



RESPONSES TO INFORMATION REQUESTS (RIRs)

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Nigeria: Whether Muslim clerics, groups or governmental authorities issue death sentences for blasphemy; if so, who has the right to issue and enforce such sentences; whether such sentences would extend to family members; in particular, whether there are death sentences issued by individuals who are not part of Sharia courts within states that are not officially applying Sharia law

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According to Human Rights Watch, Sharia is applicable in twelve northern Nigerian states as part of their justice system (2010, 146). Similarly, a lawyer based in the United States (US), who formerly practised law in the US, taught at the University of Iowa, taught law at the University of Jos, Nigeria and who has written extensively on the implementation of Sharia in Nigeria, stated in 1 September 2010 correspondence with the Research Directorate that Sharia is implemented in some of Nigeria's northern states, to varying degrees. The Lawyer further stated that, "in some of the Northern Sharia penal codes, a death sentence is theoretically possible for 'insulting the Prophet or the Qur'an' " (1 Sept. 2010).

A chapter in a multi-volume book on the implementation of Sharia in Nigeria's northern states contains the *Draft Harmonized Sharia Penal Code* produced by the Centre for Islamic Legal Studies of Ahmadu Bello University in Zaria, Nigeria (Ostien 2007, 33). This code states:

406. (1) Whoever by any means whatsoever intentionally abuses, insults, derogates, humiliates or seeks to incite contempt of the holy Prophet Muhammad (SAW) or his prophethood or any other prophet of Allah recognised by the religion of Islam shall be punished with death.

(2) Whoever destroys, damages or defiles the Holy Qur'an in whatever form or manner with the intention, thereby, of insulting, humiliating, derogating or disrespecting the Holy Qur'an or the religion of Islam ... shall be punished with death. (Ostien 2007, 134)

However, the *Draft Harmonized Sharia Penal Code*, which is "annotated to show variations between it and the Penal Code of 1960 on the one hand and the enacted Sharia Penal Codes of ten of the Sharia states on the other hand" (ibid., 33) notes that only the state of Kaduna has Section 406, including both subsections, in its Penal Code (ibid., 134). The same source also notes that specifically the state of Kano has a subsection in its Penal Code that says:

402. (b) Whoever by any means publicly insult by using word or expression in written or verbal by means of gesture which shows or demonstrate any form of contempt or abuse against the Holy Qur'an or any Prophet shall on conviction be liable to death. (ibid. 133)

The Lawyer stated that death sentences can be issued only by judges of the Sharia courts in the states where the relevant penal code provisions are in force (1 Sept. 2010).

However, in 2002 media sources reported that the Deputy Governor of the state of

Zamfara called for the death of a Nigerian journalist (*This Day* 17 Dec. 2002; *Daily Telegraph* 30 Nov. 2002; BBC 26 Nov. 2002); the journalist was accused of insulting the Prophet in newspaper story she wrote covering the Miss World Beauty Pageant (*ibid.*; *Daily Telegraph* 30 Nov. 2002). In 27 August 2010 correspondence with the Research Directorate, a senior partner in a Nigerian law firm who has served as defence council in numerous Sharia-related cases in Nigeria noted this incident as an example in which an authority other than a Muslim cleric issued a pronouncement calling for the death of an individual because of blasphemy. However, the Senior Partner stated that the governor's pronouncement was subsequently debated and most Muslim clerics concluded that a politician does not have the authority to issue such orders (Senior Partner 27 Aug. 2010). The national Nigerian government issued a statement in 2002 indicating that the *fatwa* (religious ruling) pronounced by the government of Zamfara calling for the death of the Nigerian journalist was not valid and would not be carried out (BBC 26 Nov. 2002; *This Day* 17 Dec. 2002). In addition, the supreme Islamic authority stated that the fatwa should be ignored (*Daily Telegraph* 30 Nov. 2002).

The Lawyer stated that gangs of youths in Northern cities have killed individuals who they believed had insulted the Prophet or Qu'ran (1 Sept. 2010). He stated, however that

[i]n at least some of these cases, the youths have been arrested and convicted of murder; the Supreme Court of Nigeria has held that their belief that the person they killed had insulted the Prophet ... was no excuse and they had no right to take the law into their own hands. (Lawyer 1 Sept. 2010)

The Lawyer stated that if a Sharia court in the North issued a death sentence for insulting the Prophet or Qur'an:

the convict would be remanded to prison to await execution of the sentence but before that happened the Governor would have to give his consent and this would certainly never happen. (*ibid.*)

A chapter on Sharia and national law in Nigeria appearing in a book published by Leiden University Press on Sharia in 12 Muslim countries states that very few of the sentences that are "shocking to modern sensibilities" (such as amputation or stoning to death) have been carried in Nigeria (Ostien and Dekker 2010, 34). The authors put forward the opinion that the governors of Nigeria's northern states are aware of "the wider interests of their states" adding that there is national and international pressure against executing sentences that are largely perceived as "outmoded and inhumane" (*ibid.*, 34-35).

The same source further states that three of Nigeria's northern states (Borno, Gombe and Yobe) have not applied their Sharia Penal Codes (*ibid.*, 44). The authors also note that the use of Sharia Courts to try criminal matters is declining in the other northern states (*ibid.*, 44). Human Rights Watch reports that death sentences handed down by lower Sharia Courts have been overturned in appeal (2010, 146). According to the book on Sharia, the police and public prosecutors prefer to charge Muslims accused of crimes in the Magistrate's and High Courts rather than the Sharia Courts, particularly if the crime in question is serious (Ostien and Dekker 2010, 44). The book

on Sharia states that because *hudud* sentences (e.g., specific punishments such as stoning to death or amputation for specific offences)(*ibid.*, 6) are not frequently carried out, these sentences are handed out less often (*ibid.*, 44). However, Human Rights Watch points out that lower Sharia Courts continue to hand down death sentences (2010, 146).

The book on Sharia indicates that there is a backlog of unexecuted sentences so convicts sentenced by Sharia Courts are "languishing in prison" (Ostien and Dekker 2010, 44).

The Senior Partner said that as far as she knows, no death sentence for blasphemy has been carried out in Nigeria (27 Aug. 2010). The Lawyer corroborates this information, stating that, to the best of his knowledge, no death sentence for insulting the Prophet or the Qur'an has been issued by Sharia Courts and no such sentence has ever been executed (1 Sept. 2010). In addition, in 26 August 2010 correspondence with the Research Directorate, a professor of sociology at the University of California (UC), who has written articles on Islam, including on Sharia in Nigeria, also stated that, to the best of his knowledge, no death sentence for blasphemy has been issued by Muslim clerics in Nigeria.

The Lawyer stated that a death sentence for insulting the Prophet or the Qu'ran is not possible in the Southern states, not even in theory (1 Sept. 2010). He added that a death sentence would not be extended to a family member of a person accused of a crime under Sharia (Lawyer 1 Sept. 2010). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

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Additional Sources Consulted

Oral sources: Researchers from George Mason University (GMU) and Emory University were unable to provide information for this Response.

Internet sites, including: Amnesty International (AI), Carnegie Council, Council on Foreign Relations (CFR), Freedom House, Government of Nigeria, Harvard University, International Crisis Group, New York University, Reporters without Borders (RSF), United States (US) Department of State, *The Washington Post*.

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