the *Sunnah*. It thus indicates that all the different commandments of Allah to mankind are part of *Shari'ah*.¹⁵

The Islamic Research Academy of the *al-Azhar-al-Sharif* defines violence from the point view of Islam as “threatening those who’s live in peace, damaging their interests and elements of life, property, dignity, freedom and decency with the goal of doing damage and destruction on the face of the earth”¹⁶. Violence from the Islamic perspective can be measured by the concept of *wasatiyyah*. The term *wasatiyyah* is a noun derived from the root word *al-wasat* which means the middle. In the glorious Quran, the Muslims are said to be the *ummatan wasata*, Allah says:

وَكَذَلِكَ جَعَلْنَاكُمْ أُمَّةً وَسَطًا لِتَكُونُوا شُهَدَاءَ عَلَى النَّاسِ وَيَكُونَ الرَّسُولُ عَلَيْكُمْ شَهِيدًا
وَمَا جَعَلْنَا الْقِبْلَةَ الَّتِي كُنْتَ عَلَيْهَا إِلَّا لِنَعْلَمَ مَنْ يَتَّبِعُ الرَّسُولَ مِمَّنْ يَنْقَلِبُ عَلَى عَقْبَيْهِ
وَإِنْ كَانَتْ لَكَبِيرَةً إِلَّا عَلَى الَّذِينَ هَدَى اللَّهُ وَمَا كَانَ اللَّهُ لِيُضَيِّعَ إِيمَانَكُمْ إِنَّ اللَّهَ بِالنَّاسِ
لَرَءُوفٌ رَحِيمٌ.

Thus, We have made you [true Muslims - real believers of Islamic Monotheism, true followers of Prophet Muhammad and his *Sunnah* (legal ways)], a just (and the best) nation, that you be witnesses over mankind and the Messenger {Muhammad be a witness over you. And We made the *Qiblah* (prayer direction towards Jerusalem) which you used to face, only to test those who followed the Messenger (Muhammad from those who would turn on their heels (i.e. disobey the Messenger). Indeed it was great (heavy) except for those whom Allah guided. And Allah would never make your faith (prayers) to be lost (i.e. your prayers offered towards Jerusalem). Truly, Allah is full of Kindness, the Most Merciful towards mankind. (Al-Baqarah (2):143)

The guidelines for humankind to always be in the *wasatiyyah* position are available in the glorious Quran and the *Sunnah* of the Prophet ﷺ. Hence, any forms of act or situation that fall short of the directives of the holy Quran and the *Sunnah* is categorized as extreme and may lead to violence. The terms relating to violent acts which are often politicized are *irhab* and *jihad*.¹⁷ The term *irhab* in the glorious Quran means barrier to enemy assault. Allah says:

وَأَعِدُوا لَهُمْ مَا اسْتَطَعْتُمْ مِنْ قُوَّةٍ وَمِنْ رِبَاطِ الْخَيْلِ تُرْهَبُونَ بِهِ عَدُوَّ اللَّهِ وَعَدُوَّكُمْ وَآخَرِينَ
مِنْ دُونِهِمْ لَا تَعْلَمُوهُمْ اللَّهُ يَعْلَمُهُمْ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فِي سَبِيلِ اللَّهِ يُوَفَّ إِلَيْكُمْ وَأَنْتُمْ
لَا تُظْلَمُونَ.

And make ready against them all you can of power, including steeds of war (tanks, planes, missiles, artillery) to threaten the enemy of All fill and your enemy, and others besides whom, you may not know but whom Allfill does

¹⁵ Ibid.

¹⁶ Akhir N. S. M., & Ibrahim N. “Analysis of Violent Act from the Islamic Spiritual Perspective”, *International Journal Academic Research Business and Social Sciences*, 9(3): 1298–1306. <http://dx.doi.org/10.6007/IJARBS/v9-i3/5797> accessed on 5th January, 2024

¹⁷ Akhir N. S. M., & Ibrahim N. “Analysis of Violent Act from the Islamic Spiritual Perspective, 1300.

know. And whatever you shall spend in the Cause of Allah shall be repaid unto you, and you shall not be treated unjustly. (Al-Anfal (8): 60)

Scholars and writers adopt different ways in categorizing violence in to different classes. However, for the purpose of our discussion on Islamic point of view. **Banditry (Hirābah)**: The Arabic term *hirābah* originated from *muhārabah* which defined in classical Arabic as struggle, combat, fight, battle and warfare. It's also from the root verb *Muhārib* (belligerent), *al-Muhāribun* (the belligerents).¹⁸ However, Islamic law uses the three terms for this crime, such as *Hirāba* (arm robbery), *sariqaalkubra* (great theft) or highway robbery and *qatal-tariq*, i.e brigandage.¹⁹

Moreover, the term *Hirabah* according to linguistic scholars derived from *harb* which literally means war.²⁰ Prohibition of crime in any way is part of the intents of Islamic law (*Maqāṣid al-Shari'ah*) and its teaching on protection of life. However, banditry and robbery are spreading mischief on earth. Banditry and robbery are regarded as *Hirabah* in Islamic law, which have been appeared and classified as waging war against God in the Qur'an, where Almighty Allah said:

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ هُمْ خِرَابِي فِي الدُّنْيَا وَهُمْ فِي
الْآخِرَةِ عَذَابٌ عَظِيمٌ.

Indeed, the penalty for those who wage war against God and his messenger and strive upon earth (to cause) corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the hereafter is a great punishment. (Al-Ma'idah (5): 33)

The above verse lays down the different forms of violence and punishments to be executed against belligerent who wage war on innocent people, killing and slaying them just to create or destabilize law and order in the land.

History of *Shari'ah* Implementation in Nigeria

Going by history, *Shari'ah* has been in operation in Hausa land, what today constitutes Northern Nigeria, as early as the 11th century when Islam first came to the area bringing along with its culture to Hausa people, and has been recognized as part of the Nigerian legal system since the inception of the country, with particular reference to Northern Nigeria. Through different legislative enactments during the colonial era and after independence, the application

¹⁸ Bello, A. H. (2021). Applying Hirāba in Islamic Criminal Law to Curb Armed Banditry in the Zamfara State of Nigeria: Opportunities and Challenges. *Mazahib*, 1-42.

¹⁹ Ibid.

²⁰ Ali, B. E. D. (1978). The Need For Penal Reform: An International Perspective. *The Prison Journal*, 58(2), 43-51.

of Islamic law in Nigeria was restricted only to civil and personal status laws, thus ousting the application of Islamic criminal law throughout the country prior to 1999.²¹

However, despite the restriction of its application to personal laws, there have been a series of serious debates about the implementation of *Shari'ah* in Nigeria over the years. The most vigorous of such debates was ignited by the re-introduction of the full implementation of *Shari'ah* in 1999 when one of the states in Northern Nigeria, Zamfara State, officially launched the commencement of the full implementation of the *Shari'ah* including Islamic criminal law in the State on 27 October 1999.²²

Not long after that, eleven (11) other Northern States, namely Bauchi State, Borno State, Gombe State, Jigawa State, Kaduna State, Kano State, Katsina State, Kebbi State, Niger State, Sokoto State, and Yobe State followed suit, bringing the number of *Shari'ah* implementing states in the country to twelve (12) by the end of year 2000. This re-introduction of the full implementation of Islamic law in Northern Nigeria quickly attracted heated debates, nationally and internationally, about its constitutional legality and human rights implications in relation to Nigeria's international human rights obligations. October 27, 2022 marked the twenty third anniversary of the re-introduction of the full implementation of *Shari'ah* by the Zamfara State government.²³

After all the attempts between the protagonist and antagonist of *Shari'ah* in Nigeria, one can understand that, within twenty years between 1979 and 1999 two types of attempts were made by Muslims to repair the damages made by the antagonists of *Shari'ah* implementation, both within and outside the country. A new field of constitutional litigation was opened up, focused on the *Shari'ah* Courts of Appeal. New pressure had been put on *Shari'ah* Court of Appeal jurisdiction because judges of the *Shari'ah* Courts of Appeal no longer sat on the Appellate Division of the High Court.²⁴

This meant that Muslims litigating, for instance, contract, tort, or land cases under Islamic law in the Area Courts (successors in the North to the Native Courts), who wanted specifically Muslim jurists to examine the matter on appeal, had no choice but to try for the *Shari'ah* Courts of Appeal. But the trouble now was that the possibility of extending *Shari'ah* Court of Appeal jurisdiction to such cases at the instance of the parties had been cut off.²⁵

Consequently, as the constitution of the federal republic of Nigeria is being against them, the Muslims turned their attention to amending the constitution. The first attempt, decreed by General Babangida in 1986, deleted the word 'personal' wherever it occurred, in the constitution, after the word 'Islamic' in the sections of the 1979 constitution touching on *Shari'ah* Court of Appeal jurisdiction. This theoretically should have done the trick, but the courts held otherwise, finding the amendment to be 'of no jurisdictional consequence and in practical terms [to have] achieved nothing'.²⁶ Under the regimes of Babangida and Abacha's

²¹ Mustapha, A. R., & Mustapha, I. (2016). Sharia Implementation in northern Nigeria over 15 years: the case of Hisbah. *Nigeria Stability and Reconciliation Programme, Policy Brief, 1*. British Council, 276.

²² Ibid.

²³ Obande, F. O., *Understanding the Concept of Jurisdiction in the Nigerian Legal System*, (Enugu Nigeria: Snaap Press Ltd, 2008), 2-3

²⁴ Michael, J. O., "Shari'ah Incorporated" A Comparative overview of the Legal System of 12 Muslim Countries in Past and Present, (Leiden University Press, April 2010) 327.

²⁵ Ibid.

²⁶ Michael, J. O., "Shari'ah Incorporated". 421-423

constitutions, the crucial section was therefore redrafted and simplified, unequivocally extending the jurisdiction of the *Shari'ah* Courts of Appeal to all 'civil proceedings involving questions of Islamic law where all the parties are Muslims' however, neither the Babangida nor the Abacha's constitution ever came into force.²⁷

It was short after, the country returned to civilian/political administration with the coming of Olusegun Obasanjo as the elected President in the year 1999. It was at this point that Alhaji Ahmad Sani, the then newly elected executive Governor of Zamfara state, came into the picture. Hewon the governorship election held on 9 January 1999, the first such elections after sixteen years of military rule. Zamfara State in Nigeria's far north, has a predominantly rural population of about three million, of which 90 percent or more are Muslim.²⁸ Governor Sani was the first elected governor, carved out from Sokoto State, in a new round of state-creation decreed by Sani Abacha in 1996. Governor Sani says during his election campaign:

In any town I went to, I first started with Takbirat, which is chanting Allahu Akbar thrice. Then I always said, 'I am in the race not to make money, but to improve on our religious way of worship, and introduce religious reforms that will make us get Allah's favour. And then we will have abundant resources for development'.²⁹

Shari'ah implementation as the reforms quickly came to be called, has been effected primarily by legislation at the state and local government levels, aimed at making the legislating jurisdictions in various ways, more *Shari'ah* compliant than they had formerly been. After Zamfara showed the way, eleven other states – Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto and Yobe followed with similar legislative programs. Here is a summary of what has been done, as contained in the work of Mashood A. Baderin:

1. The principal point here is that, Muslims exerted their efforts in the Settlement of 1960 issues conceals by the antagonist of *Shari'ah* in the country's constitution against *Shari'ah* implementation. The abrogation of Islamic criminal law has been reclaimed. Muslim leader relied on their constitutional power to and legislate on criminal matters, and their constitutional right to freely practice their religion, all *Shari'ah* states have reinstated Islamic criminal law, in the form of new *Shari'ah* Penal and Criminal Procedure Codes applicable to Muslims.
2. They also relied on their constitutional power and regulate their own court system; all *Shari'ah* states have established inferior *Shari'ah* Courts, with original jurisdiction to apply the full range of Islamic law, civil and criminal, to Muslims.
3. They deviate in the constitutional language defining *Shari'ah* Court of Appeal jurisdiction until 1999 little noticed all *Shari'ah* states have extended the jurisdiction of their *Shari'ah* Courts of Appeal to all matters, civil and criminal decided in the inferior *Shari'ah* Courts. This move simply bypassed all the litigation relating to *Shari'ah* Court of Appeal jurisdiction, and all the attempted constitutional amendments, of the previous twenty years.

²⁷ Ibid.

²⁸ Macro International. Institute for Resource Development. Demographic, Health Surveys, Nigeria. Federal Office of Statistics, & Nigeria. National Population Commission. (2008). *Nigeria Demographic and Health Survey*. IRD/Macro Incorporated. (USA: Rockville Maryland, 2008), 87.

²⁹ Mashood, A. B., "Review of *Shari'ah* Implementation in Northern Nigeria 1999 – 2006" in *Muslim World and Human Right, A Journal of School of Oriental and African Studies*, 5(1)(2008):119-130.

4. A wide range of other legislation has been enacted aimed at particular social vices and other acts that temper with Muslim's ethical values, like the consumption of alcohol, gambling, prostitution, unedifying media, and the excessive mixing together of unrelated males and females. Two states; Zamfara and Kano, uniquely among all Nigerian states, have even tackled the pan-Nigerian problem of corruption, setting up their own statutory Public Complaints and Anti-Corruption Commissions in accordance with Islamic principles.
5. Other institutions have been established, *Shari'ah* Commissions and Councils of Ulama with important advisory and executive functions; boards for the collection and distribution *zakat*, *hisbah* boards to monitor and try to enforce *Shari'ah* compliance, but also to engage in mediation and conciliation within the society and others.
6. All with the aim of deepening and enforcing the application of *Shari'ah* law in the lives of the Muslims of the states that have established them.³⁰

Brief Analysis on how *Maqasid al-Shari'ah* Principles inform Nigeria's Legal approach to Violence

Maqasid al Shari'ah is made up with golden principles that guiding its operations which known as the objective of Islamic Law, that provides a theoretical framework for public welfare in Islamic jurisprudence, it's also serve as direct application in informing Nigeria's legal approach to violence and a source of maintaining law and order. These principles typically include:

- *Hifzal-din*: Protection of Religion: The preservation of religious freedom and the promotion of ethical values are crucial for social cohesion and moral guidance. These principles ensure that individuals are free to practice their faith without fear of persecution, which is also seen as a source of guidance in establishing just and moral and free-violence societies.³¹

- *Hifzan-nafs*: Protection of Life: Islam strongly emphasizes the sanctity of human life, as the divine book of Allah states' And do not kill the soul which Allah has forbidden, except by right'' This principles calls for safeguarding life through healthcare, security, and social justice. It also entails promoting conflict resolution mechanisms to prevent violence and protect the vulnerable.³²

- *Hifzal-aql*: Protection of intellect: The preservation of knowledge and intellect is paramount in Islam. This includes promoting education, critical thinking, and intellectual development while prohibiting substances that impair cognitive functions such as drugs and alcohol. An educated society is seen as one capable of making informed decisions that contribute to the well-being and stability of all its members.³³

- *Hifzal-nasl*: Protection of posterity/lineage: Islam stresses the importance of family and lineage in preserving societal cohesion. The family unit plays a central role in transmitting

³⁰ Sharia Debate in Africa, website: <http://www.sharia-in-africa.net/pages/publications/shariaimplementation-in-northern-nigeria.php> Accessed on 3rd August, 2022

³¹ Istiani, N., & Susilo, A. (2024). Reviewing The Core Values of State Civil Apparatus in Indonesia: Perspectives on Islamic Multiculturalism. *TATHO: International Journal of Islamic Thought and Sciences*, 1-13.

³² Ibid.

³³ Ibid, 10.

values, ethics, and social responsibilities to future generations. The breakdown of family structures, particularly in conflict zones, leads to long-term social instability.³⁴

- *Hifzal-mal*: Protection of property: The protection of economy stability and the equitable distribution of wealth are other key objectives of *maqasid al-shari'ah*. Islam prohibits theft, exploration, and fraud, advocating for the ethical use of resources and fair-trade practices. The economic dimension of *maqasid al-shari'ah* also addresses poverty and calls for the redistribution of wealth through mechanisms like *zakat* and *waqf*.³⁵

Considering the above stated principles, while the Nigeria's legal system emphasized on protecting fundamental human rights which serves as a similar function to *Maqasid al-Shari'ah* principles by protecting life and public interest.³⁶

Maqasid al-Shari'ah also applies indirect legal approach to violence through the above mentioned core objectives, align with the broader goals of promoting public welfare, justice, and security.³⁷

By upholding the principles of preserving life and dignity, both *Maqasid al-Shari'ah* and the Nigerian legal system aims to prevent harm and ensure the well-being of citizens, as seen in the theory of fundamental human right of the Nigeria's legal system approach.³⁸

In a nutshell, a rigorous analysis spell out that, *Maqasid al Shari'ah* does not directly inform Nigeria's approach to violence due to the country's secular legal system. However, the principles of *Maqasid* like protecting life and intellect are reflected implicitly in the constitutional and public policy frameworks aimed at ensuring justice and societal well-being.³⁹

Critical Evaluation of whether *Shari'ah* Courts ruling reflect *Maqasid al-Shari'ah* Objective in Nigeria

In most cases, the views and aims of *Shari'ah* rulings is to reflect and fulfill the objectives of *maqasid al-shari'ah* which are main goals of Islamic Law, such as the earlier mentioned five principles of *maqasid al-shari'ah* namely: preserving religion, life, intellect, progeny, and property, to promote human well-being in this life and in the hereafter. The Qur'an and *Sunnah* being the primary sources of *Shari'ah* as well as its understanding and application of their laws through modern interpretations would surely assist in reflecting the objectives of *maqasid al-shari'ah* ruling in *Shari'ah* Courts.⁴⁰

Actually, the *Shari'ah* Courts were designed to protect the above key five benefits in Islamic Law for improvement of human condition. The jurist also use *maqasid* to interpret Islamic Law, ensuring that, new rulings or applications of existing one served these higher purposes, rather than being mere technical adherence to rules.⁴¹

³⁴ Ibid.

³⁵ Dusuki, A. W., & Bouheraoua, S. (2011). The framework of Maqasid al-Shari'ah and its implication for Islamic finance. *ICR Journal*, 2(2), 316-336.

³⁶ Ibid.

³⁷ Yunus, A. M. (2024). The Relevance of Maqasid Al-Shariah in Addressing Humanitarian Crises: Insights from Surah Al-Fil. *International Journal of Academic Research in Business and Social Sciences*, 14(12), 1-15.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Güney, N. (2024). Maqāsid Al-Sharī 'a in Islamic Finance: A Critical Analysis of Modern Discourses. *Religions*, 15(1), 114.

41Dapo, F. General Studies, Book of Readings . p. 8

The concept of *maqasid* in *Shari'ah* is very vital for modernizing Islamic Law just to ensure rulings remain relevant and beneficial to the community, fulfilling the intentions of the legislator (Allah) in the following ruling or divine injunction to mention but few:

- a) Laws against interest (*riba*), gambling and alcohol consumption aim to protect wealth and well-being.
- b) Zakkat (charity) is a religious practice that directly supports the preservation of property and helps alleviate suffering for the needy.

Generally, *Shari'ah* provides the law, *Maqasid al-Shari'ah* provides the underlying rationale and goals, and court rulings ideally strive to be in harmony with these deep-seated objectives.⁴²

A Comparative Discussion of *Maqasid al-Shari'ah* versus Secular Frameworks in Violence Prevention

Shari'ah is a divine law, its principles and methods are derived from Glorious *Qur'an* and *Sunnah* of the Prophet Muhammad ﷺ. While its framework plays a vital role in violence prevention by providing a moral and legal foundation to protect the five essential aspects of human life: religion (*din*), self (*nafs*), intellect (*aql*), lineage (*nasl*), and property (*mal*)⁴³ The above expression signified that, performing act of violence is a direct violation of the above mentioned essentials objectives. Islamic scholars emphasized that, the *Shari'ah* aims to protect these five necessities, and any other act of violence undermines them. In a different form of skills, scholar's works analyzed violence through the lens of *Maqasid*, concluding that such acts are reprehensible and necessitate legal and social interventions aligned with *Shari'ah* principles to ensure peace and justice within families and society.⁴⁴

While, the secular framework's violence prevention is not a divine law (injunctions) unlike *maqasid al-shari'ah*, rather it's a man made plan which characterized through evidence based. The key characteristic of secular framework is solely relying on research and data to inform their strategies and interventions, as prepared and develop by Central American Security Commission (CSC) approved in its 53rd regular meeting held on May 22nd 2014, in Santo Domingo, Republic. The four frameworks were developed and approved as the strategic components, which include:

1. Psychological combating crime
2. Physical violence prevention
3. Rehabilitation, reintegration, and penitentiary security
4. Institutional strengthening: coordination and monitoring of the regional strategy.⁴⁵

Beside the above, they emphasize strategies to stop violence before it happens, rather than just responding to incidence.⁴⁶

⁴² Abdulkadir, M. M., & Bature, H. I. (2025). Aligning Maqasid al-Shari'ah and Ijtihad: A Framework for Contemporary Islamic Jurisprudence: التوفيق بين مقاصد الشريعة والاجتهاد: اطار للفقہ الاسلامي. *Journal of Arts and Sociological Research* 7. 229-306

⁴³ Khotimah, U. K. (2024). Islamic Legal Analysis on the Protection of Vulnerable Age Groups from Online Gender-Based Violence (OGBV) in Indonesia. *Journal of Ecohumanism*, 3(8). 19-32.

⁴⁴ Kamaruddin, Z., Abdullah, R., & Ramzy, I. (2015). Managing Domestic Violence: Islamic Religious Perspective. *Journal of Dharma*, 40(2), 189-210.

⁴⁵ Report: Democratic Security Directorate, Violence Prevention Component, 5

Secularist translates principles into concrete actions, often with specific government action plans outlining priority areas and strategies for implementation.⁴⁷

Jurisdiction of *Shari'ah* Courts in Nigeria

Shari'ah Court Laws of the Northern States *Shari'ah* Judicial System confers original jurisdiction in all civil and criminal matters in *Shari'ah* courts including violent acts. So also is the jurisdiction to hear and determine civil matters and causes where all the parties are Muslims. Where one of the parties is a non-Muslim, no jurisdiction is to be exercised unless he gives a written consent. Likewise, in criminal cases where the accused are jointly Muslims and non-Muslims, the jurisdiction of the court is limited to the Muslims only.⁴⁸

Upper *Shari'ah* Courts Jurisdiction

Upper *Shari'ah* Courts have dual jurisdiction; as courts of first instance and also as appellate courts with powers to entertain appeals arising from the decision of *Shari'ah* Courts.⁴⁹ It is pertinent to remind at this juncture that twelve states, primarily in the north, have adopted (since 1999) the new *Shari'ah* legal system: Zamfara, Jigawa, Bauchi, Gombe, Kaduna, Katsina, Yobe, Niger, Kano, Sokoto, Kebbi, and Borno. The *Shari'ah* courts in these states have jurisdiction over several new offences beyond personal law, including theft, unlawful sexual intercourse, robbery, defamation and drinking alcohol. The *Shari'ah* courts may impose punishments, pursuant to the provisions of the *Shari'ah* Penal Code Law (SPCL), that include death; forfeiture and destruction of property; imprisonment; detention in a reformatory; fine; caning (flogging); amputation; retaliation; blood money; restitution; reprimand; public disclosure; boycott; exhortation; compensation; closure of premises; and warning, among others.⁵⁰

***Shari'ah* Court of Appeal**

The *Shari'ah* Court of Appeal was first established as a Northern Regional Court of Appeal to determine appeals emanating from the decisions of Upper Area Courts in questions of Islamic personal law. It was created by the **Laws of Northern Nigeria, Cap 136 of 1960**. This creation was further confirmed subsequently by the Constitution of the Federal Republic of Nigeria, 1979 and later the Constitution of the Federal Republic of Nigeria, 1999 (as amended).⁵¹ However, by the provisions of **Section 6(5) (f) & (g)** of Constitution of the Federal Republic of Nigeria, 1999 (as amended), the jurisdiction of the court is wholly an appellate court.⁵²

Shari'ah courts of appeal shall, in addition to such other jurisdiction as may be conferred upon it by the law of the state, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law which the court is competent to decide in accordance with the provisions of subsection (2) of the Nigerian Constitution, which states, the *Shari'ah* Court of Appeal shall be competent to decide any question of Islamic personal law

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Oba, A. A. (2004). The sharia court of appeal in Northern Nigeria: The continuing crises of jurisdiction. *The American Journal of Comparative Law*, 52(4), 859-900.

⁴⁹ Oba, A. A. (2004). The sharia court of appeal in Northern Nigeria, 867.

⁵⁰ Oba, A. A. (2004). The sharia court of appeal in Northern Nigeria, 889.

⁵¹ Kwara State Sharia Court of Appeal, website: <http://kwarashariacourts.gov.ng> accessed on 11th September, 2022

⁵² Ibid.

regarding a marriage... relating to family relationship or the guardianship of an infant;...any question of Islamic personal law regarding a *wakf*, gift, will or succession where the endower, donor, testator or deceased person is a Muslim;...where all the parties to the proceedings, being Muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question".⁵³

From the above provisions of the Constitution and for the purpose of emphasis, the jurisdiction of *Shari'ah* Court of Appeal is limited to issues relating to Islamic personal law which are as follows:

- i) Marriage (*Nikah*)
- ii) Dissolution of Marriage/Divorce (*Talaq*)
- iii) Custody of Children or Guardianship (*Hadanah*)
- iv) Maintenance (*nafaqah*)
- v) Inheritance/succession (*mirath*)
- vi) Will (*wasiyya*)
- vii) Endowment (*waqf*)
- viii) Gift (*hibah*)

The Role of *Shari'ah* Courts in Maintaining Law and Order in Islam

The religion of Islam came through the agency of Prophet Muhammad ﷺ with certain rules, laws and guidance as a complete set to his *Ummah* in order to be among the successful followers in this world and the hereafter. Thus Islamic Criminal Law was introduced to maintain law and order among Muslims known as *Fiqh al-Jinayat*, regarding the inhibition as well as permissible actions vis-avis their Muslim brethren's in particular and non-Muslims at large.⁵⁴ It also elucidates on the types of crimes and its subsequent punishments meted out against culprit based on the divine provision in the *Qur'an*, *Hadith* or *Ijma*. Similarly, Islam attaches utmost importance to ethical and moral standards before executing punishments. Even though the offenders have been proven to be guilty in acting against clear prohibitions of the *Qur'an* and *Hadith*, however, protecting the dignity of the offender as a human being needs to be well preserved.⁵⁵

Shari'ah courts play a significant role in violence combat in Nigeria. The country set and put relevant legal provisions in fighting against violence, the following are some of the relevant statutes and their codes provided by Nigeria to its courts in punishing those found guilty of committing one form of violence or the other.

1. Violence Against Persons (Prohibition) Act (2015)(VAPPA): Overarching statute to be implemented at state level. This act provides protections from domestic violence in general regardless of gender. This federal law applies only to domestic violence offences committed in Nigeria's federal capital territory Abuja.

⁵³ Ibid.

⁵⁴ Yusuf, A. S. (2025). Legal Analysis of Consumer Protection against Companies not Fulfilling Consumer Obligations. *Estudiante Law Journal*, 7(1), 56-73.

⁵⁵ Ibid.

2. Nigeria criminal Code Act, 1990 (Criminal Code): The Nigerian Criminal Code Act is an act of the National Assembly (the federal legislature under Nigeria's federal system of government). All the 36 states in Nigeria have a state version of the Criminal Code Act promulgated as a Criminal Code Law (for states comprising the old Western Region of Nigeria). The provision of these state laws and the federal criminal code act are very similar.
3. State-level Domestic Violence Legislation such as the protection Against Violence law of States 2007: This law provides protection against violence and for connected purposes of Lagos State (2007), chapter (18), s 1(h) (Nigeria). This has so far only been implemented in 9 States; Lagos, Osun, Ondo, Ekiti, Bayelsa, Edo, Cross Rivers, Rivers and Anambra.
4. Child Right Act 2004: Child Right Act, Chapter 50, Laws of the federation of Nigeria (2004) (Nigeria).
5. Violence cases are dealt with by different Shari'ah courts, depending on the nature of the case and State in which the case is brought. Nigeria is a federal republic of 36 States and one federal capital territory.

Challenges of *Shari'ah* Courts in Addressing Violence in Nigeria

Upon all the above, mentioned role of *Shari'ah* courts, Judges and their jurisdictions, a return/recourse has to be made to *Maqasid al-Shari'ah* in mitigating violence and its challenges in Nigeria. The *Shari'ah* courts must utilize a comprehensive ethical and legal framework designed to preserve human values, which the central to this framework is the concept of *Maqasid al-Shari'ah*, because it's the higher objectives of Islamic law which encompass the protection of religion, life, intellect, lineage and property are the substance used by *Shari'ah* to mitigate violence.⁵⁶

Maqasid al-Shari'ah and its application played a vital role in combating violence in the modern context, because various challenges in the past and present days posed by humanitarian crisis, a solution rooted in *maqasid al-shari'ah* is essential. As such, Islamic law with its emphasis on justice, the preservation of life, and the protection of religious and economic freedoms, offers a framework for solving many of the problems facing modern society.⁵⁷

However, in this crucial time many need to redress and reduce the challenges faced by the *Shari'ah* courts in executing punishments against persistently high levels of crime and violence in Nigeria, the need to respond to new forms criminality as well as enhancing responses to criminal behaviors that have for long contaminated the societies, such as corruption and violence against individual and the society.⁵⁸

Before the advent of British colonial rule, Islamic law was in its total ramifications applied in most of the emirates under Sokoto caliphate, which later on became northern Nigeria after colonization. The Islamic law was the system through which Islamic civil and criminal laws were

⁵⁶ Yunus, A. M. (2024). The Relevance of Maqasid Al-Shariah in Addressing Humanitarian Crises: Insights from Surah Al-Fil. *International Journal of Academic Research in Business and Social Sciences*, 14(12), 1-15.

⁵⁷ Ibid.

⁵⁸ Adekunle, V. O., & Okoro, G. I. (2023). The Quest for Equitable Justice: A Critical Review Of The Administration Of Criminal Justice Act In Nigeria. *Ayden International Journal of Law, Political Science, and Administration*, 11(2), 1-15.

applied by the *shari'ah* courts. The British introduced the English law, which however did not completely abrogate the existing and dominant Islamic legal system under the Sokoto Caliphate but subjected it to some limitations by confining the application of the *Shari'ah* and jurisdictions of *Shari'ah* Courts to personal status, before 1999. The Commander of the faithful *Amirul Mumineen* or *Emir* had to wait for the approval of the Resident or District Commissioner in the appointment of *Shari'ah* judges and the latter was empowered to supervise the judges and review or transfer their cases.⁵⁹

The challenges are multi faceted, but the followings were identified as the major ones in relation to violence combat:

1. Lack of qualified and experienced Judges
2. Corrupt lawyers and corrupt police officers.
3. Delay in trials for one reason or the other.
4. Executive high handedness and lawlessness.
5. Corruption.
6. Insufficient funding and financial dependence.
7. Ethno-religious bias.
8. Justice bias and Justice Compromise.
9. Interference by the members of the executive arm of government.
10. Internal and external interference, among others.⁶⁰

These and many other challenges continue to made *shari'ah* courts to be an inalienable part in relation to violence combat in Nigeria.

Recommendations on the problems of violence management by *Shari'ah* courts in Nigeria.

Many intellectuals have gone into recommending the solutions to the problems of violence management in the world at large and in Nigeria. But the desired result can only be achieved if Nigerians start acting on the recommendations; otherwise the result will be the same of yesterday and today. The followings actions are recommended to the *shari'ah* courts in violence management:

1. Tackle the challenges of corruption by any stake holder in the administration of justice in violence combat. Corruption must first be addressed effectively in the society at large and in the *shari'ah* courts.
2. Government should redress the process of employment in the judiciary. The issue of half-educated Judges and inexperienced ones will be wiped out.
3. *Shari'ah* court Judges should take hold of opportunities available to them to frown at executive intimidation, interference and suppression, they will drive home the point that the independence of judiciary is attained.

⁵⁹ Dasuki, Muhammad Jumat, Challenges facing *Shari'ah* courts in Nigeria, Islamic Welfare Organization, Ilorin, Nigeria, 2015, P. 17 <https://www.google.com/url?q=https://iwf.com.ng/coin-2015-papers/challenges-facing-shariah-courts> accessed on 5th January, 2024

⁶⁰ Interview with Alkali Lawal Ishaq Bara, Judge of Upper *Shari'ah* Court in Charanchi, aged 55, on 3rd January, 2024 at his office, 08064642700

4. Emphasis must be put on conventional ethical values and professional ethics on the part of law students so that decent and free-corrupt lawyers and judges are going to be graduated by the universities.
5. The use of virtual conference should be greatly encouraged so that variant challenges could be addressed in addition, with the of technology, virtual *shari'ah* courts proceedings should be established.

Conclusion

We have seen the concepts Islam, *Shari'ah* Courts, and its role on how to maintain in conventional and Islamic perspectives situation of the *Shari'ah* courts in northern Nigeria both in the past and present, we have also seen the *Shari'ah* implementation programs enacted in 1999-2001 had three main aspects; to replace the old Area Courts with *Shari'ah* Courts, to bring back Islamic criminal law, abrogated since 1960, for application in the *Shari'ah* Courts to Muslims and to direct all appeals from *Shari'ah* Courts, in both civil and criminal matters, to the *Shari'ah* Courts of Appeal. The paper also examines the main features of the enactments of the *Shari'ah* states by which these changes were legislated, and many details, and how the legislated changes have developed over twenty years. The paper also summarizes the role of *shari'ah* courts in the combat of violence in Nigeria, challenges faced and finally offer some few recommendations to implement for positive result in the country.

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