

Voluntary Shari'a? Muslim Attitudes in South-west Nigeria

Abdul-Fatah 'Kola Makinde examines Muslim responses to the introduction of Shari'a panels in a state with a mixed populations of Muslims and Christians.

In the late 1990s, Muslims across Nigeria complained that government courts were unable to deliver justice in matters such as those concerning Muslims' observance of Islam, marriage, divorce, and inheritance. Muslims had repeatedly petitioned the British colonial authority for *shari'a* courts for matters concerning their personal status, though without success.¹ The launching of *shari'a* in 1999 by Zamfara State in the north, however, presented Muslims in the south with a new opportunity. In Osun State, Muslims of the Yoruba tribe submitted a proposal in 2005 to amend the state's law to incorporate *shari'a* into the customary courts. When this failed, they sought to form an Independent Shari'a Panel (ISP). This court would have no force in law, but Muslims believed it would nevertheless address their immediate needs to have their civil conflicts resolved according to Islamic law.

A committee was set up to sensitize Muslims about the plan to establish the panel and to strategize as to how it should best be constructed. After screening qualified individuals, the board appointed eight Muslims who possessed the necessary qualifications and character to serve on the panel. On Sunday 23 April, 2006, Osun State Independent Shari'a Panel was inaugurated at the Oja-Oba central mosque, Osogbo. The inauguration ceremony was attended by eminent Muslim personalities in the state.

The activities of Osun State Independent Shari'a Panel started immediately. The panel sits every first Thursday of the month at the mosque, and adjudicates on cases voluntarily brought to it on matters such as marriage, divorce, inheritance, contract, custody and maintenance of children, conflicts over the appointment of *imams* to mosques, trade disputes, and other personal matters where parties concerned are Muslims.

Each sitting of the panel has two sessions. The first one educates attendees about various issues on

shari'a. One of the panellists is asked to give a talk on a topic that falls within the activities of the panel and the audience is given the opportunity to ask questions. The second session hears actual cases, in which three to five members are selected to listen to a case, amongst whom a chairman is appointed. The plaintiff states his case, after which the defendant is invited to respond as witnesses testify.

The judgment on each case is presented by consensus through the chairman of the panel who delivers it, after all members who listened to the case have agreed. The judgment is delivered to the hearing of the audience at the sitting while the written text of the judgment is presented to the litigants.



However, the judgment is never enforced on any of the litigants since the panel has no power to do so. They educate and advise litigants to simply accept whatever judgment is given since it is based on the *Qur'an* and *sunna* (custom) of the Prophet.

In the panel's first 18 months, only five cases were brought before it. This included a case of *khul'* (divorce at the instance of a wife), a case of *faskh* (dissolution of marriage at the discretion of a court), two cases of inheritance and a dispute over the appointment of an *imam* to a mosque. This last case had earlier been scheduled to be taken to a conventional court, but parties rescinded the decision and brought the case to the panel. Out of the five cases, the *khul'*, *faskh*, and the case involving the appointment of the *imam* were dealt with by the panel. Of the two inheritance cases, one was later withdrawn by the family involved to settle within the family, and the family of the other one

did not provide the necessary documents the panel needed to decide the case.

Why did the panel adjudicate such a low number of cases, if Muslims were really interested in having a *shari'a* court established by the government? One possibility might be because the Yoruba generally dislike going to court but would rather settle issues within the family. Some are reluctant to change, having made use of the customary law courts for many years. Also, some continue to equate *shari'a* with amputation and stoning to death, rather than with other distinctives of Islamic law pertaining to personal and family relationships. Others believe that the government courts would not recognize the judgments passed by the panel, and see their involvement as a waste of time. In any case, the panel has much work to do in convincing the Muslims of Osun State that this is the best Muslims can do currently when it comes to instituting the *shari'a* for which they agitated.

Notes

- 1 Adetona, L.A. 'The dynamics of Independent Shari'a Panel in Lagos State, South-West of Nigeria'. *Journal of the Nigeria Association of Teachers of Arabic and Islamic Studies*, vol. 8, (2005), 30.

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A full version of Dr Chesworth's article will be on the Centre website:

www.cmcsoxford.org.uk

Dr Makinde's thesis:

<http://www.sharia-in-africa.net/media/publications/the-institution-of-sharia-in-oyo-and-osun-states-nigeria/makinde-thesis.pdf>

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<http://www.sharia-in-africa.net/>