



*Nigeria faces conflict*

# Can Sharia law work in a multi-religious federation?

BY BETTY ABAH

**If** elected local authorities in a federal country introduce and try to enforce Sharia law, what should the central government do?

That is the thorny question that Nigeria has struggled with for the past six years. It's a complex question, because Sharia criminal codes adopted by 12 of the 36 Nigerian states have penalties that can only be applied to Muslims. This has not prevented some states from banning the drinking of alcohol by everyone, with the Sharia penalties only imposed on Muslim citizens guilty of the offence.

In February, the Government of Nigeria issued a terse directive banning the Hisbah Group in Kano, a Muslim-dominated state in the northern part of the country. The group, founded more than one year ago, functions as a Sharia law police and is responsible for implementing the Islamic Sharia law in Kano State. The reason for the ban, according to Frank Nweke, Nigeria's information minister, was that the "establishment of Hisbah contravenes Sect. 214, subsection 1 of the Nigerian Constitution, 1999." That section prohibits the establishment of state police. Nweke claimed Kano governor Ibrahim Shekarau was "seeking the funding of foreign (Islamic) countries for the training of 10, 000 jihadists in the area of intelligence and practice of jihad."

Shekarau denied this allegation and sued the federal government to challenge the ban. The case is still pending. In the meantime, Hisbah remains banned in Kano state. This is the single legal confrontation between a northern, predominantly Muslim state, and the Nigerian federal government over the contentious issue of the Islamic legal code. The ban is the only measure taken by the Federal Government since the issue of states adopting Sharia law first flared up in January 2000 in the northern state of Zamfara.

Sharia poses complex problems for Nigeria, a multi-cultural federation of 140 million people and the most populous country in sub-Saharan Africa. Nigeria has a history of violent confrontation between Christians and Muslims, each of which account for nearly half the population.

The first modern-day introduction of the Sharia criminal code in a Nigerian state took place on Oct. 27, 1999, when Ahmed Sani, the governor of Zamfara, adopted the law in

an elaborate ceremony that attracted personalities from various Islamic countries including Libya's Moammar Gadhafi. The governor justified the imposition of Sharia saying it would bring about higher moral conduct in Zamfara. "There will be no stealing or corruption and people's mental and spiritual well-being is going to be encouraged."



*Nigeria's President  
Olesegun Obasanjo*

Sharia law is based on the Koran and the Hadith (a narration about Mohammed's life and what he approved). There are nearly 50 countries with a majority of Muslims — including five federal countries: Malaysia, Indonesia, Pakistan, United Arab Emirates and Comoros. In addition, there are two countries with a majority Muslim population that are in transition to federalism: Sudan and Iraq. But full Sharia law is only enforced in a few. The most controversial parts of Sharia law are the punishments attached to the so-called Hadd offences, which include unlawful sexual intercourse (outside marriage), drinking alcohol, theft and highway robbery. The Hadd offences can carry such penalties as flogging, cutting off a hand, or stoning to death.

In Kano state, to avoid so-called immorality, a law was passed to prohibit opposite sexes from travelling in the same vehicle, but enforcement has been much resisted by the populace. The operators of commercial motorcycles, the most popular means of transportation in Nigeria, are banned from carrying female passengers in Kano. And couples checking into hotels must swear on the Koran as well as providing evidence that they are married.

## **Sharia and the Nigerian federation**

The Nigerian Constitution is unequivocal on the matter of state religion. Sect. 10 states: "The government of the Federation or of a state shall not adopt any religion as state religion."

Sect. 38 (subsection 1) adds; "every person shall be entitled to freedom of thought, conscience and religion including freedom to change his religion and belief..."

But advocates of Sharia claim that the justification for Sharia law is found in Sect.32(12) of the Constitution, which states that: "Subject as otherwise provided by this constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty

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therefore is prescribed in a written law, and ... an act of the National Assembly or a law of a state..."

The Muslim states point to the words "law of a state" and say that terminology provides the legal underpinning for Sharia law. It is legal, they claim, because it is subordinate legislation, duly enacted by a sub-national state government, acting within its designated powers. In introducing the Islamic law, the governors have claimed that Sharia laws had always been part of the Muslim faith in Northern Nigeria. Northern Nigeria became predominantly Islamic in 1804 as a result of the influence of Othman Dan Fodio, a Fulani jihadist from the Islamic state of Sokoto. Southern Nigeria, where British influence began after 1814, developed into a region that is largely Christian. Modern Nigeria had its origins in 1914, when northern and southern Nigeria were joined by the British.

### **Sharia called a threat to unity of federation**

But many claim that Sharia is a threat to the unity and integrity of the Nigerian federation. At the height of the Sharia controversy in 2000, then justice minister, Kanu Agabi, stated: "Any court which imposes discriminatory punishment is deliberately flouting the constitution ... the stability, unity and integrity of the nation are threatened by such action."

Although the spread of Sharia in Nigeria is linked to an increased devoutness of the followers of Islam, it was claimed that it was spurred along by some eminent politicians, businessmen, ex-military officers as well as two former heads of state. These last two had been sidelined by the regime of President Olusegun Obasanjo, who was first elected to office in 1999. Besides carrying out a massive retirement of military personnel when he took office, Obasanjo embarked on an anti-corruption campaign, thereby stepping on powerful toes.

Obasanjo was unusually sanguine in his reaction to the Sharia controversy.

"There is no big deal about the adoption of the Sharia by the Zamfara State Government as the legal system is not new to Nigerians especially those in the North. People have their way of doing things but I do not think it will last." What was clear to many is that Obasanjo had received strong electoral support from the Muslim North, and needed to proceed tactfully to maintain the loyalty of those Northern-based voters. There was the 2003 re-election bid ahead. So from 1999 when the controversy erupted, until the 2003 general elections, the president remained a most accommodating figure.

The application of the Sharia criminal code in Nigeria has sparked headlines because of the severity of the sanctions against transgressors:

- In 2000, a peasant man had his left hand amputated for cow theft in Zamfara State.
- In 2000, a firewood seller in Zamfara also lost his wrist for stealing two bicycles.

- In September 2001, a teenage single mother, Bariya, was given a sentence of 180 lashes, having been found guilty of fornication by a Sharia court.
- In October 2001, a 30-year-old pregnant woman was sentenced to death by stoning for alleged adultery. The man responsible, her cousin whom she claimed had raped her, was set free for lack of evidence. In the end the woman appealed and was acquitted on the ground that the alleged act of adultery had taken place before Sharia law was implemented in the state.
- In March, 2002, a woman in Katsina in northern Nigeria was sentenced to death for adultery. The sentence was delayed for two years until she had finished breast-feeding her infant. She too was eventually acquitted on appeal.
- In May, 2002, a man, Sarimu Mohammed, 50, was sentenced to be stoned to death by a court in Jigawa for raping a nine-year-old girl. On appeal to a higher Sharia court, his conviction was overturned on the grounds of insanity in 2003.
- In Bauchi State in 2002, Adama Unusua, 19, was sentenced to 100 lashes by a Bauchi court for engaging in sexual intercourse with her fiancé. She was pregnant at the time of the trial.

Violence also accompanied the Sharia controversy in Nigeria. For instance, Kaduna State, the hotbed of political and religious agitation in the North, became a theatre of conflict in 2000. Christians, who have a large population in the state, protested moves by the state House of Assembly to introduce the Sharia Criminal Code in the state in February of that year. That protest met stiff resistance from Muslim faithful. The result was a three-day bloodbath from February 21 to 23.

Shortly after, it was the turn of Bauchi State, where Muslim and Christian faithful again clashed following another attempt by the state government to introduce Sharia.

### **President Obasanjo calls meeting of Council of State**

Spurred into action, President Obasanjo hurriedly called for a meeting of the Council of State, a government national forum consisting of the Federal executive arm, the governors, former presidents and heads of states as well as security chiefs. It was agreed that the Sharia implementation be suspended and that all the states should return to the status quo, namely the penal code that had been part of the constitution. But that proved to be a temporary measure. It was shortly thereafter that the rest of the 12 states went on to declare that Sharia was the law of the land.

As predicted, the Sharia heat appears to have diffused with time in most of the North, except the last upheaval in Kano. But the underlying differences can be traced back to the different histories of northern and southern Nigeria and that fateful year, 1914, when northern and southern Nigeria were joined by the British. Some conflicts take generations to resolve. 