

Book Reviews

Shari‘ah on Trial: Northern Nigeria’s Islamic Revolution

Sarah Eltantawi

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At the turn of the nineteenth century, a movement of religious reform and state building took place in present-day northern Nigeria, culminating with the establishment of the Sokoto Caliphate. This movement was as central to West African history as was the 1789 French revolution to European history. Its leader, the Muslim scholar Uthman Dan Fodio (d. 1817), deserves recognition as a towering figure of nineteenth-century African Islam. Dan Fodio’s community (*jamā‘a*), which included many scholars, toppled the preexisting Hausa kingdoms, replacing them with emirates ruled by Fulani leaders who all paid allegiance to the Caliph based in Sokoto. At its zenith, the Caliphate, which became the most powerful economic and political entity of West Africa in the nineteenth century, linked over thirty different emirates and over ten million people.

The leaders of the movement justified it as one of religious reform. Others have interpreted it variously as an ethnic revolt, a socio-economic uprising, a pastoral insurrection, and an intellectual revolution. In the aftermaths of the jihad, a number of typically Islamic cities rose in Hausaland in which Islamic scholarship flourished. Indeed, the community of Dan Fodio produced a literature in Arabic and Ajami greater in quantity and higher in learning than any previously seen south of the Sahara. The political authority of the Caliphate remained unchallenged until the turn of the twentieth century, when the entire African continent fell under European domination.

In the very first years of the twentieth century, all the emirates that constituted the Caliphate were gradually conquered by the British. The troops

of the Caliphate were defeated and the Caliph Attahiru was killed in 1903. This was a traumatic experience for Muslims in Northern Nigeria. After conquering the Caliphate, the British established a system of indirect rule, giving some autonomy to Muslim emirs under their supervision. The colonial state reformed the administration of Islamic law, a reform which did not affect personal status (*al-aḥwāl al-shakhṣiyya*). Issues such as marriage, divorce, and child custody remained governed by Maliki law, but criminal law was substantively reformed. In 1900, Lord Frederick Lugard, the British governor of Nigeria, issued the Native Court Proclamation, section 8 of which states that “no punishment, involving mutilation, torture or grievous bodily harm, or repugnant to natural justice and humanity may be inflicted” (p. 117). The implication of this new ordinance was that some corporal punishments which in theory formed part of Islamic penal law, such as amputation and lapidation, became banned.

During the transition to independence, the Nigerian politicians who negotiated decolonization agreements with the colonial administration reached consensus on a unified penal code for the entire Nigerian federation, which maintained the ban on stoning and amputation. In the 1960s and most of the 1970s, Nigerian Muslims in general were satisfied with this unified penal code. From the late 1970s on, however, a number of Muslim militant movements started to take issue with the reformed penal code, arguing that it interfered with their religious freedom as Muslims to implement Islamic penal law. In 1999, the governor of the Northern State of Zamfara in Nigeria, fulfilling his electoral pledge to restore full Islamic criminal law, ordered the amputation of the hand of a thief. This move to restore Islamic penal law was well received in the predominantly Muslim states of Northern Nigeria—indeed so much so that a grassroots movement in support of the full Sharia forced the governors of another eleven Muslim states of Northern Nigeria to introduce some forms of Sharia in their criminal legislation. This is in a nutshell what Sarah Eltantawi refers to as Northern Nigeria’s Islamic revolution. Unlike Dan Fodio’s revolution which toppled pre-existing Hausa States, this revolution was initiated by a governor (Sani Yerima), followed by other governors, and did not involve any transfer of power. There was much agitation, but very little effective implementation of Islamic penal law; and by 2010, according to Eltantawi, many had declared the Sharia experiment a failure (p. 23). In other words, the use of the word revolution to describe what happened in Nigeria is an overstatement!

Most of the book is focused on the issue of lapidation with particular reference to the story of Amina Lawal, a woman condemned to ston-

ing for adultery. After a short introduction, the author offers a theoretical framework for her work in chapter 1 (titled “A Revolution for Shariah”). She distinguishes between idealized Sharia, which entails a just and fair society that meet people’s basic needs, and what in Nigeria has been named “political Sharia”, or the instrumentalization by some Muslim politicians of the aspirations of pious Muslims for their own political ends. She further argues that the cultural power that Nigeria draws upon to re-enliven the Sharia can be mapped according to a dialectical triad (she calls this the Sunnaic paradigm). The first is the present tense and its concerns (colonial legacy, contemporary geopolitical corruption—particularly of the global financial system—and inter-Nigerian corruption); the second is the nineteenth century Sokoto Caliphate, which serves as a model of strength and self-determination for today’s northern Nigerians; and the third is the classical Prophetic period of Islam—a particularly idealized version of which animates and inspires the previous layers. This is a very insightful framework of analysis.

In chapter 3, dealing with the origins of the stoning punishment, the author argues that the stoning punishment predates Islam. It was practiced in the Ancient Near East and in Judaism. It is explicitly mentioned in some hadiths but not in the Qur’an. However, some scholars, including Jalal al-Din al-Suyuti (d. 1505), have argued that there is a Qur’anic verse on stoning, which does not appear in the text, but is nonetheless located in the archetypal Qur’an (*al-lawḥ al-mahfūz*). By this account, this verse was abrogated in its recitation, but not in its value as a legal maxim (*naskh al-tilāwa dūn al-ḥukm*) (p. 92). The author concludes in her chapter that, unlike what many think, the punishment had seldom been implemented in precolonial Muslim societies. In the entire four centuries of Abbasid rule, for instance, not a single stoning case was recorded (p. 121). Only one or at most two stoning cases were recorded throughout six centuries of Ottoman rule. Unsurprisingly, not a single stoning case was recorded during the 100 years of the Sokoto Caliphate. This raises the question as to why the British bothered banning a theoretical punishment that was not being implemented. Stoning and amputation were seen by the British to be repugnant elements of law, yet their own colonial code allowed “hanging, flogging, whipping, punishment by stocks or being chained by irons,” all of which too might well be considered “repugnant to natural justice and humanity”. The author argues that

a careful examination of British penal law in Nigeria during the colonial period reveals a regime concerned more with control than protecting natural justice. Procedures were put in place that compelled local authorities to seek clearance from British authorities before dispensing justice in the important area of criminal law. (p. 121)

In chapter 5, the author discusses the trial of Amina Lawal, who was found guilty of adultery and sentenced to death by stoning in her first trial. The international reaction to the case was unprecedented. Amnesty International collected 1.3 million letters in her support. The condemnation was ultimately repealed. However, Eltantawi argues that Western outrage did not play a direct role in the acquittal, as many think. After all, those who supported the implementation of Islamic criminal law in Nigeria cared little about public opinion in the West. Instead Western intervention played a more indirect role, in that certain NGOs (recipients of Western financial aid) were instrumental in getting Lawal excellent legal counsel, and the defense was savvy enough to assess the public climate as extremely hostile to arguments that drew on the language of “universal human rights”. An excellent illustration of the strategy of the defense is analyzed by Hawa Ibrahim, one of the lawyers who handled the Amina Lawal case in her book *Practicing Shariah Law in Nigeria* (Toronto: University of Toronto Press, 2012).

Shari'ah on Trial: Northern Nigeria's Islamic Revolution is an excellent study of Northern Nigeria Sharia politics. It provides a rich analysis not just of the Amina Lawal case but also of the Islamic discursive tradition in Muslim West Africa.

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