

The flogging of Bariya Magazu: Nigerian politics, Canadian pressures, and women's and children's rights

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... if the charge proves true, the girl was found not to have been a virgin, then the girl shall be brought out to the entrance of her father's house, and the men of her town shall stone her to death. (Deuteronomy 22:20, Jewish Publication Society 1985: 309)

The case of Bariya Magazu

In late 2000 a legal case in Northern Nigeria involving women's and children's rights attracted much Canadian attention. Bariya Magazu was sentenced to be flogged for having sexual relations outside marriage, and that sentence was carried out. Her case raises the issue of cultural imperialism in promoting supposedly international human rights norms. In particular, it raises the questions of what is a child, and what is 'cruel, unusual or degrading punishment'. It also shows how women's rights can become a focal point for indigenous politics, thereby also raising the question of who is the most appropriate actor to defend an individual's human rights. Thus, this Canadian case addresses the larger issue of world human rights politics, and the fear that many Western human rights advocates express of inadvertently acting as cultural imperialists.

In this article I analyze various elements that affected this case. My purpose is to show its multiple social and political facets, some of which were not evident to the Canadians who tried to intervene to protect Bariya Magazu. My purpose is also to show how both Canadians (and more generally, 'Westerners' as a group) and Nigerians misinterpret each others' motives and fundamental moral beliefs. The Bariya Magazu case illustrates the world-wide politics of resentment, and reinforces the necessity for cultural sensitivity in advocating human rights norms. Simultaneously, however, it underlines the importance of both the international feminist and the international human rights movements.

In analyzing this case, then, I put aside my own personal views. I support unreservedly all the rights of women and children enshrined in international human rights documents; I oppose all forms of corporal and capital punishment; and I oppose punishment of individuals merely because they engage in consensual sexual relations. Certainly, women should not be punished for acts for which men go free, nor should women be used as ideological scapegoats in situations of economic and political uncertainty, as now appears to be the case in Northern Nigeria. Many Nigerian feminists, Muslim and other, agree with me, as I will discuss below. Nevertheless, the purpose of this article is to discuss the social, legal, and political issues surrounding the Magazu case, not to advocate for her rights.

Bariya Magazu is found to be pregnant

In July 2000, a young unmarried woman living in Zamfara state in Northern Nigeria was found to be pregnant. Bariya Ibrahim Magazu's age was variously estimated as anywhere between 14 and 17 years; she herself thought she was 13 or 14 years old (Afrol.com.News 2001a). In June 2000, Zamfara state had adopted a very strict variety of what the authorities deemed to be Islamic Sharia law. Prior to this adoption, Sharia law was used in Nigeria to regulate personal affairs among Muslims, but the very strict, if not idiosyncratic, interpretations that Zamfara state imposed were very unusual. Under this interpretation of Sharia, Bariya was liable to punishment by 100 lashes for committing the crime of *zina*, or fornication (sex outside marriage). This was in accordance with the Quranic verse 24:2–4: 'Flog the adulteress and the adulterer, each one of them, with a hundred stripes, and let not pity for them restrain you from executing the judgment of Allah, if you believe in Allah and the Last Day' (Khan 1971: 338).

Bariya claimed that she had been raped by three men. She further claimed that her father had allowed these three men access to her in payment of a debt. There is an ancient custom in Africa of 'pawning', by which a parent may give a child to a creditor to work off a debt, the child returning to its parents' home once the debt has been paid in full. Women or girls could become pawn wives, with fewer rights than free wives (Iliffe 1987: 57). Daughters could also be given as gifts to influential men (Salamone 1983: 31). If Bariya Magazu's father did give her to these three men, perhaps in his mind this was a form of gift or pawning. On the other hand, perhaps it was simply an act which he knew full well was illegitimate both under traditional customs and under Islamic law.

Bariya produced seven witnesses testifying to her version of the event, but they were not believed. Nor, apparently, was any witness produced to testify that she had willingly had sexual relations (Afrol.com.News 2001a). This was so even though for her to be convicted of *zina*, her accusers technically needed 'at least four witnesses of good character' who had witnessed the actual act of *zina* and could testify that 'a hair could not pass between their bodies'. Consistent with practice in local courts, Bariya had no legal representation. Inconsistent with Islamic law as interpreted by her defenders, she was not allowed the right of appeal, either to secular or a higher Islamic court (Imam 2001). Once Bariya's claim was disallowed, she was then also sentenced to be flogged an additional 80 times for the crime of *qadhif*, or false accusation (against the men she had originally named) of *zina*. Once the charge of rape was dismissed, no attempt appears to have been made to ascertain who the father of the child was and to punish him as Bariya was to be punished, as verse 24:2–4 of the Quran prescribes, in stating that both the adulteress and the adulterer must be flogged. Thus, the Zamfara judge applied Islamic law in a discriminatory fashion, punishing a woman but making no attempt to also punish her male partner.

A further complication was that if the three accused men had been convicted of rape, they could have been sentenced to death by stoning, the punishment under the form of Sharia law introduced into Zamfara for fornication by married men. Their deaths might well have left their families without support and their wives and children turned out of their homes. Thus, apparently some of Bariya's fellow villagers pressured her to confess to *zina*, to protect the men she had accused.

In the event, Bariya withdrew her accusation of rape, and her conviction for false accusation was therefore overturned. Her conviction for *zina* was not overturned. Although the sentence should not have been carried out until 40 days after she had given birth, she was flogged earlier than that. The flogging also took place despite earlier assurances that the court would wait until she had weaned her baby, and despite the court's knowledge that

Nigerian lawyers were preparing an appeal to a higher Islamic court. Reportedly, despite having been flogged, Bariya was able to walk home to her village, a distance of 15 kilometers. The spokesperson for the Governor of Zamfara state said that no more force had been used on her than would be used to beat a donkey. Witnesses said that although Bariya cried from the pain, they saw no sign of blood on her.¹

Canadians become concerned

A small report in the Toronto (Canada) newspaper, *The Globe and Mail*, on the accusations against Bariya Magazu and the possibility that she might be flogged generated strong public reaction. As a result, *The Globe and Mail* decided to feature the story for the next several weeks, even going so far as to send one of its reporters, Stephanie Nolen, to Nigeria to interview Bariya. As the weeks wore on, Bariya's contention that she had been raped was repeatedly reported as fact in *The Globe and Mail*, reinforcing the image of an innocent girl victimized by men; namely, her father, her rapists, and the male Sharia judge. Nolen reported that 'She became pregnant by one of three middle-aged associates of her father . . .' (Nolen 2000), while another reporter wrote, 'She was impregnated by one of three middle-aged men . . .' (MacKinnon 2000). Canadian members of the public, and of Amnesty International, sent many letters. As Nolen herself noted, even 'Grannies from Moose Jaw [Saskatchewan]' were caught up in this story, and Amnesty International received many letters from individuals who were not the type of people who normally wrote to it.² The congregation of the First United Church of Ladysmith, British Columbia, even offered to sponsor her for immigration to Canada, angering a Nigerian diplomat who argued that his country was perfectly capable of taking care of its own children.

As soon as Bariya was flogged, however, reporting on her case was dropped. There was no follow-up in *The Globe and Mail* as to what had happened to her and her baby, other than a brief report that a man in his 30s had offered to marry her. Nevertheless, this became the first of several cases regarding women's transgressions of supposed 'Islamic' law in Northern Nigeria that attracted Canadian and international attention in the ensuing years. Nigeria joined Afghanistan (both under the Taliban and afterwards), Pakistan, Jordan and several other predominantly Muslim countries as exemplars of the persecution of women, but not men, for violating social and religious norms.

Culture wars

Cultural resentment and humiliation

The early flogging of Bariya Magazu may have been in response to outside interference and pressure to overturn her sentence. Resentment of Canadians' interference may have pushed the authorities of Zamfara to take more precipitate action than they might have taken, had their only criticism come from fellow Muslims or fellow Nigerians.

The constant reporting in Canada of Bariya's sentence as if 'Sharia' or 'Muslim' law is a monolithic, inherently cruel form of law did not contribute to cultural understanding. Ordinary readers of *The Globe and Mail* and other sources were under the impression that Bariya Magazu had no recourse under Muslim law. They were not informed, for example, that under Zamfara's own legal code her sentence could have been reduced to 20 strokes, rather than 100, because she was under 18 (Imam 2001).³ Nor were they aware that

Quranic law had been violated, in so far as there were no witnesses to her alleged act of *zina*, and other rules of evidence had not been followed. As reported in Canada, the case of Bariya Magazu may well have reinforced pre-existent anti-Muslim stereotypes. Muslims, in Canada and in Nigeria, were told by *The Globe and Mail* that their legal system was backward and barbaric ('Barbarity in Nigeria' 2001).

These Canadian misunderstandings of Islamic law may well have contributed to resentment of the West in the Muslim world. As one Muslim Canadian put it, 'Telling Muslims that they should not apply sharia is neither a wise step, nor a productive one' (Khan 2001). A lopsided ideological war between the West and the Islamic world has been going on for some decades. Simplistic notions of these two different 'civilizations' obscure the realities of complex societies on both sides (Esposito 1999). On the Islamic side, protection of the Muslim community seems to require active ideological activity in the face of the onslaught of Western values, consumer products, and media images. To some Muslim religious and political leaders, the West is as barbaric as Islam seems to some Westerners. The West is the symbol of decadence, while Islam is the symbol of righteousness and purity. For such leaders, human rights activity is an attempt to impose the Western culture of decadence on good, believing Muslims. As a spokesperson for the Zamfara authorities said about Bariya Magazu, 'We will not be intimidated by any human-rights group' (Nolen and Campbell 2001: 1).

In the minds of those in the Islamic world who conduct this ideological war, the role of women in the two civilizations exemplifies what is wrong with the West. Since its independence in 1960, Nigeria has undergone civil war, several military dictatorships, and economic chaos. When society seems disrupted, men often look to women as symbols of tradition and social order. Women are supposed to carry and perpetuate their culture, adhering to traditional norms and ways of behavior, even as men urbanize, migrate, adopt Western dress and Western customs. The family, it seems, is a sphere that can be protected from the larger winds of social change, as long as women continue to respect and to transmit a society's ancient rules, values and customs.

Yet Western critics of women's rights in Islamic societies seem to encourage women to discard their familial and social obligations, in favor of an unrestricted hedonism. Thus, explains a Christian bishop from Northern Nigeria, 'Islam is growing very fast. For many Africans, it makes more sense to reject America and Europe's secular values, a culture of selfishness and half-naked women, by embracing Islam' (Bishop Benjamin Kwasi of Jos, quoted in Onishi 2001: A12). The secular values to which the Bishop refers seem intended to undermine traditional customs and laws regulating those most private of areas, sexuality, marriage and the family. To some in the Muslim world, deliberate human rights advocacy is evidence that the West is not willing to stop at political and military imperialism, nor at economic domination, but demands complete conformity by all others to its own decadent, individualistic and self-indulgent moral code. This is a form of psychological and social humiliation, a humiliation which in its turn is sometimes a cause of political violence (Lindner 2001: 46). The question then becomes, should Canadians contribute to this sense of humiliation, possibly increasing the propensity to international violence, or should they keep their opinions to themselves, even if they witness what obviously seems to be a violation of a woman's (or child's) human rights?

Western sexual liberalism

In the eyes of the Muslim Court, the Canadians who tried to persuade the authorities in Zamfara not to flog Bariya Magazu condoned pre-marital sexual relations. Indeed, some

Canadians dismissed as entirely irrelevant the question of how Bariya had become pregnant. To them, it made no difference whether she had been raped (for which, under Muslim law, her rapist should have been punished) or had agreed to have sexual relations (for which, under Muslim law, she and her male partner should have been punished). Instead, they argued that although this might be a moral issue in some Muslims' eyes, it was hardly an issue for the courts. Canada's Acting High Commissioner in Nigeria argued that the matter of consensuality was trivial, in light of the severity of the sentence (Nolen 2000).⁴ Canadians did not agree that Bariya should be punished in any way for being pregnant out of wedlock. In this, they reflected a world view now prevalent in Canada, that issues of sexuality such as adultery, pre-marital sex, even homosexuality, are strictly private matters, of no interest to society as a whole and not of any concern to the courts. Thus it appears that in the eyes of some Zamfara Muslims, Canadians possessed no sense of moral rectitude: they inhabited an 'anything goes' sexual universe in which young girls had sexual relationships without considering any religious or social strictures on their actions.

In fact, Canadians are not devoid of moral codes. As recently as 35 years ago, Canadians punished unwed mothers not physically, but via shunning. Unwed pregnant women were sent to secretive 'homes' to await the births of their babies often under morally punitive conditions, the women caring for the young expectant mothers showing their moral disapproval at every opportunity. The babies were frequently given up for adoption, but were spared knowledge of the circumstances of their own births because of the extreme stigma of illegitimacy. Girls who did not want to give up their babies were often forced to marry the boys who had impregnated them: such girls were held up as a moral caution to the 'good girls' who had evaded pregnancy. Even in the late 20th century, while not wanting to express moral censure of unmarried pregnant women, many adult Canadians were concerned about what appeared to be relatively high rates of pregnancy outside marriage. The Canadians interested in Bariya Magazu's case, then, were in all likelihood not the sexual libertines that some Islamic ideologues take all Westerners to be.

Nevertheless, the Zamfara judge clearly resented Canadian interference in the case of Bariya Magazu. The politics of resentment pervades much of the international discussion of women's rights. While Westerners are frequently thought to be 'Orientalists' (Said 1979) imposing crude stereotypes onto non-Western societies, just as common are 'Occidental' stereotypes of the West. According to Buruma and Margalit (2002: 4, 7), a key aspect of the Occidental stereotype is a cluster of images, 'the City, the Bourgeois, Reason, and Feminism'. The freedom of women is particularly problematic. Echoing the Nigerian bishop quoted above, Buruma and Margalit argue that 'Pictures of partly naked Western women . . . are . . . frustrating, confusing and sometimes enraging. For . . . they promise a sinful, libidinous world of infinite pleasure . . .' The West seems to promote individualism, the breakdown of social mores, and lack of responsibility to the collectivity. In the West, sex and marriage are not the family and collective affair they are elsewhere: they are individual choices. Sex, indeed, appears to be completely outside the realm of social regulation, and completely devoid of reticence or modesty.

Within this rhetoric, then, human rights are frequently taken to be an imposition of Western culture upon 'the Rest'. In reality, though, this is not a Western/non-Western debate, as much as a liberal/communitarian debate (Howard 1995). Liberalism values individualism, human rights, self-assertion and autonomy. These values permeate the sexual as they do other realms. Communitarianism, on the other hand, tends more to collective orientation, duties, consideration of social good, and social regulation. Sexuality, in particular, must be regulated so as to ensure the overall family and collective good. Non-industrial societies, such as still exist in much of the African and Islamic worlds, tend to

have a more communitarian outlook than do industrialized societies. The West, by contrast, is industrial, urban, and secular, and seems to indulge in a shocking libertarianism.

This shocking libertarianism seemed to emanate from those Canadians who expressed concern about the fate of Bariya Magazu. They seemed to be saying that even if she had not been raped, as she had claimed, she had a 'right' to pre-marital sex without punitive sanction. The correct punishment for Bariya was no punishment: a young woman such as she, having had a child, needed support, not shame. Thus, the First United Church of Ladysmith offered to adopt both Bariya and her baby. Far from punishing her, this church seemed to be suggesting that Bariya should in fact be rewarded for her sins by passage to Canada.

Cruel, unusual and degrading punishment

Amnesty International argues that the flogging of Bariya Magazu constituted cruel, unusual and degrading punishment (Amnesty International Canada 2001). This contention is certainly in accord with international law. Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights both state that no one should be subject to torture. Torture is defined in Article 1, 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as 'severe pain or suffering, whether physical or mental, . . . intentionally inflicted on a person for such purposes as . . . punishing him [or her] for an act he [or she] . . . has committed or is suspected of having committed . . . when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official . . .' Nigeria, however, did not ratify the Torture Convention until 28 June 2001, after Bariya Magazu's punishment. And although it acceded to the Convention on Civil and Political Rights on 29 July 1993, as of 21 August 2002, Nigeria had not yet ratified that Convention (United Nations High Commissioner for Human Rights 2002).

The same articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights cited above both also prohibit cruel, inhuman or degrading treatment or punishment, as does the Convention against Torture. In the eyes of many Canadians, the flogging of Bariya Magazu was cruel, was unusual, and was degrading. But in the eyes of the Zamfara Court, the flogging was not cruel or unusual; it was a regulated and normal punishment. There was no intention to be cruel to Bariya: rather, the intention was to impress upon her the enormity of her crime in deviating from Islamic (as the court interpreted it) rules of sexual behavior. The sentence was also meant to act as a deterrent to others in Zamfara who might be contemplating adultery. And the sentence was not unusual: rather, in the judge's eyes, it conformed to known Islamic rules.

Moreover, the punishment was meant to be degrading. Bariya had done something shameful that brought disrepute not only on herself but on her family. In many societies, persons bringing disrepute on their families are deemed to deserve to be degraded; literally, brought down a peg or two, shown to be unworthy of respect in the eyes of their families and their communities. While none of the Canadian reports mentioned Bariya's ethnic affiliation, she may be a Hausa, as are the majority of the people in Northern Nigeria. The idea of shame, or *kunya*, is a central aspect of Hausa culture and a central concept controlling women's behavior (Dauda 1992: 34). As the Canadian branch of Amnesty International noted, 'The Deputy Governor [of Zamfara State] said that the main purpose of the punishment had been to inflict public disgrace rather than physical pain . . .'

(Amnesty International 2001). This is the type of disgrace that in Western societies several centuries ago might have been inflicted on moral deviants by displaying them in stocks in the market square (Laslett 1965: 137–138). Such deviant women underwent a public process of status dishonor: their respected status as daughters, wives or mothers was removed from them because they had acted dishonorably by violating the society's moral code (on status honor, see Weber 1946: 186–188).

Degradation ceremonies are a normal function of almost all societies (Garfinkel 1967). The purpose is to publicly denounce the individual who has transgressed social mores, in so doing reinforcing solidarity among all those others who have not transgressed (or whose transgression has not yet been exposed). Shaming, then, is a social good. It keeps the society together: by showing shame, an individual transgressor agrees that society's moral standards must be preserved. Shame is very important to social control, and to the sense that society and community are more than the aggregate of individual desires. 'Acknowledged shame . . . could be the glue that holds relationships and societies together, and unacknowledged shame the force that tears them apart' (Scheff 2000: 98).

Modern Westerners do not approve of such public shaming. Stigmatization and shaming ceremonies have been renounced in the West in favor of universal self-esteem and respect. North American culture in the late 20th century came up with the radical idea that individuals deserve respect merely by existing: the inner person, the soul, always deserves consideration by others, regardless of what the outer person has done. This is an unusual and modern idea: as the epigraph to this article shows, it was Judeo-Christian culture that originated the idea that adulteresses should be stoned. An American author, Nathaniel Hawthorne, wrote *The Scarlet Letter*, a novel in which the heroine, Hester Prynne, is obliged to wear a large scarlet 'A' to publicly announce her adultery. Moreover, even though North Americans now disapprove of ritualized public shaming, the fear of shame still influences private behavior. Most North American families go to considerable lengths to hide members' disgraceful or deviant behavior from outsiders, indeed even from themselves. Social degradation is still a form of social control in North America, even if the principle of degradation is rejected as contrary to the respect that individuals are supposed to enjoy.

The flogging of Bariya Magazu was meant to shame her. Even if the flogging did not physically affect her, the humiliation she endured was meant to be a lesson to all others to accept the moral code. The lack of analogous public shaming in North America is evidence for many people in other parts of the world that it is a decadent society (e.g. Lee Kwan Yew in Zakaria 1994). To them, North Americans seem to be without pride, rectitude, or sexual modesty. Individuals seem to do what they want, when they want, without regard to consequences or the honor of their families.

Childhood and children's rights

One of the Canadian arguments against flogging Bariya Magazu was that she was legally a child. At most, she was 17 years old: possibly, she was even younger. Thus to punish her by flogging (assuming flogging might be acceptable for an adult) seemed a violation of the 1989 Convention on the Rights of the Child. This Convention, in Article 1, defines children as all persons under the age of 18. It further prescribes in Article 19, (1) that children shall be protected from all forms of physical violence, injury or abuse. In 2000, 18 was the legal age of majority in Nigeria (Constitution 1999, Article 29, 4, a). UNICEF condemned Bariya's sentence on the grounds that she was still a child, noting especially the obligation under the Convention on the Rights of the Child to protect 'the dignity of the child'

(UNICEF 2001). To both Canadians and Nigerians who believe in the value of international law, such an argument is very persuasive. Nigeria ratified the Convention on the Rights of the Child on 19 April 1991 (United Nations High Commissioner for Human Rights 2002). There is, furthermore, an African Charter on the Rights of the Child, which defines children as human beings under 18 years of age and which, like the other international documents mentioned above, prohibits 'torture, inhuman or degrading treatment or punishment' of imprisoned or detained children (African Charter 1999, Articles 2 and 17, 2, a). However, as of 19 February 2001, after Bariya Magazu's punishment, Nigeria had not ratified this African Charter (Center for Human Rights 2001).

Among some Nigerians of Bariya's own culture, the idea that she was a child at the time she became pregnant might have seemed an oxymoron. A child cannot become pregnant: only an adult woman can. The judge in Bariya's case reasoned that since she had started menstruating, she was 'a full and responsible adult' (Afrol.com News 2001a).⁵ In many Northern Nigerian societies, the traditional view was that if a girl was physically able to become pregnant, then she was by definition an adult, marriageable, and subject to all the social constraints on her sexuality prescribed by members of her community (Salomone 1983). In traditional Hausa society, parents arranged girls' marriages at 13 or 14 (Smith 1965: 144). Adulthood was simultaneous with physical maturation, as it was in European society before the age of industrialization. Indeed, the Nigerian Constitution still reflects this cultural norm, noting in its Article 29, 4, (b) that 'any woman who is married shall be deemed to be of full age', regardless of whether she has reached 18 years. Thus, in her judge's eyes, Bariya Magazu was no child, whatever the view of the Canadians who tried to intervene on her behalf. She was an adult who violated her society's strictures on sexuality of her own free will.

The form of Sharia introduced into Zamfara, combined with traditional ideas connecting adulthood with physical maturation, resulted in a hardened view of gender roles. Physically mature females were expected to marry; but according to Sharia, physically mature females were also expected to curb their own sexuality until they married. That Bariya did neither, according to the Zamfara court, showed that she was a deviant adult, flouting both custom and religion. It certainly did not show that she was a child in need of special protection. She redeemed herself only by submitting to the punishment prescribed by the Sharia court, thanking Allah for her punishment and agreeing that she deserved it, and then, apparently, fulfilling her role in traditional society by marrying an older man.

Had Bariya Magazu been spared punishment because of international human rights pressure, she could have become a symbol for the Islamic/African confrontation with the West. In submitting to punishment, as she appears to have done, she instead became a symbol of (some) Northern Nigerians' wishes to stick to their traditional ways. In submitting to the degradation of flogging, she reassured her own people of some likelihood of continuity in their lives.

But things are not so simple. The type of Sharia law introduced into Zamfara is not 'traditional': it is a consequence in part of recent Islamic proselytization. 'Tradition' in Nigeria is thus in part manufactured, as it has been so many times elsewhere. Moreover, this particular interpretation of Sharia law was not introduced by democratic vote, and it may well not have reflected the views of the vast majority of Zamfara's citizens, even its Muslim citizens. Only some Nigerian Muslims agree that girls should be married at 14; others think it best to wait until a girl child is older, regardless of her physical maturation. Indeed Imam (1994: 133) claims that it is only Islamic fundamentalists, not all Nigerian Muslims, who 'defend the right of men to marry barely pubertal girls'. Whatever the traditional customs of Northern Nigeria, its inhabitants are not immune to new thinking, or to new ideas of normative social behavior. Likewise, to be Muslim is not necessarily to

adhere to the most literal interpretation of the Quran, any more than modern Jews or Christians still believe that unmarried girls found not to be virgins should be stoned to death. Those Nigerians who disapproved of the flogging of Bariya Magazu, and who urged that their country respect both its own Constitution and international law, might have been grateful for the interventions of culturally 'insensitive' Canadians.

Religion and secularism in Nigeria

States' rights

The case of Bariya Magazu had other implications of which the benign Canadians who tried to assist her may have been unaware. The controversy over her punishment not only reflected differences in cultural norms between the West and Nigeria. It also had the potential to spill over into domestic Nigerian politics. The conflict between universal human rights values and Zamfara's form of Sharia law is also a conflict between federal and state powers in Nigeria.

Since independence, Nigeria has been riven by a major split between Southerners and Northerners. Southerners are more likely than Northerners to be Christian, though there are many Muslims and practitioners of traditional African religions in the South. The North is more uniformly Muslim; moreover, for centuries there have been powerful Muslim emirates in the North. The Muslim elites of the North do not take kindly to being ruled by the South; and there is marked hostility to Southerners in the North. The event that immediately precipitated the 1967 attempt by Biafra (South-Eastern Nigeria) to secede from the federal state was a genocidal massacre in the North a year earlier of somewhere between 9,000 and 30,000 Southern ethnic Igbos (Harff 1992: 33). All the Presidents of Nigeria after the end of the Biafran war in 1970, whether civilian or military, had to take into account regional North–South relations, as well as Muslim–Christian relations. Nevertheless, the North was stronger and more organized than the South. From 1983 until 1999 Nigerians lived under the successive rule of three Muslim military dictators from the North, Generals Buhari, Babangida, and Abacha, each more corrupt than his predecessor.

Thus, there is a permanent threat of civil war should the imbalance of power between North and South be disturbed. The North's dominance over the South was rendered problematic by the free election in 1999 of President Olusegun Obasanjo, a Southern Yoruba and Christian. When President Obasanjo was approached by Canadian diplomats and asked to intervene in Bariya's case, he refused. His reason was that Nigeria had a Constitution which allocated powers to States, just as the American Constitution allocates powers to American States and the Canadian Constitution allocates powers to Provinces. The Nigerian Constitution permits States to make laws (Article 4, 7) and establish courts (Article 6, 2). From June 2000 to January 2001 eight states in Nigeria chose to follow Sharia law (Afrol.comNews 2001a). Thus, said Obasanjo, had he chosen to override the Sharia court, he would have been acting as a dictator.

Perhaps, however, Obasanjo could have referred to the higher power of international law in order to overrule Sharia in Zamfara State. In a federal system, though, this is difficult to do. Even in Canada, a well-established liberal democracy, the federal government cannot automatically impose adherence to international human rights law on a recalcitrant province. Moreover, as noted above, Nigeria had not ratified some of the key relevant international documents at the time of Bariya Magazu's trial. More importantly, interference by Obasanjo might well have caused another round of religious rioting between Muslims and Christians.

Christian and Muslim proselytization

Such religious rioting has been a frightening feature of political life in Northern Nigeria for at least 20 years. Conflicts between Muslims and Christians in what had hitherto been a religiously tolerant society began in the early 1980s (Lubeck 1985, Kastfelt 1989). These conflicts resumed after the democratic elections in Nigeria in February 1999. In February 2000 about 1,000 Southern, Christian Igbos were killed in the North by Muslims, sparking retaliatory killings by Igbos in the South; in May and June 2000 there were further clashes between Muslims and Christians in the northern cities of Kaduna and Kano (Ifeka 2000: 451–452; for a list of such clashes from 1980 to 1995, see Kenny 1996: 358–360). These conflicts are a result in part of the historic ethnic and regional splits in Nigeria, a federation created by British *fiat* at the time of decolonization. They are also, however, a consequence of the tendency of individuals to turn to religious certainties in times of rapid social change and disorder.

As Barrington Moore, Jr. (2000: 33) has argued, ‘Under situations of unfamiliar social disorder and emotional and intellectual disarray, there is liable to be a substantial audience for dogmatic certainty and strict social discipline’. Both Islam and Christianity provide blueprints for such certainty and discipline. The new, strict strain of Islam currently sweeping Northern Nigeria seems to promise as well an end to the political corruption that has plagued Nigeria for decades. Popular faith turns to religious leaders, as opposed to discredited political leaders. The Islamic movement gives meaning to societies undergoing severe and extreme social change, and especially provides comfort for those millions of young men without any hope of gainful employment or a respected role in society (the estimated rate of unemployment in Nigeria in 1997 was 30%; US Department of State 1997). Islamization, a system which attempts to regulate politics, economics, education and law as well as religion, is an attractive counterweight to the disorder brought on by a history of colonialism and the present weak integration of Nigeria and other parts of the Islamic world into the global system (Turner 1991).

In this, Islam plays a role similar to fundamentalist Christianity in the West, or indeed to Nazism in Germany in the 1920s. It is not Islam that is at issue, but the social functions of intolerant and dogmatic ideologies in societies undergoing severe stress. That this is so in Northern Nigeria can be seen by the competing spread of Christian evangelism, which also attracted many hundreds of thousands of converts in the 1990s. Christian evangelism also ‘account[s] for a great deal of the religious intolerance exhibited [in Nigeria] in recent times’ (Hackett 1999: 246). In times of stress, many individuals also join groups for protection. Submerging themselves in a group, they are sure other members will support them in cases of conflict (Freeman 2000: 40–43). Thus, economic and social insecurity encourages religious and ethnic identification, and hostility to those belonging to other groups. Both Christians and Muslims in Northern Nigeria benefit from joining and being loyal to their respective groups, yet both lose because their fear of the other group increases their sense of unease and threat.

The Islamist movement is not entirely a response to social stress, however. Elites in Northern Nigeria manipulate popular reactions to social and economic stress in their own interests. Many of those promoting Islamization, both in Nigeria and in general in the Muslim world, are very highly educated (Clarke 1982: 2155, Esposito 1999: 221). Some of these educated individuals may genuinely believe that Islam is the best alternative to failed democratization and development, as Imam (1994, 132) suggests: ‘[T]he evident failure of development and modernization promises and of “democratic” party politics have given

rise to increasing pessimism and cynicism and a recourse to religion'. Others manipulate Islam to maintain in power the Muslim Hausa elite (Ifeka 2000). Nor is the Islamist movement entirely indigenous. Some extremist sects in Northern Nigeria appear to have been patronized and financed by Saudi Arabians. Others appear to have been patronized and financed by Iran; this more radical stream believes there should be a *jihad* in Nigeria until the entire country is Islamic (Abdullah 2000: 104).⁶ These influences help explain the sudden imposition of Sharia law on entire populations, whether Muslim or not, by several Northern states after the adoption of the formally secular 1999 national Constitution.

Secularism

A Court relying on a relaxed, tolerant, syncretically Africanized Islam might not have sought to flog Bariya Magazu. Such a syncretic type of Islam, adapted to indigenous African cultures, existed in much of Northern Nigeria before the British conquest. The British, however, decided to support the power of Muslim Hausa emirs, through whom they could indirectly rule the North. The 19th century Hausa had been engaged in a *jihad* to convert all the non-Hausa ethnic groups to Islam, thus simultaneously incorporating them into Hausa culture and strengthening their loyalty to Hausa rulers. British interest in Northern stability encouraged this process of simultaneous Islamization and Hausa-ization (Salamone 1983).

Thus the current religio-political conflict in Nigeria – spilling over into the worldwide politics of resentment – is in part a result of British colonial policies. Ironically, however, Islamic activists connect the British not with support for their Muslim Hausa rule, but with the secularism that they believe attacks the very foundations of Sharia law. Nigeria's Constitution specifies in its Article 10 that the country is a secular state. 'The Government of the Federation or of a State shall not adopt any religion as State Religion'. Sharia has long been recognized in Nigeria as the appropriate personal law (regulating matters to do with marriage and family) for Muslims, but it had never before 2000 also been criminal law, nor before 2000 had either the federal or state governments ever imposed it on non-Muslims.

To many Islamic activists, the secular basis of the Nigerian state is yet more evidence of cultural imperialism. Secularism, to them, is a 'Christian' belief. The Constitution represents imposed British law, hence Christian law, hence secularism (Imam 1994: 133). Alternately, some Muslim activists who understand that British law is based on Roman law see it as imposed paganism (Kenny 1996: 347). Rather than a secular state, then, some Muslims advocate a 'pluralistic confessional state' (Kenny 1996: 348). They object to the imposition of a secular legal system 'on a people who are by no means secular' (Smith 1988: 327), arguing instead that for Muslims, religious freedom is the freedom *not* to separate mosque from state (Birai 1993: 191).

To Canadians, such objections to secularism might seem very strange. Although in 1991 84% of Canadians identified themselves as Christians, most Canadians were familiar with the idea of a secular state and believed that no religious laws should be imposed by the state to regulate adult consensual sexual behavior. That their belief in this basic principle of liberal democratic rule might be interpreted as Christian imperialism would strike many of the Canadians who wrote to defend Bariya Magazu as odd. They might well defend the universal, secular law of human rights against charges both of Western, and of Christian-secularist, imperialism.

Who should act?

Was Bariya Magazu's punishment the proper business of well-meaning Canadians whose hearts were touched by her story? This question introduces the final parable of Bariya's sad tale, the need to consider who ought to act to overturn the punishments undergone by women who transgress the norms of Muslim societies in Nigeria.

Nigerian feminism

The days are long gone when Western feminists sought to preach their message of liberation to women from other societies, without seeking to ascertain those women's own opinions, desires and needs. Nowadays, sophisticated international feminists seek to be culturally sensitive, and to listen to and learn from feminists from other parts of the world (e.g. Bulbeck 1998). This task is made easier by the entry into the international community of large numbers of highly articulate, educated women from the Islamic world and from Africa itself.

In Nigeria there are both secular and Muslim women's groups. FOMWAN, the Federation of Muslim Women's Associations in Nigeria, was formed in 1985. Its goal, according to Abdullah (2000: 108), is to 'liberat[e] Muslims within the parameters of Muslim law', taking the position that it is culture and tradition, not the precepts of Islam, that subordinate women (Abdullah 2000: 111). Educated Hausa Muslim women were also involved in establishing the more radical WIN (Women in Nigeria) (Dauda 1992: 89; see also Imam 1994: 134–137). WIN originally based its platform on the Universal Declaration of Human Rights (Shettima 1995: 65). It has urged that women be taught about the rights they enjoy in their own religions. It has also sought the rationalization of legal systems in Nigeria, so that laws that discriminate against women – religious or otherwise – are eliminated, and so that laws that violate the federal Constitution are invalidated (Shettima 1995: 68).

That these women's associations exist in Nigeria might suggest that there is no need for foreigners to interest themselves in local Nigerian violations of women's international human rights. A Canadian feminist concerned about Bariya Magazu might well defer to Nigerian feminists, on the assumption that the closer the Nigerian critics of Bariya's punishment were to the cultural norms of Nigerian Islamic society, and the more they could show respect for their elders, for traditional authorities, and for Sharia judges, the better. Indeed, this is one of the aspects of the case of Bariya Magazu. A Nigerian women's group, BAOBAB,⁷ did try to intervene. BAOBAB tried to argue that the flogging to which Bariya had been sentenced violated Islamic law. What Islam mandates is not uniformly agreed on throughout the Muslim world; there are more and less liberal strains of Islam. According to BAOBAB, in so far as Bariya was convicted upon insufficient evidence, there not being four witnesses to the actual act of fornication (*zina*), she should not have been found guilty.

To rely on one's own culture, religion and law in the first instance in making the case for human rights seems a more sensible strategy than referring to more abstract international principles. As An-Na'im (2000) suggests, it is better to stress the synergy and interdependence between human rights and religion than to assume they are separate, incompatible aspects of human thought (a point also made by Hassan 1996: 365–366). Even when ratified by one's own government, human rights principles may seem very remote from those who are subjected to them. Canada itself has a culture of protection of women's human rights which is, at most, 30 years old. Prior to 1970, laws protecting women's human

rights were rare, while discrimination against women both in the public and the private spheres was the norm. Many Canadians forget how recently the principle of equality of men and women was introduced into their own society, as they also forget how recent is the toleration of sexual activities outside marriage. Had Canadians, in 1960 or even 1970, been subjected to an international regime of women's rights that violated their own legal, religious and cultural predispositions, they might well have been resentful of that regime. This is the position in which many Nigerians now find themselves. It might, therefore, be considered best for Nigerians to take up causes such as Bariya Magazu's, leaving outsiders only in a supporting role.

On the other hand, there are times when religions do clash with principles of international human rights, regardless of how liberally their texts may be interpreted. Most Canadians would be very unhappy were their human rights to depend on the proper interpretation of Christian, Jewish, Muslim or other religious texts. The principle of secularism removes them from the rule of priests. Moghissi (1996: 8, emphasis in original) notes '[to privilege] voices of religion is to have lower *moral expectations* [for] the "simpler societies" . . . [G]iving up on the necessity of universally recognized standards of social and political life would be disastrous to the most oppressed, most brutalized and marginalized individuals, that is women living under Islamic rules'. Foreigners' interests in cases such as that of Bariya Magazu may assist those in Muslim societies who wish to entirely reject religious strictures on women's and human rights.

The international feminist movement

Thus, reliance on indigenous feminism does not mean that the international feminist and human rights movements had no role to play in the case of Bariya Magazu. Since the early 1980s indigenous African feminism has interacted with the international feminist movement. Indeed, feminism has been part of the 'leapfrogging' of international human rights norms both chronologically and geographically, so that even the remotest parts of the world are now touched by the idea that women, like men, are human beings and should have rights (Howard-Hassmann 2003). The 1993 United Nations' Declaration on the Elimination of Violence Against Women (United Nations 1993) is an example of the emerging 'thick' universal cultural consensus on women's rights. This consensus is based in evolving cultural norms, affected by the efforts and ideas of indigenous feminists everywhere. It is no longer dependent merely on the 'thin' universality of international human rights law. The Declaration was a consequence of pressure from the international feminist movement, a movement that was made possible by the fact the term 'violence against women' resonated strongly with women from all parts of the globe (Keck and Sikkink 1998: 165–198).

African women and men can think independently about gender roles in their own societies. They are not so embroiled either in their own cultures or in their own religions as to be unquestioning of them. Just as many Western women and men have long objected to aspects of their cultures that subordinate women, so also do Africans. The mistreatment of women – in forced childhood marriages, in polygynous marriages, in violent domestic arrangements – motivates many African human rights activists, men as well as women.⁸

The international feminist movement suggests that one's gender status may be more important than one's ethno-religious status, that the sisterhood of women may override the brotherhood of common religious membership. This notion is hotly debated, and much reference is still made to the alleged whiteness of the feminist movement, despite 35 years of its evolution. But whatever its origins, international feminism, like the international

human rights movement, provides support as well as example to indigenous feminist activities, in Nigeria as elsewhere.

The Canadian government

Responding to Canadian citizens' concerns about Bariya Magazu, the Canadian Department of Foreign Affairs and International Trade (DFAIT) eventually took up her case. On 29 December 2000 a spokesperson for the Department reported that the Canadian High Commission had delivered a rebuke to the Nigerian government. The rebuke noted that 'cruel and unusual punishments involving mutilation and excessive pain violate international standards of human[e] treatment' (MacKinnon 2000). On 10 January 2001 John Manley, then Minister of Foreign Affairs, spoke up during an informal media 'scrum'. '[T]he Nigerian case is . . . an appalling case', he said, 'and I think Canadians are quite disturbed by it . . . We've made a number of interventions . . . with the Nigerian government. . . . We've been asking Nigeria to respect their own commitments to the Universal Declaration of Human Rights . . .' (CNW Scrum 2001). For a Minister of Foreign Affairs to address himself to an individual legal case in another country is very unusual: Manley's intervention reflected the depth of Canadian interest in Bariya Magazu.

Individual Canadian citizens attempting to influence human rights issues elsewhere sometimes bear the psychological burden of (neo)colonialism. This is so even though Canada never had colonies of its own. From the point of view of some Africans, all whites (the vast majority of Canadians are white) are 'Europeans' and, as such, among those who benefited from colonialism in Africa. Europeans' wealth is evident in everyday transactions between them and Africans on that continent, as well as in media representations of North American life. From this point of view, Canada compounds the history of exploitation of Africa by saying, in effect, 'Now that we have colonized and exploited you, we want you to be just like us in a social and moral sense. Unless you adopt our values and ways of life, you are morally inferior people'. Indeed, this is implicit in some of DFAIT's statements. In 1995, DFAIT stated quite openly that one of its aims was 'to share our [Canadian] values and culture' (Canada 1995: 1).

When Canadian officials speak about international human rights, they frequently refer to 'our' (Canadian) values. This is an unfortunate practice, resembling the constant American preaching about the United States' role as a beacon of freedom, which many in the rest of the world find offensive. Rather than refer to 'Canadian' values, it would be advisable to refer to the universal nature of human rights, including women's rights, as John Manley did in his off-the-cuff remarks. Since Nigeria has signed and ratified both the Convention on the Elimination of All Forms of Discrimination against Women (on 13 June 1985) and the Convention on the Rights of the Child, Canada can remind Nigeria of its obligations under international law without implying that Canada is a better, or more advanced, civilization.

A final word: the legitimacy of the international human rights movement

The case of Bariya Magazu recalls the case in India of Shah Bano, a Muslim woman divorced by her husband, who under Islamic law as interpreted in India owed her no support after the divorce. Indian feminists rallied around Shah Bano and pressed for the uniform Indian Civil Code to be applied to her, so that she could have financial support.

They won the battle but lost the war. Many Indian Muslims interpreted the secular women's movement to be a movement of chauvinist Hindu women, determined to impose Hindu, not secular, law on their community. Shah Bano herself was sufficiently persuaded by this argument that she eventually renounced the support the courts had awarded her (Kumar 1994: 275–283, Menon 2000).

Similarly, had it resulted in President Obasanjo's agreement to overturn the Bariya Magazu decision, Canadian interest might well have provoked increased Christian–Muslim tensions in Nigeria. In so doing it might have resulted in further destabilization of the already fragile Nigerian Federation, just as the Shah Bano case intensified communal politics in India. By making the case into an international issue, *The Globe and Mail*, its readers, and eventually the Canadian government obliged President Obasanjo to take a stand. Had he taken any course of action other than the one he did, women's rights might have been even worse served, as the strict new Islam of the North entrenched itself even further, or as local intercommunal violence worsened.

This is the hard reality of human rights in the age of the politics of resentment. 'New' values such as women's rights are seen as incursions of foreign values. Although motivated only by compassion for the victims of human rights abuses, foreigners who try to protect those rights are seen as cultural imperialists, introducing decadent values and undermining local moral codes. In so far as women are the last-ditch 'carriers' of culture – those who can respect, or be obliged to respect, religious and cultural norms when the society itself is collapsing – foreigners who preach new rights for women are seen as wanting deliberately to undermine local societies. What Canadians saw as benign, universalistic acts to protect Bariya Magazu were interpreted as a conspiracy against the culture and laws of the state of Zamfara.

On the other hand, Canadian interest and 'interference' perhaps mitigated Bariya Magazu's plight. Above, I suggested that Bariya might have been flogged so much earlier than announced because of resentment of international, non-Muslim interest. But other instances of floggings, and one amputation, in Zamfara State (Amnesty International Canada 2001) suggest that the extreme punishment Bariya suffered might have been imposed whatever the circumstances. In fact, it might be that the 80 lashes for false reporting of a rape were revoked precisely because of outside pressures.

Moreover, subsequent cases of imposition of strict Islamic law in Northern Nigeria have received much press attention, and Nigerian feminists and lawyers have moved quickly to protect women's rights under both Islamic and secular law. In 2002, for example, on the grounds of insufficient evidence under Islamic law, Safiya Hussein of Sokoto State was acquitted of the charge of adultery on the very day she was sentenced to be stoned to death (McKenzie 2002). Hussein's case had attracted the attention of the *New York Times*, which featured her photo and an article about her in its *Sunday Magazine* section, demonstrating the power of both the North American and international feminist movement to bring to the world's attention matters that a scant 20 years earlier would have gone unnoticed (Dowden 2002). Nigeria's Attorney-General, Kanu Agabi, intervened in the Hussein case, bringing to the attention of the Sokoto authorities the hundreds of letters of protest he was receiving daily (Nolen 2002). The case also attracted outrage elsewhere in Africa, with a Ugandan newspaper, *New Vision*, calling for mercy for Safiya Hussein (Tajudeen 2001).

None of the above analysis means, therefore, that Canadians or other Westerners, or indeed liberal, secular, or non-Muslim Africans interested in human rights, should stop doing what they are doing. Owens Wiwa, brother of the hanged Nigerian playwright Ken Saro-Wiwa and a resident of Toronto, gave it as his view that Canadian diplomatic intervention would assist indigenous human rights groups: 'it will surely start the process of getting human-rights groups in Nigeria and internationally to pay more attention to what's

happening', he was quoted as saying (MacKinnon 2001: 1). Social values do change, in Northern Nigeria as anywhere else. Values change in part because individuals encounter ideas. Whether literate or not, whether living in freedom or living in fear, individuals have the capacity to think. And individuals who suffer take heart from knowing that others care about them, even others far away whom they have never met.

Bariya Magazu herself may not have been able to express her pain and humiliation at being flogged, or may have been sufficiently intimidated not to express it. Or, she may have accepted the punishment as in some manner just, despite her early protestations that she had been raped. But perhaps she did draw heart from knowing that some people in faraway Canada worried about her, so much so that representatives of their government spoke to representatives of her government. At the time of submission of this article in September 2002, yet another Nigerian woman, this time in Katsina State, had been sentenced to death by stoning as punishment for adultery. But this time, the federal government intervened to assist Amina Lawal, Kanu Agabi stating unequivocally the government's opposition to the sentence. It seemed likely that the case would go to the Supreme Court of Nigeria (BBC News 2002, 'Nigerian leaders' 2002). International pressure on the Nigerian government, in support of Nigerian women and Nigerian women's groups, helped to oblige the federal government to act, regardless of the risk of offending patriarchal state governments using Islam in their own interests.

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Notes

1. Details of the Bariya Magazu case are taken from the sources cited above, and from Amnesty International Canada (2001), *afrol.com.News* (2001b), and Nolen (2001).
2. Nolen's remark read to the Human Rights Day Forum, University of Toronto Law School, 16 March 2001.
3. Nevertheless, they might have reacted that 20 strokes was 20 strokes too many.
4. Within the British Commonwealth, representatives of one State to another are known as High Commissioners rather than as Ambassadors.
5. Ann Elizabeth Mayer, the noted expert on human rights in Islam, confirms that under Islamic law, men and women become adults with full criminal responsibility at puberty. Personal communication, 6 September 2002.
6. Several authors (Smith 1988, Birai 1993, Iman 1994, Abdullah 2000) refer to Saudi and Iranian financing of Islamic movements in Northern Nigeria, though none cites concrete evidence, documentary or otherwise.
7. BAOBAB is not an acronym. The organization is named after the baobab tree, which is characterized by tenacity and is a source of nourishment, medication and shelter (Landsberg 2001, p. A2).
8. I base this statement in part on interviews I conducted with 16 African human rights activists in June 2002.

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