

**SHARI'AH IMPLEMENTATION IN NIGERIA: A REFLECTION ON THE VIEWS OF JOURNALISTS, HUMAN RIGHTS ACTIVISTS, SOME NON-MUSLIM AND EXPATRIATE SCHOLARS**

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**Abstract:** This content analysis study is an appraisal of the web of reflections of views of academic, journalist, a politician on the implementation of Shariah Legal System (2000) in Northern Nigeria. The study appraises web of responses with regards to conception, designing and implementation of the Shari'ah Legal System in Nigeria. These reflections have however shaped the direction, impact on the full implementation of Shari'ah in Nigeria. Secondary methods of generating data were utilized using both libraries, books, journals and newspaper articles. The key findings showed some reflections were genuine and others were mere religiously biased political motive of Shari'ah sold water stories from some journalist are biased due to lack of knowledge/hatred. This shows that some of the views particularly of non-Muslims were a just sheer objection or rejection against anything related to Islam and Muslims no matter how good and rational it is. For a way forward Shari'ah should not be for political motive should be proper knowledge, should be implemented in a uniform, genuine and well implemented.

**Keywords -** Reflection, Views, Shari'ah, Implementation

**Research Area:** Law and Social Science

**Paper Type:** Research Paper

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## **1. INTRODUCTION**

Perhaps most Nigerians celebrated another attempt at democratic governance with the inauguration of President Olusegun Obasanjo as the third civilian President in May 1999. One thing, however, that prominently featured following the inauguration of the new government was the agitation in the Northern States for the re-introduction of the *Shari'ah* legal system to cater for the interests of Muslims.

When Governor Ahmed Sani was sworn in as the first civilian Governor of Zamfara State, he put into motion the realization of one of his pre-election plans and promises, the introduction of *Shari'ah* Legal System in the State. Right from its conception, designing, programming through its implementation, the *Shari'ah* issue had raised serious controversies in the entire country. Stanley Yakubu of Newswatch Magazine tagged it a 'time bomb'. First, there was the pressure of the Christian Association of Nigeria (CAN) secondly that of some international organizations and thirdly the pressure from the opposition, all against the Zamfara State Shariah Legal System reintroduction, Peoples Democratic Party (PDP) and the Alliance for Democracy (AD).

For this reason, therefore, this paper is aim at discussing the reflections of some professionals and academics on the Shari'ah implementation.

## **2. CONCEPTUAL ISSUES**

Before the arrival of the British Colonialists, there existed certain legal systems existing in all the parts of what is now known today as modern-day Nigeria. In Northern Nigeria, the Islamic religion existed dating back to 1100<sup>th</sup> Century A.D. The Maliki School of Jurisprudence was introduced as a rule of Islamic law and codified as a way of life of Muslims in West Africa. This situation was reinforced in the Northern part of Nigeria with the establishment and consolidation of the 1804 Jihad led by Sheikh Uthmanu Danfodiyo in the early 19<sup>th</sup> Century. The *Shari'ah* as a legal system evolved over time. It is not something new to Muslims. As a legal system, it evolves over a period of time dating back to the time of the Prophet Muhammad (PBUH) from 750-813AD and upwards to the periods of the four rightly guided Caliphs (Abubakar, Umar, Uthman and Aliyu) to the *Tabi'un Tabi'un* (followers), to the Umayyad period and down to the period of the 1804 Jihad in Hausaland in West Africa. Thus, a lot of changes and transformations occurred during those times, which the pages below in this paper try to address. The word *Shari'ah* means different things to different people whether they are Muslims or non-Muslims. Legally speaking, Yakubu et al (2001:5) see it, as a complete universal code of conduct drawn from our Creator (Allah), through His messenger, Muhammad (PBUH) to mankind, detailing the religious, political, economic, social, intellectual and legal systems of life. It is meant for universal application the world over, covering the entire spectrum of life.

## **3. REFLECTIONS ON THE VIEWS OF THE NON-MUSLIMS**

The Christian Association of Nigeria (CAN) had obviously misunderstood the concept of the *Shari'ah* project and thought the issue was meant to institutionalize Islam as a state religion in Zamfara State, which will be a violation of the Federal Constitution. For that reason, C.A.N in Zamfara State paid a courtesy and enquiry call on the Governor who explained to them that the *Shari'ah* would only be applied to Muslims. And in case of a non-Muslims having any grievances against a Muslim and is seeking redress can go to any court (Magistrate, High Court, Customary Court etc) of his choice for justice dispensation on an accused.

The Christians called upon the Zamfara State House of Assembly, the Federal Government and the International Community to stop the Governor from implementing the *Shari'ah*, which was then slated for formal inauguration on October 27<sup>th</sup>, 1999, claiming that it would lead to unrest, bloodshed and disintegration of the country. They also argued that the move by Zamfara State to implement the *Shari'ah* was contrary to section 10 of Constitution of the Federal Republic of Nigeria, which they claimed prohibited the declaration of a state religion by any state Governor. The Zamfara state chapter of C.A.N also took the issue to its Zonal Headquarters in Lagos. The National body of the CAN under its (then) President, Bishop Sunday Mbang argued that the Nigerian Constitution did not take the *Shari'ah* system higher than the customary law and therefore, condemned, Zamfara State for attempting to create a justice system with the colouration of a state religion. While supporting its President's sentiments, the Bauchi State chapter of CAN worried that the total introduction of *Shari'ah* Legal System in some related and institutions by Muslim Governors in Northern Nigeria would undermine the nation's constitution and subjugate Christianity in the country.

It further said both the Christian and Muslims live under one Constitution which guaranteed their rights to pursue their legitimate affairs anywhere in the federation. It therefore suggested, that if *Shari'ah* was introduced and consolidated, it would subjugate Christianity under Islam. It also said that *Shari'ah* would severely impact on the constitutional rights of the Christians to life, liberty, movement, expression as well as the right of freedom of association, the right of freedom of property possession and prayers. Also reacting to the issue of the *Shari'ah*, the Anglican Bishop of Kano, Deacon Rev. Zakka Nyami, explained that the Federal Government should come out and explain openly to Nigerians' what a secular state was, as the present call for Islamic state or *Shari'ah* was just a coup to the constitution of the Country and the present administration.

The Edo State chapter of CAN also condemned the adoption of *Shari'ah* in Zamfara, alleging that Governor Sani was being used by Islamic fundamentalists and non-moderate individuals. The CAN therefore called on the Attorney General of the Federation to institute a court action on the issue of Nigerian membership in the Organization of Islamic Conference (O.I.C) which could further influence Islamization in Nigeria. It further declared that we stand to be corrected, on the side of Christians in Zamfara whose right of existence in a corporate Nigerian nation is being so broadly challenged.

#### **4. REFLECTIONS ON THE VIEWS OF EXPATRIATE SCHOLARS**

Reflections of Non-Muslims views, Yadudu (2001: 35-36) reflecting on the Shari'ah debate in Nigeria from 1976 – 1989 raised 5 core issues related to the controversy:

- (i) A proposal to establish a Shari'ah Court structure to exist at par with the English Common Law types of courts up to the Supreme Court level but with limited jurisdiction;
- (ii) With above issue settled somehow attention was next focused on whether the Shari'ah, a religion law, should receive any attention to the constitution;
- (iii) Section 10 which prohibits either the Federal & State government from adopting any religion as the official state religion, was inserted in the constitution but not without controversy in view of its ambiguity and lack of historical or cultural antecedents or context to locate it within;
- (iv) The OIC debate rekindled interest in the Shari'ah debate with Christian insisting that the recognition of Shari'ah a religious law in the constitution violates the secular policy envisaged by section 10 and the Muslims pointing out the English Common Law, which is the foundation of Nigerian Legal System, embodies Christian norms, morals and ideals of the Nigerian state was already a Christian owing to some identified practices which it sponsors.
- (v) The Shari'ah debate has become both a campaign issue within the current democratic dispensation and about the reassertion of group identity.

The enactment of Shari'ah project has subsided the issue at hand. Lots of non-Muslims agreed that the 1999 constitution does recognize Shari'ah but with certain jurisdiction which hinged or affect the secularity in the project. Muslims counter the argument, the constitutional backing allowing Muslim to progress their religion to its totality providing state opportunity to expand the jurisdiction of the Shari'ah Courts and to add other courts so derived supporting thus, several sections of the 1999 constitution (4(7), 6(4) and (5), 38, 262 etc), allowing freedom of religion "the law says persons professing the Islamic faith" and "any other person

who consents” or “ensure that the consent given was voluntary and the person is legally competent and responsible to give it”.

Some non-Muslim sees demarcation that religion is a private affair of an individual. Non-Muslims need to study, understanding Shari'ah with open heart and mind and denying Shari'ah tantamount to rejecting and denying Muslims their inalienable and constitutional rights.

Christian Nigerian being a multi Legal pluralism is not without conflict of laws. Shari'ah controversy is a clear main status of the stress of two legal pluralism. It should delivery of news in their perception of the law. In Islam rest on a religion based law, Christianity opposed it. This explains why they insist on secularity and Muslim have nothing to do it. This deveyence cum ignorance of the place of Shari'ah in Nigeria ignited the Shari'ah crises.

Shari'ah in the northern Nigerian state was expanded to include some crime known in Shari'ah but excluded in the penal code.

- i. New Shari'ah Courts
- ii. Higher Shari'ah Courts
- iii. Upper Shari'ah Courts

Were created in which all have their jurisdictions with all some non-Muslims lawyer take the position the Shari'ah has been persistently constrained by the constitution. Cited that Shari'ah Crime Jurisdiction had been inbuilt.

They opined that section 10 of the constitution has outlined Shari'ah in Nigeria since acc to view a Senate cannot enact religious laws as can be seen as adopting a state religion. The Constitutionality and legality of Shari'ah of the laws enacted four languages.

- Shari'ah dramatized, orchestrated leading some commentators to interpret the event as a declaration of an Islamic state an allegation roundly refuted by the state governors.
- Eminent Christian leaders termed Shari'ah as illegal an unconstitutional.
- Anti Shari'ah protest in leading ended up in the civil stripe.
- Some southern states maintain that expanse.

*Shari'ah* became the most topical political issue in Nigeria during the beginning of the 3<sup>rd</sup> Republic. Much was said by many organizations both in support and against. International Organizations under the guise of human rights groups descended on the Federal Government and described the *Shari'ah* as an 'unionized' system.

The Federal Governments reaction was somewhat casual, President Obasanjo said; '*Shari'ah* being a political creation and a controversy, will fizzle out one day'. In an interview in Harvard University, U.S.A Obasanjo added that “there is no big deal about the adoption of *Shari'ah* by Zamfara State, as the *Shari'ah* Legal System is not new to Nigerians especially those in the North, people have their way of doing things, but I do not think this one initiated by the opposition politicians would last”.

Obasanjo's prediction that if the reintroduced Shari'ah Legal System by Governor Ahmed Sani Yarima and other Northern States Governors was done in good faith it will last long. He added that if it was reintroduced to serve political purposes it will fizzle out with time. Since former Governor Ahmed Sani Yarima of Zamfara State left office and became a Senator between 2007 to 2017, the Shari'ah system implementation in both his state and others has become either low key without much zeal and commitment or is executed in a weak situation or not done at all.

That means former President Obasanjo's prediction has come to pass. Analysts have observed that through some research findings out that Former Governor Yarima used the Shari'ah System to survive the replacement threats of the Peoples Democracy Party (PDP) through the backing of powerful ex-military Generals, Business tycoons and retired technocrats and bureaucrats. He was able to serve for two terms as Governor. His successors from 2007 to date have also become successful due to the majority peoples belief that Yarima and the two of them were more religiously and morally inclined through their welfare governance than the PDP conservatives and elites who seemed to be meaner and less generous for the upkeep of the people.

According to some reports Carol (2002) "Islamic Courts in the Northern States would not be forced to change their laws but the Federal Courts would overturn judgments on appeals, he said making them in a state of anxiety and fear about the implementation or enforcement of the Shari'ah Legal System.

The other side of the problem emanating from the introduction of the *Shari'ah* Legal System in Nigeria was indeed the political opponents and the general public who saw the whole issue as introduced by the Governor as unrealistic. Such antecedents went to the extent of using electronic media in condemning the system pointing out to the general public that the Governor was only disguising under the umbrella of *Shari'ah* to commit all sorts of administrative mismanagement and that the issue of *Shari'ah* in the state was not 'real'. They claimed that the tenets of Islamic principles were not followed and that favouritism and corrupt practices had taken over as the principles for running the government (Labaran: 2006).

Since the official announcement of the intention to adopt the *Shari'ah* Legal System in Zamfara State, there has been the news of apprehension, fear and frenzy from the Southern part of Nigeria, the Christian North, Human Rights, the International Community and others. In spite of the agitation against the introduction and the implementation of *Shari'ah* in Zamfara State, the Sokoto Government also introduced the *Shari'ah* Legal System in the State which was signed into law effective from the 29<sup>th</sup> of May, 2000. The call for the introduction of the Shari'ah in Sokoto State was the intensified through vigorous campaigns of Islamic scholars, students and organizations who said the Shari'ah Legal System promotion in Nigeria should have begun in the Caliphate area before any other place because the whole of the 1804 Jihad in Hausaland that had succeeded in reforming Islam was co-ordinated from most parts of the present Sokoto State (AbdulQadir, 2016).

There has been hot debate on the constitutionality of the *Shari'ah* in the Federal Constitution. Since the expansion of the introduction of the *Shari'ah* Criminal Law in the Northern states with a Muslim majority, the issue was highly debated and politicized. The relevant provisions of the 1999 constitution have seemed to allow various interpretations. In some Northern states and the opponents of the Islamisation of the legal system in the North have all contended that there is a constitutional support for their positions. It would seem that the Northern states have followed a policy of *fait accompli*, thus forcing the Federation to choose between openly reacting to its introduction or to silently accept the situation. Even then, the Federation had not taken any measures. Since the new laws have also not yet been challenged judicially, the constitution posed no problem for the introduction of *Shari'ah* Penal Code Law as long as such does not seem to religionise Nigeria in the path of Islam to the dislike or apprehension of other religious followers. This is also supported by the provision of

the 1999 Constitution which states that individuals have the freedom to practice the religion of their choice.

## 5. VIEWS/REFLECTIONS OF THE ACADEMICS

Webs of reflections of the Academics on the implementation of Shari'ah Legal System were championed by Adamu (2004), Kuna (2005), Aliyu (2005), Gwandu (2001) Yadudu, Tabiu (2001, 2002, 2004), Tambuwal (2000) they observed that the re-enactment of the Shari'ah was a popular response as a result of the crass globalization of law, politics and lack of satisfaction with the present legal system to provide legal selections to the problems tackled by an Islamic law in the defunct Sokoto Caliphate.

Adamu (2005) argues that the views of the Shari'ah are that its expansion by northern Governors has little to do with religion and the main motive was political. Since most of the Governors are not versed, sound in Islamic religion and law with less commitment to its cause and course but rather took the advantage to gain chief popularity among the vast mass of majority of northern Nigerian people.

1. It is viewed as a strategy to create chaos in Obasanjo's government by the northern political elite who have been ruling the country through military dictatorship and who have now lost power through a democratic process.
2. It is considered unconstitutional as it denies secularism in Nigeria. The restoration of the Shari'ah more or less amounts to the adoption of Islam as a state religion.
3. It may infringe on the fundamental human rights of non-Muslim Nigerians residing in those states.
4. It is a strategy to divert the attention of the masses from the failure of such state governments to be alive and responsive to the yearnings and aspirations of the people by providing good governance and fairness.

Talking further about the empirical evidence, we cite Adamu (2005:9) on the gender dimensions of the implementation of the *Shari'ah*, such issues as the following:

- i. Restriction of women's mobility
- ii. Government imposition of the *hijab(veil)*
- iii. Exclusion of women from decision making positions or restricted to only women's ministry.

Yadudu rationalizes the *Shari'ah* laws in response to the constitutional contradictions raised about some of the punishment accorded to them. The Federal Government of Nigeria through the Attorney-General on Safiya's case maintained "this type of thing will not happen in Nigeria of 2000". In response to the statement on the hot debate, Yadudu(2000:2) cautions and stated that: section 38 of the 1999 Constitution guarantees freedom of religion. A Muslim firmly believes in the Will of Allah and is inordinate if he were to choose or be made to follow some part of Allah's injunctions, the personal law, and abandon others, the penal system. Yadudu's points to the individual's rights as a believer. In addition, he rationalizes his stance on the full implementation of the *Shari'ah* in both civil and criminal matters, citing the history of Sokoto Caliphate. He stated that even with colonization, the implementation of the *Shari'ah* law is enforced including the penal aspects without any hindrance just as what obtains in the Caliphate period. It was later 'British Colonialist who curtailed or otherwise uprooted the application of the *Shari'ah* to Muslims". This assertion or contestation raised a number of issues. One, the penal code is Divine Law, which some states aspire to implement and, to the Sokoto Jihad leaders implemented *Shari'ah* Law prior to the British colonization.

Yadudu argued further that since the contestation centred on penal offences and not *Shari'ah* in itself, prior to the existence of Nigeria, these penal laws were fully implemented.

Yadudu limits the application of *Shari'ah* points of convergence, they all accept *Shari'ah*. For Pro-*Shari'ah*-left-can not implement *Shari'ah* because of the heterogeneous cosmopolitan nature of Nigerian society.

## **6. PRO-SHARI'AH RIGHT**

*Shari'ah* can be applied looking at law constitutionally the freedom of religion to all citizens. They argued Muslims have right to stick to *Shari'ah* as best as they understand it since it is the completeness of their reflection.

Both concentrated on the meaning of *Shari'ah* on penal aspects. Limit on crimes and punishment but rather aspects of *Shari'ah* rules provide the lacuna/gap as mentioned by the pro-*Shari'ah* left. For instance, at the peak of rainy season buy onion of N100 takes it to Lagos, Sokoto at N5,000 aspects of *Shari'ah* need to look at the business cost of transportation.

## **7. PRO-SHARI'AH LEFT**

*Shari'ah* can't be subject the application by the passing of repugnancy test of equity, natural justice and good conscience.

Their reflection is mainly concern on the implementation of *Shari'ah* is to legal provisions, why people like *Shari'ah*, what impacts/improvements of human life.

## **8. REFLECTIONS ON THE VIEWS OF THE ACADEMICS**

Shehu (2007) through the dictates of social justice and leadership responsibility in Islam, a man is instinctively an unjust and oppressive personality (*zaluuman*) (Q, 33:72). This tendency in him is the factor that explains the ubiquity and pervasiveness of injustice, oppression and transgression (or wickedness in general), throughout human history and in different societies. Man is also instinctively averse in evil doing (wrongdoing, injustice, wickedness) especially if he/she plans it to affect other human beings, not himself or herself. This as well as the factor that deeply explains the man's ardent desire and ceaseless pursuit of justice as a deeply cherished ideal. The man's instincts of wickedness, jealousy, hypocrisy, falsehood, injustice and wrongdoing prevent him/her sincerely to procedure laws which can bring justice, fairness and happiness to the human society. Moreover, a man is also unable to dispense justice, because all human endeavours are already spiritually destined to imperfection, flaws, selfishness and fallibility. Therefore, humanity needs sublime and infallible guide to lead it to the path of justice. Allah the Creator of man and all other creatures in the universe and beyond knows this even before He created them. Hence, He sent to mankind his Messengers for this essential purpose of guidance and direction, among several others. The rationale behind sending messengers is the establishment of justice. Shehu (2007) quotes the Holy Qur'an:

Verily We did send our Messengers with clear proofs, and We revealed therewith unto them the scripture and the scale (of balance) that people should stand up firmly for justice" (Qur'an, 57:25). For this purpose, each of them was given a set of laws that are absolutely perfect for truth and justice (Qur'an, 5:48; 6:115). The last and the seal of these Messengers is Prophet Muhammad (S.A.W) who was also given a similar thing the *Shari'ah*.

The Shari'ah, therefore, is an absolute source of and criterion of justice. It crystallizes and also epitomizes the Islamic system that allows for social justice, ideal leadership and untainted principles of good governance. According to Shehu (2007), in Nigeria like elsewhere, the quest for social justice, responsible leadership and good governance has been endless in a nation, society, community and ever at home, almost becoming a nightmare. As a result of the sordid conditions that Nigerian Muslims found themselves in, very high expectations were attached to the Shari'ah implementation project that suddenly emerged in the country, with the Zamfara State initiative in late 1999. Shehu's main thesis is the elucidation of the background reason for the failure of good governance and followership. Such had nothing to do with the Shari'ah of the Islamic political system, but it is a failure of the leaders and subject to live according to the dictates and precepts of *al-Siyasah al-Shariyyah* and to properly implement the Shari'ah itself in all its ramifications and in all places.

Qutb (2000) *Social Justice in Islam*, analyses the nature and concept of social justice in Islam equate Shari'ah with social justice. Qutb's study on social justice is a groundbreaking work that attracted and continues to attract both appreciations and criticisms through the web of a wider readership. According to him, the freedom of conscience, human equality and mutual responsibility in a given society are the foundational basis of social justice in Islam. Qutb attacked and reproached feudalism and its exploitative apparatuses nature. According to Qutb, the best way in dispensing, social justice is that prescribed by Islam which guarantees human rights to conscience, equity, fairness and possession. He emphasizes on the uniqueness and autonomy of Islam as a socioeconomic system, defying all comparisons with other ideologies or systems. He also criticized Capitalism and Marxism/Communism to justify the supremacy of Islamic economic system. He opined that the worldview and motive of these two mentioned above different economic systems are materialistic. But he then made the assumption that Marxism/Communism, as a purer and thoroughgoing form of materialism, was bound to triumph over its less thorough counterpart where man's exploitation of man is more explicit as against the principle, of Marxism that advocates the state domination of the modes and means of productions and consumptions. Finally, Qutb addresses the concept of the methods of social justice and political and economic theories in Islam. He argues that due the main unique features of economic system of Islam when are the right of individual ownership, the right of the disposal of property, the means of individual acquisition, ways on increasing possessions, mode and means of production on behalf of the high middle and lower classes of the society, it can be more fairer unless the leaders or the Protestants became fascist and highly dictatorial and the ways of spending and alms or dues giving become inimical.

Kurawa (2004) sees Shari'ah as a body of Islamic laws programmed and aimed at achieving a conducive environment for the proper implementation of a legal provision as a common aspiration of Muslims in Northern Nigeria. This calls for a reform of the criminal laws of the Muslim Northern Nigerian States to include some provisions of the Shari'ah criminal law as interpreted by the Maliki school of jurisprudence and in accordance with the 1999 constitution of the Federal Republic of Nigeria (as amended).

The author outlines the obstacles to the Shari'ah implementation limiting the scope of judicial machinery from colonialism to independence up to the Fourth Republic. Quoting Kamilu (1993: 548-549) where it is observed thus:

although one such challenge, has suffered a temporary setback and there appears to be a lack of interest or diligence in observing and prosecuting the others. It will be foolhardy to support that this external challenge of judicial nature has melted away or is no longer available. The possibility of a

litigation to challenge any law passed to implement the Shari'ah persist for as long as the law-remains operative. Such judgment might be present where there is less Appeal. It will quash Shari'ah as the Shari'ah Court of Appeal has no jurisdiction over criminal matters as per the Shari'ah laws passed by the State of Assemblies are concerned. In several cases, many rulings of the Shari'ah Court of Appeal are confined to Muslims only.

This point as pinpointed by a lawyer may invariably affect only the jurisdiction of the Supreme Court of Appeal to entertain appeals on criminal matters from Shari'ah Courts. To fully address this lacuna and for a way out, the lawyer proposed that the penal code should be amended "to incorporate the full Shari'ah system and then give the High Court the Criminal jurisdiction as further buttressed by the Minister of State for Nigerian Foreign Affairs who clearly stated on behalf of the Federal Government that, "nobody will ever be stoned as a result of the Shari'ah law, nobody. The Federal Government will not stand by, to let any of its citizen of this country be dehumanized".

This point had been supported by Kurawa's book which is very apt and relevant in which it exposes the judicial, constitutional, political blackmail and propaganda challenges, yet the Muslim people of Sokoto agitated for the Shari'ah implementation. This is because of the inability of the Federal government cum the entire judicial system to make provision for the aspirations of many Nigerian Muslims in the North for Shari'ah implementation in particular. This fear has been further expressed even by the members of the judiciary. In one of the Nigeria National dailies the Chief Judge of Sokoto was quoted to have said:

"Quick overhauling of the Legal System is needed because the system has long been discarded by the British from where we copied it. Nigerians were currently more comfortable with the Magistrates and customary courts for quick dispensation of justice and record keeping than the Higher Courts".

## **9. REFLECTIONS ON THE VIEWS OF THE JOURNALISTS ON SHARI'AH**

A lot of misconception of Shari'ah was generated by a journalist in Nigeria and abroad due to either ignorance biasedness due to religion ethnic regional divide among others. Despite explanation by Shari'ah Governors is meant for Muslim and that Shari'ah existed long before British colonial rule.

Some of the journalists who visited Zamfara during a tour of the State heard what Governor Sani has done more in the area of poverty eradication to the needy yet the man was not even mentioned during an award giving on state Governors who have performed in empowering their people on poverty reduction.

## **10. REFLECTIONS ON THE VIEWS OF THE SCHOLARS ON SHARI'AH**

Following the implementation of the *Shari'ah* Legal System by (11) Governors in the northern Nigerian States after that of Zamfara state. However, this development generated a hot debate in the country. In the opinion of some Nigerians, the implementation has contradicted the provision of the Constitution that states that any law that goes contrary to the constitution is "null and void," hence a lacuna in constitutional provisions. Alemika (2001), Sanusi (2002) and Mohammed (2002) raised the concern about the re-implementation of the *Shari'ah* Legal System. They saw it more as a political gimmick to achieve cheap political scores or goals in lieu of the many multi-faceted problems facing the Northern Nigerian people. In fact, Sanusi (2003) holds this view on the implementation of the *Shari'ah* as;

... the attempt to construct a new Muslim identity (through *Shari'ah*) is at least in part a result of loss of control of the state political machinery and the state Financial machinery and the Armed forces leadership by the Northern Muslim elite leading to administrative sense of insecurity which in turn leads to an almost reflexive adoption of 'tribe', region and ethnic mentality.

Kurawa (2002) discussed the intricacies of the implementation of the Shari'ah Legal System in a secular and democratic society like Nigeria. He went down the memory lane and contextualized the history of secularism, democracy and conflicting agitations in Nigeria. He critically analyzed the hypocritical nature of the democratic concept of freedom and human rights which are not respected in the Western societies especially as they affect Muslims residents. For instance, he argued that in France and Germany Muslims have been alienated to use Islamic accepted dresses like veils, headscarves and others because such attires stand as Islamic symbols. But Christians there-in are allowed to use the cross which also symbolizes adherence to Christianity. These democratic values and secularism were extended to Nigeria through British imperial conquest which destroyed the major Islamic polities like Sokoto Caliphate and truncated the Islamic legal system that Muslims enjoyed. According to Kurawa in the pre-colonial period, there were three national questions in Nigeria. The first question was the agitation of some groups for recognition of their ethnic peculiarities, others were the agitation for greater control of mineral resources in their areas, and some people were agitating for the restoration of their values which were vilified by the colonial and postcolonial Nigerian state. Due to the Western Christians alienation and domination of the Muslim worlds in appointment and position holding in the United Nations at its agencies such the Secretary-General and in some organisations like the World Health Organization (WHO), the Food and Agricultural Organization (FAO), the UNICEF, the UNESCO, FIFA, World Court, the World Bank the IMF etc is one of the major obstacles to the agitation of the implementation of Shari'ah in Nigeria. The Western powers and International Financial Institutions perceive Shari'ah as a threat to their economic and social interests. According to Kurawa (2002), the current wave of Shari'ah agitation and implementation does not in any way threaten the usurious Jewish dominated Western economic interests, but it precludes that will eventually question it and may perhaps dominate it in the long run. So there will one day be the power that be may not take any "chance" to prevent its implementation even in Nigeria. While other commentators interpreted the agitation for Shari'ah implementation from the perspective of the economic impoverishment of the society. Kurawa refuted this claim and asserted that Muslims have always been agitating for a society based on sound Islamic values in prosperity and poverty.

In a nutshell, Kurawa appraised the forces that constituted obstacles to the agitation and implementation of the Shari'ah Legal System in Nigeria. He stipulated that the Western desire to perpetuate Christian and Jewish traditions and to impose them on the Muslim world is one of the threats to Shari'ah implementation in Nigeria. The double-standard nature of democratic values and secularism is another hiccup to the Shari'ah agitation and implementation in Nigeria.

However, reasons have been advanced for the implementation of the *Shari'ah* Penal Code Law in the Northern parts of Nigeria. Some perceived the implementation of the code as a reaction to the power shift (from North to the South) by the Northern political elites who wanted to manipulate religion to hold power or to cause problems to the Obasanjo regime (Sanusi, 2001, Mohammed et al 2000).

Others see the implementation of the *Shari'ah* Legal System as a way to dominate, take control and coerce non-Muslims to become second-class citizens. Some see the agitation as a welcome development in civilian rule, as characterized by the freedom of conscience of speech, of association and choice between opposing groups positions. Mohammed et al (2002; 2) observed disturbingly that:

... many of the Politicians, Journalists and Clerics on both sides of the controversy seem to want to turn the whole matter into one of a 'Jihad' or a 'crusade' in wanton disregard of what will be the grim consequences to millions of innocent men, women and children of both the Muslim and Christian faiths who are living together peacefully, amicably and fraternally, and whose living conditions are daily deteriorating due to misgovernance, indiscipline and absence of rule of law irrespective of their religious faiths...

These scholars presented the facts and figures on how the realities of the daily lives of the *Talakawa* (the downtrodden commoners) actually made it difficult for most of them to carry out their religious obligations properly due to the levels of poverty, diseases, insecurity, hunger, and destitution to which they have been reduced to by the way the economy is organized and operated by Muslim and Christian government officials who formulated and implemented it only in the interest of the rich and the powerful.

There is no doubt in the fact that the last two decades have signalled negative socio-economic changes in the Nigerian polity and economy. There were a lot of internecine, socio-ethnic and religious conflicts cum economic and political crises. It is in this situation that the Federal Military Government of Nigeria, after incessant protests, introduced in 1986, the Structural Adjustment Program (SAP) with the following objectives in mind:

- i. to find the true level/value of the Naira;
- ii. overcome public sector inefficiency;
- iii. abolish import licensing;
- iv. liberalize trade;
- v. and remove government control on the economy through deregulation programmes.

However, up to 2000, the year of the implementation of the *Shari'ah* Legal System, the real value of the Naira had not been properly determined. Instead, its former value was drastically reduced as Aluko (1988:9) observed;

... by devaluing the Nigerian currency the cost of importing for our industries has increased. This factor has led to the ever increasing prices which directly affect consumers, even the prices of food items have been affected...

Apart from the inflation of goods and food items, which the Structural Adjustment Programme brought, there was unemployment, as some companies were forced to lay off their workers in order to survive. It was in this situation when the people of Muslim north were battling with the high cost of living, food, unemployment, idleness and other necessities of life, that the issue of the implementation of *Shari'ah* Legal System came up. The Muslim agitators considered its implementation as a way forward in the attempt to address some of the critical issues and challenges facing Muslims in Nigeria.

Thus, the tension brought about by these economic hardships had influenced many Muslims to agitate for the *Shari'ah* implementation. The inability of the Structural Adjustment Programme to achieve its objectives coupled with the state failed in its responsibilities and intolerance among believers, invariably shifted the demand of *Shari'ah* Civil Law in the 1960s

and 1980s to a more comprehensive establishment of the *Shari'ah* Penal Code Law as shown in many states of the Northern part of Nigeria. Jega (1997:6 as cited in Abdu 2007) clearly shows the agitation for the *Shari'ah* as a reaction to the total loss of confidence in the socio-economic cum political system that will aid them out of malaise when he says: -

....the failure of the state and those associated with it to cater to the fundamental needs and aspirations of the common people translate into their material deprivation and alienation especially in urban centres leading many to begin to question the prevailing ideas and institutions that directly affect them....

It is from this situation of hopelessness and the state of failure that Nigeria entered into the fourth republic. On the assumption of office, some state Governors due to lack of programmes and good intention brought up the *Shari'ah* as a way out of this socio-economic malaise (Lamido, 2000). The assumption is that the problem will be over since there is a Theocracy, i.e. a government of Allah by the people that will address all human problems and power will be exercised in accordance with the dictates of Islam and in the overall interests of the people residing in the community. Other Scholars have argued that Muslims cannot demand the *Shari'ah* just because they want to serve their creator or only in response to economic hardships.

#### **11. DISCUSSION OF MAJOR FINDINGS**

1. Implementation of *Shari'ah* has generated a lot of debates and web of reflections among politicians, Journalists, Academics Scholars and non-Muslim bodies.
2. Some of the views reflected or premised were based on academic discerning mind based on their educational religious ethnic affiliations on the implementation of *Shari'ah* project.
3. Lack of knowledge/awareness majority of the people in the states that experiment the *Shari'ah* embraced it with open arms but expressed their views and opinions without fully comprehending the system, its features and application.
4. Some scholars and academics had assiduously provided a cogent explanation on the contents of the *Shari'ah* and its applicability.
5. Some of the views, particularly of non-Muslims and journalist, were a sheer objection or rejection against anything related to Islam and Muslim no matter how good or rational it is. Disagreement with the notion of Christian which is outright condemnation an allegation just to distort or stop *Shari'ah* project, claiming that it amounts to making Nigerian an Islamic state and Islamic project is now silent or become a leaving the implementing state governors lacking anything to religion bargain at least politically.
6. Obasanjo's politicians Academically on political motive of *Shari'ah* can sold water. Why is *Shari'ah* reluctant.
7. There is a sharp distinction in the models of approach in the implementation of *Shari'ah* between Zamfara and Nigerian state. So also Kano state Bill on *Shari'ah* differences from Zamfara and Nigerian. This explains the differences in the practices between the states in the quest for driving forces and condition differs from one geographical zones to the other. Some non-Muslims see demarcation
8. Enactment of *Shari'ah* is different from implementation/reintroduction with public fanfare accordance with launching from the politicians.

## 12. CONCLUSION

Some people have perceived the implementation of the code as a reaction to the power shift (from North to the South) by the Northern political elites who wanted to manipulate religion to hold power or to cause problems to the Obasanjo regime. Obasanjo was said to have told who told his kingmakers who made him that he was too old at 65 to be manipulated as it was done to him between 1976 to 1979 when he succeeded the late General Murtala Ramat as Head of State of Nigeria after Obasanjo became Head of State when Murtala was assassinated in an abortive coup detailed by a traitor late Colonel Bukar Suja Dimka of the Nigerian Army. The ideas and opinions reflected the standpoint of those that stated it. Most of the non-Muslims thought that the implementation of the Shari'ah was an attempt in the Islamization of Nigeria. Journalists, academics and expatriates viewed it as a politicization of religion for political gains and manipulations in Muslim dominated areas. Notwithstanding the intention of the initiators of the implementation of the Shari'ah system has been embraced by the people in Northern Nigeria because it has an impact on their socio-economic lives.

The Muslims are fully optimistic that with its sincere, full implementation, justice, freedom, fair play, employment, empowerment, prosperity, productivity, equity and equality, self-sufficiency and self-determination, will be the order of the day through effective leadership and proactive followership and aliens.

## 13. RECOMMENDATIONS

1. Non-Muslim stop condemning Shari'ah
2. Shari'ah should be total just, fair, equity devoid of politicking as reflect during the Prophet's rightly guided caliphs down to 1804 Jihad movement in Hausaland.
3. A journalist should have a fair knowledge of Shari'ah should stick to the ideals, ethics of journalism.
4. Shari'ah shouldn't be for political motive it should be spiritually purely for the basis and philosophy of justice, fairness, equity, peace and progress for both Muslims and non-Muslims.
5. There should e proper knowledge and awareness of Shari'ah
6. Shari'ah should be implemented in a uniform, open to criticisms.

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