

# The Role of the Shariah Legal System in the Prevention and Control of Crime in Kebbi State, North-Western Nigeria

Umaru Saidu Zamare

Department of Sociology, College of Basic and Advanced Studies Yelwa Yauri Kebbi State  
umarusaidu80@gmail.com

Usman Ahmed Karofi

Department of Sociology, Usmanu Danfodiyo University Sokoto State

## Abstract

This study explored the relationship between the application of the Shariah legal system and crime control in Kebbi state. The role played by the re-implementation of Shariah was studied. The study aimed at providing knowledge on the relationship between Shariah legal system and how it controls and prevents crime and criminal activities in the state. The study used focus group discussions (FGD) and in depth interviews (IDI) as the instruments of data collection. The area of the study was divided into three senatorial districts and in this case Kebbi south senatorial district was selected in which three local governments areas namely Yauri, Koko Besse, Zuru were used for the collection of data. The study conducted nine focus group discussions (FGD) and nine in-depth interviews (IDI). A Total of (18) session was conducted with males and females adult and young persons female and males unmarried. The study revealed that the process of Shariah as legal system in Kebbi state faced a lot of problems ranging from poor arrangement of it implementation like the inability to provide basic social amenities to the people, poor office accommodation, lack of qualify staffs and also found that corruption exist in the courts. Moreover, other security agencies like police, civil defense do report their cases after investigation to magistrate and high courts because their services are more inclined with the Nigeria constitution than the Shariah court. These and many other reasons made the introduction of Shariah in Kebbi state to control and prevent crime have not been achieved as expected, Based on the findings of the study some recommendations were offered.

**Keywords:** Shariah legal system, prevention and crime control, reimplementation.

## INTRODUCTION

Shariah legal system prior to the coming of British colonialist shariah was implemented in the political, economic and social affairs of the people and communities in Northern Nigeria. With the advent of the colonialist, the British imposed upon the people, the laws which substituted the Islamic criminal law there by confining it to only personal matters such as marriage, inheritance, divorce and so on. They mapped out strategies to achieve this aim among which are tampering with the Islamic political order, direct interference with the court system and subjugation of Islamic criminal law so that English law will prevail. However, since the inception of the English law in northern Nigeria as a system of social control, crime and criminal activities have been on the increase at alarming rate because of the laws inability to address how some basic conditions of people would be achieved such as exposure of man to the right guidance, his material well being such as food, shelter, his environment, his spiritual and moral training and also his external power restraining on him. Tabiu (1987) quoted by Umaru (2012) stated that the above analogy rightly fits the English law whose inability to address those problem above especially the basic need of people, resulted to high crime occurrences such as arm robbery, theft, prostitution, gambling, adultery, drug abuse of all types, political thugs, burglary, cultism, Victimization, to mention only a few. In line with the above Atwood (1998) quoted by Umaru (2012) expressed that crime such as corruption, armed robbery, money laundering etc have had a devastating impact on the development effort of Nigeria by corroding the economic and political system. Eizenstat (1998) quoted by Umaru (2012) pointed out that plainly corruption, armed robbery, theft, prostitution etc damages the economic development and reform, and hinders the growth of democratic institution of Nigeria. He is of the opinion that the above crimes impede the ability of developing countries to attract scares foreign investment and distort capital allocation. Umar (2012) expressed that in Kebbi state and else where in Nigeria, English law become a commodity which only people with power and capital can purchase and win a case whether they are at wrong side. Offences and punishment were determined by the ruling class and the capitalist, corruption became the order of the day in all the ministries, police, army, local government offices and so on. It is in-line with this Atwood (1998) pointed out that, in Nigeria the late General Sani Abacha and his cronies siphoned billion of dollars out of the oil industries which is the primary source of wealth and account for 80% of government revenue. Diversion of funds from the sate coffers led to a marked deterioration in infrastructure and social services. In views of the above, Tabiu (1987) state that:

*“An approach with this nature was therefore doomed to failure right from the start. It is not*

*surprising that whether in Nigeria or else where, this secular means of dealing with crime has produced nothing but confusion and grief."*

It was as a result of this inability of the English Law to prevent and control crime and criminal activities that made people of Kebbi State by the Year 2000 to agitate for the return to complete Shariah Legal system in order to have an effective means of reforming the attitude of people, creating disciplined members of the society and combating the rising crime rate in the state.

It was in the light of the above, section 4(7) of the 1999 Nigeria constitution had vested legislative power on the State House of Assembly and by the virtue of this section, the Kebbi state house of assembly in the year 2000 introduced the complete Shariah penal code in order to address social problems in general and criminal activities in particular, likewise in accordance with section 6(4) of the constitution with subordinate jurisdiction to that of the high court, the Kebbi State House of Assembly passed Laws establishing various grades of Shariah court to handle Shariah case and related matters since the year 2000.

This study therefore seeks to explain the extent to which the reimplementation of Shariah in Kebbi state help to prevent, manage, and reduce the rate of crime. More so, the study will seek to find out the problem which prevent Shariah legal system to control crime, and lastly offers possible recommendation for the successful application of Shariah in crime control base on the finding of the research. It is hoped that the research finding will assist policy maker in addressing the problem of crime in Nigeria and Kebbi state in particular.

## LITERATURE REVIEW

The study reviewed some literatures of empirical researches conducted in Nigeria and researches conducted elsewhere establishing relationships between crime and how it can be controlled.

### CRIME CONTROL

Clinerd (1976) in a study of cross cultural, ecological study in relation to high crime rate in Kampala, the capital city of Uganda reported that the high crime neighborhood was more socially disorganized and thus had great difficulty realizing this value. In contrast, the low crime neighborhood was close-knit, socially integrated and culturally homogeneous. Therefore the internal relations and institutionalized patterns of behaviors within a community are more influential in preventing crime than conditions outside the community.

In fact, this review attempted to provide a linkage between high crimes and how they can be prevented, but did not indicate ways through which it can be done. Moreover, the researcher did not present the sample of the research and instrument of data collection used in the research. Mohammed (2009) opined that to prevent crime such as corruption, theft, etc. People must have a sense of shame, any one caught being corrupt should be made to feel shame and dishonors so strongly that he will find life extremely miserable knowing this, he would try to ensure that he would do nothing that will cause him this misery, certainly he will reject the urge to be corrupt.

The above assertion by Mohammed is in line with how other society's like Saudi Arabia use in controlling crime. But the short coming of this view is that he failed to provide strategies as well as means through which this can be achieved.

Newman (1972) maintained that crime can be controlled significantly through the utilization of equipment devices, and even symbolic barriers that combine to bring an environment under the control of its resident and defended or protected against intruders. Inline with the above statement Coleman (1987) studied the effect of particular designs on crime rate in British housing estate and found that (1) the crime rate can be lowered drastically by reducing an estate design disadvantage score by making changes in housing structures including dismantling over head walkways, walling of each estate block to exclude stranger and allow residents to get to know one another, and provide individual gardens for each house or flat (2) for crime rate to be lowered, the improvement must be made in the housing design. Not simply by beefing up police patrols or hiring more management personnel.

In view of the above findings however, one can say that the research is out dated. In the sense that it only concentrates on the housing estates structures forgetting that crimes are found both in the rural and urban centers. Moreover, the methodology used to conduct the research has not been included.

In an empirical research conducting by Shaw (1971) on the control of crime, postulated that criminal career was laid early in life, so the best way to control crime was to prevent juvenile delinquency. So they used both qualitative and quantitative. The quantitative method was the cornerstone of their neighborhood studies. They used interviews with a number of delinquents to obtain their life stories including detailed account of the social and family relations for identifying offenders and offence from the police, courts records and prison centers. They came up with the following findings:

1. That in terms of such characteristic as personality, intelligence, and physical conditions, delinquents for the most parts was not different from non delinquents.
2. That crime and delinquency were not dominated by any particular ethnic or social groups.

3. What distinguished delinquents from non delinquents were not individual traits, but rather the characteristics of the respective neighborhood in which they live.
4. That the neighborhood with the worst delinquency problems also has the highest rate of other serious problems.
5. Did not see this problems as the consequences of economic inequality per se or the exploitation of the areas by commerce and industries instead, in the Chicago tradition, they emphasized the impact of social disorganization.
6. Concluded that, the solution to crime problems lies not with the treatment of individual offenders, but with activities to share up traditional social control in disorganized neighborhood until they become stable.

Their view of providing activities to show up traditional road control in a disorganized neighborhood until they are stable would never be achieved due to scarce resources and the changing nature of the society from traditional to modern way of living, because there is no way to satisfy every member of the social organization and for that, other individual may fall into committing crimes. Moreover, the reliability of their statistical data collected from the police, courts, and prison is in question because there are offenders and offences that are not reported and recorded by the police, courts and prisons.

Bawa (2007) in his research work about the problems and prospect of Shariah enforcement in Sokoto state Shariah courts with particular reference to criminal case, reported the following problems associated with the enforcement, and this includes:

1. The problem of indigene litigants inability to secure the services of counsel in the legal aid department are not versed in Islamic law something that militates against their appearance in Shariah courts.
2. Discovered that the combination of offences with Islamic flavor together with offences meant to be decided in accordance with common law principles is a problem, because such laws were meant to be interpreted by lawyers trained in the finer point of English law and tradition.
3. The Shariah panel code has left out, in its provisions, offences like-enticing a married woman out of her matrimony and bigamy.
4. That the defense of provocation which is not a defense under the Shariah law, but is a defense under common law which reduced the punishing of homicide punishment with death to homicide not punishing with death.
5. That the trail of a non Muslims under Shariah court is a problem.
6. Some people consider the creation of law by the state legislative power as having a state religion.

Despite the fact that the research tried to link Shariah law and crime control in Sokoto state, the researcher did not review any research of its kinds. In another development only 4 respondents were interviewed at the same times did not indicate the types of questions (Structures or Unstructured) in his work. The researcher tended to forget to find out the roles played by the Shariah legal system in the control of those particular criminal cases in Sokoto state.

Tabiu (1987) argued that the rate of crime too high in which he said the western secular approach has appreciable impact on the rising tide of crime and the outcome therefore grief for society at large, Tabiu therefore, concluded that the government of Nigeria should introduce Shariah legal system because of the following:

1. It present a remedy of proven efficacy, it defines clearly the standard and values to be punished and.
2. It put forward realistic and comprehensive program.
3. It also create a society which is in conformity with Shariah values which are based on the universal justice, fair play and good conduct and deserve to be adopted by any government.

Inline with the above view, Tabiu presented a research undertaken to ascertain the differences between the attitude of Americans and Saudi Arabians concerning feeling of personal safety in their respective countries and the findings are:

1. 85% of the Saudi Arabian respondents testified that they felt secure and safe to work the street at night.
2. On the other hand only 37.5% of the Americans respondents gave the same answer.

Though the assertion of this scholar has provided a relationship between law and crime control but yet failed to explain how Shariah can be introduced in a country like Nigeria where some states are dominated by the non Muslims. And to those states dominated by the Muslims then, through which means/strategies can this law be introduced and by which organ of the government has the power. Tabiu ones again did not explain how the non Muslims residing in the Muslims dominated states will be treated. Similarly, the research backed by Tabiu, did not carry the sample size of the respondents in America and Saudi Arabia respectively. Also the instrument

through which these data was collected has not been indicated.

### RESEARCH QUESTIONS

- (1) What factor led to the reimplementation of Shariah legal system in Kebbi state Nigeria?
- (2) What are the effect of Shariah legal system in the control and prevention of crime in Kebbi state Nigeria?
- (3) How does Shariah legal system control and prevent crime and criminal activities in Kebbi state?

### AIMS AND OBJECTIVES OF THE STUDY

Inline with the foregoing question, the aim of the research is to find out the extent to which the implementation of Shariah legal system control and prevent crime and criminal activities in Kebbi state with a view to offer recommendation. It also has the following specific objectives inline with the research question:-

- (1) To assess the factor responsible for the reimplementation of the Shariah legal system in Kebbi state.
- (2) To find out the effect of Shariah legal system in the control and prevention of crime in Kebbi state.
- (3) To find out and explain how the implementations of Shariah legal system control and prevent crime and criminal activities in Kebbi state Nigeria.

### METHODOLOGY

The research design adopted in the study was qualitative in nature in which it uses focus group discussion (FGD) and in-depth interview (IDI). The study populations were women, men, and professionals in the field of crime control from the age of 18years and above, it also maintained purposive sampling technique. In data analysis, the research also used careful recording editing and transcription of raw data collected during the focus group discussion and in-depth interviews. The research collected secondary data from the police (crime data) of Kebbi state for easy comparing of crime recorded data year by year.

In the study population, the study used men and women age 18 to 50 years in the three local government head quarters within Kebbi state south senatorial district comprising Yauri, Zuru and Koko-Besse. The reason behind the above age selection was because Shariah can be best explained by a person within the age selected not underage person.

Respondents were sampled purposively which reflect the differences in the population that are relevant to research topic discussed at the process of data collection.

In analyzing qualitative data, the process begins with the careful recording, editing and transcription of the raw data collected during the FGD and IDI for completeness, consistency and accuracy. This enables the researcher to write a comprehensive report of his findings.

### RESULT AND DISCUSSIONS OF THE MAJOR FINDINGS

The first objective of the study was to assess the factors responsible for the reimplementation of the Shariah legal system in Kebbi state. Generally, the study revealed that majority of the participants explained that the reason for the re-implementation of Shariah legal system was not because of Shariah in the real sense but for sake of achieving their political reason because no proper and complete Shariah arrangement of it introduction was done for a proper and complete Shariah proceeding. Moreover over, the participants explained that the issue of reimplementation of Shariah was not the case because it existed and therefore need to be reformed. Other discussants during the focus group discussion [FGD] expressed that the reason for the return to complete Shariah is to make Muslims in the state feel being complete Muslims, because with out Shariah implementation a Muslims is not complete.

TABLE 1. Showing the Crime Data of Kebbi State from 1996 – 2011

S/N	OFFENCE	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTAL
1.	CAUSING HURT	56	103	81	97	119	133	140	186	111	95	110	103	70	94	77	105	1680
2.	ARMED ROBBERY	7	9	9	21	27	24	14	28	47	37	35	33	38	36	31	31	427
3.	CULPABLE HOMICIDE	18	32	26	35	29	29	37	32	44	35	39	51	40	27	35	32	541
4.	RAPE	0	1	1	2	3	0	5	2	4	12	5	12	10	12	16	6	91
5.	THEFT	45	189	121	281	402	349	443	388	378	356	313	245	317	335	326	237	4125
6.	FRAUD	36	41	48	43	62	46	64	52	52	65	5	2	12	0	4	2	534
7.	CAR THEFT	0	0	0	1	3	2	4	3	6	8	11	8	18	9	10	5	69
8.	CONCEALMENT/ ABETMENT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9.	ADULTERY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10.	MISCHIEF	86	78	69	105	89	67	183	118	62	65	34	31	44	45	26	46	1148
11.	SUICIDE	0	0	1	0	0	1	0	0	2	0	0	1	0	3	0	1	9
12.	ATTEMPT TO COMMIT SUICIDE	0	1	0	0	0	0	0	0	2	1	0	0	0	1	1	0	6
13.	DISTURBANCE OF PUBLIC PEACE	16	19	26	41	38	32	44	37	29	39	14	31	48	25	34	62	535
14.	KIDNAPPING	0	1	0	0	1	0	3	0	1	4	4	1	0	0	1	5	21
15.	CRIMINAL FORCE AND ASSAULT	93	123	117	126	153	148	161	142	129	125	70	76	84	80	70	81	1778
16.	INCITING DISTURBANCE	28	36	33	31	28	39	63	83	57	20	6	12	17	29	21	42	545
17.	ENTISEMENT OF MARRIED WOMEN	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
18.	RECEIVING STOLEN PROPERTY	22	20	18	32	26	25	41	26	21	17	42	20	35	33	16	20	414
	<b>TOTAL</b>	<b>431</b>	<b>676</b>	<b>591</b>	<b>859</b>	<b>1032</b>	<b>967</b>	<b>8671</b>	<b>1143</b>	<b>1012</b>	<b>926</b>	<b>688</b>	<b>626</b>	<b>733</b>	<b>729</b>	<b>668</b>	<b>675</b>	<b>11893</b>

SOURCE: KEBBI STATE POLICE HEADQUARTERS, CRIMINAL INVESTIGATION (CID) DEPARTMENT 20th/ Novembre, 2011

The second objective of the study was to find out the effect of the Shariah legal system in the control and prevention of crime in Kebbi state, and the report finding revealed that very few social vices such as



prostitution, gambling, taking alcohol were controlled but almost all other criminal activities like armed robbery, theft, causing hurt, culpable homicide, fraud, car theft, rape, mischief, suicide, peace disturbance etc, have not been controlled and not prevented they are happening at the same rate, that is going up and down before and present.

Note that there are many crimes that are not reported to the police and even if reported many are not recorded. Therefore the assumption made by the research work is that the crime static's is above or more them what the table contained.

Further more, the participants explained that there is serious corruption existing in the courts of Shariah because the living conditions of masses have not been taken care of which resulted to high rate of poverty and crime rate in the state.

In line with the above, it has also been observed that the existing magistrate courts and high courts in the state serves as superior courts over the Shariah courts because police after investigation reports their cases to the above that is, magistrates and high courts of justice because shariah courts are not giving the room by Nigeria constitution to handle criminal cases like armed robbery, murder, kidnapping etc. the Nigeria constitution stated that "this constitution is supreme and if there is any other laws that contradict the provision of the constitution that of the constitution prevail."

Further more, to ascertain and explain how the implementation of sharing legal system control and prevent crime which is objective (3), the discussants explained that people are always afraid of the repercussions and steps taken by Shariah proceeding with regard to any offence committed. In Shariah, punishments are given proportionately to the offence committed.

Another important finding of this research is that majority of the people particularly the masses are not conversant with Shariah legal system in fact there are those who can not differentiate between Shariah and English laws more especially those in the rural area in the state.

The Shariah courts in Kebbi state are facing serious problems in terms of staffing due to the pact that most of the judges are not qualified and no capacity building in terms of seminars, or workshops, organize for them to up date their knowledge and skills. In line with this they only use experience to judge a case.

Another finding, explained by the participants is the lack of office and housing accommodation because almost all Shariah courts in and out side the local government headquarters are not provided with the ready made offices but depend on hiring of places not suitable for the staff and the clients/complainers to stay.

Moreover, another finding of this research is that other security agencies such as the police, civil defense see Shariah as a threat to their departments because their services is in line with the Nigeria constitution and therefore not in favor of it implementation fully in the state and this has seriously affect the proper reimplementation of Shariah legal system in the state.

## **CONCLUDING REMARK**

The reimplementation of Shariah legal system in Kebbi state got rooted from the agitations, made by the entire Muslims of the state in order to take care of the social vices taking place at all time and place. Looking at the responses gathered by this research, it has shown that Shariah in the state is already existing but need to be reformed, because the manner in which it is being done is facing a serious problems and challenges ranging from the issue of staffing, office accommodation in adequate reference materials, partiality, and the worst is bribery and corruption to mention a few, made it impossible for the Shariah to succeed in performing it civil responsibilities.

## **RECOMMENDATIONS**

Based on the finding of this research work, it become imperative for the Kebbi state government and northern Nigeria in general to promote the following areas if really it is Shariah that they are interested in using as a legal system and these include the following:

- (1) The poverty issue should be addressed through providing basic social amenities especially the down-trodden masses that constitute the overwhelming majority of Muslims by the state and local government authorities.
- (2) In line with the above recommendation Abubakar's. (2000) argued that if we are really interested in the promotion of Shariah. We must be concerned with whether for instance, Muslim have food to eat and clean water to drink in order to stay alive as well as clean water to cook e t c.
- (3) Both high courts and magistrate courts should be added to the code i.e. the jurisdiction of these two types of courts to hear and determine civil matters should only be where the accused person in a criminal case is a non Muslim. This will insure the none application of the common law or panel code system on Muslims in Kebbi state.
- (4) Government should provide courts and staff accommodation including good salaries and all other benefits in order to do away with briefly and corruption.

- (5) The entire people of the state especially the masses should be educated through enlightenment campaign by the local governments and preaching by the Islamic preachers on the issue of Shariah, this will enable them to under stand their rights over Shariah and right of Shariah over them.

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