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COMPARATIVE STUDY OF THE ISLAMISATION PROCESS IN MALAYSIA AND NIGERIA: A SOCIAL MOVEMENT THEORY APPROACH

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ABSTRACT

This exploratory, diachronic study compares the politics of Islamisation, which have undergone different patterns of development in both Nigeria and Malaysia. Islamisation is defined as an ideological translation of Islamism into policies to "Islamise" the state and society by expanding the scope of the application of Islamic laws and principles. Islamisation in Malaysia has been implemented steadily and progressively since the 1980s. It involves the "inculcation of Islamic values" in a wide range of aspects of society, including the economy. The Islamic penal code or hudud enactments were legislated in two states, but held in abeyance due to their unconstitutionality. In contrast, Nigeria observed the sudden and erratic implementation of hudud in 12 northern states in 1999, along with other bureaucratic adjustments. Adopting an interpretative case study approach of the comparative method of Arend Lijphart, we explain the two contrastive

case studies of the ideological translation of Islamism by analysing the manner in which various political opportunities and structural constraints in the respective cases have shaped the Islamisation process. Data gathering was based on an extensive review of the related body of literature. Analysis was conducted using a social movement theoretical framework based on a structured, focused comparison. The dynamic conceptualisation of the state as a set of institutions, which is continually and dialectically reshaped by contentious processes, captures how the bureaucratisation and judicialisation of Islam have modified the nature of state structures and the structure of political opportunities, which in turn allows for additional channels of influence for Islamic activists.

Keywords: Hudud, Islamisation, Political Islam, Sharia politics.

INTRODUCTION

Malaysia and Nigeria are both federal states based on constitutional supremacy and political secularism. The Federal Republic of Nigeria gained its independence in 1960. The Federation of Malaysia was formed in 1963 with four territorial entities, namely peninsular Malaya (independent since 1957), Singapore (which exited Malaysia in 1965), and the Bornean states of Sarawak and Sabah (then named North Borneo). Both countries are multi-ethnic and multi-religious, with a sizeable Muslim population. The 2010 census in Malaysia reported that 61.3 percent of the population in the country profess the Islamic faith. Other religions embraced by the population, in descending order, are Buddhism (19.8%), Christianity (9.2%), Hinduism (6.3%), and traditional Chinese religions (1.3%). Conversely, in Nigeria, it was estimated that 49.3 percent of the 203.5 million population, mostly residing in the south and the Middle Belt, are Christians. Nearly half (48.8%) of Nigerians are Muslims who reside predominantly in the north, and constitute about a quarter of the population in the southwest (United States Commission on International Religious Freedom, 2016).

In both Malaysia and Nigeria, religion is often associated with ethnicity. In Malaysia, the Malays (55.14%) are constitutionally defined as Muslims, while the Chinese (23.66%) and Indians (7.17%) are predominantly Buddhists and Hindus, respectively. Another 13.08

percent consist of the indigenous peoples in Sabah and Sarawak, who embrace Christianity (46.5%), Islam (40.4%) and other traditional religions. In Nigeria, the Hausa, Fulani, and Kanuri - concentrated in the north-western and north-eastern states - are generally Muslims. The Yoruba people reside primarily in the north-central and south-western states, including Lagos, with an equal number of Christians and Muslims. The Igbo people, found primarily in the south-eastern and southern states, are predominantly Christians. Given the territorially clustered ethnic and religious distribution, the respective federal political structures have provided some needed buffer and space to manage the tension arising from ethnic and religious polarisation (Othman et al., 2021).

In both countries, ethnicity and religious politics are inseparable. In Malaysia, Malay political dominance (with its power base located in peninsular Malaysia), although contentious, is grudgingly acknowledged by non-Malays due to the former's dominance in key state institutions and politics. In Nigeria, on the other hand, the perceived attempts of the northerner Muslims to dominate have been resisted rigorously and contested openly by non-Muslims, and vice versa. Some military coups and the Biafra civil war were perceived as caused by ethno-religiously based resentment and discrimination (Onapajo, 2012).

Both countries have a mixed legal system with an English common law system as the mainstay, alongside personal laws administered under Muslim laws, as well as native customary laws. Islamic legal systems in both countries are under the prerogative of the states, and are generally confined to Muslim family and personal laws since independence. The last few decades witnessed a growing influence of political Islam in both countries, resulting in the significant expansion of the scope of the application of Islamic law and bureaucracy. Islamists strive for what they believe to be an Islamic political order as an alternative to the dominant political system, and the entrenchment of what they understand as the "proper Islamic society", or "social Islam" (Mandaville, 2014). Unsurprisingly, such a political project is highly controversial in multi-religious societies. Efforts by political leaders to enhance Islamic legislation in multi-religious and "secular" states of Nigeria and Malaysia to legitimise their political positions have rendered legal institutions a site of political contention and struggle over religion (Ting, 2022; Moustafa, 2018).

This study compares the politics of Islamisation, which has undergone various patterns of development between the two countries, and constructs an analytical framework to empirically explain this divergence using concepts derived from social movement theories (McAdam et al., 1996; Wiktorowicz, 2004). Islamisation is defined herein as an ideological translation of Islamism into policies to "Islamise" the state and society; though we pay specific attention to the Islamisation of the bureaucratic institutions and the expanded application of Islamic law. The Islamisation process in Malaysia has been implemented steadily and progressively since the 1980s, in contrast with its erratic nature in Nigeria, which observed the sudden implementation of the Islamic penal code ("hudud") – the ideological crown jewels for Islamists who believe in the full implementation of Sharia – in 12 northern states in 1999. In Malaysia, on the other hand, hudud enactments have been legislated in two states, but held in abeyance due to their unconstitutionality. Notwithstanding these differences, the bureaucratisation and judicialisation of Islam have modified the nature of certain segments of the state structures in the respective countries.

RESEARCH METHODOLOGY

This exploratory, diachronic political study aims to investigate the interaction of the historical and structural factors, with the attempts of local actors of political Islam to advance the policies and processes of Islamisation in Malaysia and Nigeria. Data collection was based on an extensive review of the academic literature. Data analysis was performed using a social movement theoretical framework (McAdam et al., 1996; Wiktorowicz, 2004) to ensure a structured, focused comparison (George & Bennett, 2004). Political manifestations of Islam are "to a great extent context specific, the result of the interpretation of religious precepts and local culture, including political culture" (Ayoob, 2004, p. 2). In addition, the articulation and realisation of Islamism, as any other abstract political principles and ideologies, are inevitably shaped by localised historical, political and structural processes. Adopting an interpretative case study approach of the comparative method (Lijphart, 1971), we attempt to explain the two contrastive case studies of the ideological translation of Islamism by analysing how different political opportunities and structural constraints in the respective cases have shaped the Islamisation

processes. Theoretical and conceptual tools were assembled from the established field of the social movement study (McAdam et al., 1996; Wiktorowicz, 2004) to provide an analytical focus and organise the data from both cases.

Researchers have increasingly applied social movement theories to investigate the phenomenon of Islamist activism (Wickham, 2002; Wiktorowicz, 2004). Divergent academic attempts to explain the emergence of social movement phenomena may be synthesised into the following three broad, complementary approaches: (1) resource and mobilising structures; (2) culture and framing processes; and (3) political opportunities and constraints (McAdam et al., 1996; Wiktorowicz, 2004). The first approach considers the collective actions of social movement as outcomes of sustained, rational organisation by its leaders, and examines how strategic mechanisms were deployed to gather resources and followers in pursuit of their collective aims. In the second instance, attention was focused on how a movement's ideological messaging or interpretive framework was articulated and propagated through interactive processes to mobilise collective action based on a shared ideological perspective. Wickham (2002), for instance, portrays how Islamist activism in Egypt was constructed on deeply held commitments and beliefs, and engaged in struggles over meanings and values. Finally, how an Islamist movement (or any other social movement) could operate in a society highly depends on the socio-political and cultural contexts, which pose structural constraints or offer political opportunities at precise moments in time. For example, the Muslim Brotherhood in Egypt had to function clandestinely over long periods of time due to state repression. Islamist party leaders, during other times, may become part of an elected government and avail themselves of access to state power and resources.

While all three dimensions are relevant in studying an Islamist movement, we pay particular attention to the theoretical concepts related to political opportunities and constraints to examine the interplay of historical, constitutional and political factors that explain the specific form Islamisation has taken. This is in light of our "statist" interest in the ideological translation of Islamic traditions and principles into policies, and in the Islamisation of the state institutions. We define the concept of the political opportunity structure confronted by social activists in terms of "conflict and alliance structures" that can be built

upon to help overcome external constraints and acquire additional resources to achieve their aims (Tarrow, 1996, p. 54). The four most salient contextual elements signalling opportunity are as follows: (1) the easing of political access; (2) unstable political alignments; (3) emergence of influential allies; and (4) inter- and intra-elite divisions. In tandem with this, we also adopt a dynamic conceptualisation of the state as a set of institutions that is continually and dialectically reshaped by contentious processes, and these processes of state-(re) making may in turn modify the political opportunities of social actors (Tarrow, 1996, p. 44). In our particular case, we observe how political Islam has modified and moulded aspects of respective state structures in Malaysia and Nigeria, opening up other channels of influence for Islamic activists.

HISTORICAL CONTEXT AND CONSTITUTIONAL STRUCTURE

Islam and British Colonialism in Nigeria

On the eve of British colonialism, northern Nigeria was under a caliphate that implemented hudud law, while southern Nigeria practised customary law. The Sokoto caliphate was a loose confederation of emirates that recognised the suzerainty of the sultan of Sokoto, spanning beyond the modern northern Nigerian border to several neighbouring African countries. Direct British interference in Nigeria began in Lagos in 1851, when the British replaced the king of Lagos forcibly on the pretext of ending slave trade in the region. Lagos was annexed and transformed into a colony in 1861. The Oil Rivers Protectorate located at the Niger Delta and the area to its east was established in 1884. It was expanded and merged with the surrounding conquered territories to form the Southern Nigeria Protectorate in 1900. In 1906, the protectorate was merged with the Lagos colony to form the Colony and Protectorate of Southern Nigeria. With the exception of the colony of Lagos, British administrators ruled through local chiefs who were under their supervision and advice. English law was applied as the primary source of legal system, while native customary courts were also maintained.

When Frederick Lugard was appointed as the High Commissioner of the newly-established Protectorate of Northern Nigeria on 1

January 1900, British control over the vast territory was tenuous, and respect for treaties signed with local emirs was nominal. He launched successive military operations against defiant local chiefs and emirs, managed to pacify the region and subjugate the Sokoto Empire, and established indirect rule through a subdued native ruling class. In 1914, the Colony and Protectorate of Southern Nigeria and the Protectorate of Northern Nigeria were administratively amalgamated and eventually renamed as Nigeria.

Under British indirect rule, emirs within the Northern Nigerian Protectorate territory were placed under a British governor's supervision. Despite promising not to interfere with the existing native administrations and their religions, the British administration effectively relegated the Islamic legal system to a branch of the native customary laws, while English common law was elevated as the fundamental law (Kenny, 1996; Sodiq, 2017; Weimann, 2010). Islamic criminal laws were not abolished; British administrators attempted to confine the Alkali courts' deliberation to personal and family laws. The British imposed the "repugnant test", which was used as a basis to replace or repeal any verdicts judged to be against natural justice, equity and good conscience (Ben Amara, 2020; Sodiq, 2017). On the other hand, the British colonial administration and army unwittingly strengthened Fulani control over the previously less accessible, more autonomous "warrior tribes" in the highlands, and subjected them to Islamic courts of justice under which they were discriminated against as non-Muslims. In this sense, some scholars argue that colonial rule paradoxically entrenched the penetration of Islamic rule in northern Nigeria (Harnischfeger, 2006; Prier, 2020).

In 1956, a Muslim Court of Appeal was established for northern Nigeria, whose verdict may be reviewed by the High Court of Appeal, the members of which must include at least one Muslim scholar learned in Islamic law (Sodiq, 2017). In the meantime, a new, uniform penal code which incorporated only partially some aspects of Islamic criminal law, such as caning for adultery or alcohol drinking, as well as a criminal procedure code, were proposed for adoption in the Muslim and customary court systems. Ahmadu Bello, Sardauna (meaning "crown prince", a chieftaincy title) of Sokoto, who was the premier of Northern Nigeria during the time, participated in the deliberation and debates of the proposed Islamic judicial reform which was agreed upon and ratified in 1960, effectively abolishing

the traditional Islamic penal code. The Muslim Court of Appeal was renamed the Sharia Court of Appeal, whose jurisdiction was formally confined to Islamic family and personal law, and whose judgments were final and not subject to review by other courts, except for issues involving constitutional interpretation (Ben Amara, 2020, p. 61; Laitin, 1982; Suberu, 2009). However, the Constitution of the Northern Region empowered the Sharia Court of Appeal to hear "any other question" involving Sharia, with the consent of both parties of the litigation (Suberu, 2009). Otherwise, it was left to the local customary or area courts to adjudicate cases involving Sharia as the applicable customary law, or litigations involving mutually agreed-upon sales or commercial transactions or land matters involving Islamic principles. A Sharia Court of Appeal judge was initially allowed to sit with two judges of the regional High Court to hear all appeals from area or customary courts, until this arrangement was invalidated by the Supreme Court in 1961. In response, the Constitution of the Northern Region was amended to explicitly provide for such an inclusion. The amendment was only approved by the federal legislature after acrimonious federal-regional haggling in 1962 (Suberu, 2009).

This historical context of colonial heritage and the unravelling of the ambiguous independence pact on the place of Sharia judicial institutions have served as the so-called "historical artefacts" in the construction of contentious narratives by the proponents of Islamisation. It sets the stage for repeated attempts to broaden the jurisdiction of Sharia judiciary beyond the scope of personal laws, and subsequently, for the push for full adoption of Islamic law in the northern states.

Islam and British Colonialism in Malaysia

British control over modern-day peninsular Malaysia was initiated in Penang in 1786, and was complete in 1914 through both direct and indirect rule. As in Nigeria, a British Resident was appointed to each of the protected Malay states, and the Malay rulers were obliged to follow his advice. Sarawak and North Borneo, on the other hand, were respectively ruled by a White Rajah Dynasty and the British North Borneo Company. Both became British protectorates in 1888 and British colonies in 1946, respectively.

While some parts of Sabah and Sarawak were under the political influence of the Brunei sultanate before the arrival of the British,

the political influence of Islam was minimal in the everyday lives of the people, as Muslims constituted a minority of the population. The influence of Islam on the pre-colonial peninsula, on the other hand, was more entrenched. Roff (1998) quoted R.J. Wilkinson who wrote in 1908 that, "There can be no doubt that Moslem law would have ended by becoming the law of Malaya had not British law stepped in to check it. …" (p. 211). In other words, the "Moslem law" was not yet "the law of Malaya" as at the beginning of the 20th century. Roff (1994) argued that Islam exerted a marginal impact on public and political (as distinct from private) life during the pre-colonial period. The Malay states on the eve of colonial intervention did not have the resources for the centralisation of authority, whether in the realm of religious belief, or in political organisation. Ahmad (1978) explained that in the early Malay States, neither the ruler nor any political organ legislated on Sharia Law. When a new situation arose, the prerogative to re-interpret it rested on the learned "fuqaha" (or jurists), including the "mufti".

The establishment of modern state bureaucracy, infrastructure and resources for greater legal enforcement by the British unwittingly transformed the power and authority of local Islamic religious administration "beyond anything known to the peninsula before" (Roff, 1994, p. 72). Doctrinal and administrative religious authority became concentrated in a hierarchy of officials and aristocrats who owed the sultans their position and power, backed by enhanced effectiveness of sanction. Between 1880 and 1920, statutory Islamic legislation regulating various facets of Muslim family lives was enacted by different state councils, and legal procedures were developed to adjudicate litigations (Sharifah Zaleha & Cederroth, 1997; Roff, 1994). Issues unrelated to ritual and Muslim family matters were deliberated based on common law. Muslim matters decided by the Qadi could be reviewed in a civil court staffed by British-trained judges (Farid 2012). Similar to the case of Nigeria, the legislative and judiciary systems established by the British subsequently became and remain the modern vehicle of Islamisation. The administration of Muslim law underwent further development after the Second World War, with the appointment of a religious council headed by a state Mufti to advise the Sultan on religious matters and the establishment of the Sharia judiciary system (Roff, 1998; Sharifah Zaleha & Cederroth, 1997). After independence, the administration of Islam in Malaysia remains under the purview of each of the states in the Federation, except for

the Federal Territories. List II (1) of the Ninth Schedule of the federal constitution provides for the legislative list related to Islam, which is the prerogative of the state legislatures.

The statecraft introduced by the British thus provided the institutional framework within which contemporary Islamisation took place. In addition, the nine traditional sultans who are designated as the head of Islam of their respective states remain influential on Islamic matters and resist the centralisation and standardisation of Islamic matters by the federal authorities. There was also no historical precedence of a fallen caliphate to recover as in Northern Nigeria. Furthermore, Islamic legislation, being primarily a state matter (except for the federal territories), means that the federal government also looked to other sectors for national policy initiatives related to Islamisation, as distinct from Nigeria. Hence, the orientation of the political project of Islamisation was more open-ended and malleable to the creativity and inclinations of the political elites at the helm.

Structural Constraints and Constitutional Loopholes: The Relationship Between the State and Religions

Comparing the politics of Islamisation in the two countries, it is clear that issues perceived as Islamisation in one country may not necessarily be regarded as carrying such signification in another. It is striking that while enrolling as a full member of the Organization of Islamic Cooperation (OIC) provoked strong interreligious tension in Nigeria, Malaysia was a founding member of the OIC, and the first anglophile Prime Minister of Malaysia, Tunku Abdul Rahman, whom Islamist groups such as ABIM regarded as having a "shallow and restrictive" understanding and outlook of Islam (Hussin, 1990, p. 95), was the first secretary general of the OIC from 1970 to 1975. This conundrum may be reconciled by understanding Islamisation as a relative term on a continuum, and noting the various interethnic and interreligious power relations in the two countries.

Article 3(1) of the Federal Constitution of Malaysia stipulates that, "Islam is the religion of the Federation, but other religions may be practised in peace and harmony in any part of the Federation". The historical context to understand the clause lies in the Political Testament of the Alliance, the memorandum submitted in September 1956 by the Alliance leaders to the Reid Commission tasked to formulate the Federal Constitution. It states:

> "The religion of Malaysia shall be Islam. The observance of this principle shall not impose any disability on non-Muslim nationals professing and practising their religions, and shall not imply that the State is not a secular state." (Stockwell, 1995, p. 316).

Based on this historical understanding, the authoritative interpretation of Article 3(1) from independence has been to attribute to Islam a symbolic role in official ceremonies and rituals. This symbolic function is further confirmed by Article 3(4), which stipulates that, "Nothing in this Article derogates from any other provision of this Constitution". This constitutional perspective on the official role of Islam was affirmed by the two former Lord Presidents, namely Tun Mohamed Suffian Hashim and Tun Salleh Abas (Fernando, 2006). In his 1988 landmark supreme court judgment, Lord President Salleh Abas ruled that Article 3(1) provides for the role of Islam in terms of "acts as related to rituals and ceremonies" in Che Omar bin Che Soh v Public Prosecutor (p. 56). Nonetheless, the Islamisation policy introduced from 1980s transformed the political and institutional landscape, and a revisionist interpretation has since emerged (Ting, 2009).

The Tunku, the first Prime Minister of Malaysia, did not perceive Islam being inscribed as the religion of the federation as something which contradicts the nature of Malaysia as a "secular state". On its part, Section 10 of the 1979 and 1999 versions of the Nigerian federal constitution forbids the adoption of any religion as the state religion. Whether this signifies that it is a secular state has been a subject of rigorous debate, as Islamisation protagonists emphasise the fact that the Nigerian constitution does not state explicitly that Nigeria is a secular state, while the opponents of Islamisation argue that the constitutional prohibition to adopt a state religion is a sufficient indication that Nigeria is a secular state. It is regarded as entrenching "the religious neutrality of the state" (Ogbu, 2014, p. 22). It has been suggested that the constitutional provision was intended to disallow state powers, be it legislative or executive, to privilege or hinder any specific religion (Ogbu, 2014). The Malaysian constitution, on the other hand, allows the use of state funds to establish or maintain Islamic institutions, and to provide Islamic religious instructions (Article 12(2)). The 1999 Nigerian constitution, on its part, provides for the state to ensure adequate facilities for, among others, religious

life (Section 17(3)(b)). Potential beneficiaries are not expected to be limited to one particular religion, and "equal treatment" is persistently demanded.

Two more important constitutional differences in terms of state-religion relations between the two countries may be discerned. Both constitutions provide for the freedom of religion but additionally, the Malaysian constitution allows for the legislation to "control or restrict the propagation of any religious doctrine or belief" among Muslims (Article 11 (4)), seemingly meant to protect Muslims from religious heresies (Mohd Azizuddin & Dian Diana Abdul, 2011). Both prohibit discrimination solely on the grounds of religion, race, gender, descent or place of birth, but in addition, the Nigerian constitution also allows a Nigerian citizen not to be rigidly subjected to a particular legal system solely on those grounds, which may place more restriction or privilege on them compared to other Nigerian citizens (Section 42(1)). This is in contrast to the Malaysian constitution, which stipulates that Sharia courts shall have jurisdiction (only) over Muslims (Schedule 9).

Some of these differences in the constitutional perspectives on the permissible relationship between the state and religions in both countries set the parameters of legal constraints and loopholes that affected how the narratives to justify Islamisation policies are framed and shaped the respective trajectories of Islamisation and their politics. Article 3 of the Malaysian Federal Constitution has been subject to revisionist interpretation to further bolster the official status and role of Islam, and justify the push for Islamisation. On the other hand, Section 10 of the Nigerian Constitution would be interpreted narrowly by Islamisation apologists to argue that it was not violated by the implementation of hudud in the 12 northern states.

STRUCTURE OF OPPORTUNITIES AND CONSTRAINTS

Malaysia: Islamist Impetus, Nationalist Execution

Political Islam gained importance in Malaysia during the 1970s, following the growth of Islamic resurgence which witnessed the mushrooming of dakwah (or missionary) activities among Malay university students and the urban middle class. Many of them

manifested an increased emphasis on piety and adherence to what is understood as the correct Islamic teachings, rituals, attire and taboos. The Islamic resurgence was a global phenomenon that witnessed a surge in religiosity and political activism in the name of Islam. Many Malay graduates who returned from foreign universities from the 1960s onwards were influenced by this movement, which aimed to "re-establish Islamic values, Islamic practices, Islamic institutions, Islamic laws, indeed Islam in its entirety in the lives of Muslims everywhere" (Chandra, 1987, p. 2). Government responses during the 1970s involved increased Islamic educational programmes and the broadcast of the azan (the call to prayer) on state-sponsored television and radio, which unwittingly became part of the Islamic resurgence.

While most dakwah groups remained inward-looking, one particular organisation, which was a leading and vocal pressure group to advocate for an Islamic social order, was the Angkatan Belia Islam Malaysia (ABIM). ABIM spokespersons criticised the government for being uncritical to Western culture and its model of development, and not sufficiently committed in its efforts to tackle social ills and corruption. Many ABIM leaders are middle class professionals and civil servants. ABIM also established kindergartens and schools to propagate its brand of Islam.

In 1975, ABIM launched a comprehensive agenda to realise an Islamic order, including the full implementation of Sharia in the country. Some ABIM leaders joined the Islamic party, PAS, and even stood as their candidates for the 1978 general election. For the first time, Islam was used by PAS in a sustained manner in their electoral campaign discourse. PAS aims to establish an Islamic State based on the Quran and Sunnah. Between 1974 and 1978, PAS leaders, as part of the ruling federal government, promoted an Islamic approach to various salient issues and policies. In 1977, for the first time, no liquor was served at the ASEAN Heads of Government Conference hosted by Malaysia. PAS officials also picked on the attire worn by women civil servants (Hussin, 1990).

Another influential Islamist group traced its origins to overseas graduates who were part of the Islamic Representative Council (IRC) while studying in the UK, through which they met regularly for prayers and systematic studies of Islam. The IRC was also the convergent point for Islamists from Egypt and Pakistan. Though maintaining

contact among themselves after returning to Malaysia, they initially joined other groups such as ABIM and PAS, and only formed their own organisation, Jama'ah Islah Malaysia (JIM), in 1990 (Lemiere, 2009). JIM subsequently splintered into several Islamist organisations such as IKRAM, ISMA and IRF, whose leaders are prominent social actors in contemporary Malaysian civil society. JIM activists also joined various political parties such as Parti Keadilan Rakyat or PAS in bringing about political change. Parti Amanah Negara, a splinter political party from PAS which emerged in 2015, was formed with some support from IKRAM.

On the other hand, it was Prime Minister Dr. Mahathir, the president of the foremost Malay nationalist party, the United Malays National Organisation (UMNO), who had initiated a systematic and expansionary Islamisation policy since the 1980s, beyond the previous scope of mosques building, organisation of Qur'an recitation competitions, and celebrations of Islamic events of his predecessors. As a Malay nationalist whose cherished lifelong project was the rehabilitation of the "backward" Malays to succeed in the modern world, scholars argued that Mahathir's Islamisation policy contained a component of "discipline through Islam" by instilling work ethics based on the promotion of "appropriate Islamic moral values" (Mauzy & Milne, 1983, p. 618; Khoo, 1995). This does not contradict another obvious political objective of his, which was to check the political appeal of the Islamist agenda offered by PAS. Mahathir brushed aside objections to his Islamisation initiatives, arguing that Islam, which was integral to the Malay culture, formed the base of the national culture; hence should not be made a political issue (Hussin, 1990). However, the scale and nature of these programmes were so radical that two former Prime Ministers openly called on Mahathir to halt his initiatives. Tunku Abdul Rahman contended that Malaysia, with its multi-ethnic population, should never become an Islamic state (Mauzy & Milne, 1983). The policy set off a chain of processes in Islamising the state institutions, building up decisively its own momentum over the next few decades (Ting, 2022). Mahathir also co-opted ABIM president, Anwar Ibrahim, to join UMNO and stand in the 1982 general election. The latter was to become Mahathir's right-hand man in Islamisation policies.

The flourishing Islamist outreach during the 1970s transformed the landscape of Muslim sensibility of the younger and educated generation

of Malays in Malaysia. With the emergence of a new generation of Malay elites whose conservative religious education has moulded their worldviews to be more receptive to the Islamist outlook, the ground was ripe for the spread of their ideas and influence. While most groups focused on incremental change within localised social settings, ABIM went beyond spreading influence among communal networks and began to speak out critically on political and social issues they were concerned with, and participated in electoral politics. Islamist protagonists eventually found a handy ally in the person of an ethno-nationalist Prime Minister – whose modernist understanding of Islam collided with some of the Islamists' religious views notwithstanding – who in order to compete with the rival Islamist party for Islamic credentials, co-opted a prominent leader of an Islamist organisation to lead the far-reaching Islamisation policy. The uninterrupted political dominance of UMNO ensured the stability and continuity in the progressive execution of policy initiatives.

Nigeria: Heritage Restoration & Political Opportunism

In Nigeria, on the other hand, the impulse for Islamisation was maintained by northern political actors united by a sense of religious regionalism based on the historical memory of the cherished caliphate of Sokoto, founded by the celebrated jihadist Uthman dan Fodiyo in 1808. Despite holding conflicting doctrinal interpretations of Islam and varying degrees of acceptance of the federal constitution and political secularism, nearly all Muslim associations supported the full implementation of Sharia (Ben Amara, 2020; Gwarzo, 2003; Kenny, 1996). Two non-sectarian platforms for Muslim organisations, the Jamā'atu Nasril Islam (JNI, Society for the Victory of Islam) and the Nigerian Supreme Council for Islamic Affairs (NSCIA), were instrumental in lobbying for the hugely controversial issues related to Sharia implementation and the membership of Nigeria in the OIC (Anyia, 2017; Kenny, 1996).

JNI was established in 1961 by Sheikh Abubakar Gumi, the then Grand Khadi of Northern Region of Nigeria, along with senior emirs and eminent Western-educated civil servants with good traditional Islamic education (Hassan, 2015). JNI spearheaded the controversial conversion campaigns between 1960-1966 under the premier of Northern Nigeria, Ahmadu Bello (Kenny, 1996), who was also the founding patron of JNI and the great grandson of Sultan Muhammad

Bello of the Sokoto empire. The reformist anti-Tariqa theological perspective of Gumi brought him into conflict with the Sufi brotherhoods. The popularisation of his perspective through active preaching and the use of media (Hassan, 2015) also contributed to the formation of the Salafi-oriented Izala movement in 1978 (Ben Amara, 2020). Intra-Muslim conflicts led to the formation of NSCIA in 1973 as an alternative national platform, with four representatives from each state, and the Sultan of Sokoto as the president to advance Islamic agenda. As the figurehead of the traditional emirate establishment of Sokoto and a direct descendant of Uthman Dan Fodiyo, the Sultan of Sokoto was regarded as a respected symbolic authority of Islam in contemporary Nigeria.

Since independence, civilian rule in Nigeria was repeatedly interrupted by a series of military coup d'état and counter coups, as well as the Biafra civil war. As will be discussed hereafter, generals heading various military regimes obliged northern Muslim leaders by issuing decrees to extend the jurisdiction of Sharia courts beyond personal laws. General Ibrahim Babangida was instrumental in enrolling Nigeria controversially as a full member of the OIC. The enrolment of Nigeria by General Ibrahim Babangida was influenced by Islamic hardliners and Muslim political, religious and business elites, a divisive act which was perceived by many Nigerian Christians as betraying the national identity of Nigeria as a secular state. Kenny (1996) refers to these "state Islam" actors as "secularists at heart, and use Islam only as a veneer" (p. 346) who enjoyed scant moral respect. Civilian rule was only stabilised after 1999, and ironically ushered in the hasty implementation of the Sharia penal code in 12 northern states. Instrumental in realising this radical change were political leaders in the northern states who managed to gain popular electoral support championing the cause of Sharia. The Zamfara governor, Ahmed Rufai Sani Yerima, who brought the first northern state under hudud law, was re-elected for a second term in 2003, and expressed interest to be a presidential candidate in 2023. Ibrahim Shekarau, who stood as a presidential candidate in 2011, also gained popularity on the Sharia implementation as a two-term governor of Kano state. As noted by Ben Amara (2020), these changes were "neither planned nor prepared", "motivated by politics" and proposed by opportunist politicians to gain popular support, setting off a rapid chain of events (p. 195).

As in Malaysia, various independent Islamic groups in northern Nigeria focused their outreach either on "social Islam" or "political Islam", which in the end were complementary in opening up new opportunities for collective action. Protagonists of Islamisation attempted to lobby military political elites to further their cause over the decades, but this was hampered by continual leadership disruptions caused by political instability. The democratic openings in 1999 ironically ushered in new opportunities for them to form an alliance with self-styled "reformer" electoral candidates who were willing to take advantage of the cause advocated by these particular social groups. Tarrow (1996) pointed out that this was often how policy changes occurred, which was through the contingent adoption of the populist demand by the opportunistic political elite for their own political advancement.

DIVERGENT OUTCOMES

Malaysia: Gradualist and Expansionary

Political stability in Malaysia rendered the process of Islamisation a continual and steady one. One important thrust of the Islamisation policy under Prime Minister Mahathir was the declared aim to "Islamise government machinery", which he explained as the inculcation of Islamic values in government administration. The policy unleashed wide-ranging initiatives to organise educational programmes among civil servants and school children. New Islamic economic institutions such as Islamic banks, economic foundations, insurance schemes and pawnshops were established. The International Islamic University of Malaysia was set up to provide an intellectual and academic foundation for furthering the agenda of Islamisation.

The Islamic bureaucracy was also progressively expanded to monitor policies over Islamic affairs. The Department of Islamic Development Malaysia (Jabatan Kemajuan Islam Malaysia, or JAKIM) was established in 1997, from what was previously an Islamic Affairs Division under the Prime Minister's Department, to oversee the burgeoning enterprise of the certification of the halal status of products. JAKIM is also tasked with the mission to initiate and coordinate the processes of drafting, standardisation and enforcement of Islamic legislation.

In each state, the Sharia judiciary system was also upgraded into a three-tiered structure. An amendment of Syariah Courts (Criminal Jurisdiction) Act of 1965 in 1984 lifted the ceiling punishment of Sharia courts from the initial six months of jail term, a fine of RM1000, or both, to three years of imprisonment, a fine of RM5000, six strokes of whipping, or a combination of the three. The constitutional amendment of Article 121(1A) was enacted to render the Sharia judiciary system independent from the civil judiciary system on subjects which fall exclusively under Sharia jurisdiction. As Islam falls under the purview of each state and its Sultan, which inevitably gave rise to the lack of uniformity and coordination, a federal Department of the Sharia Judiciary of Malaysia (Jabatan Kehakiman Shariah Malaysia, JKSM) was set up in 1998. JKSM offers assistance to states for upgrading the infrastructure, procedures and professionalism of their Sharia judiciary system, and the participation of Sharia judges in a common administrative scheme.

Even as his decades of Islamisation policy brought about a sea change in the position of Islam in the Malaysian state institutions, Mahathir believes that the application of Islamic law should be confined to personal laws and Muslims only. In an interview with a major Malay newspaper, he explained that "…laws of the nation, although not Islamic-based, can be used so long as they do not come into conflict with Islamic principles. Islamic laws can only be implemented if all the people agree to them. We cannot force because there is no compulsion in Islam" (quoted in Hussin, 1990, p. 143).

With the Islamisation process gaining its own momentum, the proposal to set up a five-tiered Sharia judiciary system up to the federal level to be on par with the civil court was advocated in 2011 by JAKIM ("Jakim Confirms" 2014). Going one step further, an Islamic think tank set up by the federal government in 2014, Institut Kajian Strategik Islam (IKSIM), even argued that the "Islamic sovereignty" of Malaysia – constitutionally affirmed by Article 3(1) according to its revisionist interpretation – could be dated back to the 15th century Melaka Kingdom, and was never abolished. IKSIM is currently defunct after it was suspended for investigation of abuse of funds in 2018.

Apart from these wide-ranging developments set in motion by Mahathir, PAS-controlled state governments enacted the Syariah

Criminal Code (II) 1993 in Kelantan and the Syariah Criminal Offences (Hudud and Qisas) Terengganu Enactment 2002, which provided for the implementation of the Islamic penal code. Both were deemed unenforceable and unconstitutional as they overstepped the jurisdiction of the Sharia court. The federal government under the premiership of Mahathir did not hesitate to voice its objection to the hudud legislation openly, and threaten to take action against the state governments concerned if it was enforced.

Prime Minister Najib Razak nevertheless held a different position from Mahathir, which was based on strategic political consideration (Ting, 2017). Consequently, the PAS president put forward a private member's bill in the parliament in 2015 to amend the Syariah Courts (Criminal Jurisdiction) Act to increase its jurisdiction to impose up to a maximum of 30-year jail term, 100 lashes, and/or RM100,000 of fine. This would have allowed some of the hudud punishments to be imposed. Although it was allowed unprecedentedly to be read in the parliament, it was not voted upon due to strong objections by non-Malay component party leaders of Najib's ruling coalition (Ting, 2016). In the meantime, the PAS-controlled Kelantan state government also amended the Syariah Criminal Code II Enactment 1993 in anticipation of its possible implementation. Intervening in the state assembly in support of the bill amendment, a PAS lawmaker even compared Kelantan state's initiative with Nigeria's Zamfara state (Zahiid, 2015), whose initiative in implementing the Islamic Penal Code prompted other Nigerian states to follow suit.

As Prime Minister Mahathir implemented the Islamisation policy to achieve his own ethno-nationalist project, he unwittingly advanced the agenda of Islamists. With time, the Islamisation policy strengthened the force of revisionist discourse on shifting the public's perception toward the representation of the Malaysian national identity from a "secular state" to an "Islamic state" (negara Islam) – even when what the term means is subject to vehement debate and contention – and the misinterpretation of the constitutional signification of Article 3(1). The "Islamic sovereignty" narrative articulated by IKSIM, though currently finds no powerful political patron, would not have been conceivable even a decade earlier. The further the extent of Islamisation progresses, the more it opens up additional opportunities for advancement. Despite the more robust Malaysian state capacity in governance and the maintenance of the rule of law compared with

Nigeria (Kolawole & Ting, 2022), it is not immune to the attempts of Islamist ideologues to push the envelope further. The amendment to increase the jurisdiction of the Sharia court was framed as a reasonable upgrade over time, commensurate with the intended enhancement of the deterrent effects of Sharia legislation (Ting, 2016).

Nigeria: Intermittent Impulse and the Domino Effect

In Nigeria, the primary bone of contention of northerner Muslim leaders has been the limited application and jurisdiction of Sharia law, which has traditionally been applied more broadly than merely for private family affairs. Following a change in the administrative division of the country from the initial four regions to 12 states in 1967, the single regional Sharia Court of Appeal for the northern region was replaced by six state Sharia Courts of Appea (Ben Amara, 2020; Laitin, 1982) l, without any mechanism of harmonisation. Consequently, the draft Constitution of 1976 recommended the establishment of a Federal Sharia Court of Appeal between state-level Sharia Courts of Appeal and the Supreme court of Nigeria. With the mutual inter-religious mistrust and perception of domination between Christians and Muslims, the responses were explosive, characterised by Laitin (1982) as "symbolic jihad". The compromise formula reached in the 1979 constitution was to provide for a panel of three judges "versed in Islamic law" from within the Federal Court of Appeal to hear cases from state Sharia Courts of Appeal (p. 416). This replaced the prior arrangement of having a Sharia Court of Appeal judge sitting on a panel of High court judges to hear civil proceedings originating from subordinate courts (Suberu, 2009).

The brief period of democracy under the Second Republic was interrupted by successive coups d'état during the 1980s. Based on the request by the Muslim leaders of ten northern states, General Babangida promulgated Decree No. 26 in 1986 to delete the word "personal", which preceded "Islamic" in the 1979 constitution, aiming to extend the jurisdiction of the state-level Sharia courts of appeal beyond personal law (Ben Amara, 2020; Noibi, 2003; Ogbu, 2014). The amendment was judged to be deficient. The 1989 draft constitution and Decree No. 50 of 1991 were two more attempts to extend jurisdiction to civil proceedings that involve only Muslims. Decree No. 107 issued by General Sanni Abacha in 1993 and Decree No. 3 in 1999 by General Abdulsalami Abubakar comprised a similar

provision (Noibi, 2003). The 1995 draft constitution again proposed to extend Sharia courts' appellate jurisdiction, and the drafting committee also received memoranda to accord Sharia equal status with common law and be made available to those who desired its application. Nonetheless, the 1999 constitution, in continuity with the 1979 version, again reserves the jurisdiction of the Sharia Court of Appeal to matters related to personal laws (Sections 262 and 277). However, the sections comprised a clause which authorises state legislatures to pass law to confer additional jurisdiction to it. This was the loophole seized by 12 northern states to effectuate the comprehensive implementation of Sharia, including the Islamic penal code.

It began with Zamfara, whose governor Ahmad Sani Yariman Bakura was elected on the back of the promise to fully implement Sharia in the state. State laws were legislated to establish lower Sharia courts with a new Sharia penal code and code procedure to hear criminal proceedings, and extend the jurisdiction of state Sharia Court of Appeal to both civil and criminal domains. He was advised that this was constitutional, given that the constitution did not attribute the Islamic criminal law to either federal or state legislative lists (Ben Amara, 2020; Noibi, 2003). Inspired by his initiative, eleven other northern states promptly followed suit and legislated on the comprehensive implementation of Sharia. Area courts were converted into Sharia courts for such purposes, leading to civil judiciary services to become less accessible to northerners in these states.

The federal government considered these "legislative innovations" as unconstitutional, but refrained from blocking them through legal channel given the sensitivity and delicateness of the issue, and attempted political solutions, albeit unsuccessfully, to stop it (Bolaji, 2010; Suberu, 2009). Debates on the constitutional issues and the problematic overlap of jurisdiction remain unresolved (Abba, 2015). Bolaji (2010) argued that the comprehensive implementation of Sharia "has transformed the legal system by introducing bureaucratic, operational and administrative problems", resulting in "legal incongruity" with the two "distinct penal regimes" in operation and ultimately "a poor quality of justice delivery" (p. 126). On the other hand, Suberu (2009) noted the salutary facts that the entire enterprise took place through a democratic process and within the professed intention to operate within the constitutional framework. He also

highlighted the supervisory role over Sharia implementation played by the more professionally staffed state-level Sharia Court of Appeal and federal civil courts to check more blatant excesses and miscarriage of justice. The high court and federal court of appeal which reviewed numerous Sharia court decisions ruled that the expansion of the jurisdiction of the Sharia courts of appeal beyond Islamic personal law was unconstitutional (Ostien et al., 2017). Nonetheless, the legal provisions were not abolished, although most of the state bureaucracies henceforth, exercise self-restraint not to enforce them.

The process of democratisation in 1999 opened up political avenues for Islamist activists to further their ideological quest to replace a legal system based on political secularism with full Sharia implementation. The popularity of such an initiative was heightened by the dire conditions of Nigerian society, which was affected by rampant crimes and insecurity, deep inequality and widespread corruption; a situation which has been blamed conveniently on the failure of the "alien" political establishment and system left by the colonial master (Ostien & Fwatshak, 2007). Whether comprehensive implementation of Sharia is the correct solution to resolve these problems is moot, but human rights organisations were concerned about the lack of respect for due process which has affected the poor and powerless disproportionately, and the lack of a sense of proportionality between the severity of the crime and the punishment authorised by the judicial verdicts (Kolawole & Ting, 2022).

CONCLUSION

Cesari (2018, p. 2) suggests that political Islam should be understood as a "multifaceted religious nationalism" which can be articulated in a dialectic process of nationalisation and westernisation of Islamic tradition. This is indeed, borne out in both countries under scrutiny in the present study, as the modern political institutions of the nation-state provide the structural foundation upon which the Islamisation process has unfolded. Notwithstanding the sharing of many broad-based historical and constitutional commonalities between Nigeria and Malaysia, a structured comparison of the socio-political, constitutional and historical factors which shaped their post-independence political development has unravelled how the various contexts have shaped their divergent paths of Islamisation.

The social movement theory has been able to offer an appropriate theoretical perspective and requisite conceptual tools to effectuate a structured comparative analysis of the processes of Islamisation that have taken place in the two countries. All three approaches of resource mobilisation, political opportunities and constraints, and framing process applied by social movement theorists to examine collective action were found to be pertinent to provide a comparative framework to illuminate one aspect or another of the phenomena in both countries. We focus in particular on the exploration of political opportunities and constraints to account for the different trajectories taken by the two countries.

The Islamic resurgence signalled a significant shift in Islamic thinking and moulded cohorts of "supportive public" (Wickham, 2002) broadly attuned to the ideological vision of Islamists. This prepared the political ground for change by undermining the legitimacy of ruling institutions and elites, and fostering conviction among its followers that "Islam is the Solution". In Malaysia, the political elites initially responded with defensive reactive policies, but a change of guard led to its determined embrace by a nationalist prime minister, bringing about wide-ranging changes which included the development of an Islamic economy and institutions, as well as the inculcation of so-called "Islamic values". In Northern Nigeria, socio-economic practices and customs have imbibed Islamic principles. Even hudud laws, although held in abeyance under British colonialism, were abolished only on the eve of independence. Hence, even prior to the rise of Islamist groups, northern Muslims aspired for the restoration of their lost Islamic heritage, even as the vestiges of their Islamic legal system had been permanently transformed by the colonial bureaucratic structure of indirect rule. This has thus, led to a greater emphasis on the full implementation of the Sharia.

The advancement of Islamisation in both countries, one gradualist and systematic, while the other haphazard and dramatic, have both been transformative in affecting the state institutions and citizens' daily lives. Although the legislated hudud laws in the two Malaysian states have been currently suspended, the unexpected tabling of the private member's bill to enhance Syariah court jurisdiction in 2016 revealed that Malaysia could have gone down the same trajectory as Nigeria. The former could experience a domino effect as in northern Nigeria, should there be a successful Sharia upgrade in Kelantan, even if it is

not the wholesale implementation of the Islamic penal code. In both cases, the prime movers who triggered the decisive lever were shrewd political entrepreneurs who were fighting for their political survival, rather than just being pious religious politicians, and therefore, rendering outcomes that blurred the analytical distinction between "westernised nationalists" and "convicted Islamic actors" (Cesari, 2018).

Regardless of the variation in the forms of Islamisation in both countries, the outcomes have brought about contradictions and inconsistencies with the initial "independence bargain" reached among the communities of diverse identity affiliations in each respective nation. These fundamental contradictions and inconsistencies have led to a transformed configuration of the state, with political Islam taking the form of what Cesari (2018) calls a hegemonic Islam, changing the structure of political opportunities, which in turn creates new avenues of influence for Islamic activists.

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