

Sharia Implementation in Northern Nigeria Over 15 Years.

Policy Brief No.5

The Roles of Ulama



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Framing the issues and the research questions

It has now been more than fifteen years since the implementation of what was termed “full Sharia,” or “political Sharia” began. Beginning with the reorganization of the existing area courts, the implementation of the full Sharia meant replacing the old penal and criminal procedure codes with new Sharia codes that, among other things, restored the application of hudud penalties.

Next came the expansion of the implementation of Sharia beyond the courts, reflected in the creation of several agencies to tackle issues such as poverty and control of vice. The ulama (Muslim clerics), who possess expert knowledge of Islamic law, religious authority and influence in their communities, were recruited to serve on the newly created Sharia agencies.

The questions that arise are: how have the Sharia agencies performed since their creation? What roles have the ulama played in the activities of the Sharia agencies? What changes have taken place in the institutional arrangements for extending the implementation of Sharia beyond the courts? Have the goals for establishing these institutions been achieved? What challenges were encountered, and how were they handled? What successes were achieved?



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Research Method

The research is based on various types of documents, field observations, and semi-structured interviews with key players in Sharia implementation in ten states. Using the discovery model of field research, the data is analyzed through several readings to ascertain facts, detect patterns, draw similarities and differences, and identify likely factors to explaining the key findings of the research.

1. Based on Muhammed Sani Umar, 2016, ‘The Roles of Ulama in Sharia Implementation, 1999-2016’, Report for NSRP/dRPC/NRN Research Project on Sharia Implementation Over 15 Years.

Key Findings

The major findings of this research are:

- 1) Several ambiguities surround the ulama and their roles in the Sharia implementation agencies, which have led to the ulama being a minority not only in the Sharia agencies, but also even in the councils of ulama.
- 2) Ulama are not concentrated in specific Sharia agencies, but embedded in the membership of the various agencies, constituted in a committee or a department. As a result, the valuable assets of the ulama are not sufficiently utilized. In addition, advisory functions assigned to the ulama have not been fully employed.
- 3) Participation in the appointment of Sharia court judges and the review of Sharia court judgments assigned to the ulama in the various statutes for Sharia implementation have been effectively curtailed by the Judicial Service Commissions of the various states.
- 4) Ulama have been performing other functions, especially preaching and public enlightenment, as well as functions that were not assigned to them in the Sharia implementation laws, such as alternative dispute resolution.
- 5) The statutory agencies and other institutions established for Sharia implementation are weak, or non-functional, and their enabling laws have virtually fallen into abeyance.
- 6) Because of weak institutions, the functioning of the Sharia implementation agencies has become largely dependent on the presence or absence of capable individuals. However, Zamfara State stands out as the notable exception in the sense that all the Sharia implementation institutions in the state are performing reasonably well.
- 7) The political commitment of state governors toward supporting or neglecting Sharia implementation has been quite significant for the success or failure of the Sharia agencies to discharge their statutory function.

Box 1: Ulama & Governors in Sharia Implementation

- Ulama are a minority not only in the Sharia agencies, but ironically also in the Councils of Ulama! Their specialist knowledge not being adequately used.
- Ulama have drifted towards other functions, such as preaching, public enlightenment, as well as alternative dispute resolution.
- The political commitment of state governors towards Sharia implementation has been quite significant for the success or failure of the Sharia agencies.

Policy Recommendations

The following policy recommendations are based on the key findings summarized above.

- The agencies for Sharia implementation need to be reorganized to streamline their operations for more effectiveness. Their enabling laws should be amended to eliminate redundancies, and check the undesirable situation of existing laws falling into disuse and governmental agencies becoming comatose.
- The valuable expertise, authority, and influence of the ulama should be put to better use. The ambiguities surrounding their roles in Sharia agencies should be removed, and they should be concentrated in a specific agency so that their collective contributions are not diluted.
- The roles of ulama in alternative dispute resolution, which has emerged as popular service, should be enhanced through better co-ordination with the courts and sufficient funding.
- There is a need for a regular forum for the staff of the Sharia agencies from the different states to share experiences, identify best practices, and lessons learned.
- The Sharia agencies should be shielded from the vagaries of politics, so that their effective functioning is not dependent on the goodwill of elected politicians, or the lack thereof. They may be better placed institutionally within the state judiciary in order to shield them from the vagaries of politics.

FIND OUT MORE

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