

## Review Article

## Application of Shari'ah in the Current Nigerian Democratic System: Issues at Stake

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**Abstract:** In spite of the fact that the application of Shari'ah in some parts of the Northern states could be regarded to a large extent as a revolutionary initiative during the current Nigerian democratic system, yet, its introduction obviously generated a great deal of controversy. Many problems, such as ignorance of the Shari'ah by (some) Muslims and non-Muslims, reluctance on the part of the Ulama' to express their full support for the application of the Shari'ah, diverse selfish interest, opposition as a result of political or religious differences, soon arose. In other words, while advocates of full implementation of Shari'ah see the realization of the application of Shari'ah as a long dream that comes true, others see the development as archaic, un-constitutional and a threat to the nascent democracy. In view of this therefore this paper examined some of the sensitive issues and the future expectations surrounding the full application of Shari'ah in the present political dispensation since its introduction in 1999.

**Keywords:** regarded to a large extent as a revolutionary initiative during the current Nigerian democratic system.

### INTRODUCTION

If there are issues that attracted both commendable and condemnable reactions from Nigerians and foreigners since Nigeria returned to civil rule in 1999, the full implantation of Shari'ah pioneered by Governor Ahmad Sani of Zamfara State would rank higher (Yahaya O. 2005: 9). Those who support the initiative have expressed their views and commended efforts of the initiators of such bold steps through electronic, mass and other media. The opposing group also employed all media to condemn the declaration under the guise of the alleged Nigeria's secularity. Such people have made derogatory remarks on some activities in the Shari'ah states and condemned such as un-civilized and unconstitutional.

The implementation of Shari'ah under this regime is also seen by some as political and therefore not borne out of faith and conviction. Upholders of this opinion wondered why it was popularized during Obasanjo's administration, a southerner and Christian, and not during the previous regimes majority of which were led by Northern Muslims. The non-pursuant of full implementation of Shari'ah under those regimes raises

questions on the credibility of such implementation (Yahaya O. 2005: 10-11).

It is also important to note that as a result of ignorance, selfish interest or religious differences, the significance, advantages and achievements of the application of Shari'ah in Nigeria could hardly be seen or recognized by its critics. The need to re-examine the problems associated with the declaration and implementation of Shari'ah in the present democratic system thus, become imperative.

### PROBLEMS ASSOCIATED WITH THE APPLICATION OF SHARI'AH:

The problems associated with the application of Shari'ah in Nigeria are many. We shall however limit our examples to four issues as follows:

#### I. IGNORANCE OF SHARI'AH BY SOME MUSLIMS

Some Muslims are ignorant of the actual meaning of Shari'ah. They thought that Shari'ah does not go beyond securing justice in the courts of law. Therefore, whenever they hear other Muslims agitating for the full application of Shari'ah, they first start

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thinking about amputation of a thief's hand, stoning to death of an adulterer, applying 80 stripes on a drunkard, and many other criminal offences and their punishments. This is the reason why some of them vehemently oppose the application of Shari'ah since they are nominal Muslims. They fear such punishments should they commit those criminal offences.

Other ignorant groups however, oppose the application of Shari'ah because of their diverse selfish interest. Some are evildoers. They fear to support the Shari'ah as that will deter them from doing their evils. Some are politicians from the opposing parties. They fear if they support the Shari'ah, their (Opposition) parties will be weakened, etc.

## II. RELUCTANCE OF THE ULAMA' AND THE LEADERS

Reluctance on the part of the Ulama' is another problem that is faced by the application of Shari'ah. Although there are certain groups of Ulama' that need special mention and commendation for their tireless public enlightenment on the significance of supporting the application of Shari'ah by all Muslims, yet many Ulama' are still reluctant to express their full support for the total application of Shari'ah.

The attitude of the leaders towards the Shari'ah implementation is also not very encouraging. It is on record that when the then Zamfara State Government invited all Muslims to the formal inauguration of the application of Shari'ah in their State, only His Royal Highness, Muhammad Sani Sami, the Emir of Zuru honored their invitation from among the first-class Emirs. Some leaders not only refused to attend the formal inauguration, but also opposed the application of Shari'ah.

This argument of some of the Ulama' and the leaders is that the socio-economic and political condition of the nation and the states that declare full implementation of Shari'ah are not conducive for its' successful implementation. In fact, one of them specifically stated that Shari'ah under the present condition is bound to fail (Yahaya O. 2005:11).

## III. OPPOSITION FROM NON-MUSLIMS

The launching of Shari'ah by Zamfara State Government in 1999 invited strong opposition from the non-Muslims both within and outside Nigeria as earlier mentioned. In spite of the fact that the initiators of the Shari'ah implementation made it clear on several occasions that the laws of Shari'ah are not binding on the non-Muslims, yet, most of them turned a deaf ear to such clearance or assurance. Several violent demonstrations were organized which mostly resulted to wanton

destruction of lives and -property especially in Kaduna and Bauchi States (Tell magazine 2001:34). The non-Muslims also insisted that section 10 of the 1999 constitution prohibits the adoption of an official religion by Government at all levels. For this reason, looking at the context of the complex and diverse structure of Nigeria, the non-Muslims wanted to ensure a clear separation and dichotomy between faith and conduct, faith and politics cum governance, church and state. In their opinion, secularity should be strengthened by inserting a clause in the constitution, which will make it a breach of the constitution for any Government to fund or directly participate in religious activities (Review of the 1999 constitution: 2001:50)

## IV. LACK OF SERIOUSNESS ON THE PART OF THE LEADERS

**There is no doubt that the introduction of Shari'ah in almost half of the Northern States was a commendable effort. This is because through this initiative, some Governors succeeded in:**

- Declaring the sale and consumption of intoxicants as unlawful.
- Banning of prostitution.
- Establishing Shari'ah Courts.
- Establishing Ministries or Directorates to cater for all religious affairs, etc.

However, it appears, many Governors, were not serious about the Shari'ah. They only talked of Shari'ah during their public addresses. But there was no practical evidence to convince one that, the Shari'ah was being implemented in their states. The launching of their Shari'ah was therefore more of political reasons than religious convictions (Ado-Kurawa 2000:324)

## OBSERVATIONS AND SUGGESTIONS

In view of the foregoing discussion, it could be observed that:

i. Some Muslims are ignorant about what is meant by Shari'ah. They need to be enlightened that Shari'ah is not only confined to the Courts of law but covers all aspects of life. In short, the securing of justice in the Courts of law carries only a small percentage of what Shari'ah constitutes. This is because Shari'ah includes one's faith, his prayer, his marriage, his trade and commerce, his foods and drinks, etc. All these are enshrined in Shari'ah. Whosoever performs them according to how Allah and His Messenger prescribe, and also restrains from what they have forbidden, is a true devotee of Shari'ah. In the Qur'an, Allah enjoins His Messenger to say the following:

قُلْ إِنَّ صَلَاتِي وَنُسُكِي وَمَحْيَايَ وَمَمَاتِي لِلَّهِ رَبِّ الْعَالَمِينَ. لَا شَرِيكَ لَهُ وَبِذَلِكَ أُمِرْتُ وَأَنَا أَوَّلُ الْمُسْلِمِينَ [الأنعام: 162، 163]

Say: Truly, my prayer and my service of sacrifice, my life and my death are (all) for Allah, the cherisher of the worlds. No partner has He: this am I commanded, and I am the first of those who bow to His will (Al-An'am, 6: 162-163).

Similarly, no person is punished under Shari'ah except after thorough investigation. Very tough conditions are laid down before applying punishment against criminal offences. For instance, if a man is accused of stealing; Shari'ah shall not order his hand to be amputated until after certain conditions are fulfilled (Abdurrahaman, I: 1984:257)

As for the case of adultery, the accused shall not be stoned to death unless if he voluntarily confesses (Abdurrahaman, I: 1984:239); or to have four persons to bear witness against him as the Qur'an testifies:

وَالَّذِينَ يَزْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا وَأُولَئِكَ هُمُ الْفَاسِقُونَ [النور: 4]

And those who accuse chaste women, and produce not four witnesses, flog them with eighty stripes, and reject their testimony forever. They indeed are the *Fâsiqûn* (liars, rebellious, disobedient to Allâh). (Qur'an, 24:4).

ii. The attitude of some of the Ulama' and the leaders against the application of Shari'ah is indeed a major problem. Nevertheless, while accepting the significance of improving the socio-economic conditions of the people, yet it should-not be a prerequisite for the introduction of Shari'ah. Because as

mentioned earlier, Shari'ah covers everything needed for human existence. The Ulama' and the leaders should realize that knowledge and leadership are trusts and obligations which must be fulfilled. To support the application of Shari'ah is part of the fulfillment of their trusts. Allah says:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ [المائدة: 1]

"O you who believe! Fulfill (your) obligations" (Al-Ma'idah, 5:1)

In another verse, He says:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا [النساء: 58]

Verily! Allah commands that you should render back the trust to those to whom they are due. (Al-Nisa', 4:58)

iii. Most of the non-Muslims vehemently opposed the application of Shari'ah. Some of them do not know that Shari'ah is fair to all and sundry without any religious discrimination. Most of them also do not know that a lot of what Shari'ah contains are also in their Books, (The Holy Bible). The Christians therefore need to be reminded that the Glorious Qur'an informed the Muslims that there is love between devoted Christians and Muslims in the following verse:

لَتَجِدَنَّ أَشَدَّ النَّاسِ عَدَاوَةً لِلَّذِينَ آمَنُوا الْيَهُودَ وَالَّذِينَ أَشْرَكُوا وَلَتَجِدَنَّ أَقْرَبَهُمْ مَوَدَّةً لِلَّذِينَ آمَنُوا الَّذِينَ قَالُوا إِنَّا نَصَارَىٰ ذَلِكَ بَأْسٌ مِنْهُمْ قِسِيَّيْنَ وَرُهْبَانًا وَأَنَّهُمْ لَا يَسْتَكْبِرُونَ [المائدة: 82]

You will find that the strongest among men in their enmity to the believers are the Jews and the pagans; and that the nearest among them in love to the believers '• are those who say: we are Christians'. Because among these are men devoted to learning and men who have renounced the world and they are not arrogant (Al-Ma'idah, 5:82)

Some of the laws contained in the Qur'an that the Bible affirmed are cited below:

### 1. UNITY OF ALLAH

#### a) The Glorious Qur'an

Say (O Muhammad [sal-Allâhu 'alayhi wa sallam]): "He is Allâh, (the) One.

Allâh – the Self-Sufficient Master, Whom all creatures need. He begets not, nor was He begotten. And there is none coequal or comparable to Him. (Al-Ikhlâs, 112:1-4) And your Ilâh (God) is One Ilâh (God – Allâh), Lâ ilâha illa Huwa (there is none who has the right to be worshipped but He), the Most Gracious, the Most Merciful. (Al-Baqarah, 2:163)

#### b) The Bible

'Hear, or Israel: "The Lord our God, the Lord is one" (Mark, 12:29)

And this is eternal life, that they know thee the only true God, and Jesus Christ whom thou hast sent. (John, 17:3)

### 2. RITUAL BIRTH/ABLUTION

#### a) The Glorious Qur'an

O you who believe! When you intend to offer As-Salât (the prayer), wash your faces and your hands (forearms) up to the elbows, rub (by passing wet hands over) your heads, and (wash) your feet up to the ankles. If you are in a state of Janâba (i.e. after a sexual discharge), purify yourselves (bathe your whole body). But if you are ill or on a journey, or any of you comes from the Ghâ'it (toilet), or you have been in contact with women (i.e. sexual intercourse), and you find no water, then perform Tayammum with clean earth and rub therewith your faces and hands. Allâh does not want to place you in difficulty, but He wants to purify you, and to complete His Favour to you that you may be thankful. (Al-Ma'idah, 5:6)

#### b) The Bible

The Lord said to Moses, You shall also make a laver of bronze, with its base of bronze, for washing. And you shall put it between the tent of meeting and the altar, and you shall put water in it, with which Aaron

and his sons shall wash their hands and their feet. When they go into the tent of meeting, or when they come near the altar to minister, to burn an offering by fire to the LORD, they shall wash with water, let them die. (Exodus, 30:17-20)

And if a man has an emission of semen, he shall bathe his whole body in water, and be unclean until the evening. And every garment and every skin on which the semen comes shall be washed with water, and be unclean until the evening. If a man lies with a woman and has an emission of semen, both of them shall bathe themselves in water, and be unclean until the evening. (Leviticus, 15:16-18)

### 3. PROSTRATION IN PRAYER

#### a. *The Glorious Qur'an*

Surely, those who are with your Lord (angels) are never too proud to perform acts of worship to Him, but they glorify His Praise and prostrate themselves before Him. (Al-A'raf, 7:206)

So, glorify the praises of your Lord and be of those who prostrate themselves (to Him). (Al-Hijr, 15:98)

#### b. *The Bible*

And Ezra the scribe stood on a wooden pulpit which they had made for the purpose; and beside him stood Mattithi'ah, Shema, Anai'ah, Uri'ah, Hilki'ah and Ma-asei'ah on his right hand; and Pedai'ah, Mish'a-el, Malchi'jah, Hashum, Hash-bad'danah, Zechari'ah, and Meshul'lam on his left hand, And Ezra opened the book in the sight of all the people, for he was above all the people; and when he opened it all the people stood. And Ezra blessed the LORD, the great God, and all the people answered, "Amen, Amen," lifting up their hands; and they bowed their heads and worshipped the LORD with their faces to the ground. (Nehemiah 8:4-6)

And going a little further he fell on his face and prayed... (Mathiew 26:39)

### 4. WOMEN AND HIJAB

#### a. *The Glorious Qur'an*

And tell the believing women to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts) and not to show off their adornment except that which is apparent (like both eyes for necessity to see the way, or outer palms of hands or one eye or dress like veil, gloves, headcover, apron), and to draw their veils all over Juyûbihinna (i.e. their bodies, faces, necks and bosoms) and not to reveal their adornment except to their husbands, or their fathers, or their husband's fathers, or their sons, or their husband's sons, or their brothers or their brother's sons, or their sister's sons, or their (Muslim) women (i.e. their sisters in Islâm), or the (female) slaves whom their right hands possess, or old male servants who lack vigour, or small children who have no sense of feminine sex. And let them not stamp

their feet so as to reveal what they hide of their adornment. And all of you beg Allâh to forgive you all, O believers, that you may be successful. (Al-Nur, 24:31)

O Prophet! Tell your wives and your daughters and the women of the believers to draw their cloaks (veils) all over their bodies (i.e. screen themselves completely except the eyes or one eye to see the way). That will be better that they should be known (as free respectable women) so as not to be annoyed. And Allâh is Ever Oft-Forgiving, Most Merciful. (Al-Ahzab, 33:59)

#### b. *The Bible*

I desire then that in every place the men should pray, lifting holy hands without anger or quarreling; also that women should adorn themselves modestly and sensibly in seemly apparel, not with braided hair or gold or pearls or costly attire but by good deeds, as befits women who profess religion. Let a woman learn in silence with all submissiveness. I permit no woman to teach or to have authority over men; She is to keep silent. (Timothy 2:8-12)

A woman shall not wear anything that pertains to a man, nor shall a man put on a woman's garment; for whoever does these things is an abomination to the LORD your God. (Deuteronomy 22:5).

### 5. PROHIBITION OF INTOXICANTS

#### a. *The Glorious Qur'an*

O you who believe! Intoxicants (all kinds of alcoholic drinks), and gambling, and Al-Ansâb, and Al-Azlâm (arrows for seeking luck or decision) are abominations of Shaitân's (Satan's) handiwork. So avoid (strictly all) that (abominations) in order that you may be successful. (Al-Ma'idah, 5:90)

#### b. *The Bible*

Woe to those who rise early in the morning, that they may run after strong drink, who tarry late into the evening till wine inflames them! They have lyer and harp, timbrel and flute and wine at their feasts; but they do not regard the deeds of the LORD, or see the work of his hands. (Isaiah 5: 11 -12)

Woe to those who are heroes at drinking wine, and valiant men in mixing strong drink, who acquit the guilty for a bribe, and deprive the innocent of his right! (Isaiah 5:22-23)

### 6. INTENTIONAL KILLING AND INJURY

#### a. *The Glorious Qur'an*

And We ordained therein for them: Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal. But if anyone remits the retaliation by way of charity, it shall be for him an expiation. And whosoever does not judge by that which Allâh has revealed, such are the Zâlimûn (polytheists)

and wrongdoers – of a lesser degree). (*Al-Ma'idah*, 5:45)

**b. The Bible**

*If any harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe. (Exodus 21:23-25)*

*He who kills a man shall be put to death. He who kills a beast shall make it good, life for life. When a man causes a disfigurement in his neighbor, as he has done it shall be done to him, fracture for fracture, eye for eye, tooth for tooth, (Leviticus 24: 17-20)*

**7. ADULTERY**

**a. The Glorious Qur'an**

*The fornicatress and the fornicator, flog each of them with a hundred stripes. Let not pity withhold you in their case, in a punishment prescribed by Allâh, if you believe in Allâh and the Last Day. And let a party of the believers witness their punishment. (Quran, 24:2)*

**b. The Bible**

*If a man commits adultery with the wife of his neighbor, both the adulterer and the adulteress shall be put to death. The man who lies with his father's wife has uncovered his father's nakedness; both of them shall be put to death, their blood is upon them. If a man lies with his daughter-in-law, both of them shall be put to death; they have committed incest, their blood is upon them. If a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death, their blood is upon them. If a man takes a wife and her mother also, it is wickedness; they shall be burned with fire, both he and they, that there may be no wickedness among you. If a man lies with a beast, he shall be put to death; and you shall kill the beast. If a woman approaches any beast and lies with it, you shall kill the woman and the beast; they shall be put to death, their blood is upon them. 9 Leviticus 20: 10-16)*

*If a man is found lying with the wife of another man, both of them shall die, the man who lay with the woman, and the woman; so you shall purge the evil from Israel. (Deuteronomy 22:22)*

When one carefully checks the above-mentioned laws contained in the Glorious Qur'an, which are similar to the Biblical injunctions, one will clearly see that Shari'ah is not a new law that the Christians should oppose or hate. This is because most of the laws prescribed by Shari'ah; like wearing of Hijab by women, prohibition of strong drinks and stoning to death of an adulterer are all enshrined in the Bible.

As regards the 1999 constitution, the Muslims also argued that section 38 of the constitution confers on the individual, among other things, the "freedom (either

alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance". Here there is a selective emphasis on the phrase "in community with others" to justify the adoption by state government of a legal system whose foundation are rooted in a religious code; the Shari'ah. It is thus argued that, in line with the nature of a plural federation, states should be entitled to adopt such religions, which appears to be preponderant within their territories. They also argued that the workings of the constitution in several sections also acknowledge Nigeria as a multi-religious nation, which thus renders absolute secularism impracticable (Review of the 1999 constitution 2001:50-51).

iv. The performance of many Governors towards the implementation of Shari'ah in their states were not encouraging. The expectation of Muslims from the Shari'ah states (According to Ibrahim Suleiman 2006:1-2) include the following:

1. The style, disposition and behavior of government would become better
2. Governments would henceforth endeavor to be upright, trustworthy and competent.
3. Law would apply equally to all, rich and poor, strong and weak, male and female without discrimination or favoritism.
4. Free and equal access to law and justice for all Muslims.
5. The wealth of the nation, the wealth of the people, would be managed judiciously.
6. A steady increase in prosperity and happiness.
7. A steady increase in security of life, property, and honour.
8. A general and progressive transformation of the climate of fear and hunger to that of peace, security and well-being.

Looking at the above-mentioned expectations and the attitude of most of the Governors towards Shari'ah, we can rightly say that a very wide gap exists between expectations and reality. This is because condition of the people has grown worse not better, despair is gradually replacing hope, and fear replacing security. The question then arises: Is Shari'ah workable? (Ibrahim Suleiman 2006:5).

The answer to the above question is, yes, Shari'ah is compatible to all generations and periods. The problem lies from the implementers. There is need for them to uphold the Shari'ah wholeheartedly so that even those who oppose its implementation will recognize its advantages.

**CONCLUSION:**

In spite of the fact that the application of Shari'ah in the North during this era of political dispensation caused a great deal of controversy, one cannot ignore the fact that Shari'ah is for the Muslims. It is a way of life prescribed by the Almighty. It brings peace, justice and harmony to the people. Laws made by man on the other hand are full of selfishness, injustice and ignorance. Many loopholes can be

detected in those laws because man is not perfect. What he considered important today for example, may be considered unimportant tomorrow. His laws need to be amended or changed to fit in with people's new life style (Aisha Lemu 1990:148). This is the reason why the Muslims want the Shari'ah to govern them.

Finally, in the words of Ibrahim Suleiman (2006:8) the most urgent task before the Muslim Ummah is probably the formulation of the vision for Shari'ah within the context of the Nigerian state and perhaps beyond. The vision should serve as a work plan for Muslim existence in Nigeria, and should be a worthy response to the challenge of Islam "ala Basirah" that is: "upon conscious insight", giving due regard to the past, the present and the future, and defining in measurable terms where in the context of our nation, we want to be and how we can be there.

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