

Appendix 2:

### **Secularity a Foreign Notion**

Amina Mamman

ThisWeek 24 October, 1988, p. 23.

(Justice Abdulkadir Orire, the Grand Khadi of Kwara State is a staunch advocate of the entrenchment of Islamic law in the new constitution. In this interview with *This Week's* Staff Writer Amina Mamman, Orire bares his mind on the Sharia issue and attitude of Christians and other non-Muslims on the issue)

*On the Sharia and its significance for Muslims:*

In Islam, acceptance of the religion is complete. This complete acceptance means total submission to the will of God. In judicial jargon, anything which is repugnant to the concept of that religion is null and void. Islam is a way of life. Tribes or nations become irrelevant because Islamic rules and regulations become overruling. Sharia is the rule, regulations and guidance laid down for mankind according to Islam to follow. This leads a Muslim to a road. Sharia literally means a road. It means a road to watery places in the desert. In modern times, it is akin to a handbook that a car manufacturer will give to a customer. You cannot do without it. Sharia is the rule in the Qur'an and Hadith which God Almighty gave to mankind to help lead a prosperous, hitch-free life during this short sojourn on this planet. Islam regards the whole world as one. Sharia legally means the law which Allah laid down for Muslims to follow and Muslims believe that He lays the best of laws. In Islam, all humans are not only ignorant but also subject to error. Only God is perfect, therefore only God can make the most perfect laws. Man cannot do this.

There is a wrong notion that Sharia is being demanded for personal reasons. These people should know that Sharia has been in Nigeria since 1468 when the first Khadis were appointed. At that time, non-Muslims lived under such rules without being forced to change. There are many pagans and Christians in the north today who are not being forced to change by the emirs. Sharia is significant for a Muslim because there are no demarcations between spiritual and mundane affairs, or between man and God. Muslims are forced to accept the foreign notion of secularity which is a very great concession and could amount to blasphemy. Most of the laws which have been in existence for hundreds of years before the colonialists came were taken away with independence. The Islamic criminal law, for example, was replaced with the penal code in the north. All the Muslims are asking for is not a return of all the laws, but of just Islamic civil law between Muslims. Only family law is at present in practice in the north. Muslims have made a lot of sacrifice and in the process offended God. In the south, there is no form of Sharia at all, so even marriages are not conducted well. Human rights are being denied.

Many Muslims are just born Muslims. Islam is not a religion to be inherited. You have to learn it, understand the principles. Many southerners do not know or understand Islam and sharia properly. There were Islamic courts in the south during the colonial era.

There was one in Ede for example. But southern Muslims were made to believe Sharia was Hausa law. Sharia covers everything. There are eight branches; rituals, dealing with the pillars – faith in one God, prayers, fasting, almsgiving and pilgrimage, moral law, personal or family law which takes care of marriage, divorce and inheritance, civil law covering business transactions, contracts, property etc., international, constitutional treaties and war and criminal law. Muslims are asking for only Islamic civil law between themselves.

*On what could be the fear of non-Muslims over the Sharia issue:*

I have discovered that our Christian brothers have made up their minds that no concessions be made. No amount of reason will convince our Christian counterparts. They have got the Western notion that religion should be separate from government. We ask them: is Great Britain not a secular nation, and is it not also a Christian country? The head of England is also the head of the Church of England. If countries like Kenya, Singapore and India operate Sharia without being Islamic states, why not Nigeria? Nigeria is not a secular state. There are many religions in Nigeria. For federalism to work, you concede to people their peculiarity. The 1979 Constitution makes provision for any state that requires a Sharia court to establish it. It makes it optional and not compulsory for everybody. This is also a concession. Anyway, I know the Constituent Assembly is the cream of Nigerian society and I know they can reason.

*On what would happen in a case between a Muslim and a non-Muslim in a Sharia court:*

The resolution of the case would be based on its origin. If it started off according to Islamic laws, then it will be resolved in the Sharia court. If not, then just like common law procedure, the Sharia court would have no jurisdiction over it. For example, a marriage contracted in a registry by Muslims cannot be dissolved by Sharia. But a marriage between a Muslim and a Christian contracted according to Islamic law can be dissolved by Sharia. Even the common law court has no jurisdiction in such a case. Islamic civil law is between Muslims only so the issue of conflict does not arise. But Muslims have made a lot of concessions. In the past, Sharia was used in the north for Muslims, Christians and pagans. There were no conflicts. Now the penal code has taken over criminal cases to accommodate non-Muslims.

*On how to allay the fears of the Christians and non-Muslims over the Sharia issue:*

My view is that the reason is not fear. They have seen that Sharia is not a threat to them. They feel that Sharia will make Islam grow and naturally, they won't want this. But Sharia has not helped the expansion of Islam. Is there Sharia in Oyo and Ogun states where there are many Muslims? History has distorted Islam. They keep giving pictures of Muhammed waging war with the Qur'an on one hand and a sword on the other. This is not true.

They are also worried that by putting Sharia in the constitution, you have recognised one religion. But nothing stops us from putting canon law too. However, the issue of

ecclesiastical courts are non-existent in the whole world; Sharia is different. Its courts are there. Their fear is no fear. I would prefer to call it jealousy. We have lower courts applying Sharia law in the north. Why can't we have a superior court to apply Islamic law? The constitution must take into consideration the peculiarities of the people. In Great Britain, some English laws are different from Scottish laws. In the United States, laws vary from state to state. If Nigeria is really a secular state, then we should abandon all our religious public holidays. Then our weekends should be changed. Why is Sunday a public holiday? Why not Tuesday and Wednesday, neutral days? Then Muslims will go to mosque on Friday and return to work; on Sundays the Christians will do the same.

*On what could be the implications for the country if Sharia is not included in the constitution:*

I don't see anything going wrong because it has always been a part of the country. It will only re-affirm what is in existence. The 1963 and 1979 Constitutions mentioned it. A dual system would have been the answer. Its entrenchment should be reaffirmed. If it is removed from the constitution, nobody can say what will happen. We just pray to God to bring peace and tranquility to the nation.