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Review of Sharia Implementation in Northern Nigeria 1999-2006 A Sourcebook

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Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook. Philip Ostien, Ibadan: Spectrum Books Limited, 2007, 5 Volumes.

Reviewed by Mashood A. Baderin

Islamic law has been in operation in many parts of what today constitutes Northern Nigeria as early as the 11th century when Islam first came to those areas bringing along with it the *Shari'ah*,¹ and has been recognised as part of the Nigerian legal system since the inception of the country, with particular reference to Northern Nigeria. Through different legislative enactments during the colonial era and after independence, the application of Islamic law in Nigeria was restricted only to civil and personal status laws, thus ousting the application of Islamic criminal law throughout the country prior to 1999. Despite the restriction of its application to personal laws, there have been a series of serious debates about the implementation of Islamic law in Nigeria over the years. The most vigorous of such debates was ignited by the re-introduction of the full implementation of Islamic law in 1999 when one of the states in Northern Nigeria, Zamfara State, officially launched the commencement of the full implementation of the Islamic law including Islamic criminal law in the State on 27 October 1999. Not long after that, 11 other Northern States, namely Bauchi State, Borno State, Gombe State, Jigawa State, Kaduna State, Kano State, Katsina State, Kebbi State, Niger State, Sokoto State, and Yobe State followed suit, bringing the number of Sharia implementing States in the country to 12 by the end of year 2000. This re-introduction of the full implementation of Islamic law in Northern Nigeria quickly attracted heated debates, nationally and internationally, about its constitutional legality and human rights implications in relation to Nigeria's international human rights obligations. October 27, 2009 would mark the tenth anniversary of the re-introduction of the full implementation of Islamic law by the Zamfara State government.

While there have been many different pieces of literature produced by scholars, activists and journalists nationally and internationally over the years on the re-introduction of the full implementation of Islamic law in the different Northern States of Nigeria, there is currently no single comprehensive scholarly work that matches this 5-volume masterpiece titled *Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook* compiled and edited by Philip Ostien. The need for this comprehensive sourcebook is very well stated by Philip Ostien himself in his preface to the compilation as follows:

¹ See e.g. O.A. Obilade, *The Nigerian Legal System*, London: Sweet and Maxwell, 1979, p.17. The word "*Shari'ah*" is spelt "*Sharia*" in the work under review, so to prevent confusion I will use that spelling version (*Sharia*) after this point onwards.

“Sharia implementation in Northern Nigeria is a phenomenon crying out for systematic study and analysis by scholars in many fields, at many levels on the scale from empirical detail to theoretical abstraction. Up till now it has hardly gotten the attention it warrants. Nigerian scholarship has been hampered by the scarceness of the resources needed to approach so widespread and complex phenomenon in any systematic way. Foreign scholarship – with some exceptions – has tended to rely on reports from the newspapers, which have been often conflicting, often very obviously biased or confused, and always frustratingly lacking in pertinent background and detail.” (Vol. 1, p.xii).

The 5 volumes of *Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook* has not only answered that cry for a systematic study and analysis of the Sharia implementation in Nigeria, but also provides a much needed objective and comprehensive compilation on the subject. It is indeed a valuable sourcebook that anyone interested in further research on the subject cannot do without. This review presents a brief summary of this important work, highlighting the contents of each volume of the work.

The first volume provides the historical background to the 1999 re-introduction of the full implementation of Islamic law in Northern Nigeria. It contains relevant pre-independence and early post-independence documents and reports, detailing the historical background of the application of Islamic law in Northern Nigeria between 1958 and 1962. In the introductory chapter examining the “Settlement of 1960” agreed to by the Muslims of Northern Nigeria in the run up to the independence of Nigeria, Philip Ostein observes that the re-introduction of the full implementation of Islamic law in Northern Nigeria initiated by Zamfara State in 1999 was “in large part a reaction against the Settlement of 1960, and an attempt to restore, as far as possible, the *status quo ante* (Vol.1, p.3). The documents in this volume include the report of the Panel of Jurists appointed by the Northern Region Government to examine the legal and judicial systems of the Northern Region, which was submitted to the Government of the then Northern Region of Nigeria on 10 September 1958, and compilation of different documents and other information received by the Panel of Jurists during its second session between May and June 1958. The preface indicates that some of the documents in this volume are being published for the first time in this work. As is often said, history is an important aspect of law and of legal development. Thus, the documents and the introductory chapter in this volume provide important historical and background information to the development and implementation of Islamic law in Northern Nigeria, which is not often very well reflected in most analyses available on this important subject.

The second volume contains a compilation of reports and related white papers of the Sharia Implementation Committees appointed by the different Sharia implementing States “whose term of references were to study what steps should be taken, to consider the constitutionality of the measures proposed, to survey and enlighten public opinion, and to report back to the Governor[s]” (Vol.2, p.3). The reports of the Implementing Committees included in this volume are the reports of the Bauchi and Kebbi States and a paper by the then Zamfara State Attorney General and Commissioner for Justice on the adoption and implementation of the Sharia legal system in Zamfara State. In the introductory chapter to this volume Philip Ostein rightly notes that these documents “are goldmines of information about life in the Sharia States in the first years of the 21st century, about the many problems affecting the people, and about what Muslims have hoped to do to improve things” (Vol. 2, p.3). It is also indicated that none of the documents in this volume have been published previously. Not all the committee reports and white papers for all the relevant states is included in this volume due to space limitation. It is indicated however that apart from the Bauchi and Kebbi States documents included in this volume, similar documents from Borno State, Katsina State, Niger State, Sokoto State and Zamfara State were collected but could not be included in this volume due to space limitation.

The third volume is titled “Sanitizing Society” and apart from the introductory chapter it contains two articles titled “Changes in the Law in the Sharia States Aimed at Suppressing Social Vices” and “Sharia Implementation and Female Muslims in Nigeria’s Sharia States” respectively. Also contained in this volume are the new statutory laws enacted by all the relevant Sharia implementing States relating to omnibus laws, corruption, liquor, gambling, sexual immoralities, other matters related to women, unedifying media and other social vices. In the introductory chapter to this volume, Philip Ostein notes that the central motivation behind the re-introduction of the full implementation of Sharia in the relevant States was “the desire to find a cure for the many social ills besetting Nigeria, or, in this case, besetting the Muslim North” (Vol. 3, p. 3). A relevant question would be how effective have these new laws been in curing those “social vices” and what changes have they brought to the relevant States. In the essay titled “Changes in the Law in the Sharia States Aimed at Suppressing Social Vices” in this volume the authors concluding observation included a reference to a quote from the Governor of Kebbi State, one of the Sharia implementing States, stating that: “The impact of Sharia implementation has strengthened the consciousness of the people to abhor bribery and other corrupt financial practices. The attitude of our traders in the market is also gradually changing for the better. People insist on standard measures and the use of scales. Lost but found properties are being returned to their owners” (Vol.3, p.75). While in the conclusion of the essay titled “Sharia Implementation and Female Muslims in Nigeria’s Sharia States” the author also noted that “There is a lot of positive development in many directions. But there is still a long way to go to achieve

social justice in Nigeria – not only for females, but for all people who suffer poverty, disease, and especially from bad government” (Vol. 3, p.118).

The fourth volume is the most voluminous of the 5 volumes and is titled “The Sharia Penal and Criminal Procedure Codes” The first section, which is on the Sharia Penal Codes, contains two introductory chapters. The first one is an introduction on the history of the penal law of the Northern States of Nigeria from the colonial period up to the new Sharia penal codes, and the second one is on the making of the Zamfara and Kano State Sharia penal codes. These are then followed by an annotated “Draft Harmonised Sharia Penal Code” prepared by the Centre for Islamic Legal Studies of Ahmadu Bello University, Zaria, Nigeria, which shows the “variations between it and the Penal Code of 1960 on the one hand, and the enacted Sharia Penal Codes of ten of the Sharia States on the other hand” (Vol.4 p.33). Apart from the old Penal Code Law of Northern Nigeria (1960), the new penal codes of Zamfara, Kano, Kebbi, Jigawa, Sokoto, Yobe, Bauchi, Katsina, Gombe and Kaduna States are included in the harmonised code. Also included in the first section are the Niger State Penal Code Amendment Law 2000, the Katsina State Islamic Penal System (Adoption) Law 2000, a Conversion Table for the Penal Code of 1960 and the Harmonised Sharia Penal Code, as well as a list of the sections of the Harmonised Sharia Penal Code omitted in the old Penal Code of 1960.

The second section of volume four is on the Sharia Criminal Procedure Codes and also starts with an introductory chapter on the history of the law of criminal procedure in the Northern States of Nigeria from the colonial period through to the adoption of the new Sharia criminal procedure codes. This is followed by a paper on Islamic Criminal Procedure, the Report of the Committee appointed to prepare the Sharia Criminal Procedure Code for Sokoto State, and an annotated “Draft Harmonised Sharia Criminal Procedure Code” also prepared by the Centre for Islamic Legal Studies of Ahmadu Bello University, Zaria, Nigeria, which also shows the “variations between it and the Criminal Procedure Code of 1960 on the one hand, and the enacted –except in the case of Borno State – Sharia Criminal Procedure Codes of seven of the Sharia States, on the other hand”. (Vol. 4 p.218). Similar to the section on the Penal codes, this section also contains relevant conversion tables for the Criminal Procedure Code of 1960 and the Harmonised Sharia Criminal Procedure Code.

The fifth volume is titled “Two Famous Cases” and contains the edited English translations of the proceedings of two important Sharia criminal law cases that made national and international headline news after the re-introduction of the full implementation of Sharia in Northern Nigeria in 1999. The first is the Safiyatu Hussaini case and the second is the Amina Lawal case. Both of the cases were *zina* cases, which attracted a lot of comments and concerns, particularly from human rights circles, nationally and internationally between 2001 and 2003 when the cases were pending. Although there have been some scholarly works published on these

two cases, the importance of their reproduction in this volume is clearly highlighted in the introductory chapter to this volume as follows:

“...for information about the cases most authors have had to rely primarily on news reports, and therefore do not deal with the details of the actual proceedings and judgements themselves: the laws under which the cases were brought, heard, and decided; who brought them and why; what happened during the trials; who the lawyers and judges were; how the lawyers argued the appeals; the facts and the reasoning upon which the different courts decided them; the authorities relied on by the courts; and so on”. (Vol.5, p.3).

Apart from the translation of the proceedings and judgements of the two cases, this volume also contains a bibliography of Islamic authorities cited in the two cases, a glossary of Islamic legal terms used, brief biographies of all the judges who sat in the two cases, and an essay titled “On Defending Safiyatu Hussaini and Amina Lawal” written by one of the legal practitioners involved in the proceedings of both cases. This article gives important insight into how the trials were conducted by the defence team in both cases. Philip Ostein rightly observes that “The two cases are interestingly different from start to finish. Together they will give readers a great deal of insight into the social and legal contexts and work of Northern Nigeria’s Sharia Courts at all levels” (Vol. 5 p.4). The contents of this volume is very useful in the sense that it provides comprehensive insight for a better understanding of the substantive and procedural issues of these two cases, and helps to set records straight on the different views expressed by different interest groups about the cases.

Clearly, the research value of this impressive compilation cannot be overemphasised. Particularly the “Draft Harmonised Sharia Penal Code” and the “Draft Harmonised Sharia Criminal Procedure Code” produced by the Centre for Islamic Legal Studies of Ahmadu Bello University, Zaria, Nigeria, and included in Volume 4 of the work. Both draft harmonised codes provide an important and valuable resource for anyone doing comparative research on the substantive and procedural Sharia law of the different states in Northern Nigeria. As added value to the hard copy of this important work, there is an internet edition available for free download online at: <http://www.sharia-in-africa.net/pages/publications/sharia-implementation-in-northern-nigeria.php> where it is stated that “In addition to the complete text of the work as published by Spectrum, this Internet edition includes additional documentary materials too voluminous for inclusion in the printed text. For complete details see the tables of contents to the individual volumes”.²

In my view, this 5-volume sourcebook is a masterpiece on the implementation of Sharia in Northern Nigeria, which is a must read for anyone interested in the subject. The resources and effort spent on this project has been very

² The stated internet site was last accessed for this review on 30 March 2009.

well justified by the quality and comprehensiveness of the work, for which the compiler and editor must be well commended.