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

Weimann, G.J.

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Summary

In 2000 and 2001, twelve northern states of the Federal Republic of Nigeria introduced Islamic criminal law by establishing *shari'a* courts and adopting *shari'a* penal codes which contained provisions on the *hadd* punishments and the Islamic law of homicide and bodily harm. The present thesis analyses available information on judicial practice in Islamic criminal law in northern Nigeria. Main sources on judicial practice have been media reports and non-governmental organisations.

The overall analysis shows that Islamic criminal law has not been implemented equally in every place and at any given time. Geographically, the new legislation has been applied more frequently in the north-west of the country, the core region of the former Sokoto Caliphate. Chronologically, it seems to have been applied with greater emphasis in the beginning, whereas for subsequent years the numbers of known trials rapidly decline.

In subsequent steps, judicial practice was analysed with regard to particular offences. The change in judicial practice is particularly visible in trials for extramarital sexual intercourse, some forms of which continue to be socially accepted in northern Nigeria. The prosecution of such offences was an attempt to enforce Islamic behaviour on Muslims. However, all sentences of stoning to death for unmarried mothers were revoked on appeal. Since 2004, no new indictments for consensual extramarital sexual relations have been reported. The courts have rejected accusations based on suspicion and confirmed the inviolability of the family compound.

With regard to crimes against life, limb and property, judicial practice does not present a clear picture. While the number of people prosecuted for violent offences has been small, a great number of sentences to amputation for theft have been handed down. However, not more than three amputations have taken place, all of them in the beginning of *shari'a* implementation. After 2001, no amputation has taken place in northern Nigeria. This finding attests to the fact that state governors, many of whom were forced by popular pressure to introduce Islamic criminal law, find it difficult to reconcile its implementation with their position in the secular Nigerian political system.

The findings concerning judicial practice in Islamic criminal law were put into context in the subsequent research. An alternative vision of *shari'a* application by an influential northern Nigerian Muslim scholar was analysed. His interpretation, which was clearly a response to the introduction of Islamic criminal law, emphasises the need to educate

Muslims and improve living standards. Only when a just Islamic society had become a reality would it be possible to implement Islamic criminal law. It is argued that such interpretations were at the root of the observed changes in judicial practice.

The existence of this counter-discourse promoted by one of the most influential scholars of northern Nigeria demonstrated that Muslims in northern Nigeria were far from unanimously supporting the implementation of Islamic criminal law. This raised the question as to the motives of the Nigerian Muslim religious establishment, represented in two umbrella organisations, for not challenging publicly the way in which Islamic criminal law was administered in the beginning. Based on an analysis of the public debates among Muslims with regard to the aborted 2002 Miss World contest in Nigeria, it is argued that the umbrella organisations' authority is built on their claim to represent Muslims in Nigeria on a political level and to unite them against the perceived threat from non-Muslims in the country. Had they criticised the introduction and implementation of Islamic criminal law in public, they would have risked damaging their position. Instead, the Muslim organisations supported the introduction of the *sharī'a* in public statements, thereby contributing to a further aggravation of the Muslim-Christian antagonism.