

The Gambia: Creeping Sharia Threatens Human Rights

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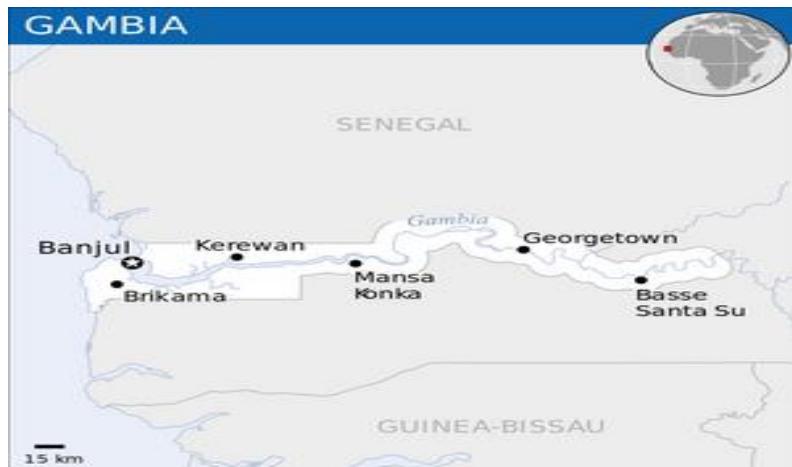
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In December 2015 many were shocked when President Yahya Jammeh declared The Gambia to be an “Islamic Republic.” The July 2014 declaration of a Caliphate by ISIS echoed in our memories. These concerns began to recede in January 2017, when the new president, Adama Barrow, restored the older name, “Republic of The Gambia.” However, the proposed new constitution, now under review, should reignite serious concern among international observers. The current danger is not that of a sudden, violent takeover by Islamists; the danger is a slow suffocation of human rights by means of a gradual, low-violence implementation of Muslim law, “creeping Sharia.” This concern can be clarified by means of looking at the notion of law in the proposed constitution.

The experienced reader of Islamic documents will be alarmed by the preamble.

“We the people of The Gambia,

“As a sovereign independent State, having had the opportunity to express our views and aspirations on how we wish to be governed, affirm that this Constitution is the embodiment of our will and resolve for democracy, good governance, separation of powers, sustainable environment and equitable distribution and use of resources, rule of law, equality and observance of the principles of fundamental human rights and freedoms.”



At first glance this sounds like democracy, but key terms are not explicitly defined. In the West “rule of law” means that all people, including law makers, presidents, and dictators, must obey the written laws. However, in Muslim-majority countries, “rule of law” is often the English translation of the “rule of Sharia.” My concern builds on a longstanding concern of western intellectuals who interact with Muslim scholars regarding public philosophy. In other documents, key terms have been translated from Arabic to English in such a manner as to make them sound acceptable in the West, while the translations hide the intentions of the authors. This is crucial in The Gambia, where the public language of government is English, while the Muslim majority of the population is increasingly using Arabic.

After reviewing late twentieth-century Muslim human rights documents such as the “Universal Islamic Declaration of Human Rights” of 1981 and the “Cairo Declaration of Human Rights in Islam” of 1990, Christine Schirrmacher noted, “It has been pointed out in various quarters that the English and French translations of the texts employ more moderate expressions than the Arabic original. Terms such as “law” or in French “loi” could be understood to refer to the law of the land, whereas the Arabic refers only to the Sharia, which of course carries quite different overtones.”¹ Schirrmacher quotes Ali Merad, “It is hard to avoid the impression that the aim of the versions in Western languages is to lull non-Muslims into a false sense of security and to present Islamic ethics in such a way as to make them acceptable to those who have imbibed the spirit of modern principles of human rights.”²

One cannot know with certainty that the authors of the proposed constitution of The Gambia had such a deceptive intent when they advocated “the rule of law” in the preamble, but this is the precedent in documents of public philosophy written by Arab Muslims in the last generation. Unfortunately, the text of the proposed constitution does nothing to correct us, if this interpretation of the preamble should be wrong. Instead, the text of the proposed constitution provides overwhelming support for interpreting the constitution as only having authority to the extent that it agrees with the Sharia, as if the constitution cannot overrule Sharia.

The word *Sharia* (transliterated from Arabic as *Shari’ah*) appears 48 times in the new constitution. To take only one example, paragraph 9:1 claims,

“the laws of The Gambia consist of –

- (a) Acts of the National Assembly made under this Constitution and subsidiary legislation made under this Constitution and such Acts;
- (b) the existing laws;
- (c) the common law and principles of equity;
- (d) customary law so far as concerns members of the communities to which it applies; and
- (e) the Shari’ah as regards matters of marriage, divorce, burial, endowment (waqf) and inheritance among members of the communities to which it applies.”

Leaving aside the tensions between common law and Sharia which will arise in this legal system, one must note the affirmation of Sharia in the realm of family law. Though the precise variety of Shariah (of the several types) has not been defined, in most Arab versions of Sharia, family law is one of the ways in which Christians (and members of other religious communities) are kept in a subordinate status in officially Muslim countries. Within The Gambia, there are many families which are partly Christian and partly Muslim, and, as is true in most of the world today, there are

¹ Christine Schirrmacher, “Islamic Human Rights Declarations and their Critics,” trans and ed by Thomas K. Johnson, *International Journal for Religious Freedom*, Vol 4:1 2011, p. 42.

² Zur “Allgemeinen Islamischen Menschenrechtserklärung.” in: Johannes Schwartländer, *Freiheit der Religion: Christentum und Islam unter dem Anspruch der Menschenrechte* (Mainz: Matthias-Grünewald-Verlag, 1993), 443-449, here 449.

surely people converting in all direction among all religions. But under Sharia, when a Muslim dies, his Christian relatives do **not** inherit the estate; but when a Christian dies, his Muslim relatives **do** inherit the estate. This is a mechanism in Sharia family law by which wealth is constantly transferred from other religious communities to the Muslim community in a multi-generational manner.

This is only one of 48 references to Sharia in the proposed constitution. An exposition of all 48 references would provide overwhelming evidence that this constitution will turn The Gambia into a Muslim country. Paragraph 151:2 says the National Assembly shall not pass a bill to establish a religion, but that is hardly relevant since the constitution has already largely established an Arab variety of Islam; there is little left to do to fully establish Islam as the state religion. Paragraph 67:6 says there shall not be discrimination on the basis of religion, but that principle has been mostly emptied by the previous embrace of the Sharia, according to which the different treatment of people on the basis of religion is defined as justified.

When President Jammeh declared the Gambia to be an Islamic republic, everyone else perceived the threat to human rights and to human flourishing. But when that threat comes through 48 references to the Sharia in a hard-to-read constitution of 185 pages, some of which uses language that seems to disguise the Islamist nature of the text, not many people will perceive the threat. But make no mistake: the threat is real. If this constitution is implemented, we can rightly fear that it will lead to a loss of rights for people of other religions and perhaps to some of the harshness seen in other countries under the Sharia. The international Christian community should do its best to support the Christians in the Gambia who are pleading for an alternative to the recent proposal.

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Links:

- The Gambian Christian Council's letter to the CRC ([pdf](#))
- The World Evangelical Alliance, "The Draft for a new Gambian Constitution: A Threat to Religious Tolerance and Peaceful Coexistence:"
<https://www.bucer.de/ressource/details/bonner-querschnitte-212020-ausgabe-639.html>
- The Draft Constitution issued by the CRC:
<https://crc220.org/wp-content/uploads/2015/12/CRC-DRAFT-CONSTITUTION.pdf>
- Commentary by Prof. Dr. Paul Marshall:
<https://religionunplugged.com/news/2020/3/7/changes-in-gambia-threaten-its-tradition-of-pacifist-islam>

- Wikipedia-entry on the Gambia:

https://en.wikipedia.org/wiki/The_Gambia

- Wikipedia-entry on Religion in the Gambia:

https://en.wikipedia.org/wiki/Religion_in_the_Gambia