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Islamic criminal law in northern Nigeria: politics, religion, judicial practice

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Conclusion

The studies contained in this volume aim at analysing judicial practice in Islamic criminal law in northern Nigeria after 1999 in the region's historical, cultural, political and religious context. Some general conclusions may be drawn.

The information collected indicates that Islamic criminal law has not been enforced everywhere to the same extent. In the north-western states that constitute the core of the former Sokoto Caliphate, Islamic criminal law was applied with much greater emphasis than in the north-eastern states, where the legislation mainly remained a dead letter. In religiously mixed states, the bid to introduce the *sharī'a* became part of religious groups' competition for hegemony and access to public resources, which often enough led to violent conflict.

Politically, the implementation of Islamic criminal law has been controversial even among Muslims. Many state governors introduced Islamic criminal law reluctantly and without conviction. They were caught between popular demands for the introduction of the *sharī'a* and the exigencies of their office, established by the secular Nigerian Constitution. Unable to find a sustainable solution to this problem, they have opted for delaying tactics. Severe punishments, such as death penalties, amputation or retaliation, cannot be executed without prior confirmation of the state governor. In most cases, the governors have simply refused to assent to controversial sentences such as amputations, thereby preventing their execution.

By contrast, Muslim reform groups supported the introduction of Islamic criminal law because they saw it as an opportunity to impose *sharī'a*-compliant behaviour on Muslims. These groups have put particular emphasis on illicit sexual relations (*zinā*) with a view to eradicate certain forms of extramarital sexuality that in spite of the long history of Islam in northern Nigeria have continued to be socially accepted. This strategy can be considered to have largely failed. Judicial practice has confirmed the privacy of the family compound and traditional conflict resolution through mediation. Thus, infractions of Islamic criminal law as regards sexuality, to the extent that the parties involved reach a settlement, are effectively withdrawn from the control of the courts.

This mitigating role of judicial practice can be attributed to a substantial part to resistance from influential Muslim scholars. In light of the existing tensions between Muslims and Christians in the country, they could not criticise the introduction of Islamic criminal law directly,

as this would have exposed them to the accusation of going against the interests of Muslims. In the face of an alleged Christian threat, they had to emphasise Muslim unity in order to retain their authority. As a result, whereas publicly the Muslim religious establishment supported the introduction of the *sharī'a*, their attitude was nothing but the attempt to prevent intra-Muslim dissent at all costs, even at the price of a further aggravation of the Muslim-Christian antagonism. Instead of public criticism, Muslim scholars exerted their influence on the Islamic judiciary and formulated alternative visions of *sharī'a* implementation emphasising education of Muslims and an Islamisation of northern Nigerian society while relegating the enforcement of Islamic criminal law to the almost utopian state of an ideal Muslim community.

The expectations which many Muslims attached to the introduction of the *sharī'a* were inflated. Quickly, it became clear that the impact of Islamic criminal law on the living conditions of the population would remain minimal. Nowadays, Nigerian Muslims continue to support a greater role of the *sharī'a* as a comprehensive code of conduct in northern Nigerian public life but seem largely to reject the misuse of religion by politicians.