



SOME REFLECTIONS ON THE KADUNA STATE SHARIA PENAL CODE LAW OF 2002*

1.1 INTRODUCTION

After over a decade of military rule, Nigerians once again are experiencing democratic civilian government. With constitutional democracy in place, many individuals' rights are constitutionally guaranteed. This new found freedom reawakened the clamour by some people for the introduction of Sharia. Some states, particularly in the Northern part of the country, like Zamfara introduced the Sharia in all its ramifications¹ while others like, Kaduna state limited the application of Sharia to some parts of the state and to enforce compliance, certain laws were enacted among which is the Sharia Penal Code Law of Kaduna State.²

The question that may agitate curious minds is that; why should Kaduna state enact a Sharia Penal Code when there is the Penal Code in operation? This question becomes particularly relevant when it has been contended that some Penal Code provisions are founded in Sharia.³ Consequently, the purpose of this paper are three fold. First, to find out whether, in fact, the Penal Code is in compliance with the Sharia. Second, to discuss some pitfalls inherent in the Sharia Penal Code Law of Kaduna State and third, to analyze some constraints against the full application of the Sharia in a federal structure like Nigeria.

Thus, the paper will be divided into the following parts: Brief historical evolution of the Penal Code; Analysis of some "Sharia" complaint provisions of the Penal Code; Competence of a State to make law in a federal system; Pitfalls in the Kaduna State Sharia Penal Code Law and constraints against the full application of Sharia in Nigeria.

2.2 BRIEF HISTORICAL EVOLUTION OF THE PENAL CODE

Legal history, however one looks at it, is relevant at least a clear understanding of the past will provide a veritable tool for shaping the future, hence, this history. The Penal Code contains the bulk of substantive criminal law of what is now the 19 Northern States of Nigeria. This Code has its origin from a code drafted for India. An Act of the British parliament was passed in 1833 with a view of having a body that would legislate on all criminal



matters that would apply to all inhabitants of the Indian colony.⁴ A Commission of experts headed by Lord Macaulay was put in place to draft a criminal code for Indian colony. It appears that the work of the commission was limited to "sifting" of the various criminal law rules of the Hindus and Muslims and "refining" them without actually altering the substance.⁵

The Indian Penal Code of 1860 became famous⁶ and was adopted by other countries like Sudan and Northern Nigeria. Therefore, the Nigerian penal Code Law was an off-shoot of the Sudan Penal Code, a country which is in many ways similar to Northern Nigeria. Consequently, a Panel of jurist was set up under the chairmanship of the Chief Justice of the Sudan. Other members of the panel were Mal. Shettima Kashim, Musa Othman, Mr. Peter Achimugu and Professor Anderson. The Panel was charged with the task of enacting a code which could apply in a predominantly Muslim setting but which could also be acceptable to the international community.⁷ The panel commenced work in 1958, and by 1959 the outcome of the Panel deliberations was promulgated into law as the Penal Code.

The actual reason for the promulgation of the Penal Code into law has been a subject of academic debates. Richardson believes that the desirability of the promulgation of the Penal Code is the wish by the politicians to codify Islamic Criminal Law. He asserted that the Panel was enjoined to recommend something that was not in conflict with the Qur'an and Sunna and that after completing the draft code it was vetted by "a group of Muslim jurists."⁸ However, Prof. Chukkol did not agree with this position and referred to it as "simplistic narration" and concluded that the records show beyond doubt that the politicians were motivated by reasons completely extraneous to religion.⁹

Prof Ofori-Amankwa introduced another dimension to the argument, that, there were three options available to the Panel namely, to adopt a code which was either:

- (a) One hundred per cent western system of law; or
- (b) One hundred per cent Islamic law or;
- (c) A hybrid of the two.¹⁰

It is submitted, with due respect, that this could not have been the position because the Penal Code so evolved did not conform with any of the three options. However, one may be tempted to believe that the Penal Code has a semblance of the third option, but on a cursory look, it is far from



Sharia. It is therefore doubtful if the Panel had, in fact, any options before them.

From the available records, the only reasons behind the promulgation of the Penal Code was the idea to fashion out a code that will attempt to satisfy three interests to wit. Majority of the Muslims in the Northern region, Northern minorities and the international community. Therefore, the activities of the Panel was superfluous since, what they did could have been accomplished by a draftsman at the Ministry of Justice by making the desirable modifications on the Criminal Code that was already in operation. Commenting on the actual reason for the adoption of the Penal Code, a learned writer rightly observed that: “... *the whole thing was a calculated political trick to lure the masses into believing that what was being devised for them by the God fearing leaders was based on Islamic Law. The Panel of “jurists” was at best a smoke screen.*”¹¹

3.3 ANALYSIS OF SOME “SHARIA” COMPLIANT PROVISIONS OF THE PENAL CODE

This examination is imperative because of the belief in some quarters that the Penal Code is in conformity with the Islamic Criminal Law. In fact, States that introduced Sharia at the beginning of the Obasanjo’s administration were directed to revert to the Penal Code.¹² Consequent upon this, we will analyze some provisions in the Penal Code to consider whether or not the proponents of this view have got any basis. What follows presently is a discussion of some provisions which appeared to have been codified on the basis of Sharia.

3.3.1 Adultery Under Section 387 of the Penal Code.

Section 388 of the Penal Code Provides as follows:

Whoever being a man (or woman) subject to any native law and custom in which extra-marital sexual intercourse is recognized as a criminal offence has sexual intercourse with a person.... Such sexual intercourse not amounting to the offence of rape is guilty of the offence of adultery and shall be punished with imprisonment for a term which may extend to two years or with fine or with both.



This provision would appear to have codified the Sharia perspective of adultery. Perhaps this is so because, the Criminal Code which contains the bulk of substantive criminal law in the southern states did not criminalize adultery.¹³ However, a close examination of the provisions will make it apparent that it is inconsistent with the offence of Adultery under Sharia. For one, the punishment provision which is two years imprisonment or a fine or a combination of both is at variance with the Sharia provision of adultery. Under Islamic criminal law, punishment for adultery, if the parties are married or one of them is, is stoning to death. But if the parties are not married each of them is to be flogged 100 stripes of the cane.¹⁴ Secondly the Penal Code provision on adultery is curiously made "subject to any native law and custom..." The implication of this is that a person who engages in extra-marital sexual intercourse may not be guilty of adultery under the Penal Code if his customary law does not criminalize fornication. This stand conflicts with the tenet of Sharia which void any customary law which is inconsistent with it.

3.3.2 Intoxication

The codification of the offence of taking of alcohol by the Penal Code is easily bandied as a good illustration of codification of Islamic Law principle.¹⁵ But sections 401-403 of the Penal Code wherein the offence of intoxication is codified is not without problem. This is so because, intoxication under these provisions can constitute both a defence to criminal liability and a crime in itself.¹⁶ A penalty of six months or a fine of N100 or a combination of both is prescribed for one who gets drunk and behaves in a disorderly manner. In addition a Muslim who commits this offence is given *Haddi* lashing as provided under section 68 of the Penal Code. Another draw back of the Penal Code provision on intoxication is that it allows a Muslim to take alcohol provided it is for medicinal purposes. This is in contradistinction to total prohibition of wine taking under Islamic law.

3.3.4 Other Offences

Under this subhead, it is intended to consider, though briefly, other offences which though codified under Penal Code did not bear any semblance of Islamic Law. As a preface, it is suffice to say that all the punishment provisions in the Penal Code are at variance with what exist under Sharia. For example, the offence of robbery under section 296 and 298 Penal Code is



Under this subhead, it is intended to consider, though briefly, other offences which though codified under Penal Code did not bear any semblance of Islamic Law. As a preface, it is suffice to say that all the punishment provisions in the Penal Code are at variance with what exist under Sharia. For example, the offence of robbery under section 296 and 298 Penal Code is punishable with ten years imprisonment, while under Sharia *hirabah* (robbery) is punishable as follows:

- (a) with imprisonment for life where the offence was committed without seizure of property or causing death;
- (b) with amputation of the right hand from the wrist and the left foot from the ankle where property was seized, but death was not caused.
- (c) with death sentence where death was caused but property was not seized.
- (d) with *salb* (crucifixion) where murder was committed and property was seized.¹⁷

Similarly, the offence of culpable homicide under the Penal Code is quite dissimilar to what exist under Islamic Criminal Law. Under Islamic law, the offence of homicide is partly a crime and partly a tort with the deceased relations having some form of compensation *diyya*. Further still, the relations of the deceased can elect whether the convicted offender should be hanged.¹⁸ All these luxuries are not available under the Penal Code provisions on culpable homicide. All offences in the Penal Code, except for few ones that are compoundable, are strictly state affairs with the victims or relations of the deceased practically having nothing at stake – at best they may be witnesses.

What we have attempted here is a general survey of some provisions of the Penal Code particularly the provisions which are often cited as example of the codification of Islamic Criminal Law principle and we have shown that these provisions are at variance with the Sharia. In fact, a learned writer has rightly observed that, the Penal Code is not a reflection of Islamic criminal law principle and at best, its provisions are easier to comprehend when compared with the criminal code and it made a modest attempt of being indigenous.¹⁹ Perhaps one can argue that the present quest for Sharia by Muslims in some states is partly not unconnected with the unsatisfactory provisions of the Penal Code. It is trite that where a law is not satisfactory to the majority of most powerful group, they will seek to change it at the slightest opportunity.



4.4 COMPETENCE OF STATES TO MAKE LAW IN NIGERIA

It is pertinent before we go further, to locate the competence of states to make laws in a federal structure like Nigeria. The 1999 Nigerian Constitution provides for three legislative lists to wit. Exclusive, concurrent and residual legislative lists. The National Assembly is empowered to make laws for the peace, order and good governance of the federation or any part thereof with respect to any matter included in the exclusive legislative list. Part I of the second schedule to the constitution list 68 items which are exclusively reserved for the National Assembly to legislate upon. While, under section 4(3) of the Constitution, matters listed on the concurrent list are within the legislative competence of both Federal and State governments. The residue is left for the state Houses of Assembly to legislate upon. There are 30 items listed on the concurrent legislative list. Any other matter not listed on the two lists falls under residual list and states are solely competent to make law on them. Thus, matters like theft, robbery, intoxicants, rape to mention but a few are within the legislative competence of a State House of Assembly to legislate on.

It is in exercise of this power that the Kaduna State House of Assembly passed the Sharia Penal Code law to, among other things, codify the Islamic Criminal Law principles and to satisfy the aspiration of those calling for application of Sharia in the state.

5.5 EXAMINATION OF SOME PITFALLS INHERENT IN THE LAW

It is necessary to preface our discussion here by stating that it is not the intention of this paper to consider the success or otherwise of the nascent law. The reason being that a period of two years since the commencement of the law may be too short to justify such an exercise. The aim here is to x-ray some provisions of the law with the view of identifying some pitfalls which we believe can impede the smooth implementation of the new law.

5.5.1 Application

As a general rule, statutes are of general application but sometimes a statute may be limited in its application to territory, persons or thing. The Sharia Penal Code Law of Kaduna is not only limited in its application territorially but also to persons. Section 3(2) of the law provides:



“Every person who is a Muslim and/or very other person who voluntarily consents to the exercise of the jurisdiction of any of the Sharia courts established under the Sharia courts law, 2001, shall be liable to punishment under the Sharia penal Code for every act or omission contrary to the provisions thereof of which he shall be guilty within the state.”

By this provisions, it is apparent that only two categories of persons are subject to this law. First, Muslim who commit an offence in Kaduna State and second, any other person who voluntarily consents to the jurisdiction of any Sharia court in the state. Therefore, any other person who is not subject to this law will be triable under the Penal Code. Thus section 3(1) of the Penal Code provides: “Every person shall be liable to punishment under the Penal Code for every act or omission contrary to the provisions thereof of which he shall be guilty within the state.

From the foregoing analysis, it would appear that there are two existing criminal laws in Kaduna State. The question that will interest us is; can a Muslim in Kaduna State elect to be tried under the Penal Code or does it lie within the power of the police to decide which of the laws, or court to try an accused? This question becomes relevant because the Sharia Penal Code does not expressly repeal the Penal Code with respect to Muslims. It is submitted that, the law as it is would seem to give the police power to choose which of the courts to take a Muslim offender. However, section 4(1) of the Sharia penal Code seems to take care of this problem by providing:

Whereby the provisions of any law of the state the doing of any act or the making of any omission is made an offence, these provisions shall apply to every person subject to the provisions of this law who is in the state at the time of his doing the act or making the omission.

This provision does not adequately solve the problem created by the provision of section 3, because both the provisions of the Sharia Penal Code and the Penal Code talks about “every person”. Therefore, if the intention of the draftsman is to make Muslims in Kaduna to be triable under Sharia Penal Code only, then it is submitted that, the Sharia penal Code should have



expressly repealed the Penal Code with respect to Muslims.²⁰ This will then have the effect of making every Muslim who commits an offence in Kaduna State to be charged to a Sharia court.

5.5.2 Other Offences

Other pitfalls relate to some offences which are codified in the Sharia Penal Code. For example, the offence robbery which is codified under sections 147-150 of the Sharia Penal Code. For all intents and purposes, the offence of robbery is a Federal Offence in Nigeria triable by the State High Court. The common feature of the Act is the introduction of death penalty for the offence of robbery in Nigeria. The pertinent question here is; to what extent can a state law – Kaduna State Sharia Penal Code – provide for a different mode of punishment for the offence of a Federal Act – Robbery and Firearms (Special Provision) Act? This question is crucial because of the elementary principle of law that a Federal Act on the same subject matter exists to cover the whole field. If this is true, then it will not be difficult to submit that States House of Assemblies in Nigeria have no competence to make any contrary enactment in respect of the offence of robbery. This unsatisfactory position of the Sharia Penal Code can manifest itself in another dimension; for instance, X a Muslim is apprehended for committing armed robbery in Zaria. Can the state insist that he should be tried under the Sharia Penal Code? What if X protests and desires to be charged to the High Court under relevant provisions of the Robbery and Firearm Act? It does appear that X can validly insist to be tried under the Act and if the Kaduna State forces X to stand trial under the Sharia Penal Code it is submitted that such trial can easily be overturned on appeal. The pitfalls are many but the ones discussed above are just a few to serve as illustration for our discussion.

6.6. SOME CONSTRAINTS AGAINST THE FULL IMPLEMENTATION OF SHARIA BY THE STATES IN THE NIGERIA

A writer has rightly identified the Nigeria's Federal structure as the impediment to the full application of Islamic law by the states.²¹ Therefore, it is intended to discuss at this juncture some constraints that may impede the full implementation of Sharia by Kaduna State and indeed any state in Nigeria. These constraints include, the question of legality of Sharia within the provisions of 1999 constitution of Nigeria, the courts hierarchy in Nigeria and the police.



6.6.1 The Legality of Sharia: The Debate

The major obstacles against the application of Sharia in Nigeria is the question of its legality or otherwise within the framework of the 1999 Constitution of Nigeria. There are so many scholarly literature on the Sharia controversy in Nigeria and it will be out of place to recount the arguments here.

From the debates, it is clear that the reasons for the seemingly unending controversy are fear,²² ignorance and simple mischief,²³ further still is the unsatisfactory provisions of the 1999 Nigerian Constitution and this is the main concern of this writer. This is so because we had had opportunities in constitutional making process of the 1970s and 1980s to resolve this controversy but curiously even the 1999 Nigerian Constitution did not seem to take adequate cognizance of the problem of 1979 constitution as it relates to the issues of Sharia. The current implementation of Sharia by some states in Nigeria was made possible by the inconsistencies in the 1999 Constitution.

For instance, the 1999 constitution in its section 1 provides that the constitution shall be the supreme law of the land. Section 10 forbids the adoption of a state religion in Nigeria. But in section 38 it provides for the right of freedom of religion.

Further still, section 275(1) provides for the establishment of Sharia court of Appeal for any state that requires it. Finally Section 277(1) provides that the Sharia Court of Appeal of a state shall, in addition to such other jurisdiction as maybe conferred upon it by the law of the state, exercise such appellate and supervisory jurisdiction in civil proceeding involving questions of Islamic Personal Law which the court is competent to decide in accordance with the provision of sub-section (2) of that section.²⁴ All the states that have implemented the Sharia relied on the provisions of section 277(1) and extended the jurisdiction of the Sharia Court of Appeal to cover criminal matters.

These inconsistent provisions of the Constitution may not be unconnected with the way and manner the Constitution was hurriedly assembled with little or no discussion of its provisions. Hence any implementation of Sharia by any state based on the existing legal framework will always constitute problem. It is therefore hoped that these provisions of the Constitution should be reviewed as a matter of priority.

6.6.2 The Court Structure in Nigeria

In the USA for example which is practicing a genuine Federal system, there exist two hierarchies of courts. Each of the states has a Supreme



Court which is the highest court within the court structure of the state. All appeals within the competence of the state are determined by the Supreme Court of that state. Appeals can only lie to Federal Courts when the matter pertains to federal law or Federal Constitution. In contrast, Nigeria's Federal structure provides for only one hierarchy of Courts. Thus, appeals against decision of state courts (Area Court/Sharia Court, Customary Court, High Court) will, all things being equal, end up in the Federal Courts (Court of Appeal and Supreme Court).

The problem that may emanate from this arrangement is further compounded by the introduction of Sharia and Sharia courts in some states. It is a fact that where a Sharia Court of Appeal delivers final judgment, any aggrieved party can appeal to the Court of Appeal and ultimately to the Supreme Court. Any argument to the contrary will jeopardize the right of Appeal of the parties. If this position is correct, then can the Court of Appeal or the Supreme Court determine any appeal from the Sharia Court of Appeal based on the application of Islamic Criminal Law? The answer is negative and the court may not hesitate to declare the decision of the Sharia Court of Appeal void. Our position is strengthened by the provision of section 277 of the 1999 Constitution which provides that the Sharia Court of Appeal's jurisdiction is limited to civil appeals only and it has no powers to exercise jurisdiction on criminal appeal.

This position is further strengthened by the recent ruling delivered by the Chief Judge of Borno State in the case of Garba Mai Tangaram v. Abdullah Mai Taxi²⁵ in the case, the court was to consider the effect of section 8 (3) of the Borno State Sharia Law which provides as follows:

"In addition to the powers conferred by section 277 of the Constitution the Sharia Court of Appeal shall have jurisdiction and power to hear and determine appeal in criminal matters from the decisions of the Upper Sharia Courts."

After reviewing some authorities, the court held that section 8 (13) of the Borno State Sharia administration of justice Law 2000 is in conflict with the provisions of section 272 and 277 of the 1999 Constitution. The court went further to say:

The word "in addition" stated under Section 277 of the 1999 constitution,... does not give



a blanket or blank cheque to the State House of Assembly to confer jurisdiction which were not envisaged or provided for by the 1999 constitution. The words in addition are tied down and subjected to the provisions of section 277 of the 1999 constitution in giving effect to section 277 of the 1999 constitution, regard must be had to other sections of the constitution. Section 277 ought not be read in isolation.²⁶

The Court came to conclusion that the State House of Assembly cannot enact a law and confer an appellate jurisdiction in criminal matter on the Sharia Court of Appeal. It is therefore submitted that all the states that have implemented Sharia via the amendment of section 277(1) of 1999 constitution by enlarging the jurisdiction of the Sharia Court of Appeal to include criminal matter acted in breach of the Constitution and their actions are void.

6.6.3 Enforcement of Laws

The power to enforce a law in Nigeria is generally vested in the police. The police Act confers on the police the following powers:

- (a) Prevention and detection of crimes
- (b) Apprehension of offenders
- (c) The preservation of law and order
- (d) The protection of life and property
- (e) The due enforcement of all laws and regulations with which they are directly charged.²⁷

The Nigeria police force is established under section 214 of the 1999 Constitution. It states:

There shall be a police force in Nigeria, which shall be known as the Nigeria Police Force and subject to the provisions of this section, no other police force shall be established for the federation or any part thereof.

As for the power of control of the police force, the constitution provides that the Nigeria Police Force shall be under the command of the Inspector General of Police and any contingents of the Nigeria Police Forces stationed



in a state shall subject to the authority of the inspector General of Police, be under the Commissioner of Police of that state.²⁸

Section 215(3) states further that: "the president or such other minister of the government of the Federation as he may authorize in that behalf, may give to the Inspector General of Police such lawful direction with respect to the maintenance and securing of public safety and public order as he may consider necessary and the Inspector General of Police shall comply with those directions or cause them to be complied with."

The power of State Governors over the police force is stated in the Constitution as follows:

Subject to the provision of this section, the Governor of a state or such commissioner of the government of the state as he may authorize in that behalf, may give to the commissioner of police of that state such lawful directions with respect to the maintenance and securing of public safety and public order within the state as he may consider necessary and the commissioner of police shall comply with those directions or cause them to be complied with. Provided that before carrying out any such direction under the foregoing provisions of this subsection, the commissioner of police may request that the matter be referred to the president or such minister of the Federation as may be authorized in that behalf by the president for his directions.²⁹

It is clear from the above provisions that there can only be one Nigeria Police Force which is effectively placed under the control of the Federal Authorities. Secondly, the power of a State Governor to control the Police is seriously limited. This position has been a source of controversy and conflict between the Governors and the Federal authorities, the state Governors being the Chief Security Officers of their State rightly or wrongly believe that they should be able to give directives to the police and such directives be promptly carried out without seeking any clarification from the federal authorities. In fact, it is doubtful, under the existing legal regime if a state Governor can



effectively control and use the police to enforce whatever kind of law that is enacted within the state. Recently, the Zamfara State Governor was reported to have said that he has been receiving the necessary cooperation of the Zamfara State Police in enforcing the Sharia, but the police commissioner denied and instead said that he was not in Zamfara to enforce the Sharia.³⁰

6.6.4 Other Constraints

The above list of constraints are not exhaustive, what we have done is a selection of some to illustrate our discussion. There are other constraints like the rigid categorization of legislative power of the National Assembly and the State House of Assemblies into exclusive, concurrent and residual legislative list. The problem with this categorization is that there are certain matters example; Banking, weights and measures, regulations of profession and trade that are pertinent to the full and proper implementation of Sharia but unfortunately, they are under the exclusive legislative list. This means that a state, though desirous of implementing Sharia, cannot legislate on these important areas.

7.7 CONCLUSION

While we cannot question the power of the House of Assembly to enact law and establish Sharia Court in the State, we would submit that any attempt to apply Sharia in all its ramifications under the existing legal framework will always be met with opposition and serious constraints. This is because the existing legal regime in the country did not contemplate such adventures by the states. Further more, law as instrument of planned social change has its limitation because not all social ill in the society can be cured by legislations. Hence the proponent of Sharia should not be deluded that the promulgation of Sharia in our statute book will curb all the social ills. On the contrary, though some may argue that a period of three or four years is too short to assess the impact of the Sharia codes, recent events in some of these so called Sharia states show that nothing has changed considerably. In this regard, one will begin to doubt the sincerity of purpose of those agitating for a return to Sharia. It is therefore submitted that what is needed for Sharia penal code to succeed in Kaduna State, indeed any state in Nigeria, is to put in place efficient institutions that will eliminate or reduce the level of illiteracy, promote social and economic justice amongst the people. Also, a constitutional change through the usual constitutional amendment process that can, among other things, bring about the desirable federalism in Nigeria will be imperative for the smooth implementation of the Sharia.



ENDNOTES AND REFERENCES

- * A. M. Madaki, Esq. BL, Lecturer, Faculty of Law, Ahmadu Bello University, Zaria.
1. Zayifara introduced the Sharia Legal System on the 27th October, 1999 other examples include Kano, Katsina and Kaduna.
 2. See generally Sharia Penal Code Law (Kaduna State) which came into operation on the 21st June 2002.
 3. S.S. Richardson: Notes on the Penal Code Law 1967 from p.1 Anozie C.M. & Nwatu S, The Legal Framework for the Corporate Existence of Nigeria. A paper presented at the Nigerian Association of Law Teachers Conference LASU 23rd – 26th April, 2002. Aduba J.N. "The Sharia Controversy and the 1999 Constitution. A case of shadow boxing" in Law Human Rights and the Administration of Justice in Nigeria Ed Ladan M.T. A.B.U., Press 2001, p.384.
 4. Chukkol K.S. The Penal Code: Its Genesis and Standing (1981 – 1984) JICL p.16.
 5. See the covering letter attached to the first draft code dated October 14th 1837 cited by Chukkol K.S. The Law of Crimes in Nigeria Zaria A.B.U. Press 1988, p.12.
 6. Richardson op. cit.
Speech delivered during one of the debate on the Penal Code bill as cited by Ibrahim Suleiman in Muslim World: Exit of a Critical Century' Radiance No. 2 1980 at p.13.
 8. S.S. Richardson op. cit. a similar opinion is also held by Anozie C.M. & Nwata op. cit. Aduba op. cit.
 9. Chukkol K.S. "The Penal Code. Its genesis and standing (1981 – 1984) JICL p.17.
 10. Ofori Amankwah. The Penal Code and the Criminal Code their Origin and difference (1978) Vol.4 JICL p.53.
 11. Chukkol K.S. The Law of Crimes in Nigeria, Zaria A.B.U. Press 1988 p.14
 12. This statement was credited to the Vice President after a long consultation with governor at a council of state meeting in Abuja.
 13. Aoko V. Fagbemi & Anor (1961) 1 ALL NLR 490.
 14. Qur'an 24:2.
 15. For full discussion of intoxication as an offence under P.C. see generally Aguda in T.A. selected Law Lectures and Papers 1971 Ibadan.



Ibanda E. "Towards a clearer law on Intoxication under the Penal Code of Northern Nigeria" ABULJ 91986-90) 4-5 p.89.

S. 148 Sharia Penal Code Kaduna State.

Qur'an 4:92

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This will be in line with the Zamfara Shari Penal Code which expressly repealed the Penal Code with respect to Muslim who commits offences in Zamfara State.

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