

Shariah in Nigeria Before the Colonial Period: A Study of Yoruba-Land

Saad Murtala

Department of Arabic and Islamic Studies, Kogi State University, Nigeria
murtalasaad@yahoo.com

Abstract

Islam and *Shariah* law were fully introduced in *Yoruba-land* before the advent of British colonial masters in the area. It was also learnt that *Shariah* law was implemented in the area. However, the advent of colonialism marks a paradigm shift in the history of *Shariah* in Nigeria and Yoruba land in particular. This paper discusses the influence of colonialism in the implementation of *Shariah* law in this part of the world.

Keywords: Shariah, Colonial, Yoruba-Land.

Introduction

History and Geographical Location of Yoruba Land

Yoruba is used to denote people with cultural, social and linguistic identity leaving in West Africa. These people are mainly found in the south-west, Nigeria. Perhaps, this term was applied to them by their connection with *ya'ra Bin Qahatan* as reported by *Sutan Muhammad Bello*.

The Shariah and the Meaning

Islam is not merely a religion; it is totally way of life which embraces both religion and secular matters. This fundamental principle is what sets it on a collision course with western practice where religion and secular matters are separate. Because of the strong influence which the west exerts on the world today due to its material and economic pre-eminence. It is misgivings about Islam have translated into world-wide condemnation of systems based on Islam. Nowhere is this condemnation more apparent than in the pathological fear many people have of *Shariah*. *Shariah* to some persons represents a bundle of barbaric and primitive values and practices. To others, it stands for a legal system whose punishments are inhumane mutilation, savage stoning to death and archaic corporal punishments. And yet to some people this *Shariah* stands for the explosives in the hands of Muslims fundamentalisms' in the developing countries. While still others regard it as a so-called law of a backward- looking civilization of *Muhammadans*.

The True Meaning of Shariah

Shariah is an Arabic word meaning 'to enter', 'to commence', or "to enact". Literally, it means the way to a watering place but technically, *Shariah* is defined as the path or way to guidance and essence of life. In the religious term, *Shariah* is the code of conduct or cannon law, rules and regulations, which have been prescribed by Allah to regulate all the affairs of Muslims life as individuals and a community. Another definition of *Shariah*, is the way leading to the realization of Allah as the supreme being as well as a guide for Muslims in all their activities. It can also be called the Islamic law, 1 Yoruba are considered as the most uban people in Nigeria and the whole of Africa.¹ They are also found also in Latin America Countries such as Brazil, Cuba and Trinidad and Tobago. Even in the United State of America, there is a Village called as *Oyotunji*, which is located near Sheldon. Beaufort country in South Carolina. The village is named after *Oyo* the ancient capital city of the old *Oyo Kingdom*. It is recoded that 50 million Yoruba are distributed throughout West Africa and three million plus in both Cuba and United Kingdom.

Furthermore, the Yoruba people dominate the South-western part of Nigeria. The population was approximately 30 million, which was about 21 0/0 of enter Nigeria population. According to *Abimbola*, some Yoruba are also located in the modern Republics of Benin and Togo and West African and also in Cuba and some Caribbean Countries. Some of the major sentiment in yorubaland is *Ibadan*, *Lagos*, *Abeokuta*, *ijebu-Ode*, *Ado-Ekiti*, *Osogbo*, *Ogbomansho*, *Ilorin*, and *ile-ife* is the popularly accepted religious-cultural center for all the Yoruba people. The Yoruba nation has several sub-groups like the *Ekiti*, *Ijesa*, *Oyo*, *Egba*, *Ijebu*, *Yewa* and *igbomina*, *Ondo*, *Akoko* and Even the *Edos*.

Allah (SWT) says:

"ثم جعلناك على شريعة من الأمر فاتبعها ولا تتبع أهواء الذين لا يعلمون".

"We have made for you a law; so, follow it" not the ways of those who know not". (Qur'an 45:18).

Brief History of Spread of Islam to Nigeria

The Nigeria-born Muslim scholar sheikh, Abu-Abdulai Abdul-fattah Adelabu argued that Islam had reached sub-sahara Africa. Including Nigeria, as early as the 1st Century of Hijrah through Muslim traders and expedition during the reign of the Arab conqueror, *ugba bin Nafiu* (622-683) whose conquest under the Umayyad dynasty, in *Amir Muavin* and *yazid* periods, spread all North Africa or *Magrib Al-Arabi*, including present-day Algeria, Tunisia, Libya and Morocco (2) (Abu-Abdullah, 2016). Islam was first documented in Nigeria in the 9th century, Islam is believed to have crossed to the borders of West Africa in the eighth century, scholars like *ibn Munnabbeh* had written that as early as 738 trades and commerce from northern Africa helped to bolster the spread of the new religion. Islam was first accepted by the *kanem* ruler *umme jilmi* (1085-1097). He was introduced to Islam by the scholar Ahmed Muhammad Mani. *Umme jilmi* son, *Dunama 1* (1097-1150) also followed his father interest in Islam, learning and practicing it and was reported to have gone on pilgrimage or hajj. By the reign of *Dunama 11* (1221-1259), the Kanem Empire had begun correspondence with Tunisia in *Magrib* and in 1257 a

Kanem embassy was established in Tunisia, by the famous historian, *ibn khaldun* (Doi, 1984).(3) By the 14th century, a new capital of *kanuri* had been established in Bornu at *Ngazzaragamu* by *Ali bn Dunama* who was a very keen student of the teachings of Islam. *Mai Idris Aloma* (1570-1602) of Bornu had far-reaching and more extensive, Islamic campaign than his predecessors', building mosques and Islamic schools, thereby strengthening the foothold of Islam in the Bornu-*kanem* axis.(4)

Islam was brought into Hausa land by traders and scholars. About forty *wangarawa* traders are thought to be responsible for introducing Islam to Kano during the reign of *Ali Yaji* (1349-1385). *Al-Magili*, famous scholar of his era, brought to *katsina* in the 15th century, similarly, a number of scholars from *sankore* University, *Timbuktu* visited *katsina*, bringing with them books on divinity and etymology. Another milestone in the spread of Islam into northern Nigeria was the jihad of *Uthman dan fodio*. He was a Fulani man who waged a war for six years (1804-1810) to purify Islam and to eradicate idol worship and purge all forms of distortion and heretical innovation from the religion. He preached the teachings of the *Quran* and *Sunnah* and encourages the Muslims of that time to return to orthodox Islam. This jihad did not only have a religious undertone, it was also political in the sense that it was able to unify the Hausa states under one government (the *Sokoto* Caliphate) administered by the *Shariah law*. This continued until the partition of the caliphate in 1903 and its eventual incorporation into Nigeria, thereby the Sultan power was transferred to High Commissioner. However, many aspects of the Caliphate structure, including the Islamic legal system, were retained and used in the colonial era.(5).

The exact period that Yoruba land came in contact with Islam is still unknown, but historians put it between the 14th and 15th centuries, during the reign of *Mansa Kankan Musa* of the Mali Empire. The first mosque was built in *Oyo-ile* in 1550 AD, although it was meant to serve foreign Muslims in *Oyo* as there were no *Oyo* Muslims at that time. Islam was known to Yoruba people as *Esin-Imale*, a patronymic reference to Mali. What makes this submission highly probable is the fact that *Dyula* traders from Mali reached the Yoruba kingdom at about that time. Also some words have been borrowed from Songhai. For example, the Songhai word for a holy man is *Alfa*, some with Yoruba and the political title of *barakoi-koi* used by Governors in the Bara province in the north inland delta of Songhai in the 16th century and later used by the Commander of the Calvary was adopted by Yoruba as *parakoyi* with similar connotation and political authority (6).

Gradually Islam found a home in Yoruba land and more mosques were built as the mission began to spread. Iwo town led with its first Mosque built in 1655, followed by *Iseyin* in 1760, Lagos in 1744, and Saki in 1790, *Oshogbo* in 1889. Within a short period of time, Islam had spread to other Yoruba states. Several factors were responsible for the influx of Yoruba into the fold of Islam. First was that, at that time, Islam had spread to the towns outside *Oyo*, so at the time *Oyo* Empire was destroyed, the Muslims who had to relocate were responsible for introducing Islam to their new communities, secondly, there was a heavy flow of trade and immigration into *Yoruba* kingdom at the time, which gave the opportunities of introducing Islam to their hosts. Thirdly, Islam differed in attraction and better adapted to Yoruba social structure because it permitted polygamy (7).

Advent and development of Islam in Yoruba land

The Yoruba's are known in the world for their highly developed art, especially the life bronzes and wood carvings. They are a dynamic people who trace their origin to the city of *ile-ife* which according to E. *Bolaji idowu* is the "ancestral home; the place from which the day dawns; holy city; the home of divinities and mysterious a spirit (8). The *Yoruba* call themselves "son of *Oduduwa*" they believe that *Oduduwa* was their original ancestor and a priest-king of *ile ife*. The legend has it that he got several children "who in due course became the progenitors of the various clans, which taken together, are the *Yoruba* people (9). It is difficult to suggest an exact date when Islam was first introduced in this *Yoruba*-land. It seems that Islam in whatever syncretism from or however scanty in its following, did exist in *Yoruba*-land when Ahmad Baba of *tumbukutu* was writing his book *Alkashaf al bayyan li-Asnaf mahajub al-Suddan*. Islam was already introduced in *Yoruba*-land in the early seventh century. *Al-Alory* says on these issues that early date of the introduction of Islam in this place, he was saying that the Islam spread to most parts of Nigeria including this place we were discussing. through that Muslims in this place are called *Imale* which the *Al-Alori* said in reference to the religion of Mali since they came to know about this religion from its first day from the traders of Mali presented in *Yoruba* especially in Old Oyo, the Capital of *Yoruba*, it is likely that there were Muslim traders from Mali in Old Oyo and thus Islam was introduced in *Yoruba* country. Peter Morton-Williams also supports this views that the word *Imale* means person of Mali (10)

How Shariah Came to Nigeria

Islam as a practical religion and way of life had been a force to reckon with in many parts of what today constitutes the federal Republic of Nigeria. It has a vehicle of development in all facets of human endeavors, such as education, arts of governance and administration of justice for more than two centuries before the appearance of the British in Nigeria. Let us begin from the North-Eastern end where in 1086AD, the Ruler of *kanem* Empire called Hume and better known as *Abdul jalil* embraced Islam not only as a private religion but also as the religion of his court. Right from then and for over eight hundred years to follow Islam continued to gain strength as the rulers were always Muslims. The sixteen centuries was a turning point of expansion and consolidation of the *kanem*. Empire particularly during the reign of *Mai idris Aloma* (1580-1617) who carried out far reaching political reforms in form of reinforcement of Islamic beliefs, laws, customs and practice (11). The *kanems* closet neighbors south of the empire were the Hausa States of *Daura*, *Gobir*, *Zaria*, *Katsina*, *Kano*, *Rano* and *Bilma*. Their counterparts included *Ilorin*, *yauri*, *korofa*, *Nupe*, *Zamfara* and *yumi*. All traced their origin to *Abu yazid* who was identified as a prince from Baghdad". The earliest attempts to carry the banners of Islam to Hausa States dated back to 12th century by groups of Muslim scholars from Mali during the reign of king *yaji* of Kano (1349-1386). A reputable scholar Muhammad Ali-*Maghili* presented *Rumfa*. The ruler of Kano, the books of the principles of administration and the duties of the princes (12).

The neighbors of the Hausas to the south are the Yoruba, like *Abu Yazid*, *Oduduwa*, the ancestor of the Yoruba's, was reported to have come from far in the east. *Samuel Johnson* and other reliable sources on the History of the Yoruba's traced the origin of Yoruba's to the *Quraish* tribe of *Makkah*. They occupy what lies between the Niger bank in the North and the coast of Atlantic Ocean in the south. They spread virtually from the western coast of the Niger up to the boundary of Nigeria with the Republic of Benin. It was through contracts in form of trade, settlement, war or other activities of the soldiers that the Yoruba's had their earliest contact with Islam through their Hausa and Nupe neighbors, unlike what happened in Bornu and Hausa States, it is difficult to be categorical or precise about the date of entry of Islam to Yoruba land, because it was adopted in the private capacity of the individuals what is fairly certain is that in the seventeenth century, mention was made of Muslims in Yoruba land (13).

The Practice of Shariah in Yoruba Land before Colonial

It has been observed that the impact of the *jihad* and the effect of establishing Muslim empires in the north for a period of one century accounted for why the *Shariah* succeeded in displacing the local native law among the Muslims irrespective of their tribes. It is equally arguable that the absence of the *jihad* or its effect accounts for the lower level of the practice of the *Shariah* in the Yoruba land than in the North among the Muslims. Islam goes to Yoruba land and flourished well ever before the advent of colonial administration, but it remained a private religion. *Shariah* law is practiced in terms of (*Nikah*), (*Mirath*), but in a purely individual and private capacity. It did not receive the sanction of the law of the land

only because the Muslims had not so demanded it in their civil litigations. As their entitlement. The instances of the introduction of *Shariah* in *Ede, Iwo, Epe* and Lagos at certain periods by some rulers are isolated cases. There is no concrete evidence that it was institutionalized in any of these places (14). The *Shariah* was not practiced widely in the Yoruba land, but this should not lead us to conclude that it could not have enjoined the sanction of the law in the south. This is because *Shariah* Law forms an integral part of Islamic religion. Whenever there are Muslims. It is implicitly understood that *Shariah* law is already introduced. The constitution of Nigeria does not only recognize but also respect human rights and the full right to practice ones faith as dictated by its tenets. By this implication Muslims in the Yoruba land do not need to agitate or wait for *Shariah* law to be formally enacted in the Yoruba States where their Muslims, before getting their civil matters governed by *Shariah* personal law (15).

The Effect of Colonial Period on *Shariah*

The recognition, respect and encouragement the colonial administration gave, among other reasons. To the fact that it commanded and continues to command the respect of the people. Its adoption as part of the administrative package of indirect rule is an acknowledgment that it was an efficient system and was still capable of being good tool in the hands of the colonial administration to operate popular government and maintain law and order. The retention of *Shariah* and its encouragement as indicated by ordering the colonial administration had confidence in its efficiency and capacity to cope with the changing patterns of the life of the people. There has not been any stronger argument for the introduction of indirect rule than the efficiency of the native pre-colonial system in the Muslim empires of Northern Nigeria. If the colonial authority had the found as well as manpower and attempted to replace the native with English system, it would have been an attempt to nurture in the tropical climate. *Shariah* law in northern Nigeria during the colonial rule was classified under "native law and custom" native law and custom also include *Shariah* Law too As "*Anderson*" mentioned it in his own book on introduction to *Shariah* law in African, the native law and custom that Islamic law is extensively enforced throughout large areas of west African, particularly Northern Nigeria (16).

Shariah law was recognized because it has become their way of life as the local Native Law and custom was to the people of Northern Nigeria origin who adhered to the tradition religions. The silence of the authority on the applicable law to the Christians logically explained that they do not need any other Law than English Law which fully takes care of their way of life. Marriage Act is an eloquent testimony to this opinion.

Conclusions

As a preamble to our conclusion on the *Shariah* in Nigeria before the Colonial period: a study of Yoruba land, the paper highlighted some of the importance of the *Shariah* and how was fully established and implemented before the colonial came in to Nigeria we elaborated a little more on how the colonial met *Shariah* and how they wanted to abolished it in our daily life or activities. To ensure the welfare of Nigerian especially Muslims that *Shariah* is ours not for them.

References

- Al-fafuq, Ismail and Lois Lamya, 1986, the Culture Altars of Islam, New York.
- Al-ilori, Adam Abdullahi, 1971, al-islam fi Naijjiriya wa-sheikh uthman bin fudi, Agege Lagos.
- Adetona, I. M, 2013 "Islam before the Colonial period in Lagos, 1861-1900" in S. Oyeweso and M.O Raheemson.
- M.A Ajetumabi, 1984, *Shariah* Legal Practice in Nigeria from 1956-1983, Ph.D thesis, Submitted at University of Ibadan, Department of Arabic and Islamic studies, Nigeria.
- Abdulkadir Orire , "Shariah, A Misunderstood Legal System". Published by Sankore Educational Publishers Limited, Samara, Zaria Kaduna State Nigeria,
- Ambali Abdul-Mutalub, *Shariah* Law in Nigeria, 2009, Islamic publication Burean.

Abdul-Fatah Kola Makinde, 2007, *The Institution of Sharia in Oyo and Osun states, Nigeria, 1890-2005*, P hD. Thesis submitted in the Department of Arabic and Islamic studies, University of Ibadan, Nigeria.

Akintunde Olusegun Obilade, *the Nigerian Legal System*, Ibadan Nigeria: Spectrum Books Limited

.Abdur Rahman Doi, 1989, "The Impact of English Law Concepts on the Administration of Islamic Law in Nigeria"

Doi, I. A. 1984 *Islam in Nigeria*, Zaria Gaskiyya Cooperation Limited.

_____ 1999 *the Islamic Law Kaduna publisher*.

Muhammad, Hashim, k, 2009, *principle of Islamic jurisprudence*, ilimah publishers Malaysia.

M.A. Ambali, 1988, *The Practice Of Muslim Family Law in Nigeria*, Tamaza Printing Company Ltd, Nigeria, A.B. Mahmud, 1988, *A Brief History of Shariah in the defunct Northern Nigeria*, Jos University Press.