Islamic Law in colonial East Africa

Some common themes emerged from the papers. The heritage of British colonialism has shaped the legal regimes in each country, with the exception of Mozambique, which was under Portuguese rule, and Ethiopia, which had no Western colonial power ruling it, except, briefly, Italy. The British colonial experience and legacy thus features strongly in any discussion of post-colonial law in East Africa. Was there a uniform colonial policy regarding sharia and specifically Muslim personal law? There was no unified colonial approach although there were some common elements. The main issue was the extent to which the determination to give Islamic law as narrow a range of jurisdiction as possible. Its applicability was also gauged by arbitrary geographical ‘facts’. Thus, coastal Kenya and Zanzibar could have Islamic laws but not the Kenyan interior (i.e. beyond the 10 miles that defined the coast) or inland Tanganyika. In the latter, after World War I, ‘Mohammedan law’ was permitted as part of customary law. The muddy and specifically Islamic courts. The first conference was held in Dar-es-Salaam in the middle of July in Islamic law in East Africa (with papers on Mozambique, Tanzania, Kenya, Uganda, Ethiopia, Somalia, Sudan, and a paper on Zimbabwe). 1

Islamic law in independent East Africa

The major concern of the project is Islamic law in post-colonial Africa. After independence, there was the dominant common law, passed on from the colonial powers, and in most cases customary law, in terms of which Muslim personal law was given scope and/or accepted as an independent set of laws. Tanzania adopted a single unified system in 1964, and after the revolution in Zanzibar, parallel secular and Islamic systems were introduced to the island. On the mainland, while there are no courts to handle Muslim cases, a magistrate is required to sit with at least two Muslim assessors. Customary law is recognized in both places and there have been cases of conflict between Muslim personal and customary laws. On the mainland, customary law takes precedence over Islamic law. The former Chief Justice of Zanzibar, Augustino Ra-madani, reflected on the problems and perceived role of what he called the ‘dual tendency’ in the Tanzanian-Zanzibari legal systems. In Kenya, after independence in 1963, Kadi courts were used to provide a guarantee of continuity but the question since then has been the jurisdiction of these courts.

The locus of the practice of Islamic law, and is, is the Kadi courts, known under British rule as ‘subordinate native courts’. The customary role of these courts throughout East Africa featured strongly in most of the papers and discussions. The Kadi of Nairobi, Kadi Hamid Qasim, was present at the conference and spoke about his experience as a Muslim judge and the challenges facing these courts. He expressed especially the need to deal with Dubai the experience of dealing with Nairobi Muslim women and covered pressing issues ranging from divorce to AIDS. Susan Hirsh, au-