

Volume II: Sharia Implementation Committee Reports and Related White Papers

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CHAPTER 2

SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

I.

Introduction to Chapter 2

Philip Ostien

1. The Sharia Implementation Committee Reports and White Papers.

Sharia implementation was effected by the elected Governors and Houses of Assembly of the twelve States that undertook it. In most States it was done only after wide consultations. The Governors appointed committees – usually called “Sharia Implementation Committees” – whose terms of reference were to study what steps should be taken, to consider the constitutionality of the measures proposed, to survey and enlighten public opinion, and to report back to the Governor. These Committees consulted with *ulama* and legal scholars, solicited memoranda from the public, often held public hearings in various parts of their States, and often visited other States ahead of them in the process: Zamfara State, which led the way, was much visited. Once the Sharia Implementation Committee Report came to him the Governor might then appoint a “White Paper Committee”, charged with drafting an official statement of the Government’s position and programme, based on the recommendations made by the Sharia Implementation Committee. In some States the Governor then appointed yet a third committee – in Bauchi this was called the “Task Force on Sharia Implementation”, in Kebbi it was called the “Committee for the Implementation of Sharia in the State” – charged with carrying out the programme laid down in the White Paper; and these third committees, after months of work, sometimes also produced reports on what they had done. These documents – the pre-implementation reports of the initial Sharia Implementation Committees, the White Papers, and the post-implementation reports of the committees charged with implementing the White Papers – are goldmines of information about life in the Sharia States in the first years of the 21st century, about the many problems affecting the people, and about what Muslims have hoped to do to improve things. None of the documents have previously been published.

2. What we collected.

In our travels in the Sharia States, we tried of course to gather as many as possible of the Sharia Implementation Committee Reports and related White Papers. We were by no means completely successful: here is a list of what we were able to collect:

- Bauchi State: three out of the four volumes of the Report of the Bauchi State Sharia Implementation Committee, submitted to the Governor on 29th September, 2000; the Government White Paper on that Report; and four out of the five volumes of the Report of the Task Force on Sharia Implementation, submitted to the Governor on 14th August 2001.

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- Borno State: Report of the Committee on Application of Sharia in Borno State, submitted to the Governor in April 2000, and the Interim Report of the Sharia Implementation Committee, submitted to the Governor apparently in March 2001.
- Katsina State: both volumes of the Report of the Technical Committee on Constitutional Provisions for the Application of Sharia in Katsina State, submitted to the Governor in January 2000.
- Kebbi State: the Report of the Committee on the Implementation of Sharia in Kebbi State, submitted to the Governor in early 2000; the Government White Paper on the Report of that Committee, June 2000; and Report of the Committee for the Implementation of Sharia in Kebbi State, submitted to the Governor on 18 January 2001.
- Niger State: reports of the Niger State Advisory Council on Religious Affairs (NISACORA) on its June, July and August 2000 visits to Niger State Local Government Areas and to Zamfara State to discuss Sharia implementation.
- Sokoto State: the Interim and Final Reports of the Committee Set Up to Advise the Sokoto State Government on the Establishment of Sharia, submitted to the Governor on 13 October and 16 December 1999, respectively.
- Zamfara State: a paper on “The Adoption and Implementation of Sharia Legal System in Zamfara State”, presented on 6th July 2000 to a Seminar on Sharia in Jigawa State, by Alh. Ahmed Bello Mahmud, the then Attorney-General & Commissioner for Justice of Zamfara State.

We are grateful to the various officials in these States who, in practical demonstrations of the openness and transparency of their governments, made these documents available to us. In fact the documents show the governments and their officials in a very good light: they are serious, thorough, and well done. We are grateful also for the consents subsequently given us permission to publish them.

3. What this chapter comprises.

Unfortunately, space does not allow us to publish all these documents in this volume. The reader will find in the subsequent pages:

- one pre-implementation Report: that of the Bauchi State Sharia Implementation Committee, dated 29th September 2000, including the main report of the Committee, the reports of its various subcommittees, and a great deal of collateral material, including the memoranda submitted to the Committee by a wide range of citizens of Bauchi State, and records of interactions between the Committee and various other persons and groups.
- the then-Attorney-General of Zamfara State’s paper on “The Adoption and Implementation of Sharia Legal System in Zamfara State”, presented on 6th July 2000.

INTRODUCTION TO CHAPTER 2

- one White Paper: that of Kebbi State, prepared in June 2000. This will give the reader a clear indication of what was in the pre-implementation Report of the Committee on the Implementation of Sharia in Kebbi State, and also of course of how the Government responded to that report.
- one post-implementation Report: that of the Committee for the Implementation of Sharia in Kebbi State, dated 18 January 2001, which includes a great deal of information especially on the Sharia Courts in Kebbi State and the judges who man them.

These three selections provide a fair sample of all the various types of material contained in the related documents we collected, and illustrate fully the discussions going on in 1999-2000 of the Sharia implementation programme, the ways it was explained and justified, the problems it was hoped it would solve, and the controversies it raised. We hope to publish the rest of the documents listed in section 2 above – and any similar materials we may obtain in the future – on a website to be established subsequently. These documents were already being lost sight of and were hard to come by in 2002-03, when most of the ones listed were collected; before long no one will be able to lay hands on them again.¹

4. The presentation of the materials.

As is explained more fully in the Preface, we have in various respects “improved” the materials presented here, from the condition in which we received them. We have re-typed everything. We have moved tables of contents to the very front of the two big Reports and in the case of Bauchi’s have expanded the table of contents so that the reader can more easily see and locate everything in the whole report. We have corrected and standardised spellings, capitalisation, pluralisation and punctuation, and have imposed more regularity on formatting than is found in the originals – all in the interest of eliminating irrelevant distractions and making the texts easier to read and understand. We have italicised Arabic and Hausa words not in common use in English, and in some cases explained their meanings in footnotes. We have standardised the names of books mentioned in our texts – the Islamic authorities used in the Sharia Courts are referred to under a variety of titles, which is confusing for the uninitiated reader – and in Chapter 6 (on the “Two Famous Cases” of Safiyatu Hussaini and Amina Lawal, Vol. V) the reader will find a bibliography of Islamic authorities giving information about most of these books. Otherwise we have reproduced the texts – the parts of them in English – word for word. The translations from the Hausa, and in one case from the Arabic, are quite free, the intention being always to convey as clearly as possible in English the sense of the original. In the few cases where we were not sure of the meaning we so indicated in footnotes, giving the Hausa text which had confused us for the information of the reader.

¹ “There is one deficiency which permeates the whole gamut of Nigeria’s services both public and private, and this is the lack of adequate records. Go to any office and ask information about what happened a year ago, hardly will you get an accurate answer.” M.A. Ajomo, in his Foreword to the *Nigeria Legal Year Book – Vol. I: 1998* (Law and Allied Publications Nig. Ltd., 1998), xvi. The situation has not improved since that statement was made.

We have omitted very little from the three documents presented. Where there are omissions, this is indicated in the place where the omitted material would go. Omissions are of two types:

- Some of the appendices to the Bauchi Sharia Implementation Committee Report are draft statutes – e.g., the draft Sharia Penal Code the Committee presented to the Government with its Report. These draft statutes are voluminous, and furthermore they are reflected or discussed elsewhere in this work, as indicated in footnotes in the appropriate places; they are omitted here. Similarly we have omitted plans for judges' houses included in the Bauchi Report, and have sometimes left out repetitive lists of names of committee members.
- More substantive omissions occur in the Report of the Committee for the Implementation of Sharia in Kebbi State. These are the names of persons who applied for positions as Sharia Court judges and were screened by the Committee. The names are given in the original Report, along with details about the persons' performances during the screening exercise. In order to preserve their privacy we have omitted these persons' names and all other identifying information about them. In the interest of saving space we have also summarized rather than reproduced the other information contained in the lengthy tabular reports on the screenings. All essential data is preserved, and a useful picture is still given of the judges of the Sharia Courts of Kebbi State.

Conversely, sometimes we have made insertions: e.g. we have sometimes inserted headings to help guide the reader. All insertions are in brackets. In general, all material in brackets and in the footnotes is ours.

5. Conclusion.

A main impetus to this entire work was the felt need to preserve and publish, in particular, the Sharia Implementation Committee Reports we had been able to gather, for the use of scholars and historians present and future. We hope that readers will find the materials in this chapter as interesting and as useful as we have, in understanding the Sharia implementation programme in Nigeria, and the concerns and efforts that have gone into it.

Chapter 2 Part II

Report of the Bauchi State
Sharia Implementation Committee

Submitted to the Executive Governor of Bauchi State
On 29th September, 2000

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REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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1.

Main Report of the Committee

The Secretary to the State Government
Governor's Office, Bauchi
Bauchi State

Dear Sir,

SUBMISSION OF REPORT

1. Reference to your letter No. GO/SS/REL/S/1 of 26th June, 2000 in which you appointed us as members of the above mentioned Committee, we have the honour and privilege to inform you that we have completed the assignment given to us. We hereby present to you our report containing the modalities for adoption and implementation of Sharia by the State.

2. We wish to register our profound gratitude to the State Government for granting us the opportunity to serve as members of this Committee. We sincerely hope that our findings, observations and recommendations would help the Government in its avowed bid to restore Sharia in the State.

3. The State Government may therefore wish to receive the report of this Committee for its guidance and further action.

We remain

Yours faithfully,

- | | | | | |
|-----|--|---|----------|--------------------|
| 1. | Kadi Abdullahi Y. Marafa
(<i>Marafan</i> Bauchi) | - | Chairman | ² |
| 2. | Alhaji Muhammadu Danmadami
(<i>Sa'in</i> Katagum) | - | Member | |
| 3. | Justice Adamu Abdulhamid | - | Member | ..... |
| 4. | Mal. Dan'azumi Musa T/Balewa | - | Member | ..... |
| 5. | Alh. Umaru Dahiru
(<i>Baraden</i> Bauchi) | - | Member | |
| 6. | Alh. Mahmoud Bello
(<i>Sarkin Malaman</i> Katagum) | - | Member | |
| 7. | Amb. Adamu Yusuf | - | Member | ..... |
| 8. | Alh. Abdulhamid Muhammad | - | Member | ..... |
| 9. | Alh. Muh'd Daudu Abubakar
(<i>Zannan</i> Katagum) | - | Member | |
| 10. | Alh. Usman Nananu
(<i>Magajin Malan</i> Jama'are) | - | Member | |
| 11. | Alh. Ibrahim Yaro Yaro | - | Member | ..... |
| 12. | Hon. Hamza Muh'd Lanzai | - | Member | ..... |

² The copy of the report made available to us does not include the signatures of the committee members, but only the places for them, as here.

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13.	Alh. Baba Ma'aji Abubakar (<i>Sarkin Malaman</i> Bauchi)	-	Member
14.	Alh. Muhammadu Mijinyawa Ibrahim (<i>Danmadamin</i> Katagum)	-	Member
15.	Mal. Salihu Suleiman Ningi	-	Member	.....
16.	Hon. Sani Muhammad Gololo	-	Member	.....
17.	Dr. Hadi Sheikh Tahir U. Bauchi	-	Member	.....
18.	Alh. Turaki Aliyu Misau	-	Member	.....
19.	Dr. Aliyu U. Tilde	-	Member	.....
20.	Mal. Mukhtar Abubakar T/Balewa	-	Member	.....
21.	<i>Ustaẓ</i> Muh'd Barra'u Abdullahi	-	Member	.....
22.	<i>Ustaẓ</i> Aliyu M. Sa'id Gamawa	-	Member	.....
23.	Dr. (Mrs) Habiba Muda Lawal	-	Member	.....
24.	Hajiya Aisha Awak Ja'afar	-	Member	.....
25.	Sheikh Ibrahim Idris	-	Member	.....
26.	Dr. Muh'd Sani Abdu	-	Member	.....
27.	Mal. Zubairu Yakubu (<i>Ardon</i> Zaranda)	-	Member	.....
28.	Habibu Idris Shall Esq.	-	Secretary	.....
29.	Mal. Ahmad Makama	-	Deputy Secretary	.....

ACKNOWLEDGEMENTS

In the name of Allah, the Beneficent, the Merciful. All praise is due to Allah. May the peace and blessings of Allah be upon our leader, Prophet Muhammad. Our profound gratitude and appreciation go to His Excellency, our Executive Governor, Alhaji Ahmadu Mu'azu (*Mutawallen* Bauchi) for granting us this historic opportunity.

The Committee wishes to express its appreciation for the cooperation of the Secretary to the Government, Alh. Muhammad Nadada Umar and many other staff of the Government House. Our thanks also go to Hajiya Tasoro Haladi, the Deputy Coordinator of the Women Development Centre, Bauchi.

The Committee wishes to express its appreciation for the support and cooperation received from various governments that assisted it in its assignment. They include the Secretary to Zamfara State Government, its Attorney-General and Commissioner for Justice, Hon. Commissioner and Permanent Secretary, Ministry of Religious Affairs, the Executive Secretary and staff of the Zakat and Endowment Board and the Hon. State Grand Kadi; the Secretary to Katsina State Government and its Solicitor-General; His Excellency, the Executive Governor of Niger State, Engr. A.A. Kure, his Attorney-General and Solicitor-General/Permanent Secretary, Ministry of Justice; and the Solicitors-General and Permanent Secretaries of their Sharia Implementation Committees.

The Committee also wishes to extend its appreciation to the Executive Chairmen, Vice Chairmen, Hon. Council Members, Secretaries and the entire staff of the twenty Local Government Councils of the State for their assistance in enlightenment, mobilisation and participation in the various activities organised by the Committee. In

the same vein, the Committee appreciates the various suggestions, advice and assistance offered by their Royal Highnesses, the Emirs of Bauchi, Katagum, Misau, Jama'are, Ningi and Dass. The cooperation and assistance offered by the Managing Directors of the State Television (BATV) and Radio Corporation (BRC) and NTA in enlightening the general public on the activities of the Committee deserve commendation.

The active participation of the entire members of the Committee in the collection and processing of memoranda, suggestions and other inputs as well as compilation and production of this report is highly recognised and appreciated. We wish to place on record the proper coordination we enjoyed from our secretariat. The selfless services rendered by the following auxiliary staff are highly appreciated. They are Mohammed Ibrahim Gangai and Ali Babayo Gamawa; Muhammad Yusuf Wunti, Saleh Muhammad Bara, Danlami Muhammad Baban Takko, Abdulwahab Muhammad and Hamisu Muhammad Dass of the Computer and Information Unit; Shehu Mudi, Sani Ahmadu and the entire drivers attached to the Committee.

Finally, we wish to thank the entire Muslim community for the various assistance rendered to the Committee. We pray that may Allah the Exalted reward, bless and continue to guide all of us on the straight path. Amen.

PREAMBLE

The Sharia legal system in Bauchi State was a popular demand. To that effect, the State Government under the able leadership of His Excellency the Executive Governor, Alhaji Adamu Mu'azu, on 29th June 2000, inaugurated a 29-man Committee comprising Islamic scholars, members of the learned profession and respected community leaders vide letter No. GO/SS/REL/S/1 dated 26th June 2000.

TERMS OF REFERENCE OF THE COMMITTEE

The Terms of Reference of the Committee were:

- a. To advise the State Government on the structure, materials, personnel, and training required for the implementation of the Sharia legal system.
- b. To suggest amendments to the Penal Code within the framework of the Constitution.
- c. To organise seminars, discussions, drama presentations and working visits with a view to enlightening the public, particularly the non-Muslims, on their rights and duties under the Sharia legal system. Accordingly, the Enlightenment Subcommittee shall co-opt the Chairman of CAN, Bauchi State.
- d. To submit recommendations to the Government by 29th September 2000 and to accordingly propose a takeoff date for the Sharia legal system in the State, taking into account all pre-requisites and procedures that would be involved.

MEMBERSHIP

The membership of the Committee was as follows: [As per letter submitting the report, above.]

1.0 CONSTITUTIONALITY OF SHARIA

Before discussing the terms of reference of the Committee, members found it necessary to examine all constitutional provisions contained in the 1999 Constitution of the

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

Federal Republic of Nigeria to see whether there is any legal impediment to the implementation of Sharia in Bauchi State. Some of the constitutional provisions which the Committee found relevant to the subject matter are as follows:

(i) Section 4(6) and (7): The section confers all legislative powers of a State on the House of Assembly of that State and empowers the House of Assembly the exclusive power to make laws for the peace, order and good government of the State or *any part thereof* (italics ours) in respect of any matter not included in the exclusive legislative list or any matter included in the concurrent legislative list or any matter to which it is empowered to make laws in accordance with the provisions of the Constitution.

(ii) Section 5(2): This section empowers the executive arm to execute and maintain all laws made by the House of Assembly of a State and all matters with respect to which the House of Assembly of a State has powers to make laws.

(iii) Section 6(4)(a) & (b) & (5): This provision confers on a House of Assembly of a State the power to create new or additional courts with subordinate jurisdiction to that of a High Court. The section also empowers the House of Assembly of a State to abolish any court that it so desires. By virtue of this provision, the Bauchi State House of Assembly would indeed be competent to:

- (a) Pass a bill for the implementation of Sharia and
- (b) To abolish any court which it has power to establish.

(iv) Section 38(1): This section falls under Chapter 4 (i.e. Fundamental Rights provisions) of the 1999 Constitution. The section entitles every person to his freedom of thought, conscience and religion, this freedom includes freedom to “manifest and propagate his religion or belief in worship, teaching, *practice and observance*” (italics ours).

It is submitted that it will be a denial of the fundamental rights of all Muslims, if they are not allowed to “practise and observe” their religion unfettered, that is by fully being governed by Sharia law.

(v) Section 215(4): This section authorises the Governor of a State or such Commissioner of the Government of the State as he may authorise in that behalf, to give lawful directives to the State Police Commissioner with respect to the maintenance and securing of public peace and security and the Police Commissioner *shall* (italics ours) comply with those directions. Also by the provisions of the Police Act, the police of a given State have a constitutional responsibility to enforce all laws made by the National Assembly, State Assembly, Local Government Councils, including any subsidiary legislation or instrument made under the provisions of the law.

By virtue of the above provisions of law, the police are duty-bound to enforce any law duly enacted by the House of Assembly of a State.

(vi) Section 10: The section provides that “the Government of the Federation or of a State shall not adopt any religion as State Religion”.

It is the Committee's view, that "state religion" should be distinguished from "state law". Whereas Bauchi State Government has not adopted Islam as its religion, it has adopted Sharia as its law. The two are definitely different, more so when the said Sharia law is to operate side by side with the common law in the State.

(vi) Section 277 (1): This section empowers the House of Assembly of a State to confer additional jurisdiction to the Sharia Court of Appeal of a State.

It is the view of the Committee therefore that by this section the House of Assembly of Bauchi State is competent to confer criminal appellate jurisdiction to the Sharia Court of Appeal of the State.

Having critically examined the above constitutional provisions the Committee is of the opinion that there are no legal impediments to the full implementation of Sharia in Bauchi State. Having arrived at the above conclusion, the Committee proceeded to discuss the *modus operandi* of its assignment.

2.0 MODUS OPERANDI AND ACTIVITIES

For the successful execution of its assignment, the Committee decided to form three subcommittees. They were:

- (a) Documentation & Codification Subcommittee
- (b) Judicial Structure & Personnel Subcommittee
- (c) Public Enlightenment Subcommittee

A summary of the terms of reference, membership and activities of each subcommittee is given below.

2.1 Documentation And Codification Subcommittee

2.1.1 Terms of Reference. This Subcommittee had the following terms of reference:

- (a) To study Sharia legislation enacted by other States in order to develop a suitable one for Bauchi State
- (b) Codify all offences under Sharia
- (c) Suggest areas of amendment to Sharia Court of Appeal Laws, Area Courts Edict and other relevant laws in order to make them conform with the provisions of Sharia.

2.1.2 Membership. The members of this Subcommittee were:

- | | | |
|-----|------------------------------------|-------------|
| (1) | Hon. Justice Adamu Abdulhamid | Chairman |
| (2) | Hon. Sani M. Gololo | Member |
| (3) | Dr. Aliyu U. Tilde | Member |
| (4) | <i>Ustaz</i> Aliyu M. Said Gamawa | Member |
| (5) | Dr. Hadi Sheikh Tahir Usman Bauchi | Member |
| (6) | Mal. Mukhtar Abubakar T/Balewa | Sec./Member |

2.1.3 Literature studied. To ease its assignment, the Subcommittee obtained and studied the following documents:

- (1) The Constitution of the Federal Republic of Nigeria, 1999
- (2) The Laws of Bauchi State of Nigeria (Revised Edition, 1991; Volumes 1-3)

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

- (3) Zamfara State Sharia Penal Code
- (4) Zamfara State Sharia Courts (Administration of Justice and Certain Consequential Changes) Law, 2000
- (5) N.S.N.L. No. 4 of 2000: The Liquor Law Cap. 81, Liquor (Licensing) Regulations, 2000
- (6) N.S.L.N. No. 5 of 2000: A Law to make provision for the amendment of the District Courts Law Cap. 37 to review the jurisdiction of District Courts and for connected purposes
- (7) N.S.L.N. No. 6 of 2000: A Law to make provision for the Amendment of Sharia Court of Appeal Law Cap. 122
- (8) Bauchi State House of Assembly Draft Bill for the establishment of Sharia Penal Code
- (9) Bauchi State House of Assembly draft bill on establishment, constitution and composition of Sharia Courts
- (10) Report of the Technical Committee on constitutional provisions for the application of Sharia in Katsina State
- (11) Proposal on the mode of operation of Sharia Commission in Katsina State Government
- (12) Bill for a law to establish Katsina State Sharia Commission
- (13) Kano State Sharia and Islamic Administration of Justice Reform Law, 2000.

In addition, the Committee has received several memoranda from the general public on the implementation of Sharia in the State. (See Appendix I.)

2.1.4 Visits. In order to obtain further information regarding the aspect of its assignment, the Subcommittee found it necessary to visit Zamfara, Kano, Katsina and Niger States where important documents were obtained. Discussions were held with their Sharia Implementation Committees and scholars.

The report of the Subcommittee is given in Appendix II.

2.2 Judicial Structure And Personnel Subcommittee

2.2.1 Terms of Reference. This Subcommittee was given the task to offer suggestions on structure of courts under the Sharia.

The Subcommittee was to define, within constitutional framework, the relationship between Sharia Court of Appeal and

- (a) High Court
- (b) Court of Appeal and
- (c) Supreme Court

2.2.2 Membership. The Subcommittee are made up of the following members:

- | | | |
|-----|----------------------|------------------|
| (1) | Hon. Hamza M. Lanzai | Chairman |
| (2) | Alh. Muhammad Bello | Member |
| (3) | Mal. Usman Nananu | Member |
| (4) | Amb. Adamu Yusuf | Member |
| (5) | Alh. Zubairu Yakubu | Member |
| (6) | Alh. M.M. Ibrahim | Secretary/Member |

2.2.3 Visits. To evaluate the information gathered, this Subcommittee undertook working visits to all the Area and Upper Area Courts in the State. During the visits, it inspected the structure, materials and personnel strength of each court. The Committee held discussions with court inspectors, Area Court judges and registrars who offered suggestions and necessary amendments that should be for the success of the programme.

The Subcommittee also undertook a visit to Zamfara, Kano, Katsina and Niger States to compare notes and obtain relevant documents for its work.

Details of the Subcommittee's activities and its recommendations are given in Appendix III.

2.3 Public Enlightenment Subcommittee

2.3.1 Terms of Reference:

- (a) To organise seminars and workshops on essence of Sharia to the public
- (b) To organise live discussions on Sharia
- (c) To organise drama presentations to the public on the rights and obligations of the citizens under the Sharia legal system
- (d) To arrange working visits to various Local Governments in the State with a view to educating the public on the significance of Sharia
- (e) Any other assignment that may be given to the Subcommittee by the Main Committee.

2.3.2 Membership. The members of this Subcommittee were:

- | | | |
|------|--------------------------------|------------------|
| (1) | Alh. Muhammadu Danmadami | Chairman |
| (2) | Alh. Umaru Dahiru | Member |
| (3) | Imam Ibrahim Idris | Member |
| (4) | Alh. Ibrahim Yaro-Yaro | Member |
| (5) | Alh. Daudu Abubakar | Member |
| (6) | Mal. Muh'd Barra'u Abdullahi | Member |
| (7) | Mal. Salihu Suleiman Ningi | Member |
| (8) | Mal. Abdulhamid Muh'd | Member |
| (9) | Alh. Baba Ma'aji Abubakar | Member |
| (10) | Hajiya Aisha Awak Ja'afar | Member |
| (11) | Dr. (Mrs.) Habiba M. Lawal | Member |
| (12) | Sheikh Dan'azumi Musa T/Balewa | Member/Secretary |
| (13) | Ustaz Turaki Aliyu Misau | Member/Dep. Sec. |

2.3.3 Activities. This Subcommittee was tasked with creating awareness among the people of the State on Sharia, its application and importance to the Muslim *ummah*. It organised the following activities:

- (i) Live Discussion: This was one of the channels used to enlighten the general public on Sharia. The programme, which took place at Bauchi, was attended by hundreds of people including kadis, Area Court judges, imams and Islamic scholars.
- (ii) Seminars: Seminars were organised featuring various Islamic scholars who delivered lectures on the concept, history, sources and application of Sharia.

(iii) Propagation: During the Subcommittee's propagation visits to Local Government Areas, members of the public were briefed on the activities of the Committee. During the sessions, the meaning, aim and sources of Sharia were discussed.

(iv) Drama Presentations: Drama presentations on radio, television and video-cassettes were organised by the Subcommittee. They were aimed at portraying the life of Muslims under Sharia.

(v) Hausa Written Songs: The Subcommittee employed the services of two Hausa poets for the purpose of informing and educating the public on Sharia.

(vi) Panel Discussion and Radio Link: The radio panel discussion was organised to purposely highlight all aspects Sharia. The programme was recorded and aired on BRC. During the discussion, Islamic scholars were invited to deliberate on various topics of Sharia. A radio link programme was also conducted in BRC. It provided an avenue for the public to seek clarifications on the activities of the Subcommittee and Sharia generally.

(vii) Posters and Stickers: The Subcommittee employed the use of posters and stickers to educate, enlighten and inform the public on Sharia.

(viii) Radio and Television Jingles: Radio and television jingles were aired by BRC and BATV on the rights and privileges of both Muslims and non-Muslims under Sharia.

Recordings of live programmes were made on audio and video tapes. They are hereby submitted as Appendix IV. Detailed activities of the Subcommittee are given in Appendix V.

3.0 SPECIFIC RECOMMENDATIONS

A number of measures need to be taken for a successful implementation of Sharia in the State. In this regard, the Committee wishes to forward the following recommendations. They have been presented according to its term of reference.

3.1 Recommendations on Structure and Personnel of Sharia Courts

3.1.1 Court buildings. The Committee observed that most of the courts in the State operate in rented buildings and even where the buildings are government-owned, they look extremely dilapidated. Accordingly, the Committee recommends *the renovation of existing courts and the building of additional ones where necessary, with provisions that will include a library in each.*

3.1.2 In-service training. Considering the fact that some area court judges require additional training particularly in Islamic law, the Committee recommends that *judges be sent for further training in recognised institutions of learning to enable them meet the personnel requirements of the Sharia project. Furthermore, seminars, workshops and refresher courses should be organised occasionally for Sharia Court judges from time to time.*

For training of personnel required in the successful implementation of Sharia, the Committee strongly suggests that A.D. Rufai College for Legal and Islamic Studies, Misau, should be rehabilitated and equipped with all the necessary facilities and

manpower. Its graduates should be encouraged and supported to go for further training at the University level.

3.1.3 Supervision of Sharia Courts. For a successful operation of Sharia Courts in the State under Sharia and with a view to creating an enduringly harmonious working relationship in the judiciary, the Committee recommends that *Sharia Courts should be directly under the control and supervision of the State Grand Kadi.*

3.1.4 Establishment of additional courts. For speedy dispensation of justice, the Committee recommends the *establishment of at least one (1) Sharia Court in each district area and one (1) Upper Sharia Court in each Local Government Area of the State.*

3.1.5 Provision of literature. In the course of its assignment, the Committee observed that reference materials, court forms and other vital legal documents are lacking in almost all the courts in the State. Sometimes litigants are made to pay for them. The Committee believes that this is not a healthy development. The Committee therefore recommends that *such literature should be adequately provided for quick reference and smooth running of the courts.*

3.1.6 Ulama Consultative Council. For proper selection of Sharia Court judges and harnessing their productivity, the Committee recommends the *establishment of Ulama Consultative Council which shall be responsible for screening and recommending appointments of judges to the State Judicial Service Commission. The establishment of the Council should be backed by legislation.*

3.1.7 Inspectorate Division/Office. For proper co-ordination and monitoring of the activities of courts in the State, the Committee observed that there is the need to equip the Inspectorate Division of the judiciary with its basic requirements. Consequently, the Committee recommends *the provision of good vehicles and other operational materials. Furthermore, it is the Committee's view that the inspectors of Sharia Courts must be learned in Islamic law.*

3.1.8 Provision of car package to judges. The Committee further observed that majority of judges have no vehicles. Consequently the Committee recommends that *a car loan be provided to each of the judges so as to ease their transportation difficulties and enhance their productivity.*

3.1.9 Salaries and fringe benefits. In the course of its assignment, the Committee observed that there is a need to improve the salaries and benefits of judicial officers. The Committee believes that this will discourage corruption in the judiciary. The Committee therefore recommends that *the salary and benefits of judges and judicial officers in the State be reviewed upward to enhance their productivity.*

3.2 Recommendations on Amendments to the Penal Code

3.2.1 The Penal Code. The Penal Code was recommended by a committee set up by the Government of the former Northern Region in order to evolve a system of criminal law that will gain international acceptance and at the same time apply uniformly to the various peoples of the region. It was fashioned after the Penal Code of the Sudan, a country that has the same ethnic and religious characteristics as Northern Nigeria.

However, with the passage of time, Muslims who according to official census are in the majority felt that the Penal Code has not satisfied their yearnings and that some of its

provisions are in conflict with the teachings of Islam. Therefore, the agitation for the full implementation of the Sharia legal system began gaining ground.

The recent resurgence of demand for Sharia is thus born out of the deep conviction of the Muslim population in its efficacy. In addition, the 1999 Constitution was liberal enough to allow the new democratic leadership to address this popular demand. Though the Penal Code currently in operation in Bauchi State is short of the expectation of Muslims, *the Committee is of the view that it should be substantially left intact to cater for non-Muslims offenders and litigants in the State, if they so choose.*

3.2.2 Sharia Penal Code. Since by the combined provisions of section 4(6) & (7) and section 6(4)(a), a House of Assembly of the State has powers to make laws for the peace, order and good governance of the State or any part thereof and establish courts with subordinate jurisdiction to that of the High Court of the State, the Committee is of the opinion that *there is need to establish a new Penal Code to be known as the Sharia Penal Code of Bauchi State which will be applicable to all Muslims within the territorial jurisdiction of Bauchi State. To this end, the Committee has therefore made a draft of the proposed Sharia Penal Code to this report.* (see Appendix VI [omitted here³]).

3.2.3 Amendment of State laws. The Committee also observed that under the present dispensation, the Sharia Courts of Appeal have no jurisdiction to entertain any criminal proceeding. With the full implementation of the Sharia legal system in Bauchi State, the Committee felt that the Sharia Court of Appeal Laws Cap. 145 laws of Bauchi State, 1991 need to be amended to bring them in conformity with the Sharia legal system. The Committee therefore recommends *the amendment of the same law to confer the Sharia Court of Appeal with appellate jurisdiction in both civil and criminal proceedings. This amendment is in line with Section 277(1) of the 1999 Constitution which vests on the House of Assembly the power to confer additional jurisdiction to Sharia Court of Appeal.*

3.2.4 Nomenclature. In addition to the above amendment, the Committee further observed that there are still some laws in the State that refer to Islamic laws as “customary law”. It is recommended that *these laws should be amended to refer to Islamic law as Sharia law.*

3.2.5 Abolishing Area Courts. The Committee noted that since new Sharia Courts are to be established to govern civil and criminal proceedings involving Muslims only, there is no need for the existence of Area and Upper Area Courts. The Committee therefore recommends the *abolishing of all Area and Upper Area Courts and the consequent repealing of Area Court Edict and all other laws related to it.*

The Committee also observed that Section 12(1) and (2) of the Criminal Procedure Code made provisions for some offences to be tried by Area Courts. It is recommended that *since the Area and the Upper Area Courts are to be abolished, if the recommendation of the Committee regarding them is accepted, the sections need to be amended to confer jurisdiction to Magistrate Courts to try such offences.*

³ Appendix VI is the draft Sharia Penal Code prepared by the committee; it is too lengthy for inclusion in this volume. For the provisions of Bauchi State’s actually-enacted Sharia Penal Code see the the Harmonised Sharia Penal Code Annotated in Chapter 4 of this work, Vol. IV.

With the abolishment of Area and Upper Area Courts, the Committee noted that there is a lacuna regarding where non-Muslims will lodge their cases. The Committee therefore recommends *that all such cases be taken to the Magistrate Courts*. The Committee is of the view that section 13 of the Criminal Procedure Code CAP. 13 Laws of Bauchi State be amended to extend or confer the Magistrate Courts with wide jurisdiction to try those cases that were being tried by the Area and Upper Area Courts. Consequently, Section 15(1) of the same law also needs to be amended.

3.2.6 Sharia Criminal Procedure Code. In furtherance of the above, section 396 of the Criminal Procedure Code needs to be amended to reflect the changes being engendered by the introduction of Sharia Penal Code.

The Committee observed that these are not the only laws that need to be amended or repealed. There are many such laws, which the Committee felt, should equally be reviewed. The Committee therefore strongly recommends that, upon the implementation of Sharia in Bauchi State, all existing legislations in volumes 1, 2 & 3 of Laws of Bauchi State 1991 be reviewed to make them conform with the principles of Sharia.

3.2.7 New Laws. The Committee further recommends the following laws to be enacted so as to sustain the focus and purpose of Sharia implementation in the State:

- (i) A law to establish the Sharia Courts (Administration of Justice and Certain Consequential Changes) Law 2000 (Appendix VII [Appendix VII omitted here⁴])
- (ii) A law to amend the Sharia Court of Appeal Law Cap. 145 Laws of Bauchi State (to vest the court with appellate criminal jurisdiction) (See Appendix VIII [Appendix VIII omitted here⁵])
- (iii) A law to establish a Zakat Board that shall be charged with the collection and disbursement of *zakat*
- (iv) A law to provide for Sharia Criminal Procedure Code
- (v) A law to repeal the Area Courts Edict (See Appendix IX [Appendix IX omitted here⁶])
- (vi) A law to establish the Ulama Consultative Council.

3.3. Recommendations on Public Enlightenment

For the sustenance of Sharia legal system in the State, the following recommendations were made for consideration by Government:

3.3.1 Ministry of Religious Affairs. That Government establishes a Ministry of Religious Affairs. The responsibilities of the Ministry shall, among others, include:

- a. Continuous public enlightenment on Sharia law
- b. Monitoring the takeoff and smooth running of Sharia in the State

⁴ The provisions of Bauchi State's actually-enacted Sharia Courts Law will be documented in the chapter of this work on "Court Reorganisation", forthcoming.

⁵ The Sharia Court of Appeal (Amendment) Laws enacted in Bauchi and the other Sharia States will be documented in the chapter on "Court Reorganisation".

⁶ The Area Courts (Repeal) Laws enacted in Bauchi and the other Sharia States will also be discussed in the chapter on "Court Reorganisation".

- c. *Zakat* collection and distribution
- d. Organisation of hajj and visits to other holy places
- e. Advise Government on religious matters
- f. Representation of religious matters at the Executive Council
- g. Improve the moral consciousness of the society
- h. Establishment and regulation of places of worship and maintenance of cemeteries.

3.3.2 Islamic University. That Government should also consider the establishment of an Islamic university to address the imbalance between material and spiritual education.

3.3.3 Model Qur'anic Schools. Government should consider the establishment of model Qur'anic schools to complement the traditional Qur'anic school system of education in the State. The model schools should have a complete welfare package for staff and students. Furthermore, uniform, curricula, syllabus, calendar as well as provision and maintenance of classrooms and learning materials should be made available.

3.3.4 Arabic and Islamic Studies. Government should also review the contents of primary and secondary schools curriculum to emphasise the teachings of Arabic and Islamic Studies for Muslim pupils, side by side with Western education.

Arabic language should be made compulsory for Muslim pupils in all primary and post-primary schools in the State. The subject should be optional on non-Muslim pupils. Its periods should also be separated from those of religious studies.

Pursuant to the objectives of the recommendation made above, a Board for Arabic and Islamic Studies should be established by legislation under the Ministry of Education.

4.0 GENERAL RECOMMENDATIONS

The recommendations made in the previous chapter were specific to the terms of reference of the Committee. However, the Committee feels that to strengthen the Sharia legal system, it is necessary for it to put forward the following general recommendations:

- (i) Constitution of Ulama Consultative Council. It will be charged with the responsibility of screening, advising and recommending suitable candidates to the State Judicial Service Commission for appointment as Sharia Court alkalis. The council also is to issue *fatwa* and assist in formulating policies that will infuse Sharia principles in the operations of Government. It will be composed of *ulama* and jurists.
- (ii) Amendment of the Penal Code to prohibit the consumption and dealing with alcohol in Bauchi State.
- (iii) Translation of all legislation on Sharia in Arabic and Hausa language and be given wider coverage in all media houses in the State.
- (iv) Establishment of Zakat and Endowment Board to cater for the welfare of the destitute and the needy in the society.
- (v) Introduction of separate transportation for men and women. Government should also direct the Local Governments and private sector to contribute to the success of the programme.

- (vi) The appointment of Muslim traditional rulers should be based on fair knowledge of Islam. Consequently, the Chiefs Appointment and Deposition Law should be amended accordingly.
- (vii) Regulation of street hawking particularly by girls in order to safeguard public morality.
- (viii) Before the implementation of Sharia a reasonable period of transition should be allowed so that there would be sufficient time to accomplish the following:
 - (a) Enlightening the public on the nature and scope of the Sharia legal system particularly through *tafsir* and preaching during the month of Ramadan.
 - (b) Launching of Sharia by the fourth week of October. The interim period after the presentation of the report can be used to prepare and pass the necessary legislation.
 - (c) Granting a three-month moratorium for repentance and to prepare the judiciary for the implementation of the Sharia code. This will include the rehabilitation of existing courts and construction of new ones where necessary, provision of literature, personnel training, etc.
 - (d) Allowing each ministry, department and parastatal of the State to become Sharia compliant.
 - (e) Muslim traditional rulers in the State should be given a code of ethics based on principles of Sharia specifying their roles and guiding their conducts in order to enable them play a more relevant and active role in the implementation and sustainability of the Sharia legal system.
 - (f) Appointment of a taskforce that will coordinate the takeoff of the Sharia legal system in the State.
 - (g) Selection and appointment of judicial officers to man the Sharia Courts in the State.

2.

Appendix I

Memoranda Submitted to the Bauchi State Sharia Implementation Committee by Members of the Public⁷

(1) From A.D. Rufa'i College for Legal and Islamic Studies, Misau

A.D. RUFAI COLLEGE FOR LEGAL & ISLAMIC STUDIES
P.M.B. 004
MISAU, BAUCHI STATE

Director : Alh. Aliyu Nuru

Our Ref: ADR/CLIS/OFF/1

Registrar: Alh. Turaki Aliyu Misau

Date: 12/09/200

Telephone: 071 – 40279

Telegrams: CLIS MISAU

The Chairman,
Bauchi State Sharia Implementation Committee,
Bauchi.

Dear Sir,

Memorandum Submitted to the Sharia Implementation Committee
by A.D. Rufa'i College for Legal & Islamic Studies Misau Bauchi State
On the Role of the College
Towards the Implementation of Sharia Legal System in the State

In pursuance to the decision of the Government to implement the Sharia law in the State and with the inauguration of the Sharia Implementation Committee dated 29th June, 2000. The Government wants the Committee to discuss among things:

Advise Government on the structure, materials, personnel and training under the Sharia legal system. (Paragraph a of the Committee's terms of reference refers).

Having this at the background and in compliance with Edict. No. 12 of 1985, which established the College, it is enshrined that:

the College is expected to train certain categories of judicial and auxiliary staff for the State judiciary and Area Court judges and registrars.

Basically, this formed one of the cardinal purposes of establishing the College and named it as "College for Legal & Islamic Studies Misau". With this development therefore, and in order to enable the College to be more relevant to the new dispensation, on the training and re-training of our judicial personnel, it has become very

⁷ The memoranda are given here in the same order in which they appear in Appendix I to the Main Report of the Committee, except that the three from Aliyu Muhammad Sa'id, scattered in the original Appendix I, are here grouped together as item (9). Signatures are indicated by putting "(sgd)" in the appropriate places; where this is missing the document is unsigned.

much imperative to the College to present a memorandum on the role the College is expected to play towards the implementation of Sharia legal system in the State, side by side the facilities to be required by the College if the said role is to be played by the College before your Honourable Committee for necessary advice to the Government.

Establishment of the College

The College was established in September, 1978. In 1985 the State Government enacted an Edict No. 12 of the same year, which formalised the establishment of the institution with its own governing council.

The aims and objectives of establishing the College as enshrined in the Edict include among other things:

- (i) To train certain categories of judicial and auxiliary staff for the State judiciary i.e. Area Court judges and registrars;
- (ii) To train teachers of Hausa, Arabic, English and Islamic Studies mainly for the post primary institutions in the State;
- (iii) To organise on continuous basis refresher courses for the teachers and judicial staff in the relevant areas in the overall interest of the State service.

Courses Offered in the College

The College offers the following courses at Diploma and Certificate levels under three (3) different departments:

(i) Department of Sharia and Civil Law

- (a) a two year Diploma in Sharia and Civil Law
- (b) a two year Diploma in Civil Law
- (c) a two year Diploma in Sharia (Arabic)
- (d) a three month basic judicial certificate course for training Area Court judges, registrars and other court personnel

(ii) Department of Arts and Islamic Studies

- (a) a two year Diploma in Hausa, Arabic and Islamic studies
- (b) a two year Diploma in Arabic, Islamic Studies and English (English)
- (c) a two year Diploma in Hausa, Islamic Studies and English (English)

(iii) Department of Humanities and Education

- (a) a two year Diploma in Education, Arabic and Islamic Studies
- (b) a two year Diploma in Education, History and Islamic Studies
- (c) a two year Diploma in Education, English and Islamic Studies
- (d) a two year Diploma in Education, Hausa and Islamic studies. Etc.

Quality Control

The College is affiliated to Bayero University Kano for all its Diploma programmes. With the above development, it is imperative to note that, the decision of the Government to establish such an institution is nothing but to give necessary input towards manpower training and development in our judiciary and other related areas.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

By and large, it is important to mention here that, presently the College has produced about 75% of Area Court judges and over 80% of the court registrars in the State judiciary. This is a clear testimony that the College is meeting the desired purpose of its establishment.

Expected Role to Play

Basically, as the State is moving towards Sharia implementation the need for adequate arrangements for training of manpower in order to meet the said challenges need not to be over emphasised. Consequently the expectation of the College towards this direction is straightforward considering the purpose of its establishment notwithstanding the present curriculum is not too much in conformity with Sharia legal system.

To this end the College wishes to inform this Honourable Committee on the following proposals should the State Government give us the chance to play such a role.

The College is therefore proposing to in addition to the Department of Sharia and Civil Law establish a new department to be named as Department of Sharia, which will purely handle matters related to Sharia law and Arabic language as the media of communication. Arrangements are currently underway to improve the quality and review our admission policy of senior Islamic section of the College so as to give the training at the grass roots levels.

The College is proposing to re-train the Area Court judges based on Islamic legal system. This is by way of reviewing the current curriculum to comply strictly with the Islamic legal system. It is equally the proposal of the College to give training to police prosecutors based on Islamic legal system. The College [is] to serve as a nerve centre for organising workshop refresher courses for Area Courts judges and other court personnel.

To be able to play such a role the College is calling on Government through the Committee to:

- Consider the training of exchange programme [sic] of our Sharia lecturers with University of Khartoum in Sudan so as to utilise and benefit from their experiences.
- Consider an upward review of the funding of the institution.
- Consider the construction of new lecture halls for Sharia Department. The hall is to serve as a centre for symposiums, workshops and other Islamic functions related to Sharia.
- Consider the fencing and construction of new hostel in order to change the life style of the students of the College so as to be in line with Islamic principles.
- Consider and approve the employment of more competent and qualified personnel to the Sharia Department.
- Direct that the Department of Sharia [is] to monitor the activities of Sharia Court judges and appraise their performances from time to time.

Conclusions

Subsequently, the College is for long waiting to receive the Subcommittee on Training on official visit to the College being the only institution in the State that is directly involved in training court personnel. But either by omission or commission the

Committee was not able to visit the College. Notwithstanding we hope the Honourable Committee will find our submission relevant.

On behalf of the College community, we wish the Sharia Implementation Committee a successful deliberation.

Attached herewith is the course curriculum for law department for Committee perusal.

Thank you.

(sgd)

Bakoji Aliyu Bobbo

For: Director

[Attachment:]

A.D. RUFAYI COLLEGE FOR LEGAL AND ISLAMIC STUDIES, MISAU
DEPARTMENT OF SHARIA AND CIVIL LAW
P.M.B. 004, MISAU BAUCHI STATE
BASIC JUDICIARY COURSE

Section A: Course Structure:

- (a) Notes on the Penal Code of Northern States of Nigeria
- (b) Criminal Procedure Code and Proformer [sic]
- (c) The Area Court Edict, 1968
- (d) Islamic Family Law
- (e) Civil Procedure Rules

Section B: Course Content:

(a) Penal Code of Northern Nigeria

History of the Penal Code

General defence to criminal liability – self defence, prove Childs Act, insanity, mistake of fact, accident

Criminal liability

Punishment

Parties to an Offence

Attempt

Conspiracy

Offences relating to civil servants

Offences relating to administration of justice

Offences relating to human body

Offences against property

(b) Criminal Procedure Code

History

Power of the criminal courts

Arrest

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

Procedure after arrest
Summons
Warrant of arrest
Public summons
Searches
Prevention of crime
Investigations by a police
Proceedings in prosecutions
Charges
Trials
Judgment
Appeals
Bail

(c) Area Courts Edict

Establishment and constitution of Area Courts
Staff of Area Courts
Jurisdiction of Area Courts
Practice and procedure in Area Courts
Power of Area Courts
Control of Area Courts
Judgment
Appeals
Rules of court
Miscellaneous

- (d) Islamic Family Law: Islamic Family Law consists of elements of Islamic family law, rights/duties of Muslim married couples against one another, rules and regulations [on] *talaq*, maintenance, *iddah* etc.
- (e) Islamic Law of Succession to consist of: Elements of succession, grounds of succession, bars to succession, special heirs, and distributions of estate etc.
- (f) Islamic Law of Bequest: Elements of bequest, vitiating factors of bequest, conditional, time of making bequest, prorata abatement, general/specific bequest, time of acceptance.
- (g) Islamic Law of Evidence (*Murafa'at*): Who may give evidence, qualification of a prospective witness, the principles of *tabammul* and *ada* purgation, oath, judicial oath, oath of confirmation, confession/admission, written evidence, *i'izhar*, child evidence, conclusive presumptions.
- (h) Islamic Law of Transactions: Contract, partnership, *muzariah*, *musaqah*, law of usurpation, hire, contract of service, *inya'ulmawat*.
- (i) Civil Procedure Rules:
Service of process
Service and execution outside the jurisdiction of the Area Court
Interlocutory applications

CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

Transfers
Powers of Area Courts
Non-attendance of parties
Evidence of witnesses
Orders
Costs
Injunctions
Executions generally
Garnishee proceedings
Pleading

Recommended Text Books: The list of books recommended for the course is hereby given below:

English Version/Text⁸

1. *Notes on the Penal Code of the Northern States of Nigeria* (S. Richardson)
2. Criminal Procedure Code
3. *Notes on some Aspects of Criminal Procedure Code in the Northern Nigeria* (Alhaji Baba Ma'aji Shani)
4. Area Courts Edict 1968
5. *Native and Customary Courts of Nigeria* (Keay and Richardson)
6. Civil Procedure Rules
7. Area Court Edict 1967
8. 1979 and 1999 Constitutions of the Federal Republic of Nigeria
9. *Some Aspects of Islamic Law of Succession (Mirath)* (S.U.D. Keffi)
10. *Islamic Law of Personal Status (Islamic Family Law)* (Sheikh M.T. El-Imeiri)
11. *An Introduction to Islamic Law of Succession* (Malam A.M. Aurin)
12. *Muwatta Malik*
13. *As'halul Madarik* volumes 1 to 3
14. *Risala* of Abu-Daud Abdullahi al-Qirawani (Arabic/English version), translation by Professor M. Bello Muhammad Daura

Hausa Version/Text Books

1. *Rabon Gado* ("Distribution of Inheritance") (Mustafah Gambarawa)
2. 1979 and 1999 Constitutions of the Federal Republic of Nigeria
3. *Notes on the Penal Code of Northern Nigeria*
4. CPC

ABDULLAHI KUMO AMINU
HEAD OF DEPARTMENT SCL

⁸ For bibliographical information about items 12-14, in this list, see the "Bibliography of Islamic Authorities" in Chapter 6 of this work, Vol. V.

(2) From Musa Jabor Gori
Ministry of Lands, Housing and Environment, Bauchi

Translated from the Hausa by Ahmed S. Garba

The Ministry of Lands, Housing
and Environment,
Bauchi.
14th August, 2000

The Chairman,
Sharia Implementation Committee,
Bauchi State

SUGGESTIONS

1. Courts
2. Prohibited Commercial Transactions (*chori*)
3. Gatherings
4. Marriage Gatherings
5. Collection of *zakat*
6. Time of working on Friday

*Assalamu alaikum warahmatullahi wa barkatuhu.*⁹

After Islamic greetings and with hope that Allah the Most High will assist you in discharging this responsibility placed upon you and that you will succeed in the end.

Here are my suggestions to you for submission to his Excellency the Executive Governor. I pray that he too may be assisted by Allah.

1. Courts. I am happy to advise this Committee to suggest to his Excellency the Executive Governor to make all courts in the State to be under the Grand Kadi. And the courts should be manned with pious and trained judges in order to achieve the set objectives and to prevent sabotage.
2. Prohibited Commercial Transactions (*chori*). I am happy to advise this Committee to suggest to his Excellency the Executive Governor to make a law banning practitioners of prohibited commercial transactions (*chori*) – these businessmen who go to market without a kobo and whose business is to intermediate between buyers and sellers with a view to making their own profit.
3. Gatherings. I want to emphasise before this Committee that coming together for the purpose of implementing Sharia brings respect to the State, the leaders in the State and even the common people of the State. And such will send a message of reality about the implementation to thieves, adulterers and other wrongdoers. And Allah will send fear into their minds whenever they attempt doing the wrong.
4. Marriage Gatherings (Taking Cover off the Bride's Face/Picnics). I advise this Committee to suggest to his Excellency, the Executive Governor to make a law against

⁹ "Peace and blessings of Allah be upon you."

traditional marriage practices such as taking cover off the bride's face (*budan kai*) and other related traditional practices in marriage because of their being contrary to Sharia. This Committee again, should suggest to his Excellency, the Executive Governor to make a law against extravagance during marriage celebrations that is, like inviting traditional singers and dancers and showering money on them.

5. Time of Working on Friday. I advise this Committee to suggest to his Excellency the Governor to reduce working hours by one hour on Friday in order to make it easier for civil servants to benefit from listening to lessons contained in Friday sermon aimed at making them better Muslims.

(sgd)
Musa Jabir Gori

(3) From Bala Adamu-Gar of the Bauchi State Water Board

The Chairman
Sharia Committee
Bauchi State

RE: MEMORANDUM FOR THE APPLICATION OF SHARIA IN BAUCHI STATE

The Bauchi State Government has responded to popular demands expressed through elected political bodies and other channels. Part of the Government response is its intention of establishment of Sharia in the State. Sharia in Nigeria is a millennium-old tradition and as early as the coming into being of all the major towns in the State. Therefore, updating the State's law should hopefully and ideally lead to the restoration of this old tradition. Thus, updating the State law should mean bringing it in accord with the norms and values of the society, which means the State Government recognise that the people of Bauchi are entitled to live in accordance with their values and traditions, hence removing a major source of alienation between the government and the governed.

From the aforementioned, I would like to expatiate on some points as follows:

- 1. Population.** Bauchi State having a population of about 4 million people, 95% of whom are Muslims. In the State major towns with their history dating back to 1800 AD is inhabited by the majority populace practising Islamic way of life, hence the establishment of Islamic State based on Qur'an and Sunnah under the present dispensation of majority carry the vote is rightly justified.
- 2. Abolishment of Social Vices.** Out of the societal moral decay, corruption has remained in the forefront. This is, of course, one of the causes of disintegration of any State. Let us consider the view of the architect of the Caliphate, Shehu Usman Dan Fodio, on causes of disintegration of State as he explain his *Bayan Wujub al Hijra*. According to the Shehu, when God desires to destroy a State, He hands its affairs over to the extravagant sons of the rulers, whose ambition is to magnify the status of kinship, to obtain their desire and indulge in sin. As a result of that attitude, God takes glory away from them. Presently, corruption has grown so powerful, contagious and pervasive; it

eats up all our development programmes. Many policies such as MAMSER, NOA,¹⁰ call it whatever, have failed to address these problems.

The second is injustice, which manifests itself in various ways, such as arrogance and conceit, seclusion of the ruler from his subjects, because when the oppressor is sure that the oppressed person neither will nor have access to the ruler he becomes even more oppressive. A kingdom, he concludes cannot endure with injustice. Society fails when it forgets the poor, the weak and the oppressed, and fails to stop the spread of injustice and falsehood. And it is only in Islam that people have been allowed to taste the mercy of justice – in the form of social justice, equity and humanity.

Nepotism, Shehu placed it third in the list, which is another aspect of corruption, is one of the fastest ways of destroying a society. It is a means for giving preference to one particular tribe over another, or to show favour to one group of people rather than another, and to draw near those who should be kept away, and to keep away those who should be drawn near.

Consequently, it is only Sharia that is left which will offer itself as the hope of the oppressed and launch a successful attack on falsehood and its institutions and declare and prove itself as the symbol of justice. Therefore, the Committee should vehemently and outrightly make a giant stride to attack swiftly, and courageously these issues.

To take point home, if one looks at the prohibitions made by Sharia in certain matters one can definitely appreciate the positive role for the need of Sharia in our society (State). For example, the prohibition of alcohol. This prohibition of intoxicant is to help man utilise his time, money and also to protect himself from thinking or committing crimes. Those that engage themselves in this nefarious habit of alcoholic and drug addiction have become useless to themselves and dangerous to the community because they are no longer in control of their senses.

Another issue is that of chastity. In order to maintain the human species, attraction exists between man and woman. But at the same time it is a very difficult test concerning this attraction. A person's perfection or inferiority emerges during the chastity affairs. An unchaste person will be dishonourable within society. A whore's honour and dignity within society is almost the same as a strolling dog's dignity in the streets. Male or female erotic (sexual) feelings exist both in humans and animals. But in so far as animals don't have sense of shame and reasoning, they can't keep those feelings secret. However, human beings have sense of dignity and honour, they are therefore to satisfy their sexual feeling in a legitimate way. An individual's honour and dignity is measured by their resistance to those feelings. The community wherein its members only pursue their erotic feelings and violate the rules of chastity is like a herd of wild cattle. Accordingly, it is these kinds of problems that the implementation of Sharia will address and prevent people from entering on this wrong course and lead them to the truth path that means moral cleanness, that prescribes a clean body which results in a spiritually guided mind. Most importantly is the fact that the Sharia system aims at bridging the gap between the

¹⁰ MAMSER = [Agency for] Mass Mobilisation for Social Justice and Economic Recovery, established during the regime of General Babangida; renamed NOA = National Orientation Agency during the regime of General Abacha.

haves and those that don't have. The aim of societies, the world over, is to achieve egalitarianism and this is most easily done through total dependence on the dictate of Allah i.e. the Sharia system.

We are aware that all these attitudes have become more rampant in our society, which results in hindering the societal progression. I am fully aware, and as many others do, that no person or group of persons can come out confidently to give a solution, either long or short term, to address these problems in [their] entirety. However, the only and the last resort to address these problems is the implementation of Sharia law. This is because it is the system that can check and balance all people in whatever capacity with justice, fairness, and respect. Therefore, the vast majority, willing and enthusiastic people of Bauchi State are keenly waiting for this Sharia to solve their problems for now and ever and ever more.

3. Furthermore, with regard to the implementation of Sharia, it is not merely a collection of hand chopping and beheading formulae, it is a comprehensive civilisation restoring the dignity of man and guiding him in all aspects of his life. Although there are others who may challenge this laudable objective, it must be clear to all that the implementation of Sharia in this State will not affect the Federal laws. And as for non-Muslims, nobody needs to tell them about the true Sharia advocate that there is no compulsion in religion (Islam).

As the dimension of the Sharia's application is broad and expansive, it is not possible to spell out all the areas of consideration. However, a few will be cited to convince us as for positive and meaningful result of the role of Sharia.

(i) Ministry of Justice. The role of this ministry should ideally mean among other things a legal backing to the tradition of the State in all its ramifications. This involves the whole machinery of governance, as every aspect of Bauchi life should be organised in accordance with the Islamic values of Bauchi people and give legal expression and backing to this vision. It should also strive not to project a negative image of Sharia, colonially depicted as characterised by sword-lashing mass executions.

(ii) Ministry of Finance and Economic Planning. The State Government's Ministry of Finance and Economic Planning can be activated to maintain a permanent Sharia Unit. Such a unit, for example, can undertake the following:

- (a) Establish a *zakat* research organ to study the individual and corporate *zakat* prospects of the State and help in establishing disbursement channels in accordance with the Sharia.
- (b) Study the prospect of Islamic banking system and other Sharia-oriented finance and investment possibilities in liaison with the State and other industrialists, bankers and other merchants.

(iii) Ministry of Youth, Sport, and Social Welfare. It has the responsibility of establishing proper yardstick of what is leisure, what is sport and what is social welfare, while there are ready made colonially inherited perspectives on these matters, a newly redefined role of government taking into account society's norms and values and must identify areas of continuity and changes in those routine activities.

(iv) Ministry of Trade and Commerce. They are to ensure Sharia-based procedures to give the opportunity to the Bauchi populace of engaging in lawful commerce, registering only lawful business and conducting its trade in accordance with Sharia trade laws, so that major trade centres can benefit tremendously from the Sharia-provided regulations. Such regulations will boost trade, reinforce investors' confidence and establish public confidence in business transactions. The ministry should also be charged with the establishment of *zakat* procedures on commercial properties which are brought for trade and kept for trade.

(v) Ministry of Agriculture. This Ministry will reassess both agricultural production and animal husbandry with the values of the society. It can take into account the question of link between agricultural production including animal husbandry, marketing, distribution of agricultural inputs and quarantine (i.e. insuring that all newly introduced crops, plants and animals are disease free), and establishment of *zakat* criteria:

- for the quadruped animals that graze free in the field for the major part of the year,
- things coming out from all kinds of land which are watered by rains, rivers, brooks, or from the land belonging to the *waqf* (pious foundation), and

the article of production, the link between it and ministries like Trade and Industry in relation to Sharia's role in commercial prospects. The question of administering lawful food and involvement of the Ministry along with the State level in food and drug administration, supervising all publicly disposable articles.

(vi) Ministry of Education. Within the governmental ambit, the school system should ensure the Sharia values are reflected in the youth and teach Arabic and Islamic studies as compulsory subjects irrespective of the eventual specialisation at later level. This arrangement will equip the youth with the moral uprightness and forward-looking Sharia oriented world in accordance with the society that they will eventually serve. Although the youth have been entangled for many years of mental, physical and psychological slavery, they should be moulded into the new era with confidence so that they can regain confidence in themselves, their originality, creativity and independence. Hence, they will ever have the courage to come out boldly and say to the world: here WE are! – the Qur'an on our right hand and the Sunnah on our left.

Consequently, they can create, as Muslims, a new civilisation: a civilisation without ignorance and with no traces of immorality and godlessness and they can assert themselves in a world controlled by tremendous materialistic force. This is because it is this sector that will be the source of future manpower. There are some fundamental facts that the ministry should keep in mind. The first is that Islam is meant to be practised as a complete way of life. Islam is meant to be established as a DOMINANT SYSTEM, and not as a subservient religion sharing the world with *jahiliyya*. Hence the youth should be used as an instrument to propagate the message of Islam. The failure of Muslims to propagate the message of Islam is the cause of the present corruption of the world – if truth is not propagated, naturally falsehood will prevail.

These new arrangements will mean manpower development and fund sourcing to support it. Sometimes non-cash supplements can tremendously aid the State in this direction. As part of the support drive, a special Web Surfing Unit (WSU) can be set up

very easily with internet connectivity especially with the purpose of support for the Sharia in the State.

Such Web Surfing can focus on among other things:

1. Searching sources of Scholarship that will serve Bauchi Sharia applications. There are several Web sites on the Net both in Gopherspace and the usual WWW search engine that are devoted to scholarship advertisements.
2. There are Islamic Web Sites that may serve important needs of the State in terms of model applications of Sharia concepts, sources of Sharia reinforcement and co-operation and related resources.
3. The Web source can also provide access to organisations of similar interest in Sharia applications and therefore open up channels of communication through Internet Newsgroups.
4. In an age of expensive international travel, the WWW is also another source of accessing the Sharia experiments in several countries like Malaysia, Pakistan, Sudan and elsewhere. The intellectual resources around such experiences can help Bauchi in areas of its local application related to those accessed over the Cyberspace.

(vii) Ministry of Information. In the area of information, the Ministry has important roles to play in areas such as appropriate projection of the image of the Sharia in both electronic and print media within and outside Bauchi as well as reflecting Islamic values. Its areas of impact should not only be official channels but even areas of private media such as cinema, theatre, video shops and related avenues of cultural expression can be approached to contribute to a proper cultural expression in accordance with Bauchi society's Islamic values.

(viii) Ministry of Health. This ministry has a key role to play both in promoting the Sharia medical heritage and examining areas of Sharia factors in health care delivery in the State. The State's sanitation and health system can tremendously be improved. For example, Islamic medical concepts of treatment and cure, the patient-doctor relationship and the issues of Sharia and treatment option. These issues along with detailed family affairs of child upbringing, procreation, family arrangements and newly emerging medical phenomena that have ethical dimensions are all within the scope of the Health Ministry and it must have a regular channel of handling them in accordance with the State's Sharia values and in conjunction with Sharia opinion of medical ethics, health system both within the country and elsewhere.

(ix) Ministry of Women Affairs. The goal of Muslim woman is to serve Allah and seek His approval – whether she is a homemaker, a doctor, a politician – her goal is to worship and serve Him. Her role is to nurture the society with her God-given gift of compassion and affection. Her role is to cultivate also the moral standards by raising virtuous Muslim children and enjoining good and forbidding evil.

To be a Muslim woman is to spend every moment in a productive way. There is no need for her to frustrate and exhaust herself in trying to prove that she is equal to a man and nonetheless to free herself from the destructive bonds of the trends, cosmetics, dictated vogue and materials which are a destruction to her mind and beneficial to those only interested in making profit and exploiting women.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

Recommended that the Ministry be guided by the principle of upholding the dignity of woman and her sublime human status in all spheres of life while recognising that sustainable development requires full and equal participation of women and men as both agents and beneficiaries through the following:

1. Take all necessary measures to eliminate all forms of discrimination against girls and women and remove all obstacles to their advancement.
2. Regard the family as the nucleus of the society established on the basis of equitable partnership between a man and a woman as well as their right in the family are essential to the stability of this institution. Measures should be taken to strengthen the family, in particular, family stability should be recognised as a major parameter for development.
3. Provide adequate economic and social support mechanisms for the formation of families at an appropriate age while excluding extramarital sexual relationships.
4. Adopt appropriate measures to prevent and combat all forms of violence against women including sexual exploitation, trafficking, pornography and their projection as sex objects in mass media.
5. Ensure that poverty alleviation policies pay particular attention to the needs and concerns of women.
6. Provide increased access to equal and efficient health, particularly reproductive health, family planning, education and services, within framework of the family.
7. Adopt necessary measures so that girls and boys are provided equal educational opportunities and combat early school drop out, to ensure that the potentials and capabilities of girls are fully realised and female illiteracy eradicated.

Therefore updating the State's law should mean that Government is only recognising a de facto reality in society. Islamic society already exists but anti-Sharia laws have refused to recognise its existence. Thus, expanding the application of Sharia to encompass all areas of Bauchi life is a cause with which the citizenry readily identifies. So when broad guidelines for organisation are given to all levels of governmental and non-governmental organisations, ideas can be developed to advance the cause of Sharia's application because it is what society readily identifies with. Therefore, there must be a way of coordinating these efforts in a structural manner so that an orderly application procedure can be established. Hence, the role of Islamic organisations is very important. They can be the engines encouraging the Sharia trend and helping in widening its acceptability. Thus, a committee [should] be formed that will be charged both with representation and involvement in deeper exploration of Sharia application potentials. These may include, for example, establishing subcommittees charged with legal, economic, educational, security, cultural, financial and other responsibilities. The detailed subcommittee areas and the prospects of sufficient funding to establish Sharia so that it takes a deeper root that can be emulated by others is another area that they too should be involved in.

Conclusively, while the effort by the State Government to reconsider the State's legal structure to conform to the society's inherited legal tradition of Sharia is a laudable initiative, it should also expect challenges. Such challenges can come from within and outside the government structure. There may be some secular elites who for example

vociferously argue that it is premature to talk of establishing Sharia in Bauchi State. The key question is: Had these secular elites earlier announced their programmed schedule for when Sharia should be established in Bauchi State? The obvious answer is NO. How can they say something is premature when they themselves never had their timetable of its introduction?

Finally, the Committee should stress for the Government to understand that a Muslim Government is responsible, according to the Sharia, to provide its citizens with such economic facilities as are necessary for the maintenance of human happiness and dignity. Therefore, the affairs of the community must be arranged in such a way that every individual man and woman, Muslim and non-Muslim, shall enjoy that minimum of material well-being without which there can be [no] human dignity, no real freedom and in the last resort no spiritual progress.

This does not mean that the State should or ever could, ensure carefree living from its citizens. It does mean, however, that every citizen has:

- (a) The right to productive and remunerative work while of working age and in good health.
- (b) Training at the expense of the State if necessary, for such productive work.
- (c) Free and efficient health services in cases of illness.
- (d) Provision by the State of adequate nourishment, clothing and shelter in cases of disability resulting from illness, widowhood, unemployment due to circumstances beyond individual control, old age or under age.

Assalamu alaikum,

Bala Adamu-Gar, Bauchi State Water Board,
July, 2000

(4) From the Bauchi State Hoteliers & Liquor Dealers Association

Bauchi State
HOTELIERS & LIQUOR DEALERS ASSOCIATION
C/O NEW STATE HOTEL
TUDUN WADA DAN-IYA, BAUCHI, BAUCHI STATE

Our Ref: _____ Your Ref: _____ Date: 16th August, 2000

The Chairman
Bauchi State Sharia Implementation Committee
Bauchi

Mr. Chairman Sir,

MEMORANDUM SUBMITTED TO THE BAUCHI STATE
SHARIA IMPLEMENTATION COMMITTEE
BY THE BAUCHI STATE HOTELIERS ASSOCIATION

We bring you greetings and best wishes in your onerous task of advising the Government on the best method of implementing the Islamic legal code or Sharia in the State.

It will be recalled that on 5/8/2000 a live discussion was organised by your Committee at the Women Development Centre Bauchi whereat the issues of the desirability, effects and apprehensions regarding the introduction of the “total” Sharia in Bauchi State were debated. Considering the passion and somewhat extremely intolerant viewpoints expressed by some participants, especially Islamic Clerics at the said forum, the chairman of State Hoteliers Association in the person of Chief Patrick Anyanwu, then indicated to the Committee the intention of the Association to submit a written memorandum to it and therein articulate her position on the matter. In fulfilment of that undertaking, we hereby make the following representations:

1.1 Firstly, we recognise and appreciate that the 1999 Constitution of the Federal Republic of Nigeria which is the supreme law of the land guarantees and protects the fundamental rights and freedoms of all persons and citizens residing in whichever part of this country as enshrined particularly in Chapter IV thereof. Permit us to refer your Honour, with special emphasis, to the provisions of section 34 (on the right to dignity of the human person; 35 (on right to personal liberty); 38 (on the right to freedom of movement); 42 (on the right to freedom from discrimination) and section 43 (on the right to acquire and own immovable property anywhere in Nigeria). We shall in the course of this submission rely on the essential provisions of these and other sections. We strongly believe that whatever laws are to be enacted or implemented by any State within the Federation must conform to and be consistent with the provisions of the said Constitution, being the supreme law of our country and all such State laws must give effect to the spirit and letter of the Constitution, more particularly, those of Chapter IV.

1.2 We, as businessmen/women and investors in the fragile economy of Bauchi, are greatly apprehensive and afraid for the fate of our over 30 years investment in hotel business and sale of alcohol which are virtually inseparable, in the wake of the proposed enforcement of strict Sharia law in the State. Our fear seems justified by the experiences of our colleagues in States where the implementation of strict Sharia has begun. Events have proved that contrary to the usual pledges that non-Muslims would not be affected by the said law, in actual fact the entire life savings and investment of especially people in our line of business i.e. operators of hotels, have all gone up in flames or been completely ruined by either the extreme and illegal action by overzealous arsonists and misguided fanatics claiming to be enforcing the Sharia; or the ban or restriction of movement of people who run hotels and sell alcohol by the Governments in defiance of sections 41 and 43 of the Constitution which generally guarantee and grant citizens the rights to reside and own property anywhere in Nigeria. Furthermore there is no gainsaying the fact that the propensity of some non-Muslim indigenes opposed to the implementation of the law and the proponents thereof resorting to violence as was the case in Kaduna last February, leaves hardly any assurance in the minds of our members that they would not once again bear the brunt of any fracas as happened in 1991 and 1995 when unexpected religious crises caught up with them and left them devastated with hardly any compensation from any quarters.

2.1 We are not unaware that the ostensible reason for the “agitation” for the implementation of the Sharia law in the State is to enable Muslims practise their religion “properly” as well as to stop social vices like prostitution, drunkenness and robbery. We are certainly not opposed to the idea of people practising their religious beliefs as

provided for and protected under S. 38 of the Constitution nor do we support the increasing incidents of social vices. We believe there has been adequate protection under the existing laws and the penal code to enable adherents of any religion to practise same undisturbed. Also, we are aware that the penal code already contains ample sanctions against acts, which are considered to be inimical to society including drunkenness (SS. 401-404) and does not discriminate on grounds of religion.

We are firmly of the view that there are people whose religious beliefs or consciences permit the taking of alcoholic drinks – not to the extent of total intoxication or drunkenness – which will then be a crime under the penal code. However, such persons who are mainly non-Muslims are entitled in our opinion to make their choices of either taking the drinks or not without compelling them, by reason of a total ban on the sale of alcohol drinks, to conform to other peoples' moral codes in violation of sections 41 and 42 of the Constitution. It is our considered opinion that such issues of personal or religious morality should not be the subject of a State legislation – since coercion under the guise of religion trivialises the very faith it seeks to promote by the imposition of non-spiritual mundane sanctions enforced or executed by external governmental agency or State Police, which will only make the religious offenders more discreet in their immorality and promote hypocrisy, thereby undermining the spiritual authority of each religion to influence and change for the better the lives of its adherents from the inside-leading to acceptable behaviour outwardly.

2.2 The very nature and existence of our business here in Bauchi and by extension, the livelihood of ourselves and families hugely depend on the patronage of our hotels by lodgers and guests who are almost entirely non-Muslims and whose beliefs permit the taking of alcohol howbeit in reasonable quantity especially during social events and cultural festivals or even for relaxation, and proceeds from the sales of such drinks to them form the bulk of our income and enable us to maintain our hotels, pay our staff as well as the tax/rates we pay to the State Government and feed our families and other appendages. There is therefore hardly any doubt that any extension of the existing restrictions on the sale of alcohol within the old city wall to include areas like Tudun-Wada Dan Iya (Bayan-gari) and other places not falling within the former restricted areas or imposing a total ban on the sale of the commodity throughout the State in consequence of the implementation of full Sharia, would surely sound the death knell to our hotel business. And, in the straitened circumstances of the Bauchi economy, the question of converting our hotels to some other business ventures is untenable. We hereby strongly suggest that in implementing the Sharia system, which will presumably apply to only Muslims, the existing status-quo be maintained regarding non-sale of alcohol in restricted areas within the old city wall and let there not be an outright ban on the sale of such commodities to non-Muslims in the outskirts of the city.

It is also our contention that simply ordering the immediate and compulsory closure of all hotels in the State owned by our members on the erroneous assumption that they are all brothels at the coming into force of the envisaged Sharia law, will be most unjust and high handed. The truth is that the vast majority of our members operate decent hotels with lodging facilities. The few brothels where prostitutes are found to exist may be asked to send them out and convert to decent lodging hotels so as not to risk a complete closure.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

3.0 Finally, we wish to draw your attention to the saying that a man who has been stung by the bee becomes scared of even houseflies. For purposes of fairness, equity, justice and obedience to the Constitution which is the binding law of the entire country; and which has in section 15(2) and 10 prohibited any form of discrimination on grounds of religion as well as the adoption of any religion as State Religion, we join with other concerned citizens and residents of this State in appealing for caution and respect for the rights and feeling of persons, including local investors and businessmen and women who have so far made Bauchi their home, in going about the implementation of the Islamic Sharia law in extenso. We call for adequate security of the lives and property of all and sundry in the period leading up to the adoption of the legal system and in its aftermath so as to nip any possible uprising in the bud and prevent miscreants from harassing, intimidating and assaulting innocent citizens in hyper-exuberant celebration/enforcement of the code. We believe a resurgence of tension, insecurity and mass expulsion of non-indigenes and non-Muslims from this State will be counter-productive. May you be mindful of Bauchi State's reputation as "the Home of Hospitality". And may the Almighty grant you the wisdom and courage to make the right recommendations.

Yours faithfully,

(sgd)

Chief Patrick Anyanwu

Chairman, Bauchi State Hoteliers Association

(sgd)

Secretary Bauchi Hoteliers Association

- Cc: 1. The Executive Governor, Bauchi State.
2. The Speaker, Bauchi State House of Assembly
3. The Commissioner of Police, Bauchi State
4. The Emir of Bauchi.

(5) From Bauchi State Area Court Judges Association

Translated from the Hausa by Ahmed S. Garba

Ref. No. BASACJA/BAU/I/VOL. I/19
Bauchi State Area Court Judges Asso.
(BASACJA)
C/O Upper Area Court No. II,
Bauchi
11th September, 2000.

The Secretary
Sub Committee/Personnel, Structures etc.
Sharia Implementation Committee
Bauchi, Bauchi State

HERE ARE OUR SUGGESTIONS TO THE MEMBERS OF THE SHARIA
IMPLEMENTATION COMMITTEE OF BAUCHI STATE

Praise be to Allah, the great, most merciful, most beneficent. May the blessings of Allah be upon Prophet Muhammad (SAW).

This Association of Bauchi State Judges rejoices with his Excellency the Executive Governor of Bauchi State because of the constitution of the Committee for the

Implementation of Sharia. May Allah guide him (Amin). We also rejoice with the Committee. We wish them success and may Allah give them wisdom to be able to give excellent suggestions.

This Association had for long wished to meet with the members of this Committee in order to give its own suggestions, which we think will assist a great deal, particularly that we want Sharia to be applied to every Muslim. This is because Sharia constitutes the whole life of a Muslim. Therefore, we support it wholeheartedly. We thought we would be invited specially because the way we were invited previously was not good; but this did not happen.

It has become incumbent upon this Association to write to you because there is rumour that among you, there are people whose interest is to divert the attention of the Committee from its set objectives to a different thing altogether. The terms of reference of your Committee are:

1. To advise Government on the structure, personnel and training under the Sharia system.
2. To suggest amendments to the Penal Code within the constitutional framework.
3. To organise seminars, discussions, drama presentations and workshops on legal rights and duties under the Sharia legal system. Accordingly, the Enlightenment Subcommittee shall co-opt the Chairman CAN, Bauchi State or any other non-Muslim that is found useful.
4. To submit recommendations to the Government within three months and to accordingly propose the time frame for Sharia legal system to take off in the State, taking into account all prerequisite procedures involved.
5. Any other assignment that may be given by his Excellency, the Governor of Bauchi State.

In view of the above we feel anything contrary to these terms of reference may be construed as an effort by the Committee to disparage the reputation of others or for the achievement of a particular interest. This is because in our thinking the rules governing transactions are the ones to be changed to that of Allah and His Prophet Muhammad (SAW) and not the people administering those rules in order for those transactions to be good.

This Association is very much aware that among the instances in which envy is allowed in Islam is judgeship. You may wish to see page 9 *Fathu Aliyu Malik* where the Prophet (SAW) said:

There is no envy except in two instances. Firstly, in the case of the wealthy man who uses his wealth lawfully and secondly in the person endowed with wisdom who utilises it justly.

Therefore, envying judges is not a new thing but anything done aimed at disparaging them is what this Association is disapproving. This is because it has been rumoured that there is a committee that will screen judges with a view to doing away with incompetent ones. This is what we say is not part of the Committee's work.

This Association thinks it is not correct to re-interview judges because it contravenes the provisions of the Constitution of this country on which the introduction of Sharia in

northern States relies (see section 197(c) and section 202 paragraph 5(c) subsection 11 and paragraph 3 of 1999 Constitution).¹¹ It is the Constitution that establishes the Judicial Service Commission which, among other things, deals with the recruitment of judges.

Furthermore, there is no judge today who has not been first found to be fit and proper, that is educationally and of good behaviour in Islam and found to have satisfied all conditions and requirements in an interview before he is appointed judge. We also wish to remind you, that no judge has ever been appointed without having been screened by the Grand Kadi in the area of his educational qualifications or the schools he attended before he was appointed judge. Are we now saying that the Grand Kadi and the judges do not know their work and that they have to be screened again?

In Islam, a particular practice that is beneficial to people during the period of ignorance (*jabili* period) does not instantly become condemnable simply because it becomes prohibited with the coming of Islam. Depending on the extent of the prohibition, its former benefits should still be appreciated. See verse 21 of *Suratul Nisa'i* (on Women): this verse states that a prohibition takes effect from the day a law becomes operational and cannot be applied retrospectively.

If we look at the wisdom in the verses that prohibit the drinking of alcohol, it could be seen that the final prohibition did not come into effect immediately but gradually. See *Suratul Baqara* (Camel), verse 219, where Allah said “Gradually, Allah revealed justice up to the end where he prohibited alcohol completely.” Allah (SWT)¹² also said: “Preach with wisdom and intelligence.”

This Association is also of the view that if it is on the issue of corruption, it affects all segments and not necessarily judgeship alone. Therefore, if it is to be corrected, it should be corrected in such a way that it will bring progress for Muslims and Islam. No judge can dispute knowing the meaning of the hadith below:

Therefore there are three judges: two who will enter hellfire, and one who will enter paradise. The first two are the one who knows that he does not know, but nevertheless judges according to his ignorance, and the one who knows, but does not judge according to his knowledge. The third, who will enter paradise, is the one who knows and judges according to his knowledge.

This shows that it is not only lack of knowledge that brings about untruthfulness. No: also self-centeredness and going beyond the limits.

This Association is saying that if it is the issue of education that matters, it is not stated that, a judge should be a *mujtabid* (Islamic jurist). See page 48 of *Fathu Aliyu Malik*:

If a judge is not a *mujtabid* he should always seek for the advice of *ulamas*. He should use the advice of the most knowledgeable among them or the advice that appears much accepted by *ulamas*.

¹¹ Evidently the sections intended to be referred to are 1999 Constitution §197(1)(c), §202, and Third Schedule Part II ¶¶ 5 and 6 (all dealing with State Judicial Service Commissions).

¹² SWT: *Subhanahu wa ta'ala*: “Glory be to Him”: used when Allah is mentioned.

CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

In view of this, our advice is that the issue of training mentioned above should take the place of interview, that is to say, the judges should undergo refresher courses, seminars etc. These seminars if done would assist judges a great deal so that by the time Sharia is implemented, the Government will feel satisfied with the competence of the judges.

Therefore, we hereby inform you straight away that no judge will attend any interview. But we are prepared to attend courses and seminars in order to improve our work as judges. All judges fully support the Government on the implementation of Sharia.

RENAMING OF COURTS

This Association is suggesting that Upper Area Courts and Area Courts should be given their former names as they were known, that is, “Alkali’s Courts” which in 1968 were renamed as Area Courts. The judges should be addressed as judges of Sharia Courts.

JURISDICTION

This Association suggests as follows:

1. Adultery or fornication and related things
2. Theft and related things
3. Murder and related things

These should go to Chief Alkali Courts that is Upper Area Courts.

ALKALI COURTS GRADE I

1. Gambling and related things
2. False accusation and related things
3. Drinking of alcohol and all civil actions and all *ta’azir* offences

ALKALI COURTS GRADE II

This court can also be empowered to entertain all *ta’azir* offences and civil actions in order to make the work convenient, most of them should be located in the villages under the Local Governments.

CHIEF ALKALI COURTS

Since this is Upper Area Court, it should hear appeals with two or three judges.

NUMBER OF COURTS

This Association thinks that, since courts have been built because of proximity to the people it will therefore be good if, instead of scrapping them, they can be renovated and rehabilitated so that villagers can benefit from them and that is why we are suggesting that they should be converted to Village Courts Grade II.

MONETARY JURISDICTION

We advise this Committee to look into the jurisdiction as regards monetary suits which apart from Upper Area Courts no other Area Court has jurisdiction to entertain based on monetary claims of up to ₦10,000.00. It is in view of this, that we urge that Alkali

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Courts be given additional jurisdiction to entertain suits based on monetary claims from ₦10,000.00 to ₦70,000.00.

OFFENCES BASED ON ACCIDENT

Here, it is pertinent to take into consideration the fact that, in the past, people had to forego their civil rights because no magistrate or alkali had jurisdiction to entertain [in a criminal action] such civil claims for compensation or damages. The injured person has to go by way of initiating fresh civil action based on the decision of the magistrate or alkali.

SHARIA COURT OF APPEAL

Section 281 of the 1979 Constitution (as amended) provides for the jurisdiction of the Sharia Court of Appeal.

Even in the past, there were chances of appeal to the Sharia Court of Appeal from the Alkali Courts. But there was a Supreme Court case where it quashed the decision of the Sharia Court of Appeal on land matters decided in the Alkali Court because it was not within the constitutionally-prescribed jurisdiction of the Sharia Court of Appeal. Now there are plans to bring all matters decided in the Alkali Courts under the Sharia Court of Appeal with such Alkali Courts having jurisdiction to entertain all Sharia cases including *budud* and *qisas*.

There is something to think about here. Even if the Sharia Court of Appeal's jurisdiction is expanded to include all these matters, once the matter goes on appeal to Court of Appeal, the Court of Appeal will quash the decision for lack of Sharia Court of Appeal jurisdiction.

COURT WITH CUSTOMARY LAW MEMBERS

We have courts with customary law members at Tafawa Balewa, Bagoro, Boi, Dass, Miya Damban, Dalam, Dagauda. We think it is appropriate for this Committee to take note of their system of operation, particularly where if they want to appeal, from Upper Area Court they go to High Court.

It is appropriate to amend the operation so that any person from among non-Muslims who indicates interest to go to Sharia Court will be allowed, but he should be asked to put it in writing.

INSPECTORS OF COURTS

This Association is suggesting that their power is intermediary, because after judgment they have power to collect a copy of the judgment to send to an appellate court for case review.

We suggest that they should be given power to review a case. After judgment they should be given copy for their perusal to see if there should be an appeal and if so to determine the appropriate court. But we suggest that their power to suspend proceedings should be scrapped because litigants do capitalise on it to frustrate proceedings. The Inspectors should be fully empowered to look into the accounts of litigation money and ensure that such monies are entered as at when due. And they should be given power to initiate action against anybody that mismanaged or misappropriated such funds.

PROSECUTORS

What should be considered here is that the complainant and the accused are the ones always at disadvantage because the prosecutor comes to the court at will and if he likes, he can throw the case away, because he has power to withdraw it. And the complainant does not have the power to appeal even if he is not satisfied with the judgment. He can only go to the Inspector of Courts and complain and if the inspector gets a copy he sends the matter to an appropriate court. People should be informed that anybody in whose presence an offence is committed has the power of arrest. This has paved the way for the establishment of vigilante groups who normally ensure that any person they arrest is charged before a court. They too should be screened to get the good ones among them.

PUBLIC COMPLAINTS COMMISSION

Since Islam has provided for this type of commission, therefore, instead of establishing an anti-corruption commission, what Islam has provided for should be established which will look into complaints. Where a case of oppression or bribery is established, prosecutors in that commission should handle it. This will assist and strengthen Islam a great deal.

May Allah assist Islam and Muslims. May Allah give you the strength to assist Islam and Muslims and the non-Muslims. We pray for justice to everybody. May we live to see the day Sharia will be implemented in Bauchi State. May Allah guide us. Amin.

(sgd and dated 11/09/2000)

Malam Musa A. Barde
Chairman (BASACJA)

(sgd and dated 11/9/2000)

Alh. Shehu Gadiya
Assistant Secretary

(6) From Mal. Yakubu Ahmad, Ganjuwa Local Government

SHARIA LEGAL SYSTEM IN BAUCHI STATE A REJOINDER TO CAN BAUCHI STATE CHAPTER

by Yakubu Ahmad 26-R.S.- 1421 AG-27/7/2000

Many have written or spoken but the majority kept reticent to see which way the cat jumps. However, the recent press release signed by the Chairman and the Secretary of CAN Bauchi State Chapter¹³ has drawn our attention to some subterraneous plan in the minds of the writers to achieve some egocentric aims by throwing dust into the eyes of Bauchi State Government, the State House of Assembly and the Muslim communities.

Before I draw an analogy on the write-up I would like to falsify the claim of Nigeria being a secular state as claimed by the Christians.

Secularism as defined by the *Chamber Twentieth Century Dictionary* is “The belief that the state, morals, education, etc. should be independent of religion”.

Secularism therefore, as an English word reflects the world view, cultural background, historical experience and the subsequent prejudice, biases and hatred which

¹³ The CAN press release referred to is reprinted below, no. 19.

the English people, the Western Euro-Americans and their house boys and mental slaves as well as their imitators have against their religion (Christianity) and its priests.

And unfortunately since some of the house boys, mental slaves and imitators of Western Euro-American capitalist imperialists are Muslim “Western educated elites”,¹⁴ they too very faithfully and fanatically believe in the blasphemous, parochial, as well as anti-religious posture of their masters. They do this without considering the fact that their societal historical experience, cultural background and worldview are not similar.

It is a clear falsehood to claim that Nigeria is not aligned to any religion. The principle of secularism itself is not religiously neutral it is a concept that has been drawn from a Christian dogma – (Give unto Caesar what is Caesar’s and unto God that is God’s) and this is deeply rooted in the Christian belief system. Any attempt to prevent any State in Nigeria that is predominantly Muslim populated to implement Sharia system is nothing short of injustice and an abuse of the concept of democracy and the Nigerian Constitution. More so this is a Christian concept and Christian worldview.

As claimed by them that government shall have nothing to do with any religion is nothing but the practicalisation of the Biblical expression content which says “Give unto Caesar what is Caesar’s and unto God what is God’s”. This is contained in the Bible – Mathew 22:21 and Mark 12:17.

Therefore separating the government from religion is not religiously neutral but a Christian concept, a Biblical dogma, reflecting the parochial nature of the Christian worldview.

This practice of separating government and religion from the Islamic point is obnoxious, seriously revolting and totally unacceptable because it is fundamentally based on what our Creator and Lord considers as the greatest crime that is *SHIRK*.¹⁵ God who created mankind knows best how to manage man. Man-made law or theory and policy that are made other than what God promulgated himself can never solve human problems (nor does it reduce crimes and the rampant cases of HIV patients). Any Muslim who accepts this parochial idea of secularism has committed the greatest sin of *SHIRK* i.e. joined the power of God with mankind. For there is absolutely no doubt about the fact that *shirk* is clearly involved in the statement which says “Give unto Caesar what is Caesar’s and unto God what is God’s”, for the fact that the authority, power, sovereignty of Allah (SWT) has been clearly dichotomised.

The claim of separating government and religion “secularism” in Nigeria is a false claim. The observation of Saturday which is a Jewish day of rest and religious services (who are not in existence in Bauchi State) and the observation of Sunday which is a Christian day of rest and Church services for the minority Christians in Bauchi State are fanatically observed despite the claims of “Give unto Caesar what is Caesar’s and unto God what is God’s”. These two days are observed as national work-free days. This is an indication that they are not consistent with the principle of neutrality, and it is a clear case of injustice in view of the fact that Bauchi State population is predominantly

¹⁴ In the original text the last four words appear as follows: ‘... Muslims Western” education” elites, ...’; we have construed this as it appears above.

¹⁵ Associating Allah with another in worship; idolatry; polytheism.

Muslim, but Friday is not observed as a work-free day in order to enable the majority Muslims to freely and comfortably attend the Friday prayer as being practised for the non-existing Jew and the minority Christians.

Another point to falsify the claim of government's neutrality on the issue of religion is the use of Christian Gregorian calendar rather than the Islamic calendar. All government official calendars and dating are based on the Gregorian calendar which is bearing AD i.e. "Anno Dominic" meaning "In the year of our Lord" as if all Nigerians believe that Jesus Christ is their Lord. Government ministries have never accepted making or using the Islamic calendar.

The claims made by the Christians can be factually challenged and contradicted by so many cases like the ones listed above. The claims have also been contradicted by our government hospitals and Ministry of Justice or High Courts bearing Christian cross-sign depicting one of their fundamental principles of faith that Jesus the son of Mary was crucified to save them, which in Islam is blasphemous and is rejected by Muslims.

In Nigeria and Bauchi State in particular the school calendar is based on the Christian timetable. The school holidays are tailored in such a way as to impose Christianity on Muslims: Easter/Good Friday break summer, Christmas and New Year holiday.

In addition titles of our university and higher institution principal officers are nothing but Christian church officials' titles, the chancellor, the vice-chancellor, the dean, the provost, even the so-called academic gowns its design and caps are nothing but church uniforms, being smuggled into our academic institutions.

Similarly in the case of the so-called international academic culture of giving senior university officers and academicians a complete year leave called sabbatical. No doubt the word sabbatical is derived from the Christian concepts of sabbath, that is if one goes into semantics. In view of that sabbatical leave is a Christianisation of our education system. This is for the fact that sabbatical leave of the universities after six years of continuous service is a clear manifestation of Biblical expression contained in Ex. 21:26, Deuteronomy 15:12-18, Deut 31:10-13 and Leviticus 25.

Points mentioned above are clear indication of the false claim of Nigerian secularism. Bauchi State Muslims have been yearning for and aspiring to get their lives governed by the Sharia, a system of law in which they believe and in which they have confidence but all along, such yearnings and aspirations have been frustrated by the Westernised Europeanised minority ruling elites in collaboration with yet another minority Christian population who favour Western Euro-American imperialism.

To write on the recent write-up titled "Christian Association of Nigeria Bauchi State Chapter and the implementation of Sharia legal system in Bauchi State" which was based on its meeting of 17th July, 2000.

In its first paragraph the association says "CAN expressed its disgust over the purported appointment of her Chairman as a member of the Sharia Implementation Committee".

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Responding to the above statement, the Government decided to pick and choose the CAN Chairman as member to the Committee for reasons best known to it. Maybe to please Christian or Government officials, and this cannot be unconnected with the training and the build-up of Nigeria on Western Euro-Christian capitalist imperialism. To the Muslim community CAN Chairman has not believed in the oneness of God nor does he believe in Sharia. Belief system or faith is not only part and parcel of Sharia but serves as a back cloth of it. As such the Muslim community welcomes the disassociation of the CAN Chairman from the Committee as contained in paragraph two of the write-up because he is not qualified and Sharia is meant for Muslims and Muslims cannot continue obeying the Christian laws in the name of secularism.

In its paragraph three, the write-up shows its total opposition to the full implementation and the extension of the Sharia legal system beyond man-made laws (Constitution). To my observation none of the signatories is a legal practitioner to interpret the Constitution but those that are accepted by the Nigerian Government as qualified legal practitioners have agreed that Sharia has a base in the Constitution, the Attorney-General inclusive.

Similarly item 4 of the write-up went further to show that implementation of Sharia will affect the Christian and made some enumerations.

- (i) Under Sharia a Christian is worth half a Muslim when death compensation is paid. The Rev. failed to explain the position of Christian scripture law (if any) and the position of the present man-made laws with regard to death compensation. On Sharia compensation on manslaughter as at this year 2000, the compensation is more than three million. A question to Bauchi State Christians is how much is paid to the innocent victims killed by either careless driving, fighting and riots? Has any Christian ever received a death compensation that is up to a hundred thousand naira in the present state of “Give unto Caesar what is Caesar’s and unto God what is God’s”? Thus CAN should be happy if Sharia can grant over ₦1.5m as death compensation and even thank and support the implementation of Sharia.
- (ii) He further said “A Christian cannot inherit a Muslim father or father his son”. One cannot understand what CAN means by saying this because this is complete justice. In Sharia there is a system of inheritance which is not available in the Christian scriptures.
- (iii) The write-up states “Muslims can marry Christian girls but our boys cannot marry Muslim girls”. Of course this is true in Islam but detestable [sic]. This is not saying Sharia can force Christian girls to marry Muslim boys. More so ever if Sharia is not fully implemented a Muslim lady is prohibited to marry a non-Muslim as contained in our scriptures. The Christians in Bauchi State are free to formulate a verse of law that can prevent their girls from marrying Muslim men if they can contradict the Bible. What can the Rev. say about this Bible statement I Corinthians 7:13: “And if a Christian woman is married to a man who is an unbeliever (non-Christian) and he agrees to go [on] living with her, she must not divorce him.” Even the Bible supports the statement.
- (iv) It further says, “Under Sharia law a single Muslim witness is equal to three Christians in a dispute.” However, the writer failed to quote the source of his statement but it

should be clear to them that being a Muslim alone cannot qualify one to give evidence under Sharia legal system. There are another six qualities that a person must possess to enable him be a witness. Also there are more than eleven conditions for the disqualification of a witness under the Sharia legal system. All of these were not considered because of the myopic thinking of the writers.

- (v) Also mentioned was “A Christian can neither be a Sharia judge or a chief judge in a State where full Sharia is in application.” It is very unfortunate if a Christian can think of himself appointed as a Sharia judge. How possible for one that takes himself as an enemy of the system, does not believe in the system and is ignorant of it can be considered to take up what he does not believe in? You have to think, say, act, and go well. Basic qualifications only cannot qualify one to be a Sharia judge but there are other at least ten other conditions and thirty-six ethnic [sic] for one to be a Sharia judge.

In the write-up they have advertised their ignorance and incompetence by making some example that “proof of criminal offences are difficult to determine under Sharia legal system.” In the examples mentioned from a – c concerning the laws of embezzling, robbing and stealing, that surely confirmed that the CAN Chairman does not know anything about Sharia and is not qualified to be a member of the Committee. All that he has mentioned are something elementary and known commonly by every Muslim.

In his example (d) the issue of divorce under Sharia was raised. Divorce under Sharia is a Muslim affair only but because of the myopic thinking of the CAN Chairman he failed to remember that even the marriage is conducted under Sharia and he also failed to compare it with the Christian method of divorce (if there is any). More so what has this got to do with the Christians of Bauchi State? I would like to refer to what the Bible says on divorce, see Mathew 5:31-32: “It was also said, anyone who divorces his wife must give her a written notice. But I now tell you: if a man divorces his wife for any cause other than her faithfulness [sic] then he is guilty of making her commit adultery if she marries again, and the man who marries her commits adultery also.” This law of gospel is not complicated and impracticable in our society but a violation of human right on divorce and marriage.

No wonder prostitution and adultery are highly increasing in the Christendom. It is against common sense to prevent a divorcee or widow from marrying. And it is also a deprivation of human right to say a man should not marry a divorced woman even if they love each other.

Amongst the issues raised in the write-up was the judgment of adultery in Sharia. Because of ignorance an abrogated verse of *Sura* 4:15 was quoted together with 24:2 which abrogated the former. He further says “QUR’ANIC TEXT – *Ayatul Rajm*”. This manifested clearly that the writer does not know what he was writing but we are asking him to mention the *sura* and the verse in the next hundred years.

In addition to that the reverend went and borrowed a heretical statement that is not accepted in Islamic law i.e. *mut’a* – temporary marriage. It has to be made clear to them that the position of Christians and Shiites in Nigeria who believe in the above said marriage is virtually the same. As such associating *mut’a* to Sharia is obnoxious.

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Also stated is “the Islamic Sharia, the Jewish law and Christian gospel which is stronger? The Jewish law says thou shall not commit adultery (Ex. 20:4). The Glorious Qur’an says you cannot call anybody adulterer until there are four eye witnesses. The gospel says: If you look at woman lustfully you have already committed adultery with her (Mat. 5:21-22), and the gospel is stronger. The gospels deal with prevention while the [other] two deal with cure”.

Many holes can be picked from the above statement and it is a shame to say this statement comes from a religious leader since he cannot say the reality. The Qur’an *Sura* 17:32 says “Nor come [at] night to adultery: for it is a shameful deed and an evil, opening the road (to other evils).” Let the Rev. compare this verse again. Meanwhile, even the Bible gives punishment to adultery as laid down by the Sharia – see the following references in the Bible:

Leviticus 20:10-12: If a man commits adultery with the wife of his neighbour both the adulterer and the adulteress shall be put to death. The man who lies with his father’s wife ... both of them shall be put to death ... if a man lies with his daughter in law, both of them shall be put to death...

Deuteronomy 22:22: If a man is found sleeping with another man’s wife, both the man who slept with her and the woman must die.

Before I draw an analogy let us see what the Bible says about the punishment of stealing.

Mark: 19:43: And if your right hand causes you to sin (by stealing) cut it off it is better for you to enter life maimed than with two hands to go to hell. (RSV of the Bible).

Mathew 5:30: And if your right hand causes you to sin (by stealing) cut it off and throw it away. It is much better for you to lose one of your limbs than for your whole body to go to hell. (Good News Bible).

These are some of the Biblical statements that agree with the Sharia system of Islamic law but it seems that some Christians are only opposing the Sharia but are not sincere Christians or they are not ready to obey the Bible but their masters. The Western Euro-American capitalist imperialist mental slavery and socio-political subjugation instead of a life of FREEDOM, human dignity, self-determination and an INDEPENDENT African personality.

Ever since the last 1960 man-made laws in Nigeria failed to solve the problems of stealing, robbery, bribery and corruption, insecurity, economic predicament, social malaise and the rampant increase of HIV which results to AIDS which we consider as “ALLAH’S INDISPENSABLE DESTRUCTION OF THE SINNERS”. It is our belief that if Sharia is adopted a greatest change will be seen.

Earlier mentioned are incontestable facts which have shown Nigerians’ inclination towards Christianity and hatred towards Islam, which are sufficient enough to convince most naive that Nigeria and Bauchi State in particular is not religiously neutral; it is therefore my submission that the country should henceforth stop observing Saturday and Sunday as official days of rest in each week, instead the work free days in every week should be Monday and Tuesday in order to assert its religious neutrality.

All cross-signs in our hospitals should be removed; the Christian Gregorian calendar should not be used any further otherwise the Muslim lunar calendar should be used side by side in all Government sponsored calendars.

All Christian church uniforms now being used as academic gowns should be dropped. All these things like the mention of "In the year of our Lord" and there should be no more mention of sabbatical leave in our universities.

Muslims in Bauchi State have for a long time absorbed a lot of shocks, and have exercised patience for too long; all this they have been doing in the spirit of ensuring unity, peace and stability, and now that it is clear that our silence and patience are taken for stupidity, ignorance and cowardice, we wish to prove to Bauchi State that Sharia is a Muslim constitutional right and its implementation a prelude to a more balanced, nationally stable, social justice oriented, peaceful and prosperous society where no man is oppressed.

Mal. Yakubu Ahmad
Ganjuwa Local Government

(7) From Jonathan Yakubu Madugu, Bauchi

C/O P.O. Box 27
Bauchi
Bauchi State
5th September, 2000

The Secretary
Sharia Implementation Committee
Bauchi State

Sir,

SHARIA LAW IN BAUCHI STATE

With due respect, being an indigenous tribesman of Bauchi State, on behalf of myself and friends, I would like to forward to you our stand on Sharia law implementation in the State. For your perusal and necessary recommendation to the State Government.

The Muslim leaders in the State for the umpteenth time say the Sharia is for the Muslims alone. I hope they are honourable men that can stand by their words. For example if they disallow the Muslim populace from brewing, selling and consumption of alcohol, they should have no business giving such orders to others. If the Muslims prohibit breeding and consumption of pigs, the law should affect them alone.

We are happy that one of the points of reference of your Committee is advising the Government, how to implement the Sharia law in the State within the constitutional framework. We are therefore watching and waiting to see how you can correlate the supremacy of the Nigeria Constitution with some Qur'anic injunctions. Take the specific example of apostasy (*ridda*) would there be any meeting point? Or mode of dressing.

An important aspect that comes to mind is the issue of conflict of laws; which law will apply and at whose instance, in case of legal tussle between say a Muslim and a Christian. It is our sincere hope that you do not recommend an apartheid type of law,

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making fellow citizens second-class. For in any true democracy, minorities have equal rights with the majority, otherwise chaos.

We give you the wordings of Frederick the Great, the King of Prussia ([reigned] 1740-86) that “All Religions must be tolerated, for every man must go to heaven in his own way”. So do not impose the teaching of your religion on others no matter how good it seems to you. A writer wrote and we agree with him. You either permit co-operation and justice or you sow conflict and reap the earthquake, for the Sharia law that is politically expedient to you, can never be a substitute to constitutionality and the rule of law.

On the historical line, you should know that Yakubu of Bauchi did not or could not impose his then newfound religion on our fore-fathers. It was during the colonial era, when there was peace, that many of them embraced Islam. The largest Muslim country in the world is Indonesia, they refuse Sharia. Iran after introducing it in the late seventies is now voting it out. Sudan knows no peace to date after introducing the Sharia thereby trampling on the rights of the minority Christian and animist. We do not think anything good can come only through the Sharia.

On a concluding note, it may please you to know that, should you recommend anything that may derogate our constitutional rights, we shall go to any length to challenge it, so be aware.

Yours faithfully,

(sgd)

Jonathan Yakubu Madugu

(8) From Muhammad Dan-Ale, *Bunun Sarkin Fada*, Bauchi

Translated from the Hausa by Ahmed S. Garba

C/O EMIR'S PALACE

Bauchi

10th August, 2000

The Secretary
Sharia Implementation Committee
Bauchi State

Assalumu alaikum.

MY CONTRIBUTION FOR THE IMPLEMENTATION OF SHARIA
IN BAUCHI STATE

I want to use this opportunity to write and state my understanding as regards the implementation of Sharia in Bauchi State. Though I don't have much knowledge on Sharia only that I want to give my contribution as required. But there is need to lay some foundations to facilitate the implementation of Sharia in Bauchi State.

In fact, there are no half measures or any gradual approach to the implementation of Sharia in Bauchi State because Allah has already shown how to punish an offender in cases of theft, fornication, homosexuality, and murder and how to do other things like

the business of buying and selling of grains and the removal of Allah's due (*zakat*) from a person's wealth and agricultural products and skilled labour etc. This is because Islam has not left anything out.

Our biggest obstacle on what I mentioned above is lack of proper implementation. Because of this, it is incumbent to have special bodies (commissions) that will guide us. The commissions are as follows:

1. Zakat Commission.
2. Commission on proper measures for food, materials, fuel and other items to be measured on a weighing machine.
3. Commission for the prohibition of female hawking.
4. Loan Commission through an Islamic Bank.
5. Commission for the prevention of prohibited acts in female schools.
6. Commission for the enlightenment of both Muslims and non-Muslims on Sharia.

In addition to this, I want to explain how the commissions should be constituted.

1. **Zakat Commission:** History has shown to us that in Bauchi State, there has always been a person saddled with the responsibility of distributing *zakat* under the Bauchi Emirate Council called 'sa'. Therefore, it will still be appropriate to position this Commission under the Bauchi Emirate Council with members as follows:

- a. Chairman – Emir (Vice Chairman: Kadi).
- b. Treasurer – *Sa'i*
- c. Secretary – Imam/Second Imam
- d. Auditor – Imams of mosques

In addition, 1-5 people should be employed to serve as staff of the Commission to assist the people listed above (a-d). This arrangement should be done at all levels that are under District Heads.

2. **Commission on Proper Measure:** Today, most of us have seen how unscrupulous people have filled our markets and nobody can stop them from what they are doing, on the ground that they pay dues and get receipts from the market authorities. So is the case with interceptors of goods and those self-appointed middlemen who "take hold" of goods and sell them on, denying the owner the right to sell his own goods himself.¹⁶ And members of this Commission should be *ulamas*, judges and District Heads of all areas and they should be given the power to provide standard weighing machines, tapes and standard measures.

3. **Commission for the Prohibition of Female Hawking:** We are all living witnesses of what is happening as regards female hawking. This has become a way through which the behaviour of young girls is easily spoiled because of the constant mingling with bad boys. Furthermore, poverty and oppression have all contributed. Because of this, the Commission should be given the mandate to get a place for the purpose of buying and selling of food. Adult women of proven integrity should be employed to look after the

¹⁶ For more on this practice, see memo from Mal. Abubakar Abdullah Wambai, Imam of the Cow Market, Bauchi, no. 24 *infra*.

young girls who should be charged one or two naira in order to remunerate the adult women and to ensure the neatness of the place.

4. **Loan Commission through Islamic Banking:** Because of social disintegration, most people have begun to behave undesirably. It has therefore become incumbent upon our wealthy people and other authorities to join hands to invest in an Islamic Bank for the purpose of granting interest-free loans and conducting business transactions. I strongly believe that this will improve the condition of life of the people. Muslims should not be the only ones to benefit from the scheme but also the non-Muslims so that they can be brought closer to Islam and a peaceful and just co-existence can be ensured.

5. **Commission for the Prevention of Prohibited Acts in School:** Protection of young girls in schools has become something of great concern. Available information has shown that students in schools lack adequate protection and this has caused backwardness in women's education. In particular, some parents are afraid of what will happen if they send their children to school. Furthermore, it has become incumbent on us to put sex education aside, introduce changes into the system, particularly the method of employing teachers in such a way that women teachers be allowed to teach women or young girls in schools and also only such women teachers should be allowed to stay with such young girls in schools in their free times. Also, only parents should be allowed to visit such young girls in schools and not their male friends. Residential houses of male teachers also should be located outside the schools.

My reason for suggesting the establishment of commissions in this context is to instil fear in people. This is because the moment a person thinks of such Commissions, he will think before committing an offence. It is incumbent upon wealthy Muslims to financially support these Commissions.

BEER PARLOURS AND BROTHELS

Apart from the prohibited acts and illegalities that are being committed in these places, they have become hiding centres for thieves and armed robbers. Therefore, since Allah has given us the opportunity to do away with such places, it has become an obligation on us to take necessary measures in my opinion as follows:

a. **Beer Parlours:** It is necessary to meet with the proprietors of these places to let them appreciate the need for them to put a stop to this type of business and instead, change the premises into facilities that can be rented out as residences and guest houses where sufficient information will be required of a guest as regards his full address and his mission in choosing to stay in such a guest house in order to prevent the place from becoming a hiding place for bad people in the society or the State authorities. And Local Government Councils should buy houses and rent them out to their workers and get revenue. The proprietors on the other hand, will get more money in their hands to do other legitimate businesses.

b. **Brothels:** Prostitution has existed in this country for long and prostitutes have remained because of people's patronage. May Allah protect us and may they be guided by Him.

I suggest that a meeting should be arranged face to face with the prostitutes, so that those among them who are interested in getting married can be noted and those who are not interested also can be noted and the following steps can be taken against them:

- Those interested in marriage should choose a husband. If he has his dowry, he pays; those who don't have it and have no work should be assisted by people through monetary contribution. If they don't have houses to stay in, they should be given those type of houses mentioned previously at least for three months after which they would be made to be on their own as regards the payment of rents.
- As regards those who are not interested in marriage, the authorities should get their names for the purpose of sending them out of the State within 14 days. Why I made the first suggestion is because, instead of sending them away, it is better to assist them to be good people. As regards the proprietors of beer parlours, they should be given a chance to make a just choice which has no link with force. Further, whatever measure is taken, it should be made very clear through both electronic and print media in order to guard against false information reaching non-Muslims.

In conclusion, I pray for Allah's guidance for you in this work. May Allah raise the level of Islam and Muslims throughout the whole world.

I hope my contribution will be accepted and will be of benefit to you. May Allah guide us, amin.

(sgd)

Muhammad Dan-Ale

Bunun Sarkin Fada, Bauchi

(9) Three memos from Aliyu Muhammad Sa'id, Gamawa¹⁷

All three translated from the Hausa by Ahmed S. Garba

(1)

SUGGESTIONS TO THE SHARIA IMPLEMENTATION COMMITTEE
BAUCHI STATE OF NIGERIA

The Chairman of the Committee,
Other Committee Members

Assalam alaikum.

After respectful greetings to all of you and best wishes for your success.

Looking at the gigantic work this Committee is saddled with, I have come out with suggestions that will lead to the establishment of courts manned with judges and I pray for Allah's assistance and guidance.

One obstacle that is facing the establishment and provision of Sharia and Sharia Courts judges is the fact that the Federal Government has concluded arrangements,

¹⁷ In the Report of the Sharia Implementation Committee, the first of these memos is separated from the other two by memos from other people; we have grouped them all together here.

whereby all judges and courts in Nigeria will be under its control. But what is Allah's is not theirs. The 1999 Constitution has provided opportunity for the members of the House of Assembly of each State to establish courts and appoint judges to them in their States. (See pg. 2)

[Page 2, in English, reads:

(a) Subsections 4 and 5 of section 6 of the 1999 Constitution allow the State House of Assembly to establish courts with subordinate jurisdiction to the High Court. Again under sections 277 and 278 of the Constitution the Honourable House is vested with powers to confer additional jurisdiction to the Sharia Court of Appeal of the State. (b) The Honourable State House of Assembly is empowered by subsection 7 of section 4 of the 1999 Constitution to make laws for the peace and good governance of the State.]

It is in view of this that I urge this your Committee to suggest that we need our Sharia and Sharia Courts judges established so that we can leave their own for them and make our own arrangement all the clearer.

WAYS BY WHICH THIS COMMITTEE CAN SUCCEED

a. **Organisation of Courts:** The State Government should make use of the opportunity provided for it in the 1999 Constitution. Here, a meaningful plan should be designed and Local Government Councils should be urged to build courts and residential houses for judges of such courts in their various Local Government Areas. Building a very big library should not be forgotten.

b. **Discipline and Training of Courts Staff and Judges:** Government should arrange for modalities for the recruitment of new judges and their training in accordance with Islamic teachings. Courts should be made under the Grand Kadi. In the recruitment and training of new judges, it is compulsory to solicit for the support of centres for the propagation of Islam: independent Islamic organisations and schools etc. For example:

- i. Islamic University Medina in Saudi Arabia
- ii. Centre for the Propagation of Islam under "AL-MUNTADAL ISLAM" located in Kano State (contact: 064-637190)
- iii. Bauchi Institute for Arabic & Islamic Studies (P.O. Box 2031, Bauchi)
- iv. College for Legal and Islamic Studies, Misau.

c. **Court Requirements and Books:** Here, visits should be paid to States that started the implementation of Sharia with a view to seeing how their courts are structured. Further, when passing judgment, it is necessary that the judge base his judgment on points from religious books. It is not an offence if books are looked for at the centres that provide such books like:

Al-Haramaini Islamic Foundation
P. O. Box 92684, Rivadh 11663
Kingdom of Saudi Arabia.

Lastly, I urge this Committee in the name of Allah to suggest the supply of the following books in each Sharia Court because of their importance: (See pg. 3)

[Page 3, all in Arabic, is a list of books. We give here transliterations of the Arabic titles (omitting most diacritical markings), and the names of the authors as given in

the source. The transliterations are by Ahmed S. Garba. Fuller information about the works with * beside them is given in the “Bibliography of Islamic Authorities” in Chapter 6 of this work. We have not been able to locate copies of the others; for further discussion of this problem see the Bibliography.

Tab-Sirat al-Hukkam fi Usul al-Aqdiya wa al-Manahij al-Abkam, by Ibn Farhun Al-Maliki.*

Al-Abkam, by Al-Qadi Ibn Mudrif Abdurahman.

Az-Zari'a Ila Makarim as-Shariyya, by Sheikh Ibn Qasim Ibn Muhammad.

Dara'ik al-Hukum fi as-Shariyya al-Islamiyya, by Dr. Saeed Ibn Darwish.

Al-Jarima wa al-Uquba fi al-Fiqh al-Islam, by Sheikh Muhammad Abu Zahra.*

Al-Hukum wa al-Tuhakum fi Khidab al-Wahyi, by Abdulaziz Mustafa.

Al-Qadaa fi Abdi Umar Ibn Qaddab, no author given.

Al-Jihad wa al-Kital fi as-Siyasa, by Dr. Muhammad Khayr Haykal.

Al-Qadaa wa an-Nizam fi al-Kitab wa as-Sunnah, by Dr. Abdurahman.

Raf'u al-Haraj fi as-Shariyya al-Islamiyya, by Dr. Salid [sic] Ibn Abdullah.

Mawahib al-Khallaq ala Sharh al-Tawidi li Lamiyyat al-Zaqqaq, by Ibn Al-Shita'a Ibn Al-Hassan.*

Tahrir Ahli al-Iman Inda al-Hukum Bighair ma Anzala ar-Rahman, by Sheikh Ibn Hibit al-Allah Ismaeel Ibn Ibrahim.

Al-Fatawa al-Kubra, by Ibn Taimiya.*

Majmu'u al-Fatawa, by Ibn Taimiya.*

Irwa'u al-Ghalil fi Takbriju Ahadis Manar as-Sabil, by Al-Bani.*

Bidayat al-Mujtabid wa Nihayatul Muqtasid, by Ibn Rushd Al-Maliki.*

Tuhfat al-Hukkam fi Nukatil al-Uqud wa al-Abkam (Matn al-Asimiyya), [by Ibn Asim, although author's name not given].*

Fath al-Aliyy al-Malik fi al-Fatwa ala Madhab al-Imam Malik, [by Sheikh Abu Abdallah Muhammad ibn Ahmad Alaysh, although author's name not given].*

Fatawa, by Imam Nawawi.

Kitab al-Fiqh ala Madhabib al-Arba'at, by Abdurahman Al-Jaziri.*

All books of Islamic jurisprudence, books on Islamic law, and all *fatawa* which relate to judgments under Sharia.]

May Allah help us and give us good.

I wish you good luck.

(sgd)

Aliyu Muhammad Sa'id, Gamawa

(2)

SUGGESTIONS SUBMITTED TO THE COMMITTEE FOR THE IMPLANTATION OF SHARIA IN BAUCHI STATE

Assalamu alaikum.

After respectful greetings and good wishes, I wish to register my deep appreciation and good wishes over this work that is full of blessings and prosperity. At the first stage of this work I wish to present my suggestions to all of us, hoping that it will serve as a guide for us. May Allah help us.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

1. It is a must to ensure justice in governance. Leaders can show example on this by taking serious measures against the looting of government funds. Government should be based on justice and observing Allah's laws within the limit of our ability.
2. The court system should be re-organised to conform with the religion of Islam. Here, there is need to start the training and preparation of Sharia judges. More experienced judges who fear Allah in their works should be recruited. It is a must to provide them with all the necessary tools for their work and their welfare must be adequate to make them comfortable so that they can do justice in their work. Further, State laws should be made to conform with the Sharia.
3. All social menaces such as prostitution, selling and drinking of alcohol, and gambling should be fought with immediate effect. Here, Local Government Councils should be forced to take measures to put an end to this social menace in a month. Further, in doing this work, those involved in these dirty works should be urged to repent and be given assistance. Government again should reduce expenses in marriage celebrations through the offices of imams or by any other means.
4. State re-orientation programmes should be based on the Islamic religion. Government should prohibit moving around the city half naked. And students' uniforms in schools should be changed to conform with Islam. Traditional rulers should be Islamic. Here, the Government should make use of the media to propagate meaningful programmes that will instil discipline and correct the behaviour of people. Religious leaders should be encouraged to go round the State to educate the people.
5. An anti-corruption commission should be established which should also be made to collect *zakat* and distribute to those who deserve to be given. This is the correct way of eradicating poverty in the society because the not so rich will be assisted to be on their own. Here, the Government should look for people who are above-board and possess integrity, honesty and are trustworthy to assist the Emirs in the collection of *zakat* of cash, of animals and of farm products and the distribution of same according to the religion of Islam.
6. A Ministry of Religious Affairs should be formed to take care of Islamic preachers, mosques, issuing of *fatwas*, hajj, and Qur'anic recitation centres and religious schools, and to pay attention to assisting the aged, the needy, women, orphans, the fatherless, the disabled and the mentally retarded etc. in the society. It is the responsibility of the Government to propagate religion and make things easier for the people.
7. Encourage transactions based on the Islamic religion particularly by forcing businessmen to pay special attention to the correct weighing device during transaction. Further, the Government should create more ways of making wealth and encouraging self-reliance based on religious teachings. This can not be successful without the co-operation of Local Government Councils.

In short, these are my suggestions at this first stage hoping that this Committee will start taking steps to advise the Government to start the implementation as from the 1st of July, 2000 before proceeding with other issues.

I hope that this will make things easier for us and enable us to finish the work with ease within the time limit.

(sgd)
Aliyu Mohammed Sa'id, Gamawa
30th June, 2000

(3)

SUGGESTION SUBMITTED TO THE COMMITTEE FOR THE
IMPLEMENTATION OF SHARIA IN BAUCHI STATE

Honourable Chairman of Committee
Other Committee Members,

Assalamu alaikum.

This Committee is the backbone of Sharia implementation in this State, because it has a gigantic responsibility of educating people on what constitutes Sharia and its practice. May Allah assist us. Before going further, I suggest that, this Committee should within the first four weeks organise discussions with people in three stages with a view to explaining what constitutes Sharia in Islam and what is expected of people under Islamic government as follows:

1. Organise seminars town by town.
2. Organise lectures and discussions with youths.
3. Use the media in propagating the aims and objectives of the Committee.

This Committee should organise an awareness campaign on the following:

- a. Educating the leaders on just government and the keeping of trust under Islamic government.
- b. Educating members of the public on Islamic transactions, and the importance of self reliance and the danger of idleness.
- c. Educating the people on the system of Islamic Sharia, lashing and other provisions of Sharia, such as stoning, lashing, killing and amputation of the hand.
- d. Explaining to the people the danger attached to prohibited acts, such as prostitution, gambling, stealing, drinking of alcohol etc.
- e. Explaining to the non-Muslims the importance of Sharia in their life and the protection given to them by Sharia.
- f. The discipline of the mind of the people to know Islamic politics to avoid hatred, envy, quick money syndrome, hunger for power and contempt for the leaders.
- g. Restoration of religious behaviour in the hearts of women, to make them modest, wear dresses that cover their bodies and valuing married life in accordance with Islamic teachings.
- h. Correcting the behaviour of people to be disciplined, sympathetic, obedient to elders, strong hearted and helpful to the weak in the society.
- i. Waging war against bribery, corruption, and oppression of the masses. Each citizen should know his rights, and be afraid of degradation of himself. People

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

should be made to learn how to observe Allah's law and the love of worshipping Allah with knowledge.

- j. Reminding the people of the obligation of giving out *zakat*, the importance of giving alms, gifts, and contributions within one's limit to the Islamic authority or the needy.

I pray for Allah's guidance for all of us and may He make the conclusion of this work possible. Amin.

I wish you well.

(sgd)

Aliyu Mohammad Sa'id, Gamawa.

(10) From Jama'atul Shababul Islam, Bauchi

Jama'atul Shababul Islam
Bauchi, Bauchi State
2nd July, 2000

Kadi Abdullahi Marafa
Chairman, Sharia Implementation Committee

Dear Sir,

BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE:
OUR VIEWS

All praises be to God, full of grace and mercy. He created all including man, to man He gave a special place in his creations. He honoured man to be his agent, to that end He endowed him with understanding, purified his affection and gave him a spiritual insight so that he should understand nature and know God through his wondrous sign and to uphold his Sharia.

We recall with satisfaction the heroic step taken by the Bauchi State Government to set up the Sharia Implementation Committee. We cannot but acknowledge the reward of excellence as God appointed you and you are a member of the Committee.

The Sharia issue in Nigeria and in Bauchi State in particular is a natural revolution engineered by the Almighty God not by any other individual. He alone has the power to protect, and propagate his Sharia without the intervention of any other person.

But the fact that the entire *ummah* of Nigeria and indeed Bauchi State in particular have come a long way in the struggle for the realisation of the Sharia legal system, the youth cannot afford this golden opportunity slip through our hands.

The entire youth of Bauchi State under the umbrella of Jama'atul Shababul Islam are solemnly behind this Committee as long as the Committee are working towards materialising the cause of Sharia, without any external intervention.

However, the youth cannot spare even an ant whose cause is to conspire and jeopardise the materialisation of this Sharia legal system.

Finally, we pray that God should give you the courage to stand firm and bold to perform your duty diligently as good ambassadors of Muslims. We also pray that He

should make you pass this examination which will no doubt serve as a *sadakatul jariyah* in the hereafter.

(sgd) _____
Sa'ad bin Adam
Chairman

(sgd) _____
Ibrahim Sani
Secretary

(sgd) _____
Mohammed Chindo
Deputy Chairman

(11) From Mahmood Aliyu, Revenue Officer, Alkaleri Local Government

Translated from the Hausa by Ahmed S. Garba

Treasury Department
Alkaleri Local Govt.
19-7-2000

The Chairman,
Sharia Committee on Islamic Law, Bauchi State
Bauchi

Assalamu Alaikum

MEMO ON ISLAMIC LAW

After Islamic greetings. I am happy with this Committee. May Allah grant you his mercy.

HERE ARE MY SUGGESTIONS TO THIS COMMITTEE

1. On State civil servants and Local Government Councils:
 - (a) As to lack of punctuality by civil servants and leaving the office before the appropriate time, measures should be taken.
 - (b) Bribery and corruption should be prohibited.
 - (c) Workers should be paid their salaries as at when due.
2. Sharia workers:
 - (a) It is said that they will be placed under the Federal Government. I hope it is not sabotage. Please think over this again.
 - (b) Effort should be made to establish Sharia Commission in our State under the State Government.
 - (c) And Local Government chairmen in this State should be informed as follows:
 - i. Alcohol (or all intoxicants)
 - ii. Prostitution
 - iii. Gambling
 - iv. Brothels

All Local Government chairman should be given a date by which all the above must stop. Even your Committee, if possible, can include in its reports the urgency needed to put a stop to these immoral acts.
3. I also wish to mention two other things which should be prohibited, and announcements made in mosques and on electronic media accordingly:
 - (a) Hospitals that allow abortions for young girls and prostitutes.
 - (b) Interest.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

Lastly, I suggest that the Committee should solicit for prayers in order to ensure this implementation of Sharia. May Allah help us all. Amin.

Yours,

Mahmood Aliyu, Revenue Officer, Alkaleri Local Government

(12) From Gwani Jallaba and Company, Bauchi

GWANI JALLABA AND COMPANY
(General Consultants)
First Floor, Jahun Business Complex
Near Under 5 Clinic, Jahun Quarters P.O. Box 1707
Bauchi, Bauchi State

Ref. No.....

Date: 18th July, 2000

The Chairman,
Sharia Implementation Committee, Bauchi.
Sir,

MEMORANDUM ON THE IMPLEMENTATION OF SHARIA SYSTEM
IN BAUCHI STATE

Kindly find enclosed a memorandum on the above subject for the consideration of your Committee.

Thank you.

Yours faithfully,
GWANI JALLABA AND COMPANY

(sgd)
TIJANI GWANI JALLABA
Managing Consultant.

MEMORANDUM ON THE IMPLEMENTATION OF SHARIA SYSTEM
IN BAUCHI STATE

1. **Introduction.** I would first of all like to congratulate the Sharia Implementation Committee for getting the opportunity to serve Allah *subhanahu wata'ala*¹⁸ and Bauchi State. I have confidence that you will adequately justify the responsibility reposed upon you.

It is appropriate to introduce the Memorandum by putting into perspective what is actually meant by Sharia. In essence Sharia means Protection of the rights of everybody. Under Sharia nobody will be allowed to deal unjustly with any other person and likewise he/she will not be allowed to deal unjustly with anybody even if non-Muslim.

2. **The Journey So Far.** Fortunately commendable progress has been recorded towards the implementation of Sharia in Bauchi State. Some of such progress include:

¹⁸ "Glory be to Him."

- A) Ascertaining of the fact that the Muslim population of the State which constitutes over 90% of the total population are desirous of having the Sharia implemented in the State. This fact was established by Bauchi State House Committee on Sharia after having discussions with all interest groups and touring all parts of the State.
- B) The committee has also toured some States and has collected data on how the Sharia is being operated especially in Zamfara State. This committee has found out that Sharia is highly beneficial and all the citizens where it operates are satisfied.
- C) The committee has forwarded its finding to the full House together with the recommendation that Sharia should be implemented in Bauchi State. The House has accepted the recommendation and has already drafted the appropriate bill which will soon be passed.
- D) Another important progress achieved is the establishment of your Committee, the Sharia Implementation Committee, by His Excellency, the Executive Governor of Bauchi State, with the mandate to oversee the implementation of the system in Bauchi State.

From the above, it could be inferred that after passing of the bill by the State House of Assembly bulk of the work necessary for successful implementation of Sharia will now pass from the Legislative to the Executive arm of Bauchi State Government hence the suitability and appropriateness of your Committee.

Kindly find below some suggestions to your Committee as a contribution towards the implementation of Sharia in Bauchi State.

3. Sharia Legal System. No doubt the most effective aspect of Sharia which ensures equity and fairness in the society is the legal system. Sharia legal system should be introduced in Bauchi State as soon as practicable.

The first requirement for the introduction of the system is passing of the Sharia bill by the State House of Assembly. This will give the legal backing to practise Sharia.

The second requirement are the courts that will try all Sharia-related cases. Presently the judiciary consists of Area Courts, Upper Area Courts, Magistrates and High Courts. Others are the Sharia Court of Appeal and (Federal) Court of Appeal.

Out of these the Area Courts and Upper Area Courts already apply Sharia law in cases of marriage, inheritance, and similar cases. Moreover these courts are at the grassroots levels. They are present in virtually all wards of the State. For these reasons it is therefore suggested that these courts which are situated in predominantly Muslim areas should apply the Sharia laws. It should be stressed that these courts should apply the Sharia law only and should in no case apply the secular laws. The other courts, i.e. the Magistrate Courts, the High Courts, and the Area and Upper Area Courts situated in predominantly non-Muslim areas should apply the secular laws.

The third requirement of the Sharia legal system is the penal code that should be used by the courts. Fortunately Zamfara State has already codified most of the Sharia laws in the form of Sharia legal code. This document is already part of the documents

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

brought by the House Committee on Sharia and it should be reproduced and made available to the Sharia, Area and Upper Area Courts for application.

The final requirement is the Sharia law enforcement agents. In this case it is also instructive to copy the Zamfara State example. The aid groups of the Jama'atul Nasatul Islam, Izalatul Bid'ah and other religious voluntary organisations should be used. They should report all Sharia-related offences and cases to the relevant court.

4. **Civil Interaction.** After the legal system the other important aspect of Sharia is civil interaction instructions. In order to ensure that Islamic way of life is being adhered to in the society, an agency should be established by the State Government and charged with the responsibility of initiating, co-ordinating and supervision of the application of Sharia codes in the society.

The agency should also be issuing guidelines from time to time on how Islamic injunctions could be applied in the society. Some of the areas in which the agency could issue guidelines include the use of *hijab* by Muslim women, how to segregate men from women in transportation, the most effective way of collecting and distributing *zakat*, etc. In a nutshell, the agency will be an important organ of Sharia administration in the State.

5. **Conclusion.** Obviously for the success of Sharia in the State, there is need for knowledgeable and skilful personnel to man the legal system and proposed agency. For this reason, adequate training should be given to the personnel on what is Sharia and what is expected of them. Cadre of staff to be trained include:

1. The judges (re-orientation).
2. The registrars and deputy registrars in the Sharia Courts.
3. The voluntary organisations to enforce the Sharia.
4. The Nigeria Police Force (on their duties under the Sharia).
5. Staff on the proposed Sharia Agency.
6. Public enlightenment campaigns should also be organised in order to sensitise members of the general public on what is Sharia and what is expected of them.

I will conclude by praying that may the Almighty God guide you in this your noble task, Amen.

Bauchi,
July, 2000.

(sgd)
Tijanni Gwani Jallaba,
Gwani Jallaba & Company.

(13) From Baba Y. Ahmed

Translated from the Hausa by Ahmed S. Garba

C/o Upper Area Court I
Bauchi, Bauchi State
17th July, 2000

The Secretary,
Committee for the Implementation of Sharia
Bauchi State

Greetings, and good wishes be upon you.

As regards the implementation of Sharia, I suggest that the Sharia Court of Appeal should be empowered with original jurisdiction to entertain new suits in addition to its appellate jurisdiction just as other courts like the High Court.

2. District courts be given much attention and should be provided with the necessary facilities. And judges should be given the requisite welfare considering the nature of their work and those among them, found not to have the requisite probity and integrity be flushed out of the system.

3. Establishment of Sharia Courts: it is appropriate if this Committee establishes its offices in each Local Government Area with a view to going into every nook and cranny of villages where such courts are located in order to see how the courts are being run by the judges and how complaints are received so that necessary corrective measures can be taken.

4. Judges should be educated on how to do judgeship before they start.

May Allah help Sharia. *Wassalam.*

I am:

(sgd and dated 17/7/2000)

Mal. Baba Y. Ahmed

(14) From Dr. Sylvester S. Shikyil, Faculty of Law, University of Jos

Department of Property & Commercial Law
Faculty of Law, University of Jos
PMB 2084, Jos
Tel 073 - 451549

The Secretary
Sharia Implementation Committee
C/o Ministry of Justice
Bauchi, Bauchi State

Sir,

RE: MEMORANDUM ON THE IMPLEMENTATION OF SHARIA IN BAUCHI
STATE SUBMITTED BY DR. SYLVESTER S. SHIKYIL

INTRODUCTION

I am a native of Tapshin, in Lere District of Tafawa Balewa Local Government Council of Bauchi State. It is with the greatest sense of responsibility, humility, respect, honour and patriotism, that I submit this memorandum on the implementation of Sharia in Bauchi State.

Recent happenings in some States of the North, planning to implement Sharia undoubtedly showed that the Sharia controversy is gradually becoming a time bomb to national unity, especially if viewed in the light of how non-indigenes and non-Muslims live in the States that adopted Sharia.

THE STRUCTURE OF BAUCHI STATE

Bauchi State is an agglomeration of different ethnic nationalities, separated as they are by wide fundamental differences in values and norms of behaviour. Some of these ethnic

nationalities are the Jarawa, Ribinawa, Polichi, Zulawa, Sangawa, Katsinawa, Bujal, Anaguta, Duguzawa, Buji, Fulani, Gerawa, Bulawa, Wandu, Zhakshi, Sayawa, Tapshinawa, Angasawa, Bijimawa, Mbankalawa, Boiyawa, Mbadawa, Sigdawa, Dugurawa, Karekare, Gundawa, Ningawa, Taffi, Balewa and Warjawa, just to mention a few.

These ethnic nationalities are yet to coalesce into one civil society animated by a common spirit and a feeling of a common nationality and identity, propelled by common social dynamics. Thus, a civil society is one that is bound together by the cohesive sentiment of a common nationality and which, with its variegated organisation, associations, interests, and classes exists and functions as an autonomous centre of power and capable of checking against any usurpation of power and violation of individual liberty by government.

From the foregoing, it is manifestly clear that Bauchi State is composed of various geographically segregated ethnic groups that are divided by wide fundamental differences of religion, language, culture and economics. Consequently, any attempt to impose any form of social order by whatever name it is called, regardless of these fundamental differences, will inevitably lead to chaos and social disorder in the State. Bauchi State is a pluralistic State where its success as a State in maintaining stable and democratic government depends on how it learns and practises the lessons from successful pluralistic States in the country. One of the key lessons is that in every successful pluralistic State, all the major component parts must agree to adopt a system of governance that gives each of them a sense of being an equitable stakeholder in the affairs of the State. Thus, whereas in Bauchi State, the pluralism also means a multi-religious population, the lessons from other successful pluralistic States in the country is that peace and stability demand that the State should not adopt one particular religion.

THE STATUS OF THE SHARIA UNDER THE 1999 CONSTITUTION

Generally speaking, the status of the Sharia as can be seen in the 1999 Constitution can be summarised as follows:

1. Sharia is considered as one of the laws in Nigeria. The other laws being customary law, received English law and the Nigerian local legislation. Consequently, the application of Sharia law is subject to the Constitution.
2. The Sharia is reduced to the narrow confine of personal status. This can be seen from the jurisdiction of the Sharia Court of Appeal of a State. Thus, section 277(1) provides:

The Sharia Court of Appeal of a State shall, in addition to such other jurisdiction as may be conferred upon it by the law of the State, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law which the court is competent to decide in accordance with the provisions of subsection (2) of this section.

Section 277(2) of the Constitution specifically mentions the subject matters which the Sharia Court of Appeal is competent to decide.

For the purposes of subsection (1) of this section, the Sharia Court of Appeal shall be competent to decide:

- (a) any question of Islamic personal law regarding a marriage concluded in accordance with that law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant;
- (b) where all the parties to the proceedings are Muslims any question of Islamic personal law regarding a marriage, include the validity or dissolution of that marriage, or regarding family relationship, a founding or the guardianship of an infant;
- (c) any question of Islamic person law regarding a *waqf*, gift, will or succession where the endower, donor, testator or deceased person is a Muslim;
- (d) any question of Islamic personal law regarding an infant, prodigal or person of unsound mind who is a Muslim or the maintenance of the guardianship of a Muslim who is physically or mentally infirm; or
- (e) where all the parties to the proceedings, being Muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

The jurisdiction of a court is the authority of that court to exercise judicial power in a certain respect. Section 277 of the 1999 Constitution states that the Sharia Court of Appeal of a State shall be competent to decide any question of Islamic personal law regarding marriage, divorce, *waqf*, gift, will and child custody and any other question to which the parties consent. Thus, the other aspects of the Sharia legal system, such as its international law, criminal law, commercial law, constitutional law, administrative law and so on have been omitted in the Constitution.

It is quite clear that the 1999 Constitution permits only the application of Sharia to the subject matters mentioned in section 277 of the Constitution. Additionally, the application of Sharia is limited to persons who are subject to Islamic personal law. Thus, Sharia, being one of the laws in Nigeria and a way of life of the Muslim, its application to non-Muslims will be unconstitutional. Additionally, the application of Sharia to all persons, regardless of their religious creed and belief will be tantamount to Islamising the society and thereby amounting to adoption of State Religion, contrary to section 10 of the 1999 Constitution which states:

The Government of the Federation or of a State shall not adopt any religion as State Religion.

Although, section 10 of the 1999 Constitution did not use the word secularism, Nigeria is a multi-religious State. Nigeria has a secular Constitution. The Webster's Dictionary defines secularism as:

The belief that religious influence should be restricted and in particular that education and morality in the State should be independent of religion.

In the light of section 10 of the 1999 [Constitution], which states that:

The Government of the Federation or of a State shall not adopt any religion as State Religion,

one can say that the 1999 Constitution is secular. Thus, the combined effect of sections 10 and 38(1) of the 1999 Constitution is that any attempt to mix religion with the State is bound to lead to social disorder.

The 1999 Constitution does not permit the adoption of a State Religion. Section 10 of the 1999 Constitution clearly forbids the adoption of a State Religion. In this regard, no State in the Federal Republic of Nigeria can base its law on any Holy Book as the States that adopt the Sharia legal system are doing. The Constitution is supreme over any other law. Thus, any attempt to incorporate the Sharia into a State's legal system is contrary to section 10 of the 1999 Constitution. The proponents of the Sharia legal system rely on section 38 of the 1999 Constitution. That section cannot be exercised in isolation of Chapter Four on fundamental rights. For instance, section 42(1)(a) of the 1999 Constitution states:

(1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria or other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject.

Consequently, the decision of the Bauchi State Government to implement Sharia in the State is tantamount to supporting one religion which is capable of undermining the country's political objectives as enshrined in section 15(2) of the 1999 Constitution. Section 15(2) of the Constitution states:

... national integration shall be actively encouraged whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

Thus, because of the religious contents of the Sharia legal system, it contradicts the value of liberalism. For instance while the Constitution grants freedom of conscience, thought and religion, the Sharia legal system punishes apostasy. It means that the Sharia legal system compels a citizen to continue to be a Muslim, even when he no longer believes in the creed. At this point, it becomes imperative to highlight the basis of the controversy, using Zamfara State as a case study. The first Sharia law – Zamfara State Sharia Courts (Administration of Justice and Certain Consequential Changes) Law 1999, lists the sources of Sharia law as the Hadith, Qur'an and the Sunnah. It defines the Hadith as the sayings and teachings of the Holy Prophet Muhammad while the Qur'an is defined as the divine and holy scripture revealed to Prophet Muhammad, containing admonitions, compensations [sic], substantive and procedural laws, rights and obligations in respect of the moral, spiritual, economic, political and socio-cultural law to govern the general conduct of any behaviour in the religion of Islam. It is against the background of the sources of the Sharia legal system as exemplified by the Zamfara State Sharia Courts (Administration of Justice and Certain Consequential Changes) Law that the controversy as to whether the 1999 Constitution permits the adoption of a State Religion [sic].

One critical issue which I consider relevant to raise is whether the 1999 Constitution permits the Government of the Federation or of any State to expand the scope of the Sharia beyond the questions of Islamic personal law to include criminal matters.

The proponents of the Sharia legal system contend that sections 277 and 278 of the Constitution give a State powers to expand the jurisdiction of the Sharia Court of Appeal in view of the provisions of section 277 of the Constitution which states:

The Sharia Court of Appeal of a State shall, in addition to such other jurisdiction as may be conferred upon it by the law of the State, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law which the court is competent to decide in accordance with the provisions of subsection (2) of this section.

My submission on the phrase “such other jurisdiction” in section 277(1) of the 1999 Constitution is that the phrase is clearly circumscribed by subsections (2)(a), (b) (c), (d) and (e) of the same section which specify that the powers of the Sharia Court of Appeal are limited to questions of Islamic personal law. This is because subsection 2 of section 277 begins by stating that the specification in subsection 2 of section 277 are “for the purposes of subsection 1” of section 277. Consequently, whatever additional jurisdiction that may be granted the Sharia Court of Appeal, it should only include broadening of the Islamic personal law based on new development.

THE DILEMMA OF THE IMPLEMENTATION OF SHARIA IN BAUCHI STATE

Sharia is generally regarded as one of the laws in Nigeria. Its application is subject to the constitutional provisions. Thus, the Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria. Consequently, if any other law, including the Sharia law is inconsistent with the provisions of the Constitution, the provisions of the Constitution shall prevail and that other law shall to the extent of the inconsistency be void. Section 38(1) of the 1999 Constitution provides:

Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief and freedom (either alone or in community with others and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

Section 38 of the Constitution guarantees the right to freedom of religion. It is sufficiently wide. Consequently, any law, including the Sharia legal system that directly or indirectly thwarts a person’s right to freedom of religion will be inconsistent with the provisions of section 38 of the Constitution and shall to that extent be considered as null and void.

The very nature of the Nigerian state and the struggle for state power contribute immensely to the spate of ethnic and religious conflicts in Nigeria. The overbearing nature of the state, both in creating the conditions of accumulation and in the accumulation process itself, thus making the state a coveted prize to be won, not only by the various class factions but also by members of their ethnic group who may be made

to perceive an ethnic cause. The result of this is that the struggle for state power may be wrongly or correctly perceived in ethnic and religious terms. Given the character of the pre-existing inter-ethnic relations, it is easy to understand why the contestation for state power tends to assume this form. Thus, the adoption and practical implementation of the Sharia in some States of the country has led to massive destruction of lives and property. Sharia can be interpreted from the standpoint of the Muslim faithful as a divinely ordained code of conduct that must guide every Muslim faithful towards a more practical expression of his or her religious belief on earth and capable of attracting divine favour in heaven. Orthodoxically, to declare a Sharia State, there must be an Islamic environment in place. Under the current democratic dispensation, it is not possible to have an Islamic environment in the light of the provision of section 10 of the 1999 Constitution which states that the Federal Government or the State Government shall not adopt any religion as a State Religion. In modern society, punishment such as amputation of limbs or any part of the body have become archaic and mundane to human existence.

Amputating a person's limbs or any part of the body will amount to torture, inhuman, and degrading treatment. Thus, national and international instruments of human rights prohibit the subjection of a person to torture, inhuman or degrading treatment. Bauchi State is a multi-religious State with Islam and Christianity being the predominant religions. Thus, Sharia is based on Islamic culture and it is not possible to copy a legal system of a different culture and impose same on another without social disorder. The massive destruction of lives and property in the States that adopted Sharia legal system were the result of a slavish copying of the Islamic culture, social, political and economic system. Consequently, the point must be highlighted that the adoption and implementation of the Sharia in Bauchi State as a complete legal system will mean the imposition of Islamic culture. If it is allowed, we may not be able to escape from the downward drift of political, economic and social disintegration.

In Bauchi State, the ruling class remains as yet undefined. For instance, the Zamfara State that first introduced the Sharia legal system stated that the introduction of the Sharia law in the State was aimed at curbing the high rate of crime, moral decadence and anti-social behaviours which were on the increase in the State. When we talk of transformation whether of economy or government and in the case of Bauchi State wanting to introduce the Sharia legal system, social and moral values, we are referring to action within the framework of the Nigerian state and the leaders. Because the leaders remain as yet undefined the proposed introduction of the Sharia legal system is not backed up by any philosophy of common identity and community. The Sharia legal system lacks a philosophical foundation beyond the general platitudes. Furthermore, the political class is hypocritical about institutions, concepts and ideas, which it adopts without clear understanding of the philosophy, origins and *raison d'être*. In countries where Sharia legal system is practised, the leaders are chosen based on personal credibility and integrity. The present leadership in Bauchi State was brought about through election, solicited by the leaders. The political class as presently constituted has no moral or legal basis for introducing the Sharia legal system. Additionally the political class is venal and ambivalent about the principles, rules and procedures which become subordinated to material gain and sectional loyalty. Furthermore, the political class is dominated by pragmatic convenience, chop-chop government and politics and a

patronising view of the people and their capo [sic] as opposed to promoting genuine schemes to create wealth and welfare for the people. More fundamentally, the political class is shipwrecked by a total loss of credibility with the people because it is subservient to environmental factors inimical to the consolidation of the State and its efficacy.

The political class because of lack of credibility now get deeply involved in sectional pursuits and religious manipulation of institutions and office. The foregoing observations about the character of the political class in Nigeria are meant to elicit the point earlier made that the Sharia legal system as it is presently being agitated lacks a philosophical foundation beyond the general platitudes.

MY STAND ON THE SHARIA IN BAUCHI STATE

As a patriotic son of Bauchi State that loves Bauchi State, I have been keenly observing the sound and the fury generated by Sharia in Kaduna State and of recent in Gombe State. I should hasten to say that the ember fanned so far is capable of initiating a national fury of catastrophic proportion. In the end, it might be discovered too late that the issues are a wind of ill will that blows no good.

First, let me put it on record that I do not see why the proponents of the Sharia legal system in Bauchi State cannot understand why the rest of the people misunderstand them. With a due sense of responsibility, I like to ask the following questions:

- (1) are the proponents of the Sharia legal system aware that their rights end where other men's rights begin?
- (2) is it considered right to use the sacred name of God or Allah to generate bitterness and untold anguish for other men in a society like Nigeria?
- (3) is it pure religion to force or land-lock other men on the issue of faith by a process of legislative fiat?

For a man to assume that it is within the framework of his rights to ignore other people's rights is a prerogative of madness. I venture to declare that it is contentious, retroactive and oppressive for a State in the Federal Republic of Nigeria to rule and/or convict citizens on the basis of a religious law in a free, secular, multi-religious, multi-ethnic and multi-cultural society like Bauchi State. Consequently, where such is in practice, it is an act of imposition, a severe oppression and a calculated injustice which in well considered opinions may inevitably draw the full wrath of both God and man upon those few selfish, insensitive proponents of the Sharia.

Let it be said clearly that every Muslim in his private capacity has a full right to practise his religion to the fullest dictations of Islamic religion just like the Christians do. Thus, any excuse for legislation at State levels that imposes Sharia on non-Muslims as we now see in the Sharia States where Christians are being molested and harassed is a deceit. If anybody is happy, languorous or feeling fulfilled at this development he or she should check his or her conscience and be sure that he or she is smiling at the burial of his liberty. I am a Christian, but that is just by the way. I will never wish to rejoice at the oppression of my fellow human being, most especially in the name of God.

Most sincerely, I like to state that the whole gamut of religiosity occasioning elaborate fanfare for the implementation of the Sharia is a political ploy to hoodwink unsuspecting people into believing that the proponents of the Sharia are pure God-

loving people. I do know that the proponents of the Sharia are self-serving conspirators who are bent on using “political religion” in a sleight-of-arm fashion to mislead and to hold onto the reigns of governance. Now whatever is not founded on truth, justice and fair play will not stand.

If every Nigerian advocates for a State back-up of their individual rights to be governed by the customs or canons of their religions, it will be obvious to every sincere mind that the anarchy, which such arrangement will generate, cannot be within the framework of any constitutional provisions. When anyone uses his rights to exclude the rights of other men of equal status such a man is hyper-fanatic and is assuming that might is preferred above right. Consequently, it is such an incredible blackmail to use the name of the Almighty God to oppress the liberty of fellow human beings with impunity and reckless abandon.

If in all sincere contents, the Sharia proponents are advocating for Muslims to be fully covered by the provisions of the Qur’an, then in pursuance of their fundamental rights they should vigorously advocate for this in the mosque. Under such an arrangement, only a compound fool can raise an eyebrow since nobody is forced to worship in mosques.

Religion is a strictly personal matter and any attempt to make it an enforceable State affair will adulterate it. Then, it becomes a political religion, which neither serves the purpose of God nor meets the need of mankind. Thus, only a cabal in a discredited self-willed dynasty or aristocratic oligarchy could benefit from an arrangement such as this and they do so on the crests of ignorance in the masses.

CONCLUSION

In conclusion, I make bold to state as follows:

- (1) that I am highly opposable to the implementation of the Sharia legal system beyond the personal status accorded to it by the 1999 Constitution.
- (2) that Bauchi State is composed of various segregated ethnic nationalities that are divided by wide fundamental differences of culture, religion and languages.
- (3) that there is no enabling environment for an effective implementation of the Sharia legal system given the character and nature of the current political system in Nigeria.
- (4) that religion is a matter of personal affair. Thus, any attempt to make it an enforceable State affair will adulterate it.
- (5) that the political class or the leadership in the State remains as yet undefined, venal and ambivalent about principles and rules.

In the main, I fervently pray that Allah in His infinite goodness will guide and direct the members of this Committee so that they will come out with resolutions that will be favourable to the consolidation of Bauchi State and its efficacy.

May God help us all.

Thanks,

(sgd)

Dr. SYLVESTER S. SHIKYIL

(15) From Alhaji M.K. Ahmed,
Secretary General of the Nigeria Pilgrims' Welfare Association, Kano

NIGERIAN PILGRIMS WELFARE ASSOCIATION
KUNGIYAR TAIMAKON ALHAZAI

P.O. BOX 259, KANO NIGERIA

WHAT IS SHARIA IN ISLAMIC TERMINOLOGY ?
BY ALHAJI M.K. AHMED, SECRETARY GENERAL OF THE NIGERIA
PILGRIMS WELFARE ASSOCIATION/KUNGIYAR TAIMAKON ALHAZAI
AND SARKIN YAKIN LOKOJA

Insha Allah (God's willing) Kano State will join other States in the country particularly the northern States in introducing the Sharia system, many people including the Muslims had developed cold legs how Kano State could introduce such system at this critical time, with God everything is possible.

Sharia is Islam itself, I know the system was on even before the arrival of the white men to this country. The non-Muslims were not happy for the introduction of Sharia system in this country, the Muslims are saying Sharia does not affect non-Muslims, at the end Zamfara and those States now in the Sharia club are doing it very successfully, so it will continue.

WHAT IS SHARIA?

Really, Sharia is part of Islam, literally in Arabic it means in the Islamic terminology as follows:

It is the path not only leading to Allah, the Most High, but the path believed by all Muslims to be the path shown by Allah, the Creator Himself to His Messenger, Prophet Muhammad, (peace and the blessing of Allah be upon him). In Islam, Allah alone is the sovereign and it is He who has the right to ordain a path for guidance of mankind. Thus it is only Sharia that liberates man from servitude to other than Allah. This is the only reason why Muslims are obliged to strive for the implementation of that path, and no other path.

THE FEAR OF NON-MUSLIMS

In a Muslim state, the non-Muslims often get mixed up what the system may do to them later, despite their long domicile in that particular state where Sharia is practised. The Holy Qur'an says in part:

O people of the Book (both Christians and Jews) come to common terms as between us and you that we worship none but God; that we associate no partners with Him ... Qur'an 3:64.

In the Islamic religion and also the Christian faith it has provided punishment to those who go against its teachings, below are a few examples as stated in the Christian Bible.

WHAT THE BIBLE SAYS ABOUT THE PUNISHMENT

On those that commit adultery, the Bible says in parts:

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- (i) If a man be found lying with a woman married to a husband then they shall both of them should die... Deuteronomy 22: 22-24.

The same is applicable for fornication, though, the Revised Standard Bible also reported the same in a different way meaning the same like this:

- (ii) If a man is found lying with the WIFE of another man, both of them shall die.

On homosexuality, the Christian Bible told us the punishment to be given or meted to each person is:

- (iii) If a man lies with a male as with a woman both of them have committed an abomination they shall be put to death. Lev. 20: 13

On the other crimes as stated in the Bible which includes the following headings:

- (iv) On stealing read Deut. 5:19. On drunkenness Deut. 21:20-21. On murder Gen. 9:6, see also Num. 35:30. On usury read Exo. 22:25. On false witness, Deut. 5:20. On lying see Leviticus 19:11, and belief in oneness of one God, read the book of Isaiah 43:10-12.

The Holy Qur'an warned us of our friendship with unbelievers, it says:

O ye who believe take not for friends and protectors those who take your religion for a mockery or sport, whether among those who received the scripture before you, or among those who reject faith but fear ye God if ye have faith. Qur'an 5:57.

One can read more or identical in the Holy Qur'an and the saying of the Prophet Muhammad (peace of Allah be upon him). It is lack of understanding that makes or gives bad interpretations to the Holy Qur'an.

These are a few examples to bring those who do not understand the religion. They read their scripture with red glass. Muslims respect the adherent of another religion as a carrier of *din al-fitrah*. The Muslim does not look upon the non-Muslim as a fallen, hopeless creature, but as a perfect man capable to himself of achieving the highest righteousness.

Together with this dignity, Muslims believe that non-Muslims [have] what Islam calls *din al-fitrah* or natural religion "senses numinous" by which man recognises God as transcendent and holy and hence worthy of adoration. We all shall assemble on that day before God and account for our duties as contained in the Holy Qur'an, it says:

On that day (Day of Judgment) men will come forth in sundry bodies as that they may be shown their works. So he who does an atom's weight of good will see it and he who does an atom's weight of evil will see it. Qur'an 99:6-8.

EQUAL TREATMENT UNDER SHARIA

The social-political scheme of Islam aims at justice for Muslims and non-Muslims alike and the desire of Muslims to establish the Sharia as some States in the north are doing now which within few days or hours (Wednesday 21st June 200) Kano State will join the club or group of Sharia *insha* Allah. The Holy Qur'an makes it obligatory to provide

justice for all people and under freedom of Sharia non-Muslims enjoy freedom of religion and religious worship, the freedom to maintain their own languages and customs and open their own schools, their right of life, honour, privacy and free movement. The Sharia system has guarantees of freedom from arbitrary arrests and detention, the right of peaceful assembly and association, freedom of expression. The right of non-Muslims to property, all personal matters of non-Muslims are to be decided in accordance with their own personal law, the Sharia system is not to be enforced on them. If something is forbidden to Muslims but allowed in their religion then they will have the right to use that thing. This has been the rule since the time of the Holy Prophet (peace be upon Him) the non-Muslims are given the fullest freedom in performance of their religious rites.

During the time of Caliph Umar (RA) he noticed a non-Muslim begging, he fixed a pension for him at the *baitilmal* (treasury), he further said.

By God it is undoubtedly not just that we derive benefit from a person in his prime of his youth but leave him to beg in the streets when he is stricken with old age.

EQUAL SECURITY

Non-Muslims enjoy [freedom] and equal justice under the Sharia government as just stated above, when a non-Muslim was begging in the street of Madinah, the Caliph authorised that he should be given pension. Under Sharia no distinction of race, religion, citizenship, economic or social status or personal capabilities can ever obliterate the rights of a non-Muslim.

The Muslims should not hate or speak offensive words to non-Muslims, the Muslims are duty-bound to spare their hands and tongues from hunting the non-Muslim.

PROTECTION BY SHARIA STATE

The fundamental rights of non-Muslims, according to the Sharia are their protection from all external threats, protect them from tyranny and persecution and right to own their personal law according to their teachings. It is the duty of the state cum the head of state and those in power no matter the faith they belong should look after the welfare of non-Muslims. The most important protection to be accorded to non-Muslims in any state where Sharia system is operating is to protect the non-Muslims from internal highhandedness, persecution, tyranny and injustice.

CONCLUSION

My appeal goes to the Muslim organisations in the State and other States that are joining this system behind to be more serious for educating the public on Sharia system. Time will not permit me to write more on how Sharia is being practised in other countries. In my memo sent to both Kano State Government and the speaker of the Kano State House of Assembly few months ago, immediately the issue of Sharia was discussed in the House, I also sent similar to the Governors of Zamfara and Sokoto States, in it I explained vividly the system including how or what colour of *hijab* for married woman could use, schoolgirls, colour of *hijab* for non-government schools. On the system of transport this too was discussed in the details. Zamfara State is now using almost separate transport for males and females, very soon Kano State Government may

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introduce separate transport, taxi for males and females. Our present alqalis (judges) could be given re-orientation how to face this challenge.

I pray to Allah (SWT) to give us peace, understanding to face this Sharia. Amin.

18th June, 2000.

Kano

(16) From Isma'il Tahir, Dambam Local Government

Translated from the Hausa by Ahmed S. Garba

Ismaila Tahir, Dambam Local Government

Bauchi State

25th July, 2000

Sharia Committee

Assalamu alaikum,

To the Committee for the Implementation of Sharia, Bauchi State. After respectful and obedient greetings. I wish to register my support for you on this gigantic work given to you and pray for Allah's mercy and success for you.

Here are my suggestions:

1. I suggest that Aid Group members of Islamic organisations be included in the affairs of Sharia. In my opinion, they will assist a great deal in the area of protecting the people and their wealth like they did in Zamfara State.
2. Further, this Committee should pay a visit to Zamfara State, to see the Governor of Zamfara State and the members of its State House of Assembly, but separately. That is, see the Governor first and then the honourable members of the House.

Lastly, I pray for Allah's mercy for you and I strongly suggest that His Excellency the Executive Governor of Bauchi State should appoint the appropriate people. May Allah grant him mercy. Amin.

Wassalamu Alaikum,

(sgd)

Ismaila Tahir

My profession is farming.

From Dambam Local Government Area, Bauchi State

(17) From Abdullahi A. Sabiu

Translated from the Hausa by Ahmed S. Garba

IN THE NAME OF ALLAH, THE BENEFICENT, THE MERCIFUL
SUGGESTIONS SUBMITTED TO THE SHARIA COMMITTEE

1. The Nigerian Constitution should be substituted with the glorious Qur'an and the Hadith without effecting any change in them as mentioned in the terms of reference.
2. Islamic preaching and education should take 70% of television and radio programmes of the State.

3. The Government should, with immediate effect, appoint both male and female preachers with a view to sending them to markets, residential houses, mosques and villages to educate people on the aims of Sharia implementation.
4. Government should buy machines with immediate effect for the purpose of providing transport for women only.
5. Government should establish a commission that will put an end to such social menaces as drinking of alcohol, prostitution, prohibited contributions (monetary or otherwise) particularly during marriage of a person.
6. Government should put in place with immediate effect a committee for the purpose of paying attention to places where grain is sold, and abattoirs. They should be provided with the correct scales for weighing. In addition, tomato sellers, orange sellers, etc. should not be forgotten either.
7. Government should with immediate effect close all video houses and shops where drama cassettes are sold. Further, strict measures should be taken against cinema houses too.
8. Government should with immediate effect bring an end to co-education. Before the end of this year boys and girls should be educated separately.

Your brother.

(sgd)

Abu Sulaib Abdullahi A. Sadia

5-8-2000

**18. From Hon. (Alh.) Hamza Maikudi Gawo, Executive Chairman,
Warji Local Government Council, Bauchi State**

BAUCHI STATE OF NIGERIA
WARJI LOCAL GOVERNMENT
Office of the Executive Chairman

Ref: _____

Date: 19 July, 2000

Sharia Implementation Committee
C/o Women Development Centre,
Formerly N.R.C. Secretariat
Federal Lowcost, Bauchi

A MEMORANDUM SUBMITTED TO THE COMMITTEE ON
THE IMPLEMENTATION OF SHARIA IN BAUCHI STATE
BY HONOURABLE (ALH.) HAMZA MAIKUDI GAWO,
EXECUTIVE CHAIRMAN, WARJI LOCAL GOVERNMENT COUNCIL,
BAUCHI STATE

BISMILLAHIR-RAHMANIR-RAHIM¹⁹

¹⁹ "In the name of Allah, most beneficent, most merciful."

Preamble. Sharia is said to be a universal system that covers the entire life-system of the earth pointing out the “dos” and “don’ts” that emanate from the creator (Allah). Sharia from the Islamic perspective is a legal system that draws its strength from three (3) sources namely: The Qur’an, The Traditions of the Prophet of Islam, Muhammad (PBUH)²⁰ and the *ijma* (consensus of the learned). Having stated the pivot of the Sharia, I wish to make the following submission for the successful implementation of the Islamic legal system in Bauchi State.

1. On the premise of the terms of reference (TOR) of the Committee Part I(B) I wish to state that Islam is known to be a total submission to the will of Allah (SWT) who as a creator of all beings, deserves to give orders and be obeyed unequivocally. It is in this light that I will call for the total implementation of Sharia legal system in all facets of our social system. Therefore, there should be an overhaul in our economic system, cultural and in all other forms of operational paradigms to conform to Islamic ideals.
2. Also in accordance with Part II(C) I wish to suggest that Bauchi State Government as well as all the Local Governments in the State should create a welfare package to cater for the basic needs of the unemployed, till such a time they are either rehabilitated through the economic structure put in place or through their initiatives.
3. Likewise, in accordance with Part II(B) of the TOR of the Committee I wish to suggest that those with authority should be mindful of the near-absence of Bauchi State indigenes in some Federal establishments, most especially in the military and paramilitary sectors. Lack of paper qualification always tends to be our nemesis. I would rather suggest that at the time for recruitment into these sectors, our leaders should bear on the authorities that be to lower such criteria for recruitment in consideration of our disadvantaged position to only include those that can read and write, with the required height, physique and mental balance so long as the candidate is a Muslim.
4. With reference to part II(A) of the TOR, I strongly feel that poverty is the principal factor behind most of the social ills bedevilling our societies, including prostitution. However, these vices can be checked when there is even distribution of social services to the populace by the State and Local Government administrations. One advantage of such distribution is the empowerment of the family economically.
5. As a form of integrating the machinery of governance to conform to the Sharia legal system, the State Ministry of Finance should be empowered to collect and disburse *zakat* in accordance with the Islamic injunction. The Ministry may establish a board that could be charged with establishing the sources of wealth of individuals, keeping records of businesses/transactions to allow for ease of reference (computation etc.) towards a factual assessment.

However, I am not of the opinion that the board should serve as a surveillance apparatus, but that a harmonious working relationship should be established between citizens and the board for such exercise. Individuals should be free to provide information to the board while the board may seek to verify certain things with individuals with a view to providing suggestions where necessary for the smooth running of the parastatals. Transparency should be the watchword. This conforms with part II(C) of the TOR.

²⁰ “Peace be upon him.”

6. In alliance with part II(D) I wish to suggest that the creation of a Ministry of Islamic Affairs by the State Government to guide the Sharia implementation will be a step in the right direction. However, the Council of Ulama (Shura) should come under the umbrella of this ministry. The council should be vested with such powers as to the screening of candidates for elective posts, must also serve as an advisory body to the Bauchi State legislative assembly and the Government on issues of State concern.

7. In compliance with part II(B) of the TOR of the Committee I wish to suggest that Bauchi State Government and the Local Government Councils should undertake the training of Islamic scholars as well as placing them on salaries. This policy should permeate to reach the imams of our various mosques. It will be a step in the right direction towards alleviating their economic status, thus encouraging them to be mindful in the fulfilment of their obligation to the society of nurturing its spiritual being. The State Government should also establish an institution solely for training female students in teaching line and medicine to cater for the womenfolk as prescribed by Islamic tenets.

8. Section 278 of the Constitution of the Federal Republic of Nigeria which relates to the jurisdiction of the Sharia Court of Appeal of a State should be more pronounced where the salient "... any law" caters for the provision where criminal offences will be entertained.

This suggestion arose out of the knowledge that the provision of personal laws cannot be divorced from criminal laws in the life of a Muslim and Muslim society. Therefore appropriate amendment of the provision will provide Bauchi State with a complete Islamic outlook. This is in consonance with part I(B) of the TOR of the Committee.

9. However, I would also suggest to the Committee on the Implementation of the Sharia in Bauchi State the following in spite of the fact that they may be out of the Committee's constitutional jurisdiction.

- i) Leaders should render selfless service when conducting the affairs of the State and the Local Governments by considering the needs of their subjects first before self. A machinery should therefore be put in place to checkmate leadership lapses in this regard.
- ii) The check the State Government has on Local Government executives on excess spending should be lifted to allow councils do the bidding of their populace unhindered. However, the State Government should observe developments and advise accordingly. Amongst the developmental efforts Local Government Councils should embark upon are the building of mosques and religious institutions. Such efforts will reduce the recurring wrangling between sects over the ownership of such establishments.
- iii) The Bauchi State Government should be joining funds monthly with each of the Local Government Councils to execute viable projects in the councils and be supervised by the State Government regularly. Such projects will have direct bearing on the local communities and the State Government will also be seen to be doing what is rightly desired for the programmes will have root concept.
- iv) Ill-gotten wealth should be retrieved from corrupt public servants in the State and such money be judiciously managed for the benefit of the populace.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

I wish the Committee a successful deliberation and also pray that Allah (SWT) give us the courage to do His bidding and may we enjoy the benefit derived from such worthy efforts here and in the hereafter, AMEEN!

(sgd)

Hon.(Alh.) Hamza Maikudi Gawo
Executive Chairman, Warji Local Government Council,
Bauchi State, Nigeria.

(19) From Christian Association of Nigeria (CAN), Bauchi State Branch

CHRISTIAN ASSOCIATION OF NIGERIA
Bauchi State Branch
C/o P.O. Box 225, Bauchi
25433, 543729

Your Ref: _____ Our Ref: _____ Date: _____

“That all may be one” John 17:21

CHRISTIAN ASSOCIATION OF NIGERIA BAUCHI STATE CHAPTER AND
THE IMPLEMENTATION OF SHARIA LEGAL SYSTEM IN BAUCHI STATE

Gentlemen of the Press,

The Christian Association of Nigeria Bauchi State Chapter at its meeting held on 17th July, 2000 at Bauchi unanimously resolved and do hereby make the following statements on the move to implement full Sharia legal system in Bauchi State.

1. The Christian Association of Nigeria expresses its disgust over the purported appointment of its Chairman as a member of the Sharia Implementation Committee. The Association views this as a deliberate and calculated attempt to give legitimacy and impression to the general public that Christians were represented in the so-called Implementation Committee. We ask what role has one Christian got to play in the midst of 30 Muslim members of the Committee who have already been given the mandate to implement to the letter full Sharia law in Bauchi State.
2. The Association therefore views the appointment not only as an insult to Christians but a deliberate ploy to denigrate the integrity of its Chairman and the entire Christian community. Accordingly, on behalf of myself, my family and the Christian community of Bauchi State, I hereby disassociate myself from that Committee and state clearly that its deliberations, resolutions and recommendations are neither binding upon me or on the Christians of Bauchi State.
3. Let it be noted that the Christian Association of Nigeria, Bauchi State Chapter has at any given time presented its total opposition to the full implementation and or extension of the Sharia legal system beyond the scope provided in the Constitution. We refer to our memo submitted to the Bauchi State House of Assembly Committee on introduction of Sharia dated 26th January, 2000 and the petition against the proposed introduction of Sharia in Bauchi State dated 4th November, 1999 and addressed to the Hon. Speaker, Bauchi State House of Assembly.

4. Among other reasons our memo of 26th January, 2000 highlighted our major opposition to the implementation of the Sharia and how it would affect Christians, as follows:

(a) It is a fundamental and indeed the only duty of a Christian to make disciples for Jesus Christ from all manners of people including Muslims. See Mathew 28:19-20; Mark 16:15-16, etc.

There is no doubting the fact that the full implementation of the Sharia would curtail this Biblical injunction and also violate section 38(1) of the 1999 Constitution. In Sharia law any Muslim who converts to Christianity is deemed an apostate and his punishment is death. When you kill such a person who has been converted, are you killing a Muslim or a Christian?

(b) Under Sharia law Muslims are considered superior to Christians and other non-Muslims and would thus not be allowed land to build their places of worship nor would they be allowed to assume public positions contrary to the express provision of S. 42(1) and 5.43 [sic: ?] of the 1999 Constitution which forbids discrimination on ground of religion.

(c) S. 42(1) would also be infringed in the following areas:

- (i) Under Sharia a Christian is worth half a Muslim when death compensation is paid.
- (ii) A Christian cannot inherit a Muslim father or father his son.
- (iii) Muslims can marry Christian girls but our boys cannot marry Muslim girls.
- (iv) Under Sharia law a single Muslim witness is equal to three Christian witnesses in a dispute.
- (v) A Christian can neither be a Sharia judge or a chief judge in State where full Sharia is in application.
- (vi) Disputes between Christians can be treated in the common courts but disputes between Christians and Muslims are usually taken to Islamic courts. This is potential area of serious conflict, as violence has been known to erupt in the past as a result of this.

5. The Christian community is always a peaceful society as our religion is that of peace. In fact, our Lord [is] “THE PRINCE OF PEACE”. However, let it be known that we have the capacity and the will to ensure that our God-given rights are not trampled upon with impunity. We shall resist by all means at our disposal any implementation of the Sharia that would derogate from our constitutionally provided and protected rights both as individuals and as a community. There should under no guise or circumstance be any provision in the Sharia code that would subject any Christian before the Sharia Courts for whatever reason whatever, specifically Christians oppose any provision in the code that would provide that a Christian that has given his consent in writing can appear before those courts. If the implementation must go on then it must be specified be on record that a Christian shall not voluntarily consent to appear before those courts. We say this because this provision had been subject of grave abuse against Christians and non-Muslims in the past.

Proofs of criminal offences are difficult to determine under Sharia legal system.

EXAMPLES:

- (a) There is no specific law in Sharia against embezzlement and armed robbery.
- (b) Incomplete stealing does not attract punishment. According to Abu Hanifa, one of the greatest four Sharia interpreters:

If a man enters a house, takes a TV set and passes it over to his mate through the window, this is incomplete stealing, and it is not punishable.

- (c) There is no punishment for man-stealing one Abdar-Rahaman says: If a person steals a free child no punishment. But if the child wears some jewellery and is stolen, is punishable.

(d) **Divorce:** It is the woman that is always the victim. Only the man has the right to initiate divorce under Sharia, the man does not have to go to court to divorce. If the man feels to divorce his wife, he simply raises his hand up and repeats "I divorce you" three times. That ends the marriage.

(e) **Adultery under Sharia:** The real problem of adultery under Sharia, first the Glorious Qur'an allows a Muslim man to marry four wives, in attempt not to go beyond, some Muslims make frequent divorce which is one of the factors increasing number of prostitutes.

(f) How to convict an adulterer under Sharia is difficult. The Sharia says when a woman is accused of committing adultery, there must be four eye witnesses in the Sharia Court to establish the case. The obvious problem is that all adulteries are done in secret behind lock and key. Hardly can anyone ever be an eye witness to the very act of adultery (and these witnesses must be male Muslims). From this, one can easily understand Sharia does not prevent or discourage adultery in our modern society.

(g) The issue of judgment and judges under Sharia legal system. There are conflicts about how to deal with adulterer under Sharia:

Sura 4:15 of the Glorious Qur'an says – life imprisonment.

Sura 24:2 says – beaten hundred times.

Qur'anic text – *ayatul rajm* – says – stoning.

The question of who are judges? Are the judges not sinners (Jh. 8:1-11).

(h) **The issue of Prostitution:** Saudi Arabian Government wrote a letter to Nigerian Foreign Affairs office protesting against Nigerian prostitutes in the Holy Land of Islam. But who are the clients of these prostitutes in Saudi? Are they Nigerians or Arabians. What was done them?

Dr. Mohammed Al-Hilali and Muhsin Kahn commenting on this say: There is a practice in traditional Islam called *mut'a*. It is temporary marriage. It is an arrangement between a man and a woman, preferably a virgin, divorcee or widow in which the parties specify in advance the period that relationship shall last and the amount of money to be paid by the man. *Mut'a* marriage involves a man hiring a woman for a specific amount of money for a certain period of time to have sex with her. That is why the words adultery,

fornication and prostitution are difficult to define and to determine under the Sharia legal system.

(i) **Women witnesses under Sharia:** Under Sharia legal system, women are not considered intellectual enough to be a witness in a law court. Woman is generally excluded from testifying for serious crimes like: rape, adultery, theft or murder. Woman must not be seen in the same vehicle with males. In places like Saudi Arabia, a woman must not even drive a car. Only women who are veiled are considered and only such to be carried in the special women buses, taxis cars.

(j) The Islamic Sharia, the Jewish law and Christian gospel, which is stronger? The Jewish law says: “Thou shall not commit adultery” (Ex 20:4). The Glorious Qur’an says you cannot call anybody adulterer until there are four eye witnesses.

The gospel says: “If you look at a woman lustfully, you have already committed adultery with her” (Mat. 5:21-22). The gospel is stronger. The gospel deals with prevention while the two deal with cure. Prevention is better than cure (John 8:1-11).

(k) **Sharia and democracy:** All the elected officers in the country were elected by democracy process. None of the political parties included Sharia in their manifestos. The Glorious Qur’an does not recognise Nigerian democracy process. Now the big question is “What happened to the Muslims who have died under pagan constitution? Were they Muslims or disbelievers?”

Section 10 of the present Constitution of the Federal Republic of Nigeria states very clearly that no State in the Federation shall declare a religion as her own. To declare a religion as a State Religion simply means to begin to rule according to the dictate of that religion. Contrary to section 38(1) and section 42(1) of the 1999 Nigerian Constitution.

We call on our Muslim brothers to put the fear of God first in whatever they do and to refrain from looking [at] Christians as their enemies. We also use this opportunity to call on our Christian brothers to remain calm and go about their normal business without fear of molestation. We urge them to continue to pray to our Lord who has the wisdom to solve this problem and bring peace on our land.

Long Live Bauchi State.

Long Live the Federal Republic of Nigeria.

Thank you and God bless.

(sgd) _____
Rev Dauda Marafa
CAN Chairman
Bauchi State

(sgd) _____
Mr. Iliya Hassan
CAN Secretary

CC:

The President of the Federal Republic of Nigeria
The Executive Governor of Bauchi State
The Attorney-General & Commissioner for Justice, Bauchi State
The Commandant ACCS, Bauchi
The Brigade Commander, 33 Field Artillery Brigade, Bauchi

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

The Commissioner of Police, Bauchi State
The Director, SSS Bauchi State
The National CAN President
The Chairman, Bauchi State Council of Chiefs, Bauchi State
The Chairmen, 19 Northern States
The Chairmen, 20 Local Governments of Bauchi State

(20) From Abubakar Yunus

Translated from the Arabic by Ahmed S. Garba

In the Name of Allah, most merciful.

Praise be to Allah, Lord of the world. May the peace and blessings of Allah be upon Prophet Muhammad (SAW), the seal of all prophets of Islam.

After that, I have questions as follows:

1. With what has this Sharia Committee come to us?
2. If in their programme, suggestions are required, then our suggestions are as follows:
 - a. Before implementing Sharia, Muslims should be united based on the saying of Allah in the Qur'an: "Hold on to the rope of Allah and do not be divided."
 - b. Before implementing Sharia, on whom is it going to be applied? We have so many organisations excommunicating each other. Have they stopped? Or are they still doing it? If they do not stop then Sharia will have nothing to do with them. Therefore, we should look for those on whom Sharia is to be applied. But if they are in love with Sharia, then they should stop excommunicating each other for the implementation of Sharia.
 - c. One organisation should be formed in order to unite the Muslims. There is Izala, JNI, Jundullahi Fityanul Islam, Shi'a, Da'wa Ilal Allah, Ahmaddiyah. One should be selected out of these seven organisations.
3. All mosques should be made to be one not minding whether Izala or otherwise.
4. People thought that Sharia is only in court. Is it true? If not, people should be informed that Sharia is in one's house throughout his life.
5. If people understand this and are using it, then they will have implemented Sharia.
6. Is it provided that prostitutes be shown the way out? What do we do with homosexuals, do we send them away?
7. Lastly, Allah said: "He whom Allah guides, he indeed is the guided one. He who is not guided by Allah, no one else can guide him." Allah again said: etc.
8. Fifty years ago, our courts wrote in Arabic, and Arabic was used in writing tax receipts. Are we doing it now?

Peace be upon you.

(sgd)

Abubakar Yunus

**(21) From Idris Adamu Burga, Chairman of the Council of Ulama,
Tafawa Balewa**

Translated from the Hausa by Ahmed S. Garba

Kungiyar Izalatu Bid'a wa
Ikamatis Sunnah,²¹
T/Balewa.
21-7-2000

Committee for Sharia,
c/o Women Development Centre
Bauchi

Assalamu alaikum,

In view of the request for suggestions as regards the implementation of Sharia by the Committee on Sharia Implementation, we as members of the Council of Ulama [of Izala] from Tafawa Balewa present our suggestion as follows:

- a. Your Committee should meet with Izala's committees and their imams at the Local Government level.
- b. Most of the time, the imams at the mosques located at the gates to the Emirs' palaces do not get other organisations informed as regards any Islamic event or occasion. This is despite the saying of Allah in the Qur'an: "Hold fast to the rope of Allah and do not stand divided."
- c. Even the views of the non-Muslims should be sought.
- d. In addition, *ulamas* should be invited to go to every nook and cranny to educate people on Muslims' affairs and how to recognise such.

May peace be upon you.

Idris Adamu Burga
Chairman, Council of Ulama, T/Balewa

(22) From Umar Alhaji Maigari Gambali, Katagum Local Government

Translated from the Hausa by Ahmed S. Garba

MESSAGE TO THE SHARIA COMMITTEE

15-08-2000

*Bismillahi rahamanin rahim, wassalatu wassalamu a'la sayyidina Muhammadu wa'ala alibi, wasahabibi wasallam. Assalamu alaikum warahamatullahi ta'ala wabarakatuhu.*²²

I write this message purposely to the Committee for the Implementation of Sharia established by our State, the Bauchi State Government. I write in my capacity as a

²¹ The name of the organisation is a Hausa version of the Arabic *Jama'at Izalat al-Bid'a wa-Iqamat as-Sunnah*, Association for the Eradication of Innovations and the Establishment of the Sunnah, also known as 'Yan Izala or simply Izala. See memo no. 23.

²² "In the name of Allah, most beneficent. Peace and blessings of Allah be upon Muhammad, his family and his companions. Peace and blessings of Allah be upon you."

student hoping that my teachers will forgive me for all the mistakes, seeing the message contained. I hope that such mistakes will be corrected for me for the sake of the future.

Despite the fact that you know what I want to write about, I just want to write because of my love for Allah's reward and the encouragement given to us by the prophets, as regards contributing towards the promotion of our religion.

In view of this, I would like to remind you of certain things that are presently disturbing the Muslim *ummah* hoping that this Committee will provide us with a way forward in their reports to be submitted to the State Government. These are as follows:

1. Education. I want to say something about education because it is the foundation of all progress or development in life whether Islamic aspect or co-existence generally in this world.

A careful look today will reveal that 70% of us lack Islamic education and so we are backward. This has caused confusion and created backwardness in almost all our affairs. In the life of a Muslim, there is nothing he wants to do which is not related to his religion. Therefore, there is need for a Muslim to conduct his life in accordance with the laid down rules of Islam. It is because of this that I suggest the restructuring of the educational curriculum right from the grass roots. That is educating the younger ones efficiently. This will enable students to grow up with good Islamic behaviour. The youth also should be provided with opportunity to be educated. Why I am talking about children is because they are leaders of tomorrow.

Though in big cities, efforts are being made to correct the negative position of education, in other places such as the villages no such efforts have been recorded. Further, because of the decay in our society, you will discover that those educated do not put their education into practice. For example, you find that some top government officers possess Islamic education, but do not apply it in their lives. This has brought a big set-back to us.

Therefore, I suggest that this Committee should look into the problems of education everywhere, villages inclusive, where the decay is more pronounced, particularly that we heard that whatever this Committee recommends to the Government will be utilised toward the implementation of Sharia in the State.

Further, I urge the Committee to note the following:

- i. There is need for the State Government to establish Islamic schools in towns and villages and something substantial should be allocated for Islamic education.
- ii. Islamic education should be incorporated and be given a greater role in both primary and secondary schools so that children can grow up educated right from the grass root even apart from what they get in Qur'anic school.
- iii. In addition, adult education schools should be supported. Islamic education should form 50% of the syllabus if possible. Islamic adult education schools should be established for youths and it should be made compulsory on the youths in both villages and cities.

- iv. Seminars should be organised for the purpose of explaining to people what constitutes Sharia implementation and the need for them to seek Islamic education. Furthermore, everybody should be included in the exercise.

2. Marriage. This is also another gigantic affair which the Committee needs to look at because of its importance in the life of the Muslims. And now this issue has experienced a very serious decay. This is why I want the committee on education to look at its problems very well with a view to providing solutions.

If we look at it critically today we will see that almost all the religious rules governing marriage have been put aside and people have resorted to traditional ways and because of this, the institution of marriage is gradually becoming dilapidated. Furthermore, high financial demands imposed on marriage contribute towards the accumulation of so many unmarried youths. These youths have become used to visiting prostitutes in brothels, and the women on the other hand are there in high numbers with nobody to marry them, all because of the fear of the difficulties people impose in the way of getting married. Furthermore, there are some people who say that if there are no prostitutes, they will go to young girls without marriage in the society. Therefore, I hope this Committee will look into this problem with a view to coming up with solutions.

Furthermore, I urge this Committee to consider the following suggestions;

- i. There is need to put measures in place that will provide guidance in making marriage proposals in accordance with Islam in such a way that any person who wants to propose marriage will be able to follow them.
- ii. Rules governing marriage should be publicised for the sake of those who do not know and it should be made compulsory on all.
- iii. Educating the Muslim *ummah* on married life so that the problems of divorce can be minimised in our society.

Another thing that I want to talk about is the need to go to every nook and cranny of the State to get people informed about Sharia and how it is going to be implemented. Responsibility should be placed on all Local Government Council chairmen in this regard. This is because there are people who have not gotten the message particularly villagers who do not even listen to the radio, let alone watch television or read newspapers.

In addition, I want to inform this Committee that once Sharia is implemented, they should ensure that all those people likely to draw the process of implementation backward do not succeed. Some people are objecting to the implementation of Sharia. There are highly placed individuals in this category who even think that nobody can stop them from doing what they want to do any time, any where. Provisions should be made against these people by the Committee.

Further, it is usual to see a law operating in the cities but not in the villages. I therefore suggest that the Committee should consider these problems with a view to coming up with solutions.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

This is where I want to stop, hoping that you will forgive me for my mistakes. I urge you to consider these problems that I pointed out in my paper and those that I have not pointed out.

Bissalam.

From Umar Alhaji Maigari Gambalu
Katagum Local Government

(23) From Jama'atu Izalatil Bid'ah Wa'ikamatis Sunnah, Bauchi Local Government Branch

Translated from the Hausa by Ahmed S. Garba

Jama'atu Izalatil Bid'ah Wa'ikamatis Sunnah
The Islamic Organisation for Eradicating Innovation and Establishing Sunnah
BAUCHI LOCAL GOVERNMENT BRANCH – BAUCHI
COUNCIL OF ULAMA

P.O. Box 645
Tel. 077 543228
541062, 541398
GWALLAGA, BAUCHI

Our Ref: JIBWIS/BLG/MM/2/195
Your Ref: _____

11th Jimada Ula 1421
11th August 2000

The Chairman,
Committee for the Implementation of Sharia

Assalamu alaikum,

SUGGESTIONS FROM THE COUNCIL OF ULAMA (JIBWIS) BAUCHI LGA.

After Islamic greetings and hopes that you are well. This Council of one of the bodies in the forefront in support of the efforts being made towards the implementation of Sharia in this State, authorise me to pass some of its suggestions as regards some problems relating to making people aware of what your Committee is doing.

- a. The Council has observed that your Enlightenment Subcommittee is going round Local Government Areas and other gatherings based upon invitations from the Local Government Councils. But such invitations are inadequate compared to the number of people that need to be educated throughout Bauchi State.
- b. It is pertinent for the Enlightenment Subcommittee to have it at the back of their minds that the common people in Bauchi State are the ones that called for the implementation of Sharia before the State could see the need to satisfy the wishes of the people. But their efforts, coupled with their lack of experience in organising this kind of gathering, means that success depends solely on chance, because there are lots of weaknesses in the way things are arranged and people are invited.
- c. In view of these problems, the Council of Ulama feel that your Enlightenment Subcommittee should take the following steps towards explaining things to people :

- i. After sending to the District Head of the area they want to visit, they should take the responsibility of inviting all the people they want to the venue where they can interact freely with them. If there is need to meet with the heads privately, they can allocate time for this during the same period.
 - ii. It is necessary to create a programme for both TV and radio stations whereby interesting things about Sharia can be placed at the beginning, middle and at the end of the news.
 - iii. A particular radio programme should be initiated at a convenient time for the purpose of the implementation of Sharia just like the programme titled “*Hajjin Bana*” is being run so that wrongdoers will know that their time is up.
 - iv. The Committee, if it deems it fit, can use other religious organisations in the discharge of its responsibilities that specialise in organising gatherings for the purpose of preaching so that anywhere they go, their impact can be felt.
2. We hope that these suggestions will be helpful and may Allah grant us success in the implementation of Sharia on this earth.

Wassalamu alaikum,

(sgd)

Ilyasu Danjuma Bandas
Secretary

(24) From Mal. Abubakar Abdullah Wambai, Imam of the Cow Market, Bauchi

Translated from the Hausa by Ahmed S. Garba

In the name of Allah the beneficent, the most merciful. *Assalamu alaikum.*

CONTRIBUTION OF THE COW TRADERS OF BAUCHI ON THE
IMPLEMENTATION OF SHARIA

After Islamic greetings and in hopes that you are well, I pray that Allah may make the implementation of Sharia a success in Bauchi State and disgrace all its detractors. Amin.

I want to start with those things which this Committee should fight against among us with a view to encouraging the permissible (*halal*) and in discouraging the prohibited (*haram*), particularly because some of us are feeding on the prohibited things. Some people feed on *haram* with their knowledge while others don't know.

In this market, correction is needed in the following areas:

1. *Na kama* (“I take hold”)
2. Trade of brokerage and its conduct²³
3. Reduction of price after completion of transaction
4. Charging exorbitant prices.²⁴

²³ The author inserts after this heading another as follows: “Payment of commission and how it takes place”. This subject is discussed later under the heading “Trade of brokerage and its conduct”; a separate heading would confuse things.

²⁴ The Hausa expression used here and in the corresponding heading below is *sare kan ciniki*, which roughly means “cutting prices”, but this does not tally with the practice discussed.

These are the most prevalent problems in this market. Others will be presented in due course because we did not anticipate being asked for our views. I would explain them one after the other.

NA KAMA (“I take hold”)²⁵

This is a ploy by middlemen in the cow market designed to prevent others from transacting over the same cows. These middlemen are not in any way potential buyers themselves. They don’t buy the cows with their money; rather, they “take hold” of the cows in order to sell them on to real buyers; they make their profit by adding something to the price quoted by the original owner. Further, if a real potential buyer says the cow is expensive for him, whatever reduction the middlemen do, it will never affect them but only the original owner of the cow.

In sum, *na kama* is a business transaction in which these self-imposed middlemen “take hold” of cows pretending to buy them from the owner, but only pay the owner after selling to a real buyer. They prevent real buyers from dealing directly with the original owners. In all, any time they “take hold” of a cow, they must either be allowed to sell it themselves and make their profit or be given a commission after the sale even if they do not effect it.

There are three types of *na kama*:

1. Sitting at the main gate of the market to wait for the arrival of cows.
2. Sending agents to intercept cows on the way to the market.
3. Raising one’s voice to register wish to buy the cow by “taking hold” of it.

These are the most popular ways through which *na kama* operates to prevent potential buyers from buying directly from original owners.

Explanation:

1. Sitting at the main gate of the market to await the arrival of cows. This is intercepting the cows even before they get into the market and by so doing, preventing potential buyers from knowing the real price of the cows. As soon as the lorry carrying the cows enters the market, the middlemen will be shouting “*na kama!*” at the top of their voices, sending messages to all around that they are in charge and so anybody interested should meet them and discuss. If the transaction is profitable, they enjoy part of the profit, and if it turns out to be unprofitable, only the original owner suffers.
2. Sending agents to intercept cows on the way to the market. Here the middlemen, realising that they are too many in the market, stay aside and silently send their agents to intercept cows for them on the roads where there are high expectations of cows coming. As soon as such an agent sees any lorry coming with cows, he will stop it, showing his intention to the original owners by saying “*Na kama wa mai gida na*” meaning “I take hold for my principal.” By implication, when the cows reach the market, it is only through his principal that potential buyers can buy. If the ploy succeeds, the profit is divided between the principal and the agent.

²⁵ The practice discussed here was prohibited by at least one Local Government as part of its Sharia implementation process, see Chapter 3 of this work, Vol. III Part IV.8.d, Fika Local Government (Yobe State) law on certain market practices, slaughtering of certain animals, parties, duping, and the wearing of the hijab (2002), §3.

3. Raising one's voice to register wish to buy. In this case the middleman feels that he knows the original owner; based on this he "takes hold" of the cow and sells it for the price fixed by the owner plus his "commission". Even if a buyer would pay the price fixed by the owner, if the middleman's commission is not added he simply takes the cow back to the owner. All that matters to him is his profit and not the wish of the owner.

TRADE OF BROKERAGE AND ITS CONDUCT

"Trade of brokerage" means selling wares for someone else in exchange for a commission on sales. Today trade of brokerage has changed particularly that in our markets today, brokers are everywhere and permit no business to be transacted without them. In fact, they can divert goods and sell to a different buyer than the one initially agreed just because they feel they cannot get their usual commission.

Commission simply means the reward of brokerage. Today it has changed its position. Instead of collecting it from the owner of the goods out of the selling price, the brokers are adding it to the selling price and collecting it from the buyers, on whom it has become compulsory to pay.

Today people no longer fear doing what is prohibited (*haram*). These brokers depend solely on adding to the price of goods charged by the owner in order to make money. The permissibility or otherwise of such money in Islam is not their problem. And they have no pity for other people. May Allah protect us from this type of thinking. These people are always praying for an opportunity to add to the price of things in order to make money.

The brokers are collecting commission from the buyers of cows and because of it a particular transaction can be terminated contrary to the religion of Islam. This is because failure of the buyer to pay the commission added by the broker can lead to the termination of the transaction, the buyer's willingness to pay the owner's price notwithstanding. But today, brokers have entrenched this practice into business and have imposed their selfish attitude in the collection of commissions from the buyers. Sometimes it generates arguments between the buyers and the brokers as if it were a fresh transaction that is taking place between them.

In Islam, we know that the reward of exposing wares for sale is to be paid by the seller. The word *la'ada* (commission) means the reward for exposing somebody's wares for sale. It is always paid out of the selling price and is removed after payment is made. It is imperative for us to make an effort to liberate people from the new practice of adding the commission to the selling price and collecting it directly from the buyer. It is a prohibited transaction. Whoever collects this type of commission should know it is prohibited. He should stop doing it and should repent for those he collected in the past. "Allah is a forgiver of all sins."

REDUCTION AFTER

Some people, after buying somebody's cow or whatever, come back later to demand a reduction in the price and threaten to terminate the transaction if the seller refuses to agree.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

There is also a practice whereby a person buys two or three cows from somebody, makes a down payment, and undertakes to complete the payment later. But after slaughtering one of the cows and selling the meat, he comes back to the seller with the remaining ones saying that he no longer wants them, or demanding that the price be reduced, because according to him he suffered loss from the first one he slaughtered. Obviously, he has prevented the seller from selling to someone else, and now he too has refused to buy. This is not good. In some other instances, he will not come to the seller until after he has slaughtered all the cows and sold all the meat, and then on the date agreed for payment, he will come and complain that he has not profited from the transaction and that he has reduced so-and-so amount from the agreed price and that he will not pay the balance. This is contrary to Islam.

It is imperative to remind ourselves that we are in a confusion and we should ensure that we live in peace with one another. Don't deceive and you will not be deceived.

CHARGING EXORBITANT PRICES

This is a very difficult thing to deal with particularly in the area of identification. It is compulsory to identify it and ensure that people are restrained from practising it, for the purpose of peaceful co-existence and the need to survive on permissible things all the time.

The way this practice works, is that the owner of an animal increases its price far beyond what he paid for it, hoping to extract an unfairly high profit. This cannot be prevented by law, because it is a practice very difficult to track. The actual price the person bought for is not known. The only way to restrain him, if Allah wishes, is to give him very thorough counsel, by way of showing him the dangers of such practice.

CONCLUSION

The above are the main problems facing us and we hope that as the implementation of Sharia takes shape in this State, such practices will in time be wiped out. We know that with Sharia fully in place, such things will cease because they are harmful to both Islam and to Muslims.

I also appeal to the Committee to endeavour to visit this cow market in order to encourage people and enlighten them on the meaning of Sharia implementation and that it is high time to wake up and respond to the challenges facing Muslims every day.

I also urge this Committee to disregard comments people may make, whether good or bad, because of the gigantic nature of their work.

Further, it is also imperative for this Committee to ensure that they educate non-Muslims in the State over the functions of the Committee and the rationale behind implementing Sharia in the State. They should also educate them on the laws that are going to be imposed in the State and the people upon whom the laws are going to be applied.

It should be pointed out to them that this is a way by which peaceful co-existence can be ensured in Nigeria and the Muslims will live in peace with one another and will not oppress non-Muslims among them as Islamic law makes provision for peaceful

coexistence. Furthermore, this Sharia is a way through which our economy can be revived and all our markets will become purified.

As regards amputation of the hand for theft which is the main concern of non-Muslims not only in Bauchi State but in Nigeria, it should be pointed out to them that Sharia law will only affect Muslims and non-Muslims who agree to be judged by it.

I make these comments because there are people who are yet to know the aims of this initiative and I feel it is imperative on us to make them understand because it is an effort that will affect everybody. We Muslims must understand the kind of practices that are unbecoming of us and that we too must show outstanding sincerity.

The Committee again should enlighten the people on the challenges facing Islam. This opportunity should be used for that purpose. Muslims in the north should use this opportunity towards uniting Muslims and enlightening the non-Muslims to understand the peaceful nature of Islam so that they can put an end to the various condemnations of the religion of Islam.

I also urge this Committee to assist Muslim children towards having a deep knowledge of Western education because of its importance in the lives of Muslims today. And Muslims should repent and pray for Allah's guidance for the unity of Muslims.

In the end, I want to advise this Committee that it is important for them to understand the kind of progress we will record if our judges and imams focus on the truth all the time. This is only possible if they are able to stand firm and stay far away from falsehood.

Wassalam.

From Mal. Abubakar Abdullahi Wambai
Imam of the Cow Market, Bauchi

(25) From The Muslim Forum, College of Education, Azare

In the Name of Allah, Most Beneficial, Most Merciful

MUSLIM FORUM

COLLEGE OF EDUCATION AZARE

Shurah/Executive Council

P.M.B. 44

Azare, Bauchi State

Our Ref : COEA/MF/EXCO/COR/3/V.I/68

Date: 11th September 2000

Your Ref: _____

The Chairman, Sharia Implementation Committee,
Bauchi State

Sir,

SUBMISSION OF MEMO ON SHARIA

Assalamu alaikum. Praise be to Allah, the beneficent, the merciful. The Muslim Forum, College of Education, Azare, wishes to congratulate your Committee for coming at a

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

time when a panacea is highly needed for getting rid of social evils that have pervaded and desecrated the noble Muslim *ummah*. And as Muslims, we believe that Sharia is the only solution to these ugly trends.

Judging from the composition of your Committee, we believe that a feat will be made.

We strongly support the enactment of Sharia in Bauchi State and in light of that, here is our token contribution – a short Memorandum. It is hoped the memo will add weight and further consolidate on what other Muslim brothers might have contributed.

Wassalamu Alaikum.

(sgd)

Ado Musa
Ameer

(sgd)

Shehu Moh'd
Ag. Secretary

* * * * *

MEMO SUBMITTED TO THE BAUCHI STATE COMMITTEE ON SHARIA
BY MUSLIM FORUM, COLLEGE OF EDUCATION, AZARE

INTRODUCTION: WHAT IS SHARIA?

The term “Sharia”, like Islam has always been misconceived, mis-presented and many a time misapplied. It has always been misconceived by the non-Muslims; mis-presented by the nonchalant Muslim and misapplied by selfish Muslims and non-Muslims alike. Like Islam, Sharia is a complete way of life, not just what is popularly and typically accepted view that Sharia is the laws (*hudud*) that are applied in courts.

It has aptly been defined as “that divinely revealed and prophetically modelled pattern of conduct, is the totality of human engagement with Islam – the principles, rules, beliefs, values, ideas, laws and etiquette revealed by our Fashioner/and Maker, Allah *subbanahu wa ta’ala* to humanity”. (Bello, 2000)

Sharia teaches us how to worship, how to eat, how to receive visitors, how to marry, how to live with the family; it is Sharia that teaches us how to receive our new born children, and how to bury our dead. In a nutshell it teaches us how to do what from cradle to grave.

SHARIA: A MISCONCEIVED CONCEPT

Non-Muslims and nominal Muslims view Sharia as a system of stiff and draconian penalties, infringement on fundamental human rights and conservative stagnation of the “modern” society. Some view the Sharia as a ploy by Muslims to have upper hand or authority over the non-Muslim co-habitants which precludes the non-Muslims in the scheme of things in the affairs of the society.

Anything that does not originate from or does not have the blessing of the West is viewed as barbaric, conservative, fundamentalistic, uncivilised and out of context with globalisation. Because Sharia seems to have originated from the middle east and not from the West, and certainly has no blessing from the West, which is also contrary to the ideologies of the West, it is therefore given the above definition.

CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

Even in Nigeria many people are ignorant of the real definition and scope of the Sharia as it affects Muslims and non-Muslims but continue to rely heavily on the West for the definition of Sharia that we are certain would be blurredly depicted.

THE NEED FOR SHARIA

Sharia has been enshrined in the life of the Muslim by Allah (SWT) as can be seen in the Holy Qur'an in among others, Qur'an 20:124, 7:6, 45:18-19 and 5:45-7. In the same vein the Holy Messenger of Islam Muhammad (PBUH) stated viz:

A Muslim is he who frees other Muslims from the evils of his tongue and hand.

In another Hadith he says:

I swear with whom my soul is with, you either enjoin good and forbid evil or Allah will establish His torment for you: you call on him for repentance He will not answer you.

He also says:

If adultery, fornication and usury appear in an area, surely such people legalise the torment of Allah for themselves.

Judging from the above sayings of the prophet, present day society has fallen into the consequences of these evils.

Thus the need for Sharia for it is the only avenue that would decase [sic: cleanse?] the society of the above and more evils and their resultant repercussions for the betterment of the present and future generations.

SHARIA AND THE NIGERIAN HISTORY

Sharia has been in Nigeria for over one thousand years (it is believed the founding father of the Safuwa dynasty in Borno which lasted for 1000 years was a Muslim). With some fluctuations and a recent reformation by Sheikh Usman Dan Fodio, every average northern Nigerian is aware of Sharia in its broadest sense.

However with the arrival of colonialism on the scene, Sharia started receiving distortions and mutilations in the guise of penal code and in addition later, the law called decree by the military.

The Muslim awareness coupled with the re-inception of democracy, has paved the way for Muslims to advocate for the reinstatement in its full ramification as it was before the advent of colonialism. Based on sections 38, 275(1), 277(1), 240(1) and 242(1) of the 1999 Constitution, Nigerian Muslims have the right to agitate for their lives to be governed by the Sharia.

Nigeria has tested rule under colonialism, military dictatorship and democracy as presented in Western sense, but still none has proved adequate and effective in curbing the menace of social injustice, corruption, bribery, bigotry and many other social malaise. Sharia is the only option left that is capable enough to tackle and reverse this trend.

The need to cleanse social injustice in the society as called upon through Sharia is in consonance with Christianity as well (despite the subjectivists among the Christians) as is reflected in Exodus 20:3-5, 20:12-7, Lev. 20:10, Matt. 5:17-28, Rev. 21:8.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

Economic imbalance, selfishness, deceit in the forms of adulteration, forgery, breach of trust, hoarding and related ills are part of what Sharia is out to fight against.

The need for Sharia can also be seen in our educational backwardness. The syllabuses operated in our school system do not give room for moral education talk less of religious education. As such our youths are mostly morally corrupt. It will do us well to borrow leaf from the Pakistani pattern where religious education is compulsory from primary school to university in addition to one's area of specialisation.

BENEFITS OF SHARIA

Manifold advantages can certainly be derived from the implementation of Sharia. For instance, anybody fearing public embarrassment, disgrace and deunited image would refrain from stealing for fear of parading around with amputated unit or being stoned to death publicly for committing adultery or flogged a hundred times in case of libel or consuming alcohol, etc. Application of Sharia would greatly reduce the rampant cases of theft, armed robbery, adultery and so on. Prisons will be less congested and warders would have less work to do because crime would be greatly reduced.

Sharia emphasises mutual co-existence between Muslims and non-Muslims alike, reconciliation would be promoted. Spirit of self-consciousness would be improved because one is aware (from religious point of view) of what he would do.

One of the expected functions of Sharia would be to streamline, synchronise and harmonise system of education through incorporating religion into Western education for production of morally and intellectually sound citizenry only. Teachers of worthy character be employed to teach in our schools and co-education should be abolished in our post-primary institutions. Government should borrow a leaf from Kano and Jigawa States where Qur'anic and Islamiyya schools are given formal recognition, financial assistance and inspectorate services. (Please refer to report presented to Katagum Local Government, 1997 by Council for Implementation of Islamic Virtues, Azare).

SOME URGENT AREAS TO BE TOUCHED BY SHARIA

(A) Education:

- i) In tertiary institutions, visits to female hostels should be formalised. Females should be banned from entering male hostels. Visits to females in secondary schools should be made formal and rigid.
- ii) Relations between and among teachers of opposite sex to be regulated. Relations between students and teachers of opposites sex to be closely monitored and any observed unhealthy development be immediately arrested.
- iii) Social gatherings in form of parties on campuses should be disallowed.

We believe this will go a long way in checking sexual harassment of students on our campuses, which discourages many parents from sending their girl children to schools.

(B) Economic:

- a) Establishment of *zakat* committees at various levels will help in implementing and supplementing purposeful poverty alleviation.

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- b) Government should ensure standard measuring units in term of weights and volume for goods to ensure fairness in business transactions.
 - c) Price and quality control task forces should be established at various levels to supervise and enforce strict adherence to Islamic laws on business transactions.
- (C) Social:
- a) Ensure separate commuter buses for males and females.
 - b) Government should readdress the issue of marriage in our society today with a view to eradicating certain negative innovations and reappraising tolerable ones (Please refer to the report of a memorandum submitted to Katagum Local Government by Council for Implementation of Islamic Virtues, Azare, 1997).
 - c) Government should form a committee that would determine the Islamic implications of hawking by girls with a view to fashioning it to suit modern development. The committee would do well to identify women selling food in their residence for promotion of such services.
 - d) In hotels there should be separate sections for married couples and another for the unmarried.
 - e) Mode of dressing should be strictly in accordance with Islamic injunctions. This should apply to our academic institutions as well.
- (D) Miscellaneous:
- a) Reactivating sanitary inspections on consumable foods.
 - b) Social welfare officers should revisit the case of mendicants and roaming mad people.
 - c) There should be reformatory centres for ex-prostitutes, drug addicts and alcoholics.
 - d) Public enlightenment campaign on Sharia should be intensified in the media, public fora and mosques.

CRITERIA FOR SELECTION OF JUDGES

1. Qualifications:
 - i. A minimum of Higher Muslim Certificate with at least 10 years post-qualification experience in a court; OR an uncertificated Islamic scholar well-versed in theology and jurisprudence and to be given at least six month intensive training at the Judicial Institute.
 - ii. Sanity and health (absence of deformities).
 - iii. Worthiness in character and with impeccable record of transparent honesty.
 - iv. Sound family background.
 - v. Age – Not less than 35 years of age.
2. Appointing body: A panel of seasoned jurists at least 12 in number composed of serving and retired officers. They conduct recruitment interviews based on merit. Other court staff should also be interviewed by the same panel.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

3. Welfare of judges: Judges should be well-paid and catered for in terms of offices, accommodation, transport and medical care. Part of the package to include free hajj and *umrah* at least once in a lifetime during his tenure.
4. Discipline: Any judge found wanton [sic: wanting?] in respect of abuse of office shall be removed from office and converted to classroom teacher and shall be stripped of all privileges (including financial) of a judge.
5. Promotion: Shall be after every three years in addition to an evaluation report from an inspector of courts.
6. Tenureship: A judge shall serve for a maximum of thirty (30) years. Retirement age shall be maximum of seventy (70) years.
7. Court Inspector: An inspector shall have served as a judge up to the Upper Area [Court] level. The post shall be rotational with a tenure of three years, after which he can be posted to the court as a judge. The inspectors shall maintain all the privileges of a judge (including financial).

(sgd) _____
Ado Musa
Ameer

(sgd) _____
Shehu Moh'd
Ag. Secretary

(26) From A. Yaya Mu'azu Jahun, Bauchi

Translated from the Hausa by Ahmed S. Garba

To the Sharia Implementation Committee of Bauchi State

After greetings, I hope that may Allah assist you. Amin.

I wish to remind you again about the issue of pupils just beginning to memorise the Qur'an (*gardawa*) in this Bauchi town. There is no greater evil in a town than the presence of this kind of people for it is even better to allow prostitutes in town than to allow them.

Some of these *gardawa* come with very small children, who learn nothing but a life leading to profligacy that turns them into scoundrels. On their own part, the *gardawa* are doing nothing but committing sexual intercourse with young girls without limitation.

Why don't they remain in their States? And these people are more than 5,000 in number. They have refused to remain in their States to farm and are staying in different streets as if they are indigenes of this place. We are reminding you because the responsibility is on you.

What we know of them normally is that they come during dry season and go back during rainy season. But now they are around all the time and not doing anything apart from committing immoralities. In fact the danger of these people is that, as soon as others have gone out to work they will remain at home sleeping. They have abandoned the religion of Allah and therefore they should be forced to leave just like other places are sending them away.

I am A. Yaya Mu'azu Jahun
Bauchi

3.

Appendix II

Report of the Subcommittee on Documentation and Codification

PREAMBLE

This report is arranged into seven (7) sections:

- i) Preamble
- ii) Introduction
- iii) Modalities
- iv) Observations
- v) Recommendations
- vi) Conclusion
- vii) Appendices

1.0 INTRODUCTION

1.1 Genesis. Islam first came to the northern parts of Nigeria in the ninth century through trade contacts between Arab merchants and the Borno Caliphate. It spread to Daura and Kano in the fifteenth century and by the nineteenth century the Sokoto *jihad* entrenched it all over present-day northern Nigeria and beyond. British colonialism interrupted the process of Sharia implementation for a period of roughly sixty years, and though the country gained independence in 1960, the post-colonial period has been an era of legacies. Colonial policies and laws were maintained to effectively prevent a return to the rule of the Sharia in the predominantly Muslim States of the country.

Thanks to divine intervention, today, almost one hundred years after the region's first contact with colonialism, the Sharia legal system is being rapidly reintroduced in several States in a peaceful and constitutional manner.

In response to the yearnings of the Muslim population of Bauchi State, the democratically elected Government of the State, under the leadership of the Executive Governor, Alhaji Ahmadu Adamu Mu'azu, set up a 29-man State Sharia Implementation Committee (SIC) on 29th June 2000. The general task of the Committee was to produce a blueprint and guide for the adoption and full implementation of the Sharia legal system. The Committee was broken up into three subcommittees. The 7-man Subcommittee on Documentation and Codification was one of them.

1.2 Membership. The Members were:

- | | |
|--|-------------|
| (1) Hon. Justice Adamu Abdulhamid | Chairman |
| (2) Hon. Sani M. Gololo | Member |
| (3) Dr. Aliyu U. Tilde | Member |
| (4) <i>Ustaz</i> Aliyu M. Said Gamawa | Member |
| (5) Dr. Hadi Sheikh Tahir Usman Bauchi | Member |
| (6) Mal. Mukhtar Abubakar T/Balewa | Sec./Member |

1.3 Terms of Reference: The Subcommittee was given the following terms of reference:

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

- a) To suggest amendments to the Penal Code within the framework of the 1999 Constitution;
- b) To suggest areas of amendment to Sharia Court of Appeal Law, Area Court Edict and all other relevant laws to bring them in conformity with the Sharia legal system;
- c) To study Sharia legislation enacted by other States with a view to developing the Bauchi State Sharia legal system;
- d) To codify all offences under Sharia;
- e) To suggest ways and means for the amendment of the Evidence Act and other sections of the 1999 Constitution that do not conform with Sharia;
- f) Any other assignment that may be given to the Subcommittee by the Main Committee.

2.0 MODALITIES

The steps agreed upon and followed by the Subcommittee to complete its assignment can be summarised as:

1. Study of terms of reference
2. Literature appraisal
3. Tour of LGAs
4. Tour of States
5. Invitation of guests
6. Report
7. Submission of report to the Main Committee.

Below is an account of how the above was accomplished:

(i) Study of the Terms of Reference.

(ii) Documentation. Having concluded stage one of the assignment a list of relevant documents was prepared, followed by extensive perusal by members, individually. The list is at Appendix 'A'.

In view of the fact that the Bauchi State House of Assembly (BASHA) had already produced two draft bills relating to:

- Sharia Penal Code and
- Law Courts Administration etc.;

The Subcommittee decided to simplify its work by assessing the documents in line with items (a), (b) and (d) in its terms of reference.

The outcome of this work is attached as Appendices B and C, which is intended for presentation to Government for adoption.

(iii) Tour of Local Government Areas. This tour was organised to permit all subcommittees in the Sharia Implementation Committee to source ideas and contributions from the people of the State. The tour was highly instructive and assisted this Subcommittee to evolve a comprehension of the complexity of the socio-cultural environment of Bauchi State. In addition, it was agreed that based on these facts the application of Sharia in Bauchi State may proceed with slight differences in approach

from other States (such as Zamfara and Kano) whose population may have different characteristics.

(iv) Tour of three States. A five-day tour to Zamfara, Katsina and Kano States was conducted in order to tap from the experience and hindsight of these States, which had preceded Bauchi State in adopting the Sharia. The visit to Zamfara State yielded tremendous dividends. However, it may be said candidly that both Kano and Katsina States appear in several ways to lag behind Bauchi State. This is because:

- a) Kano State preceded our visit to Zamfara by merely three weeks. By the time the tour started, the Subcommittee had already concluded its appraisal of the draft Bauchi State House of Assembly Sharia Penal Code Bill. Kano State did not have such a draft bill and work on the Zamfara laws was still in progress when we left Kano. Indeed, meeting with our Kano counterparts would appear to have encouraged them to do more. The Kano State Government has set the implementation date as 1st Ramadan 1421 A.H. (26th November, 2000) by which time it intends the Sharia Implementation Committee of that State, to have completed its assignment.
- b) Katsina State is surprisingly [not (?)] putting a lot of effort into the concept of legislation. This Subcommittee is of the view that they have approached the matter wrongly by failing to codify offences and specify punishment. Unfortunately, we failed to contact them, as our counterparts were not in town at the time of our arrival.
- c) The Subcommittee initially proposed to visit Niger State, especially because it is believed that they have tribal and religious plurality similar to what obtains in Bauchi State. However, at Gusau it was learnt that a small delegation from Niger State had conducted a like excursion barely a week before. Therefore a decision was taken at Gusau to go to Katsina instead of Minna. Katsina is not only nearer to Kano, our last point of reference, but it had also created a Sharia Commission as opposed to Zamfara State, which had a Ministry of Religious Affairs, and Niger State was yet to do either.
- v) Invited Guests. The Subcommittee had wished to invite some scholars to throw light on various areas of its assignment, but due to time constraint, this could not be done.

3.0 LEGISLATION

Implementation of the Sharia legal system cannot be meaningful without putting in place requisite legislation and judicial structures. In this light, promulgation of the following legislation is necessary:

- 1) *To suggest amendments to the Penal Code within the framework of the 1999 Constitution.*
 - i) Sharia Penal Code. The mandatory requirement of section 36(12) of the 1999 Constitution is that a person cannot be prosecuted for a criminal offence unless that offence is defined and its punishment is prescribed in a codified law to be passed by the Legislature. To satisfy this requirement we made recourse to a draft bill of the Bauchi State House of Assembly for a law to establish a Sharia Penal Code. This bill was itself based on a law of the same name promulgated by Zamfara State in 1999.

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

In it all crimes and punishments were classified under *hudud*, *qisas*, and *ta'azir* categories; defined and punishable in accordance with Islamic law as much as possible. Thus, amputation, caning, stoning to death, payment of *diyab*; and forgiveness of homicide by relations of the victims are features of the Sharia legal system in Bauchi State.

ii) In formulating the Sharia Penal Code, the Subcommittee observed that alcohol is not a fundamental right. It is also the constitutional responsibility of government to safeguard the welfare and security of the population. Section 45(1): Restriction and derogation from fundamental rights states inter alia:

- (1) *Nothing in sections 37, 38, 39, 40, and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society:*
 - (a) *In the interest of defence, public safety, public order, public morality, or public health; or*
 - (b) *For the purpose of protecting the rights and freedom of other persons.*

Based on this clear legislation, no one has the right to demand exemption from the ban. At another level, the situation can be enforced through the withdrawal of licences to vendors, manufacturers, brewers, transporters, etc.

- 2) *To suggest areas of amendment to Sharia Court of Appeal Law, Area Court Edict and all other relevant laws to bring them in conformity with the Sharia legal system.*
 - a) The establishment, constitution and composition of Sharia Courts in Bauchi must be done to provide the judicial structures, and personnel necessary to operate the Islamic legal system.
 - b) The Area Courts Law will have to be repealed to replace old Area Courts structure with the Sharia Courts. The jurisdiction of Magistrate Courts could be expanded to include determination of cases involving the personal law of non-Muslims.
 - c) There is need for a law to enlarge the jurisdiction of the Sharia Court of Appeal to embrace criminal proceedings.
 - d) The administration and control of Sharia Courts needs to be placed under the Grand Kadi for efficient and consistent operation of the Sharia legal system.
- 3) *To study Sharia legislation enacted by other States with a view to developing the Bauchi State Sharia legal system.* The Sharia is a legal system, which governs the totality of Muslim life. Its provisions are not restricted to penal laws alone. To codify aspects of the Sharia legal system would take a committee of well-learned scholars a great deal of time to accomplish, and would not be possible within such a narrow time frame. The lack of these codified laws is also not so crucial as to warrant further delay in the implementation of the Sharia legal system.
 - a) Enabling law. Section 6 of the 1999 Constitution enables the States of the Federation to adopt the Sharia legal system. The Subcommittee deliberated over such an enabling law called the Sharia Courts (Administration of Justice and Certain Consequential Changes) Law, 2000. Among its attributes are that it:

- i) establishes Sharia Courts;
 - ii) confers civil and criminal jurisdiction in Islamic law in the courts;
 - iii) enables the codification of Islamic penal laws (Sharia Penal Code) to satisfy the requirement of the Constitution;
 - iv) enables the codification of Sharia Criminal Procedure Code;
 - v) allows for the repeal of existing Area Courts;
 - vi) allows for the establishment of a State Consultative Ulama Council;
 - vii) provides for the administration, control, and supervision of Sharia Courts initially vested in the Chief Judge, but now vested in the Grand Kadi.
- b) Sharia Criminal Procedure Code. This is the code which provides for the procedure for prosecution of offenders and execution of judgment in the Islamic legal system. However, this document has not been produced during this exercise. The Sharia Criminal Procedure Code is to the Sharia Penal Code what the Criminal Procedure Code is to the Penal Code.
- c) Sharia Court of Appeal Amendment Law. Section 277 of the 1999 Constitution restricts jurisdiction of the Sharia Court of Appeal of a State to matters of Islamic Personal law. Since the newly established Sharia Courts have been conferred criminal jurisdiction, and appeals from the courts exclusively lie with the Sharia Court of Appeal, the jurisdiction of this court has been expanded to entertain appeals in criminal matters from the Sharia Courts. It is to be noted that the Constitution provides for the establishment of Sharia Courts with criminal jurisdiction, provision of penal laws and punishments, and due process of law, which lead to conviction and sentence.
- 4) *To codify all offences under Sharia*. The codification of offences is a continuous exercise which Government should be prepared to make through the recommendations of the Sharia Department in the Ministry of Religious Affairs and the Consultative Ulama Council. However, for the meantime the codification so far necessary is at Appendices B and C.
- 5) *To suggest ways and means for the amendment of the Evidence Act and other sections of the 1999 Constitution that do not conform with Sharia*.
- a) Amendments are recommended to section 277 subsections 1 and 2 of the 1999 Constitution relating to the Sharia Court of Appeal; and to some articles in Part I of the Second Schedule of section 4(2) relation to current powers.
 - b) In view of section 36, the Subcommittee observes there is no need for any State to legislate on evidence in the Sharia. It is not imperative that the area of evidence be codified in the Constitution, and it does not pose any legal problem. The National Assembly is not empowered to legislate on the Sharia and it therefore has no jurisdiction to promulgate any laws in its regard, and since the Sharia is not on the Exclusive Legislative List, it remains the prerogative of the States.

4.0 RECOMMENDATIONS

4.1 Amendment of Penal Code. It is recommended that the current Penal Code in existence be left substantially as it is with the provision that it will be applicable to non-Muslims only within the State or in cases involving Muslims and non-Muslims.

The following laws are imperative:

- i) a law to establish a new penal code to be known as the Sharia Penal Code, which will apply to Muslims within the territorial jurisdiction of Bauchi State; see Appendix 'B' [omitted here²⁶].
- ii) The penalty as contained in the existing Penal Code as fine is too low bearing in mind the weak value of the naira since the law was made. They should be revised upwards to have parity with those in the Sharia Penal Code.

4.2 Amendment of Sharia Court of Appeal Law and Area Court Edict.

a) *To suggest areas of amendment to Sharia Court of Appeal Law, Area Court Edict and all other relevant laws to bring them in conformity with the Sharia legal system:*

In order for the Sharia legal system to be implemented successfully certain sections and provisions of the laws of Bauchi State must be repealed, amended or completely new enactment be made. The following measures are recommended:

Laws to be repealed

1. Area Court Edict Cap. 12 Laws of Bauchi State of Nigeria 1991 and rules made under section 65 of the Edict. Once repealed the current Area Courts and Upper Area Courts shall cease to exist. The jurisdiction of Magistrate Courts should be expanded to include determination of cases regarding customary laws of non-Muslims.
2. Native Courts Law Cap. 78 LNN 1963. In their place a completely new Sharia Courts Law of Bauchi State which will conform with the demand of the *ummah* be enacted (see Appendix C).
3. Sharia Court of Appeal Law Cap. 122 LNN 1963 and Bauchi State Laws Cap. 145 and the rules made in Vol. V, page 1275 of LNN 1963. In their place a new Sharia Court of Appeal Law for Bauchi State be enacted to reflect all the new, original and appellate jurisdiction of the court in all cases involving questions of Islamic law concerning Muslims.

Laws to be amended

1. The term "customary law" includes Muslim law as defined in section 2 of District Courts Law Cap. 42 of Bauchi State of Nigeria, Cap. 33 LNN 1963 and High Court Law Cap. 61 Laws of Bauchi State of Nigeria Cap. 49 LNN 1963 shall be amended to include Islamic Law in all the said sections to read as follows: "Written law includes Islamic Law".
2. Criminal Procedure Code. Section 12 subsections 1 and 2 of the CPC should be deleted and section 12(3) be amended to read: "The jurisdiction of Sharia Courts shall be governed by the provisions of the Sharia Courts Law."

²⁶ Appendix B = Appendix VI to the main report, namely the draft Sharia Penal Code prepared by the committee. It is too lengthy for inclusion in this volume. For the provisions of Bauchi State's actually-enacted Sharia Penal Code see the notes to the Harmonised Sharia Penal Code Annotated, Chapter 4 of this work, Vol. IV.

3. Chapter xxxiii of the CPC that governs trial by Area Courts has been amended in the present laws of Bauchi State. That is to say, the provision that allowed non-strict compliance with CPC by Area Courts has been repealed. It is recommended that the chapter be restored to allow Sharia Courts to try offences under the Sharia Penal Code using the Sharia Criminal Procedure Code.
4. Section 396 of the CPC should be amended by deleting the first sentence to now read: “Any person appointed Justice of the Peace under the provision ...” The former provision of “Any President or member of an Area Court ...” is deleted.
5. Qur’anic Schools (Registration) Cap. 77 Laws of Bauchi State section 8 of the law should be amended to read: “Any offence under this Edict may be tried by a Sharia Court.”
6. Amend all sections of CPC Cap. 38 Laws of Bauchi State that restrict the powers of the Sharia Courts.

New Legislation

The laws listed below are highly recommended as tools for sustaining the focus and purpose of the Sharia. Their promulgation is regarded as the mechanism for achieving a spiritually, socio-economically and politically well-oriented society.

1. A law to establish the Sharia Courts and Sharia Civil Procedure Code under which the Inspectorate of Sharia Courts will operate.
2. A law to repeal the existing Area Courts Law Cap 12 of Bauchi State. Upon the coming into operation of the repeal provision, all matters that are yet to be determined by any Area Court and Upper Area Court shall be transferred to the appropriate existing courts having jurisdiction to entertain such matters.
3. A law to establish the Zakat Board under which the organisation charged with the collection and disbursement of *zakat* shall exist.
4. A law to prohibit un-Islamic practices in marriages, naming ceremonies and circumcision and for other purposes connected therewith.
5. Upon the implementation of Sharia in Bauchi State all existing legislation regarding Muslims should be reviewed to be in conformity with the principles of Sharia.
6. In order to provide adequate structures for implementing the Sharia, the following institutions ought to be inaugurated immediately and prior to the adoption of the Sharia system: these institutions are:
 - a) Ministry of Religious Affairs (see [Annexure I, below]);
 - b) Board for Zakat and Endowments (see [Annexure II, below]);
 - c) Consultative Ulama Council;
 - d) Board for Arabic and Islamic Education;
 - e) Department of Religious Affairs in all Local Governments (see Appendix F [it is not clear what Appendix F was intended to be, no such thing included with report]);
 - f) Sharia Implementation Contingent; to be administered through the Ministry of Religious Affairs. Among its functions shall be:

- a) Apprehension of Sharia offenders;
- b) Night patrol;
- c) Guidance and counselling
- d) Assistance to police in maintenance of law and order;
- e) Provision of security surveillance at Islamic events;
- f) Training of youth in general physical fitness training;
- g) Training of first aid groups in life saving and vigilante work.
- h) This force is to be formed from combined teams of the first aid groups of the Islamic organisations in Bauchi State.

7. Local Government Bye-Laws. It is anticipated that this measure will drastically reduce the level of crime. Notably, the State-wide tour conducted by the Sharia Implementation Committee had the desirable effect of prompting several LGAs to pass bylaws along similar lines. At the time of writing, it is known that almost half of the LGAs have passed such legislation to:

- i. prohibit prostitution and close down brothels in the State; at the moment prostitutes and transvestites who have fled from Kano and other Sharia States reside in LGAs, like Jama'are, Misau, Darazo (Kari), and Jama'are in particular, affected due to general movement by such people to Borno and Yobe States.
- ii. ban all forms of gambling and games of chance.
- iii. prohibit consumption and dealings in liquor in predominantly Muslim areas, i.e. not applicable to non-Muslims.
- iv. ban all public video-viewing houses/centres in the State. The Local Government authorities should do the same as it has been proved that these institutions have a great corrupting influence on youth. This is in addition to the fact that they serve as meeting places for criminal elements. Their harm is greatest in the LGAs where recreational facilities are more limited.

8. In order to induce sanity in the economy standard weights and measures must be established and strictly monitored. This is the responsibility of the LGAs. The State should be charged with the responsibility of standardising the measures in order to have general effect throughout the State.

9. Administration and registration of hotels and restaurants should be done to ensure that "prostitutes" and their agents, transvestites (*'Yan Daudu*) and those who harbour them do not have a chance of owning or running such institutions. This job rests on the Business Registration Section in the Ministry of Commerce and Industry. The section should therefore be empowered with adequate logistics – vehicles and imprest to conduct its duty satisfactorily.

10. Women should be encouraged to [follow] Islamic injunctions pertaining to dress without restriction.

11. It has been observed that the "achaba" mode of transportation does not become Muslim women. However, until Government and private transporters have made sufficient means of mobility available to the general public, the prevailing practice should only be expected to increase. This is because as the influence of Sharia increases, the

peace and tranquillity, which will follow, will attract an influx of peace-loving people from outside the State. There will follow an expanded demand on social services. It is therefore recommended that the State Government invest in a joint-venture with Steyr Nigeria Limited to manufacture the Tuk-Tuk vehicle which has helped to greatly ease demand on public transport in Southeast Asia. With the demand for similar services in other States in the Federation implementing the Sharia, such a venture would be profitable, *insha* Allah.

Separate transport for women should be provided. LGA Councils can assist in investing in transportation to provide sufficient vehicles required for the project.

12. Henceforth, appointment of traditional rulers who are Muslims should be based on the acquisition of a fair knowledge of Islam. The Chiefs Amendment and Deposition Law should be done to reflect this.

13. Emirate Councils should comprise persons knowledgeable in Sharia.

14. Political and traditional rulers should be learned in Sharia. Therefore all Emirs should be addressed and advised accordingly by His Excellency, the Governor, in the Council of Chiefs.

15. Government should urgently produce pamphlets to instruct all LGAs and the public on the dos and don'ts of Sharia. This will give LGAs a working guide on the form, structure and content of the Sharia.

16. All legislation passed into law on the Sharia should be disseminated to libraries, archives etc. in LGAs, universities and so on.

17. All legislation passed into law on the Sharia should be translated into Arabic, Hausa and sold to the public. There should be a wide coverage explaining the legislation in various media houses.

b) To study Sharia legislation enacted by other States with a view to developing the Bauchi State Sharia legal system:

It is recommended that the Zamfara Sharia Penal Code modified subsequently by the Bauchi State House of Assembly and treated by this Subcommittee to suit the socio-cultural idiosyncrasies of Bauchi State shall be adopted as the Bauchi State Sharia Penal Code. The document is attached as Appendix B.²⁷

5.0 OTHER ASSIGNMENTS

5.1 Transition and Launching. Before the implementation of Sharia it is necessary to allow a period of transition. Advisedly three months from the date of launching to the date of enforcement will be sufficient for Government to accomplish the following things:

- i) Enlighten the public, (especially through *tafsir* and public preaching during the month of Ramadan) on the nature and scope of the Sharia legal system to ensure meaningful participation by the general public.
- ii) Provide a period of grace to offenders to permit them repent and mend their ways before full implementation of the new legal dispensation. General abstinence

²⁷ See previous note.

by offenders during the month of fasting will serve as an ideal opportunity to intensify preaching in all parts of the State. Private efforts, and events sponsored by the State and Local Governments should be intense to take full advantage of the great chance.

- iii) Evoke a sense of change from old to new so that the government and people of all walks of life can become psychologically prepared to live and operate under the Sharia legal system.
- iv) Prepare the apparatus of government for a proper handing over from the old to the new status, especially legally and institutionally, i.e. from the pre-Sharia to the Sharia socio-political environment.
- v) Provide logistic support such as books and journals, etc. to judges and courts.
- vi) Screen and appoint qualified judges, and court staff.
- vii) Train/retrain court personnel through a series of short courses, etc.
- viii) Construct new courts or renovate existing ones.

5.2 Amendment of the Constitution.

To suggest ways and means for the amendment of the Evidence Act and other sections of the 1999 Constitution that do not conform with Sharia:

Amendments recommended in the 1999 Constitution are as follows:

- a) Section 277 (subsections 1 and 2) should be amended to read as:

The Sharia Court of Appeal of a State shall in addition to such other jurisdiction, including original jurisdiction, as may be conferred upon it by the laws of the State, exercise such appellate and supervisory jurisdiction in all proceedings involving questions of Islamic law which the court is competent to decide in accordance with the provision of subsections (2) of this section.

- b) For the purpose of Section 277 (subsection 1) of this section, the Sharia Court of Appeal shall be competent to decide:

Any question of Islamic law regarding a marriage concluded in accordance with that law, include a question relating to the validity of dissolution of such a marriage or a question that depends on such marriage and relating to family relationship or the guardianship of an infant;

- c) Concurrent powers on Federal and State Governments: The content of the Legislative List as provided by Part 1 of the Second Schedule of section 4(2), mentioned above, should be amended to give concurrent powers on Federal and State tiers of governments, that is some articles should be dropped from Part I to the Second Schedule in Part II. These articles are namely:

- Article 23
- Article 67 and
- Article 68.

6.0 CONCLUSION

Generally the Subcommittee has worked to examine and review existing laws with a view to conforming to the divine statutes, and values of the Muslim peoples of Bauchi State. In addition, it has examined and reviewed the structure, control and operative laws surrounding the Area Courts. From this point the heavy task of examining the process of

introducing an effective administration of justice and Sharia implementation in the State was done.

In concluding this report it is important to reiterate the most salient elements, as these are the outstanding matters which the Government must face to achieve the laudable objectives underlying the introduction of the Sharia legal system. The major aim of the new system is to sanitise society of the numerous criminal and immoral tendencies, which have become order of the present day; and it is felt by the public and Government itself that this measure is the only panacea, by Allah's will.

- **Enabling law:** The proposed enabling law, called the Sharia Courts (Administration of Justice and Certain Consequential Changes) Law, 2000, is the launch pad of the Sharia legal system. Therefore, the structures, materials and personnel recommended, which represent basic attributes of the new legal system should be put in place with equal commitment to ensure that the system survives, flourishes and endures.
- **Sharia Criminal Procedure Code:** The procedure for prosecution of offenders and execution of judgment in the Islamic legal system is yet to be codified by the Subcommittee due to time constraint. It is indeed a crucial document, and Government must ensure that the State Sharia judiciary possesses it as soon as possible.
- **Area Courts Repeal Law:** Prior to the introduction of Sharia Courts the pre-existing Area Courts must be scrapped through repeal of the Area Courts Law of the State.
- **Sharia Court of Appeal Amendment Law:** The constitutional restriction of the jurisdiction of the Sharia Court of Appeal of a State to matters of Islamic personal law have required that as the same Constitution provides for the establishment of Sharia Courts with criminal jurisdiction, provision of penal laws and punishments, and due process of law, which lead to conviction and sentence, the State Government is therefore bound to implement the appropriate policies in order that these far-reaching reforms have any meaningful effect.
- **Transition Process/Launching:** Government is advised to adopt a transition programme as follows:
 - A. **October 1st 2000:** Launching of the Sharia legal system by the Bauchi State Government. The announcement should advisedly feature in the Governor's Independence Day speech.
 - B. **Friday, December 29th 2000/Shawwal 5th 1421 (i.e. after *'Eid al-Kabir*):** Inauguration of Sharia legal system in Bauchi State. (This date is considered appropriate in order not to coincide with the Christmas celebrations. At the same time, it is a day of the congregational prayer. The time should be in the early morning.
- **Word of thanks:** The Subcommittee wishes to place on record its profound gratitude to the Secretariat, which appointed us members to serve in this highly

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challenging assignment. We also thank them for the great logistics support that they gave us.

We pray that Allah Almighty will accept and reward our toil and effort and bless all of us whom He granted leave to serve His cause through this historic Bauchi State Sharia Implementation Committee.

May He also bless the Executive Governor of Bauchi State, Alhaji Ahmadu Adamu Mu'azu for his nobleness and courage in deciding to implement the Sharia legal system in the State.

May Allah have mercy upon us and our parents, our families and teachers, and the Muslim *ummah* of Bauchi State, in particular; and the rest of the world as a whole.

APPENDIX A [to Appendix II]

LIST OF DOCUMENTS PERUSED

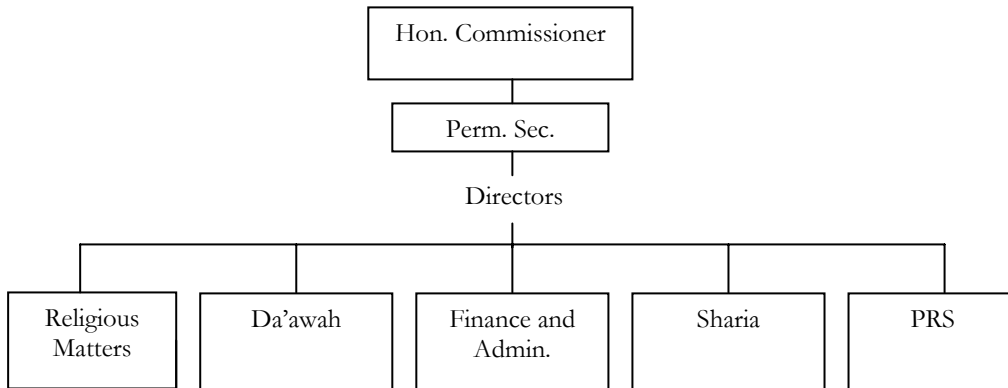
The Subcommittee on Documentation and Codification collated as much literature as possible to enable it work effectively. In this way, several memoranda and two draft bills of the Bauchi State House of Assembly, and memoranda and sundry literature were gathered, copied and distributed among members. The list of these papers is presented below:

- 1) The Constitution of the Federal Republic of Nigeria, 1999
- 2) The Laws of Bauchi State of Nigeria (Revised Edition, 1991; Volumes 1 – 3)
- 3) Zamfara State Sharia Penal Code
- 4) Zamfara State Sharia Courts (Administration of Justice and Certain Consequential Changes) Law, 2000
- 5) Paper on the adoption and implementation of Sharia legal system in Zamfara State presented at the JNII-sponsored seminar on Sharia in Jigawa State by Ahmad Bello Mahmud, Hon. Attorney-General and Commissioner for Justice, Zamfara State, 6/7/2000.
- 6) Bauchi State House of Assembly Draft Bill for a Law to establish Sharia Penal Code.
- 7) Bauchi State House of Assembly Draft Bill for a law to provide for the establishment, constitution and composition of Sharia Court and to make provision for the administration of Islamic Law in Bauchi State.
- 8) Memo on necessary amendments to existing laws of Bauchi State to allow the application of Sharia law on the Muslim *ummah* submitted by Abdullahi Murtala Muhammad.
- 9) Memo on Islamic Education, Zakat and Endowment Board, Religious Affairs Registry and Sharia Implementation Council. Sani Muhammad Gamawa and Bala Muhammad Gamawa.
- 10) Guiding principles towards a successful implementation of Sharia in Bauchi State. Mu'azu Muhammad Dadi.
- 11) The Sharia Controversy (working papers for a dialogue) Committee of Concerned Citizens.
- 12) Report of the Technical Committee on Constitutional Provisions for the Application of Sharia in Katsina State.

- 13) Proposal on the Mode of Operation of Sharia Commission in Katsina State – Katsina State Government.
- 14) Bill for a Law to Establish Katsina State Sharia Commission.
- 15) Kano State Sharia and Islamic Administration of Justice Reform Law, 2000
- 16) Memo submitted by the Jama'atu Izalatul Bid'ah Wa Ikamatu al-Sunnah, Bauchi Local Government Branch, Gwallaga.
- 17) Memo submitted by Sheikh Tahir Usman Bauchi.
- 18) Memo on Judiciary and Documentation.
- 19) Memo on Review of the 1999 Constitution to the Presidential Technical Committee on Review of 1999 Constitution. Bauchi State Muslim Community.
- 20) Memo to the Presidential Technical Committee on Review of 1999 Constitution. Alh. Muhammad Danmadami (*Sa'in* Katagum)
- 21) A-Z Manual on *Zakat* – Ahmed Zakari & Co.
- 22) N.S.N.L. No. 4 of 2000: The Liquor Law Cap. 81, Liquor (Licensing) Regulations, 2000.
- 23) N.S.L.N. No. 5 of 2000: A Law to make provision for the amendment of the District Courts Law Cap. 37 to review the jurisdiction of District Courts and for connected purposes.
- 24) N.S.N.L. No. 6 of 2000: A Law to make provision for the Amendment of Sharia Court of Appeal Law Cap. 122 in order to review the jurisdiction of Sharia Court of Appeal and for connected purpose.
- 25) N.S.N.L. No. 7 of 2000: A Law to make provision for the amendment of Liquor Law Cap. 71 in order to review the penalties therein and for connected purposes.
- 26) N.S.N.L. No. 8 of 2000:
A Law to make provision for the amendment of the Penal Code Law Cap. 94, Laws of Niger State in order to review the punishment therein and for connected purposes.
- 27) N.S.N.L. No. 10 of 2000: A Law to make provision for Amendments of Area Courts Law Cap. 8 in order to review jurisdiction of Area Courts and provide for the qualification of Area Court judges and connected purposes.
- 28) Report of the Yobe State Advisory Committee on Sharia
- 29) A bill for a law to provide for the prohibition of certain unIslamic practices in Yobe State.
- 30) A law to provide for the establishment and composition of Sharia Courts and to make provision for the administration of Sharia legal system in Yobe State and other matters related thereto.
- 31) A law to provide for the introduction of Sharia legal system in Yobe State.
- 32) A law to establish a Sharia Court of Appeal for Yobe State for the hearing of appeals from Sharia Courts in cases governed by Islamic law and for matters related thereto.
- 33) A law to establish a Sharia Penal Code for Yobe State.
- 34) Report of the Committee on Application of Sharia in Borno State.
- 35) A bill to provide for a law prohibiting prostitution homosexuality, lesbianism, operation of brothels and other sexual immoralities by the Borno State House of Assembly.
- 36) A bill to provide for a law to repeal and save some Borno State laws.

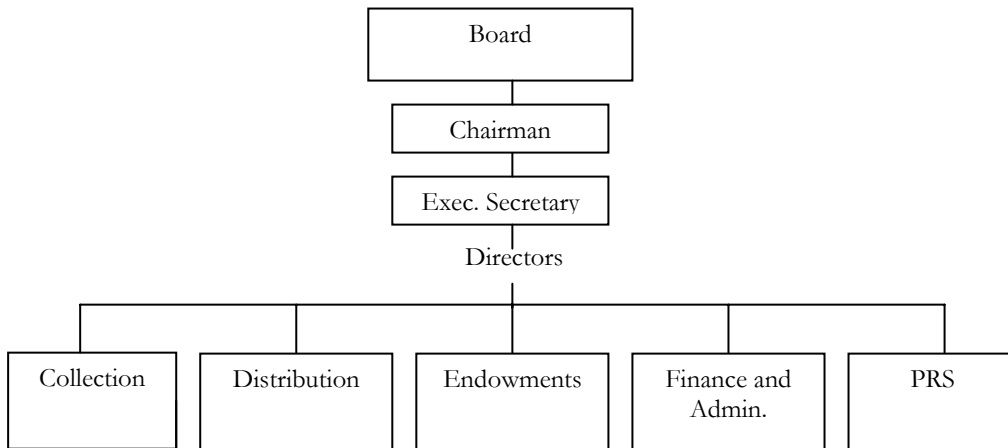
ANNEXURE I [to Appendix II]

Structure of the Proposed Ministry of Religious Affairs



ANNEXURE II [to Appendix II]

Structure of the Proposed Zakat and Endowment Board



4.

Appendix III

Report of Subcommittee on Judicial Structure, Personnel and Materials

29 September 2000

MEETING OF THE SHARIA IMPLEMENTATION SUBCOMMITTEE ON
JUDICIAL STRUCTURE AND PERSONNEL

1ST MEETING 1ST JULY, 2000

MEMBERS PRESENT

- | | | | |
|----|---|---|----------|
| 1. | Hon. Hamza Lanzai | - | Chairman |
| 2. | Alkali Muhammad Bello
(<i>Sarkin Malaman</i> Katagum) | - | Member |
| 3. | Alhaji Adamu Yusufu | - | Member |
| 4. | Alhaji Usman Nananu
(<i>Magajin Malan Jama'are</i>) | - | Member |
| 5. | Alhaji Zubairu Yakubu
(<i>Ardon Zaranda</i>) | - | Member |
| 6. | Muhammad M. Ibrahim
(<i>Danmadamin</i> Katagum) | - | Member |

CHAIRMAN'S OPENING REMARKS

The Chairman requested that the meeting be opened by a prayer. The opening prayers were offered by Alkali Muhammad Bello (*Sarkin Malaman* Katagum). After the opening prayers, the Chairman thanked the almighty Allah for affording us the opportunity to serve in the restoration of His divine message on Sharia as conveyed to human-kind by his most blessed Prophet Muhammad (SAW)²⁸. He pointed out that the task before us was enormous and requires dedication and commitment in order to produce a Blue Print on the implementation of Sharia in Bauchi. He then requested the terms of reference of the Committee be read to the members.

TERMS OF REFERENCE OF THE SUBCOMMITTEE

- (a) To offer suggestions on:
- (i) Structure
 - (ii) Judicial Personnel
 - (iii) Materials
 - (iv) Training, under the Sharia legal system.
- (b) To define the relationship between the Sharia Court of Appeal and
- (i) High Court
 - (ii) Court of Appeal

²⁸ SAW: *Sallallahu alaihi wasallam*: "May the blessings of Allah be upon him"; used when the Prophet is mentioned.

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- (iii) Supreme Court

PROCEEDINGS

The Committee went into discussions on how to tackle the problem. They then decided to identify working materials that will be required to accomplish the job within the stipulated time of four weeks. The requirements of the Committee are as follows:

- (i) Two saloon cars or s/wagon
- (ii) The Constitution of the Federal Republic of Nigeria
- (iii) Criminal Code Procedure
- (iv) High Court (Civil Procedure)
- (v) Judicial Service Commission
- (vi) Sharia Court of Appeal (Estab.)
- (vii) Penal Code Procedure
- (viii) Area Court Edict
- (ix) Evidence Act
- (x) File jackets
- (xi) Letter headed paper
- (xii) Stationeries
- (xiii) Imprest to run the Committee
- (xiv) Allowances

ADJOURNMENT

After faithful deliberation the Committee decided to adjourn at 3:30 p.m. To re-convene on the 5th day of July, at 10:00 a.m.

2ND MEETING OF THE SUBCOMMITTEE
JUDICIAL STRUCTURE AND PERSONNEL

05-07-00

MEMBERS PRESENT

[as before]

CHAIRMAN'S OPENING REMARKS

The Chairman welcomed the members and requested Alhaji Usman Nananu (*Magajin Malan Jama'are*) to open the meeting with a prayer. The Committee went into discussion on how many sittings it should have within a week in order to accomplish the job within the time limit. The Committee then arrived at a unanimous decision to sit four times in a week, from Monday to Thursday. The remaining three days will be enough to enable the members visit their homes.

The Committee further decided to categorise its terms of reference in order to do justice to the issue. It then decided to deal with:

PHYSICAL STRUCTURE

The Committee observed that offering suggestions on structure of the new Sharia Courts should entail two things:

- (i) Physical Structures
- (ii) Structural Organisation

PHYSICAL STRUCTURES

This entails the courthouses. The Committee suggests that the physical structure of the courthouse at present is not in conformity with the Islamic norms.

There is no separation between the males and females. Ministry of Works and Housing should be directed to produce suitable plans in uniform, considering the category of the courts. Toilets and waiting rooms for both males and females should be provided. There are now about 94 Area Courts in the State, 15 Upper Area Courts and one Sharia Court of Appeal. See Annex I [there is no Annex I attached to the report].

Suggestion: Under the new dispensation it is suggested that the Area Courts should be converted to Sharia Courts, the Upper Area Courts to Upper Sharia Courts and the Sharia Court of Appeal should be headed by the Grand Kadi. All the Sharia Courts and Upper Sharia Courts should be under the professional and administrative supervision and control of the GRAND KADI AND NOT THE CHIEF JUDGE.

The Committee further suggests that there should be befitting structure that will house the court judges. In places where there are court judges houses, they should be renovated and made physically fit to house the judges. The Ministry of Works and Housing should be requested to draw up beautiful structures/plans for the court judges houses. The houses should be standard air conditioned with all the facilities that are required. (See Annex II [plans for houses for the judges, omitted here]).

In this regard the Committee intends to visit Kano, Zamfara and Niger to see the type of houses provided for the judges. In all respect it should be Muslim quarters.

STRUCTURAL ORGANISATION

The structural organisation entails establishment and constitution of courts. The Committee observed that in the present arrangement the following are obtainable:

- (i) Area Courts
- (ii) Upper Area Courts
- (iii) Sharia Court of Appeal

Suggestion: The Committee after lengthy discussions suggest that under the new dispensation there should be:

- (i) Sharia Court Grade II
- (ii) Sharia Court Grade I
- (iii) Upper Sharia Court
- (iv) Sharia Court of Appeal

(see Annex II) [no Annex II included in the report].

Viewing further the structural organisation of the judicial system in Bauchi State it could be observed that there could be possibility of having the members of the Judicial Service Commission all Christians. This will adversely affect the emergence or implementation of the Sharia system. In that regard, therefore, even though the composition

of the Commission is a constitutional provision, there is need to create Sharia Judicial Service Commission under the chairmanship of the Grand Kadi all members of the Commission (SJSC) should be Muslims. Their functions should remain untampered, i.e. appointment, dismissal, promotion and discipline of the judicial officers.

In addition to these Sharia Courts there may be need to establish Customary Court of Appeal for the State to cater for the non-Muslims.

The Committee further suggest that there may be as required such member of Sharia Courts and Higher Sharia Courts at district level in the State. There may also be as required such number of Upper Area Courts at the populated areas and Local Government Councils in the State.

The Subcommittee however stressed that the Grand Kadi by the approval of the Governor, shall by warrant under his hand locate and prescribe the number of Sharia Courts in such districts of the State as may be required and the Grand Kadi by the approval of the Governor and by warrant under his hand shall locate and prescribe the number of Upper Sharia Courts at populated areas and headquarters of each Local Government in the State.

The Subcommittee further stressed that only the Governor shall have power to approve the establishment of a Sharia Court.

On the question of jurisdiction, the Subcommittee suggests as follows:

The jurisdiction exercisable by a Sharia Court shall be as conferred upon it by Sharia law and shall be exercised within such area already prescribed as the territorial jurisdiction of the Sharia Court.

The Sharia Area Courts [sic] should have jurisdiction to hear all cases of Islamic law except cases involving *hudud* punishment in original matters and *qisas* where the computed compensation is in excess of ₦100,000.00. The Sharia Area Courts shall not also have original jurisdiction in matters involving titles to land of any kind. The Sharia Upper Area Courts should have original jurisdiction in all criminal and civil cases involving questions of Islamic law except for *haddi* crimes involving death sentences for adultery, armed robbery and all homicide related cases. The Sharia Upper Area Courts should have appellate jurisdiction on cases from the Sharia Area Courts.

In the same vein, the Sharia Court of Appeal's jurisdiction should be enlarged to include original jurisdiction on all *hudud* and land matters. This is in addition to the jurisdiction allotted it by section 277 of the Constitution.

On the issue of composition of Sharia Courts and Upper Sharia Courts, the Subcommittee suggests that:

There shall be one judge/alkali in each Sharia Court Grade I or II while an Upper Sharia Court should have three judges/alkalis.

In the case of hearing appeals the Upper Sharia Court should have three judges out of which one, the most senior should preside over the appeals.

SUBJECT MATTER JURISDICTION

The Committee suggests that in accordance with the provisions of section 46, section 251, section 285, paras. 15(4) and 18 of schedule 5 of the Constitution of the Federal Republic of Nigeria and any other provision in the Constitution vesting exclusive jurisdiction in any court or tribunal established under the Constitution, but without prejudice to the provision of section 272 of the said Constitution and any other law vesting jurisdiction in any court that derives existence under the Constitution and notwithstanding the provision of section 3(1) of the Penal Code Law Chapter 108 Laws of Bauchi State, the Sharia Courts shall have jurisdiction and power to hear and determine:

Civil proceedings in Islamic law in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim (due loans individual or individuals or the State) are in issue or criminal proceedings in Islamic law involving or relating to any offence, penalty forfeiture, punishment or other liability in respect of an offence committed by any person against the State.

The Subcommittee debated at length on criminal proceeding as the Area Courts now deal only on civil matters. It was concluded that:

The State House of Assembly shall enact laws to establish offences and their punishment and the procedure for trials in criminal matters.

PERSONAL JURISDICTION

Although, under normal circumstances all Muslims are agents of Sharia legal system, it will be necessary to have well trained agents that will enforce the implementation of the newly introduced system. We believe, when it has finally taken off, all Muslims will be law-abiding. There may be no need for police.

For the meantime the services of voluntary organisations or the State Police Force may be required. The law enforcement agents must be well versed in Islamic law and should possess good leadership qualities.

As mentioned elsewhere in this report the Judicial Service Commission, or the Council of Ulama should be saddled with the responsibility of screening the present fleet of judges through seminars and workshops so that the competent ones sound in character and learning should remain in the service. It is also suggested that Diploma Certificate [sic] in Sharia should be the minimum qualification of a Sharia Court judge. There may be need to employ uncertificated but learned reputable scholars when given adequate orientation.

The Subcommittee advised as follows:

The Sharia Courts, subjects to provisions of other enactments shall have jurisdiction and power over the following persons: All persons professing the Islamic faith and any other persons who do not profess Islamic faith but who voluntarily consent to the exercise of the jurisdiction of Sharia Court law on them.

The area and extent of the jurisdiction of any Sharia Court shall be as specified in the warrant establishing such courts.

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The Sharia Court should have jurisdiction at first instance to hear and determine all civil and criminal cases or matters properly brought before the courts by any person, provided that such cases or matters shall be founded in Islamic law.

In case of sittings for appeals the Subcommittee hereby suggest that:

If at any stage of proceedings and before final judgment in any case or matter before a Sharia Court, a person disputes that he is not subject to the jurisdiction of the Sharia Court, such person shall upon application to the Upper S.C.A Sharia Court of the State [sic] have the proceedings transferred to the Upper Court which shall inquire into and determine the correctness of the allegation.

The Sharia Court after receiving such application shall notify the Sharia Court at that stage the Sharia Court serves stay of proceeding before the Sharia Court, pending determination by the Upper Sharia Court [sic].

The Subcommittee deliberated on the applicable laws and rules of procedure of the Sharia Courts and suggests as follows:

The applicable laws and rules of procedure for the hearing and determination of all civil and criminal proceedings before the Sharia Courts shall be as prescribed under Islamic law for the avoidance of doubt the Sharia Penal Code law comprises the following sources:

- (a) The Holy Qur'an
- (b) The Hadith and Sunnah of Prophet Muhammad (SAW)
- (c) *Ijma*
- (d) *Qiyas*
- (e) *Masatubal-ursala*
- (f) *Istibsan*
- (g) *Istishab*
- (h) *Al-urf*
- (i) *Mazhabal-sahabi and shar'u man, kablaha.*

PRACTICE AND PROCEDURE

The Subcommittee, after careful research and discussion thought of establishing a Council of Ulama. If that is accepted the Committee suggest that:

The Grand Kadi of the State shall in consultation with Council of Ulama, have power to make rules and regulations for the practice and procedure of the Sharia Courts, provided that the practice and procedure shall be as prescribed by and in strict compliance with the Islamic law.

Any person who is charged with a criminal offence before a Sharia Court shall be entitled to defend himself in person or by a legal practitioner of his own choice who is learned in Islamic law.

Sharia Courts will sit in open places where public will have access to them.

It is further suggested that provision may be made by rules of the court for the exclusion of the public from any Sharia Court where the following cases are tried:

Cases where juvenile persons are involved or where the exclusion of the members of the public is necessary and will serve the interest of justice.

APPOINTMENT AND DISCIPLINE OF SHARIA COURT JUDGES

The Committee deliberated at length on this issue as to whether the Judicial Service Commission or the Council of Ulama should be responsible for the appointment of the judges of Sharia Courts. Whether there should be a division of labour between the Council of Ulama taking appointment of the judges and the Judicial Service Commission taking their transfer, discipline and dismissal. The Committee unanimously suggests that:

The appointment, dismissal and disciplinary control over Sharia Court judges and assessors shall be exercised by the State Ministry of Religious Affairs recommended to be established. All Sharia Court judges so appointed shall be officers of the public service of the State.

Qualities of a Sharia Court judge should include among others that:

He shall be Muslim, sane and sound in mind and body. He must be a male and an adult he should be knowledgeable in Sharia Islamic law.

The qualification of a Sharia Court judge should be in line with provision of section 276 of the Constitution.

In order to achieve the above stipulation the Subcommittee hereby suggests that:

For the purpose of establishing Sharia in the State there shall be a Council of Ulama appointed by the State Governor which will be responsible for the screening, recommendation and advice to the Grand Kadi on the qualification, competence and fitness of any person both in character and learning to be appointed as Sharia Court judge.

The membership should comprise three members two legal practitioners qualified to practise for not less than ten years at least two of whom must have background knowledge of Islamic law.

The members of the State Council of Ulama may elect the leader of the Council from amongst themselves if such leader shall be approved by the Governor who will subsequently appoint him for a period.

The membership and composition of the Council and the conduct of its affairs shall be carried out in such manner as to reflect the various competing Islamic sects or schools of thought in the State at least not more than ten members of the Council of Ulama may be appointed from within the State and not less than five members of Council shall be appointed from the other States of the Federation of Nigeria.

The State Council of Ulama shall make rules and regulations for the conduct of the affairs of the Council. The State Council of Ulama may co-opt any person to attend its meetings. The Council shall meet once in every month or as the occasion may require. The Governor shall appoint a person learned in Islamic law to be the Secretary of the Council.

The Council shall have power to carry out its functions which may include:

Meeting periodically to discuss, interpret, explain or give informed opinion on issues, matters or questions that may be referred to it by any person, group of persons or authority or the Sharia Courts, in respect of questions or issues in Islamic law and jurisprudence generally.

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To monitor and assess progress in the implementation of Sharia law in the State and where necessary give corrective advice.

To monitor and give informed opinion on Islamic law on recent or new developments as a result of technological innovations, modern trade and commerce, contemporary social vices and diseases.

To advise, select and recommend fit, suitable and qualified persons to be appointed as Sharia Court judges. To advise and make recommendation for the discipline, suspension, termination, interdiction or dismissal of a Sharia Court judge.

To make available literature in print, audio or video form on the provisions of Islamic law in order to enlighten and educate the people of the State on the principles and practices of Islamic law.

REMUNERATION OF SHARIA COURT JUDGES

The Committee suggests that in order to disconcert the judges, there is need to adequately pay the judges their salaries and allowances. What really makes the present judges corrupt is inadequate payments. The current review of salary structure of judges should be implemented to the letter.

The members of the Council [of Ulama] shall be entitled to payment of such remuneration and/or allowance as sitting or monthly allowances as may from time to time be determined by the House of Assembly.

STAFF OF SHARIA COURTS

The Subcommittee observed that the present staffing of the courts is adequate, there are some over-staffing in many of the courts. The Committee however suggests that the following should be standard and uniform:

All Sharia Court staff shall be public officers of the State civil service. Under the Ministry of Religious Affairs.

In every Sharia Court there shall be a registrar and two clerks, there shall be bailiffs and messengers. A policeman can under some circumstances carry out the functions of bailiff or clerk as the case may be.

It is hereby advised that there may be up to four bailiffs/ messengers in every Sharia Court.

TRANSFER BY SHARIA COURTS

The Subcommittee observed that under the present dispensation transfer of cases from the Area Courts or Upper Area Courts to the High Court are rampant most of such cases were on interest only. The Subcommittee suggests that:

A Sharia Court may order the transfer of any cause or matter before trial or at any stage of the proceedings before judgment to any other Sharia Court of competent jurisdiction and such other Sharia Court may take any cause with regards to the cause or matter transferred to it.

ANCILLARY POWERS OF SHARIA COURT

It is hereby suggested that:

Every person sentenced or committed by a Sharia Court to imprisonment shall be detained in a place established as a prison under any written law.

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Every Sharia Court shall have power to summon before it for the purpose of giving evidence any person within the State.

In the case of enforcing a judgment or order:

Any judgment or order given or made by a Sharia Court in a civil cause or matter may be enforced by seizure or sale of property of the person against whom the judgment is entered or by such other methods of enforcing judgment and orders as may be prescribed by Sharia procedural rules or rules made under this law. The execution should be just.

As regards to decrees or orders of courts, the Sharia Court shall carry into execution any judgment or orders of:

- (a) The Supreme Court
- (b) The Court of Appeal
- (c) The Federal High Court
- (d) Any High Court
- (e) Any Magistrate Court
- (f) The Sharia Court of Appeal
- (g) Any District Court
- (h) Tribunals established under the Constitution
- (i) Such other courts as may be authorised by law to exercise jurisdiction on matters with respect to which the National Assembly may make laws.
- (j) Such other courts as may be authorised by law to exercise jurisdiction at first instance or on appeal on matters with respect to which a House of Assembly may make laws.

The Subcommittee observed that under the present dispensation, properties are wasted or damaged and alienated in the cause of execution of judgment. In that regard the Committee suggests that:

In any cause or matter before a Sharia Court in which pending final determination it shall be shown to the satisfaction of the Sharia Court that any property which is in dispute in the cause or matter is in danger of being wasted, damaged, alienated or otherwise wrongfully dealt with by any party, the Sharia Court may cause an injunction to issue to such party commanding him to refrain from doing the particular act complained of or alternatively may take and keep such property in custody pending the determination of such case or matter.

CONTROL OF SHARIA COURTS

On the issue of the control and supervision of Sharia Courts, it is hereby suggested that:

The control and supervision of Sharia Courts shall be under the office of the Grand Kadi.

APPOINTMENT OF INSPECTORS

The issue of supervision was discussed thoroughly by the Subcommittee. It came to realise that at present, the supervisory control is adequate, only that there are no vehicles to effect adequate supervision. It is further suggested that the Inspectorate Division when established should have enough supervisory materials and equipment to enable it perform its duty very well. The following grades of inspectors to enforce the Sharia law are:

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- (i) Chief Inspector
- (ii) Deputy Chief Inspector
- (iii) Assistant Chief Inspector
- (iv) Principal Chief Inspector II

All inspectors must be learned in Islamic law. The Council of Ulama has the right to advise the Grand Kadi on the appointment of inspectors.

POWERS OF INSPECTORS

A Chief Inspector shall have power at any stage of the proceeding before final judgment either of his own motion or on the application of any party to cause or transfer the matter to another Sharia Court and to report such decision to the Grand Kadi. If the cause or matter be one which in his opinion ought for any reason to be transferred from a Sharia Court, he may report the case to the Grand Kadi.

Provided that the Grand Kadi may also transfer a matter from the High Court or District Court to the Sharia Court for its determination. The court to which the matter or cause is transferred, shall be [advised] in writing of the reason for making the order for making the transfer and may thereafter take any course with regard to the cause or matter which it considers just and equitable under Islamic law principles.

Where a cause or matter is reported to the Grand Kadi he shall direct in what mode and in what court the cause or matter shall be heard and determined. Where a cause or matter is transferred from a Sharia Court to any other court no summons fees shall be payable in the court to which the cause or matter is transferred.

Every order of transfer shall operate as a stay of proceedings before the Sharia Court from which the proceedings are ordered to be transferred in [any] cause or matter to which the order extends or is applicable, and the process and proceedings in every such cause or matter, and a certified copy of the record shall be transmitted to the court to which the same shall be transferred and henceforth all proceedings in the cause or matter shall be taken in such court as if the cause or matter has been commenced therein.

An Inspector if in his opinion there has been a miscarriage of justice in any case before a Sharia Court to which he has access, may of his own motion or in his absolute discretion on the application of any person concerned report that case to the court to which an appeal in such case would lie. Such report shall be made in writing and shall record the particulars of the judgment or the order in the case and the reason of its being reported and shall be accompanied by a copy of the record of the case.

The court to which the case has been reported shall review it and may:

- (a) reverse, vary or confirm the decision given;
- (b) make such order [or pass such sentence] in such proceedings as the lower court could have made or passed; and
- (c) make such further order which may include an order that a person sentenced to imprisonment therein be released on bail as may be necessary or as the justice of the case may require.

OFFENCES

The Subcommittee observed that officers of the Sharia Courts, being human are bound to commit some offences, because they are human. In that regard the Subcommittee suggests that: any officer of a Sharia Court who is charged with negligence of duty and found guilty of such offence shall be liable to imprisonment for a period of not exceeding twelve months or to a fine of two thousand naira or both such fine and imprisonment. In alternative to the above the officer so convicted may be charged to pay the whole or any part of any damages sustained by any person as a result of such offence. Any person who exercises or attempts to exercise judicial powers within the area of jurisdiction of a duly-constituted Sharia Court except in accordance with the provision of any written law, or sit as a member of such court without authority, shall be liable on conviction before the Sharia Court or Upper Sharia Court to a fine not exceeding two thousand naira or imprisonment for a period not exceeding twelve months or to both fine and imprisonment.

No prosecution in this respect shall be instituted without the consent of the Grand Kadi.

APPEALS

The Subcommittee hereby suggests that appeals shall be from the decision or orders of the Sharia Court in civil or criminal proceedings to the Upper Sharia Court; the courts must be of the same territorial jurisdiction.

Appeals shall be from the decisions of the Upper Sharia Court on civil or criminal matters to the Sharia Court of Appeal of the State (See Sketch I and II) [no such sketches included in the report].

The Sharia Court of Appeal shall have the jurisdiction and power to hear and determine all appeals from the decisions or orders of the Upper Sharia Court sitting in its original or appellate jurisdiction in all civil and criminal proceedings.

Where an appeal lies from an order or decision of a Sharia Court, the court to which the appeal is brought shall have power to inspect the records or books of such Sharia Court relating to the appeal.

MATERIAL REQUIREMENTS OF SHARIA COURTS

The Subcommittee observed that there are not enough materials in almost all the courts. The only setback is that some if not all of the judges when going on transfer used to move away with the essential materials either to the new courts or to their houses. It is believed that with the introduction of the Sharia in the State the movement of the materials will be minimised if not stopped completely.

In this regard therefore the Committee further recommends that in the purchase of the Sharia law books, only those contractors who have knowledge of Islamic law shall be asked to supply the books. For the list of the books requirements of every court up to the Court of Appeal see appendix iv. [sic: there is no appendix iv to the report; the list of required books is given below]. It is further suggested that during the handing over and taking over, it must be ensured that the books are handed and taken over.

BOOK LIST²⁹

1. *As'halul Madarik*
2. *Fawakihud Dawani*
3. *Jawahirul Iklili*
4. *Mudawwanatul Kubra*
5. *Dasuqi*
6. *Bahjab*
7. *Tuhfa*
8. *Mayyara*
9. *Badrul-Zanjaini*
10. *Tthamaruddani*
11. *Fiqhu ala Madhabibil Arba'a*
12. *Diya'ul Ta'nili*
13. *Tabsisul Maragi*
14. *Bidayatul Mujtabid*
15. *Fathul Jawadi*
16. *Fiqhus Sunnah*
17. *Diya'ul Hukkami*
18. *Fatbu Aliyu Malik*
19. *Fathul Bari*
20. Sharia Penal Code
21. Penal Code
22. *Tabsiratul Hukkami*
23. *Al-Jarima Wal-Uquba fi al-Fiqh al-Islami*
24. *Fatawa (Majmu'ul al-Fatawa)*
25. *Qamus*³⁰
26. *Almunjid* [i.e., dictionary, without saying which one]

The Committee suggest that this list is not exhaustive, room is open for addition and or subtraction in the course of time.

TRAINING COURT JUDGES

The Committee observed that among the calibre of the court judges there are fairly large number of them who are really well trained. Unfortunately, most of them do not use their knowledge in the right direction. It has further been observed that there are several training institutions within and out of the country for the judges. The following institutions are recommended for the training of the judges. These are:

²⁹ For bibliographical information about the books included in this list, see the "Bibliography of Islamic Authorities" in Chapter 6 of this work, Vol. V.

³⁰ This is an Arabic/English English/Arabic dictionary whose full name is *Al-Qamus al-Asriyya*, short title *Qamus*; bibliographical information about it is given in Chapter 6, see previous note. In the booklist reproduced here, the name of this book is spelled *Karunsul Asri*; then numbers 27 and 28 on the list, omitted here, are *Kamusul Muhidi* and *Kamusul Jerib*. All three of these works are the very same *Qamus*.

College of Legal and Islamic Studies Misau: graduates of the A.D. Rufa'i College of Legal and Islamic Studies Misau are admitted in various universities for degree courses. Such universities that offer degrees in Islamic Law/Islamic Studies are:

1. Bayero University Kano
2. University of Maiduguri
3. Usman Dan Fodiyo University Sokoto
4. Ahmadu Bello University Zaria

The Committee further suggest that there may be more universities in future who would either be Islamic universities or those offering such Islamic law courses.

[TERM OF REFERENCE (b)]

- (b) To define the relationship between the Sharia Court of Appeal and
- (i) High Court
 - (ii) Court of Appeal
 - (iii) Supreme Court.

[(i)] Relationship between the Sharia Court of Appeal and High Court. It has been observed that the relationship between the Sharia Court of Appeal and High Court, is in the appellate jurisdiction. Under the new dispensation appeals from the Sharia Courts go to the Upper Sharia Courts.

Before the introduction of Sharia the Chief Judge has the power to intervene in cases at the Upper Area Court and transfer cases to another Upper Court. This is done on the ground that there might be some interest in the conduct of judgment. As it has been suggested that the Grand Kadi is now the alpha and omega of the Sharia Court, he shall still have power to transfer cases from one Upper Sharia Court to the other for appeal where [he] is satisfied that there would be better hearing in the latter court. It is therefore recommended that the two high courts: Sharia Court of Appeal and the High Court should operate side by side. The High Court hearing appeals from the Magistrate Courts and the Sharia Court of Appeal from the Upper Sharia Courts. (See Annex II) [no Annex II included in report].

Originally the Emir's Courts were the final courts of appeal. Now by the statutes and constitutional changes appeals from the Area Courts lie to Sharia Court of Appeal on Muslim personal law and to the High Court on all other Sharia matters. Therefore, appeals go to the Court of Appeal and finally to the Supreme Court from both lower courts (See Annex VI) [no Annex VI included in report].

It should however be understood here that where an Area Court decides a case on Sharia law, then all the courts exercising appellate jurisdiction over the case, including the Supreme Court are bound by law to apply the Sharia law. This is the reason why under section 288 of the 1999 Constitution it is required to have justices in the Court of Appeal and the Supreme Court who are learned in Sharia law.

(ii) Court of Appeal. With respect to appeal, the High Court is empowered to hear and determine appeals from the decisions of the Area Court on Sharia cases that do not involve Muslim personal law. However, in the determination of such appeals the High Court is not allowed to apply English law. It must decide the issue in accordance with

the Sharia law. The responsibility for appeal on Muslim personal law is vested in the Sharia Court of Appeal.

(iii) Supreme Court of Nigeria. As it has been suggested earlier at the Federal level there are four appellate courts [in addition] to the Supreme Court. These are the Sharia Court of Appeal, the Customary Court of Appeal, Federal High Court and up to Court of Appeal and the apex of Supreme Court. In the Supreme Court there are three divisions that accordingly meet to hear appeals from the courts mentioned above. These divisions of the Supreme Court are:

- (a) Common Law Division
- (b) Sharia Division and
- (c) Customary Division

The Court of Appeal has these three sub-divisions. Appeals are taken up to the Supreme Court and treated under any of the divisions as the case may be (See Appendix VII) [no Appendix VII included in Report].

OBSERVATIONS ON EXTERNAL VISITS TO STATES

The Judicial Structure [and] Personnel Subcommittee after visiting some States that have implemented the Sharia law and some courts in the State, came up with the following observations:

1. It has been observed that of all the States visited, Zamfara State is the only State that has fully implemented the Sharia law 100%.
2. Zamfara State has established permanent structures that enabled the complete establishment of the Sharia system.
 - (a) Among the permanent bodies that have been established are:
 - (i) Sharia Implementation Committee
 - (ii) State Ulama Consultative Committee
 - (iii) Joint Aid Monitoring Group
 - (iv) Women Da'awah Committee
 - (v) Joint Youth Islamic Organisation
 - (vi) Law Reform Committee
 - (b) The following bodies have also been established:
 - (i) Ministry of Religious Affairs
 - (ii) Zakat Commission
 - (iii) Anti-Corruption Commission
 - (iv) Marriage Expenses Commission
 - (v) Preaching Board
 - (vi) Mosques Establishment Board
3. The Zamfara State Government has established these bodies under the law promulgated by the State House of Assembly.
4. In order to enforce the Sharia legal system, members of the Aid Groups were trained and employed as prosecutors of Islamic committed offences in the Sharia Courts.

The Zamfara State has by law of the House of Assembly transferred all the administration of the Sharia Courts under the responsibility of the Grand Kadi.

5. The State Ulama Consultative Committee has the responsibility of overall check and balances on the bodies established for the implementation of Sharia and the Government itself.
6. The Council of Ulama has the responsibility of screening the judicial officers who applied for the post of alkali or any post in the judiciary.
7. The judges in Zamfara State are the highest paid civil servants. They are provided with well-furnished houses and offices and allowances to purchase vehicles.
8. The courts are in accordance with the dictates of the Sharia. There is complete separation between males and females.
9. It has been observed that there is total commitment to the establishment of Sharia in Zamfara State. All Government functionaries are directly involved and committed towards the enthronement of the divine injunction.

The Committee reiterates that Katsina and Kano States have also put up on the ground all necessities for the take-off of the Sharia. They have reached certain stages of development. Accordingly, the States visited have also copied from Zamfara State and [are] putting up finishing touches on the laws establishing Sharia.

OBSERVATIONS ON INTERNAL VISITS TO SOME COURTS IN THE STATE

The Subcommittee had the privilege of visiting some Upper and Area Courts in the State. What the Committee saw was really confusion and lack of care and attention from the Government. The Committee however makes the following observations:

1. There are some beautiful structures put up as court houses but have been for ages without maintenance. Some [roofs] were blown off and still remain so. Some need renovation and some need to be demolished and reconstructed. Some courts are operating in rented quarters. These rented quarters are a disgrace and total abuse to the noble learned profession. New structures need to be erected to house those that are operating in rented quarters.
2. There is absolute absence of any law books in all the courts. Only Misau Upper Area Court has some recommended Sharia law books. The lack of these law books makes it necessary for the judges to use their college note books to refer to some cases. Both the necessary law books such as Penal Code, Criminal Procedure Code, Civil Procedure Code, Traffic Code, Juvenile Code are absent in all the courts of the State. The same applies to Sharia books.
3. It has also been confirmed beyond reasonable doubt that all types of forms are not available in any of the courts. Litigants have to buy sheets of paper in order to record their complaint.
4. There are no stationeries at all in all the courts. The litigants provide whatever stationeries are needed in order to make things move in the courts. There is nothing one may call working materials, reference books or befitting furniture. There is nothing that can make the court look like a court.

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5. Most of the judges are reasonably trained but their supporting staff needs to be trained. It appears that some courts are overstaffed while others are under staffed.
6. Some judges have quarters while the majority have not. Those quarters provided by the Government are all ruined and some are inhabitable.
7. The Inspectorate Division has no single vehicle with which to effectively supervise the courts in fact none of the judges enjoy any vehicle loan.
8. The present operation of the courts encourage corruption, inefficiency, nepotism and anarchy.
9. The judges in the State are not adequately remunerated and are neglected in every aspect of job satisfaction or job performance.

RECOMMENDATIONS

In order to enhance the complete take-off of the Sharia system, we recommend as follows:

1. Ministry of Religious Affairs should be established with an Hon. Commissioner for Religious Affairs, a Permanent Secretary and six Directors and four Parastatals (See Chart 1) [no Chart 1 is included with the report; compare Annexure 1 to the Report of the Subcommittee on Documentation and Codification, above]. The Ministry shall be responsible for all religious matters including:
 - (a) Converts and marriages
 - (b) Muslim/Christian relationship
 - (c) Seminars, lectures, *da'awah*, preaching, training of imams and preachers
 - (d) Publication and library matters
 - (e) Less privileged welfare
 - (f) Qur'an reading competition and recitation
 - (g) *Zakat* collection and distribution
 - (h) To advise the Government on any religious matters
 - (i) Any religious assignment as directed by the Governor.
2. Ulama Consultative Forum should be established for the purpose of check and balances on both the activities of the Government, the judges and all other religious matters.
3. Council of Ulama shall be established for the purpose of conducting seminars, workshops and screening of judges and judicial personnel.
4. Sharia Judicial Service Commission that will work hand in hand with Judicial Service Commission. The SJSC will be responsible for the employment, dismissal and discipline of the Sharia Court judges and other judicial personnel.
5. All Aid Groups of all denominations should be trained and serve as prosecutors in the established Sharia Courts. All investigations remain with the Police.
6. Zakat and Endowment Board should be established under the Directorate of Sharia of the Ministry of Religious Affairs.
7. It is advised that, in order to put a stop to hawking and street trading, there is need to establish mini-markets in all the populated quarters of all towns and villages in the

State. The Aid Groups should be used to monitor the activities of the hawkers and middlemen.

8. It is recommended that courthouses should be constructed for all courts that have no courthouses. In the same vein, judges quarters should also be provided for those judges that have no quarters. Some structures serving as courts have not been renovated since erection years ago. They should be renovated and made habitable. New courthouses and judges quarters should be in accordance with plans provided by the Committee. The old and new courthouses should be in accordance with plans provided.

9. Enough working materials, law books both English and Islamic should be provided in all the courts. All forms that are required by the courts should be provided. There should not be circumstances whereby any litigant should provide working materials for the courts.

10. The Inspectorate Division of the Ministry of Justice should be provided with enough tough vehicles in order to enable them function effectively. The Inspectors should have reasonable Islamic education so that they should be in line with the court judges and registrars.

11. Seminars and workshops should be conducted in order to train and retrain the court judges and their staff.

12. Judges' welfare and remuneration should be reasonable enough to dis-corrupt them. Pay package should include fat salaries, allowances and loan to purchase motor vehicles.

13. Reasonable number of staff that are trained should be retrained while those who are surplus, should be trained in order to be absorbed into the Sharia system.

14. We further recommend that the issue of moon sighting that causes a lot of confusion every year should be attached to the Ministry of Religious Affairs.

15. It is hereby suggested that no one should be appointed as Sharia Court judge without attaining the age of forty (40) years.

[Note: at the end of the report of the Subcommittee on Judicial Structure, Personnel and Materials, there are eight pages of drawings of proposed courthouses for the Sharia Courts and Upper Sharia Courts, and residences for their judges. The drawings are omitted here.]

5.

Appendix IV

Transcripts of Audio and Visual Recordings of the Activities of the Subcommittee on Public Enlightenment

Transcriptions by Dalhat Hamid Bello and Ibrahim Mohammad M. Goje,
Bauchi Radio Corporation, 8th September 2000³¹

(1) Visits to Emirs

Translated from the Hausa by Ahmed S. Garba

Presenter:

Your Highness the Emir of Bauchi and members of his Council.

Sir, may you live long. Two to three weeks ago, His Excellency the Executive Governor of Bauchi State, inaugurated a committee that will come up with modalities on how to implement Sharia in the State. It was during the inauguration that the Executive Governor assured citizens of this State that he himself and other State officials have agreed to implement Sharia in the State. It is because of this that the Executive Governor formed this Technical Committee for the Implementation of Sharia in the State. This is why we came out today and decided to start first with Your Highness based on the following reasons.

Firstly, this Committee is required to suggest to the Government the things needed for the implementation of Sharia such as courts, because the courts we have now are not ones that can serve our purpose; the appropriate persons to be appointed as judges, learned and pious persons who have fear of Allah; and the appropriate books needed to be distributed to the courts. The Committee has also been requested to come up with suggestions as regards the amendment of the penal code which prevented us from practising Sharia. Although it is said that there is Sharia in it, it has not served our purpose absolutely (100%).

Apart from these, it has been observed that majority of the people agitating for the implementation of Sharia do not know the Sharia and its aims. In view of this, the Committee is required to organise gatherings and discussions over both the radio and television with a view to educating the people on what Sharia is. It is after this that we will recommend to the Government the appropriate day for the implementation of Sharia in the State to take effect.

After looking at the gigantic nature of the work, we realised the necessity of people's assistance for its success. In this regard, we decided to start first with Your Highness the

³¹ The table of contents preceding these transcripts in Vol. III of the Report of the Bauchi State Sharia Implementation Committee lists eight events transcribed: (1) visits to Emirs, (2) media visits, (3) visit to Zamfara State, (4) visits to Local Government Areas, (5) press conference, (6) live discussion, (7) panel discussion, and (8) "Radio Link", a call-in radio programme. Of these, numbers (4) and (8) are missing from Vol. III. The rest are printed here; all but the transcripts of the media visits are translated from the Hausa by Ahmed S. Garba.

Emir of Bauchi. If I can recall, the day this Committee was inaugurated by His Excellency the Executive Governor of the State, Your Highness made a statement to the effect that we should attach importance to all manner of suggestions from all manner of persons. It is in view of this that we decided to come to Your Highness first.

The Emir of Bauchi, Dr. Suleiman Adamu:

First and foremost, we should start by thanking Allah for making it possible for us to see the implementation of Sharia in our time. We thank Allah for seeing us through this time. We pray that Allah may prolong our lives to see the day Sharia implementation will start in earnest in this State of ours. Secondly, I thank you for accepting this assignment from the Government for the purpose of coming up with recommendations for Government to implement Sharia in the State. Thirdly, based on your presentation, I have alerted the people, both Muslims and non-Muslims, on what constitutes Sharia. This is because to many, Sharia is all about amputating the hand of the thief and stoning the adulterer to death.

But Sharia is beyond this. Sharia starts from the individual as a person. You need to know yourself, know your creator, have faith in Him, have faith in His messengers. After this, how to treat your parents and your grandparents, your wife if you are married, your children if you have them, your neighbours, your business associates, you must know all these before moving forward. These things are many and I know you know them better than myself.

Therefore, I pray for success for you in this gigantic assignment. It is a big one and requires diligence. Apart from sacrificing your time, you must go round the State and must also read a lot. In all, I urge you to exercise patience in discharging this onerous responsibility.

Lastly, it should be noted that *Daula Usmaniya*, the Sokoto Caliphate, was founded on Sharia. Those who have read history are fully aware of how the white men came and waged war against us, and spoilt the Sharia. I myself grew up seeing Sharia being implemented, even *qisas* etc. It was later that courts and prisons were withdrawn from the Emirs and also the police too. The reason given was that they were using them to oppress political opponents in those days. It is true that some did use them to oppress opponents groundlessly. But wherever you went in those days, prisons were always closer to the Emir's palace. This is because that is where they decided matters based on Sharia [i.e. the Emir's Court was there] and immediately after judgment the accused was sent to the prison.

One most unfortunate thing is that some people say that youth should not be involved in matters of Sharia, and also, civil servants. But we do not know their reasons for saying so. We know that among the civil servants, there are those that are well educated and their work requires knowledge, so why do we say they should not be involved? I think this is a mistake and it is also a mistake to say that Emirs are anti-Sharia because if Sharia is in place, we are the happiest.

You and *Sarkin Malamai*, the head of the *ulamas*, know what usually happens when aggrieved people come to us after a court delivers a judgment against them. This has to do with how some people are maltreated, particularly in the area of distribution of the

estates of deceased persons. If a matter of this nature comes before us, we find it very difficult to understand. What we normally do is to send it to the inspector of courts as we cannot do anything on it. At this point, we all have to exercise patience, since your Committee has been set up by the Government [to make recommendations about such things]. People should not allow ignorance or selfishness to guide them towards oppressing anybody before this Committee finishes its assignment. Anybody who thinks that he can send anybody away or deal with anybody, before this Committee finishes its assignment, is wrong and is ignorant.

In view of this, I urge all of you to give this Committee the maximum cooperation it requires from you and we should pray that Allah gives us the opportunity to witness the day the implementation will start. We are happy. We thank Allah. We pray for success.

The Emir of Das, Alhaji Bilyaminu Othman:

In the beginning, I would like to start by showing my appreciation to Allah for giving you the opportunity to serve the religion of Islam and the country as a whole. May Allah assist you, guide you and help you to come out with a report that will be acceptable to all.

I want to talk about my jurisdiction (Das), Bauchi State and Nigeria as a whole.

Firstly, we, as Emirs are happy with this initiative to implement Sharia with the intention of correcting how people are co-existing with one another and making life better for them. Here in Das, for years, we have lived in peace with one another, and Muslims are the majority. There are Christians that are indigenes and idol worshipers too but we have lived in peace with them all. In one house, it is possible to have a Christian and Muslim living together in peace. This is why I am appealing to you to ensure that these complexities are taken into consideration in order to ensure peace. I also call on this Committee to take into consideration those views known to be popular among the people. Whatever we want to do in the name of correction must be done gradually.

In the days of colonial rule, as is well known, the learning of the Arabic language and Islamic religious teachers were discouraged. By contrast, knowledge of mathematics and the English language were encouraged. One culture was made to be above the other. It is not possible to correct this in one day. This has been with us for fifty years now. It has to be corrected gradually. However, we are making efforts.

What Allah says in the Qur'an and the Hadith still stands firm. What the *ulamas* have said is also available. However, the application of Sharia in Saudi Arabia differs from that of Egypt, and the Iraqis' too is different, although all of them are Muslim states. However, each is sewing its cloth according to its size. This is my appeal to you. These differences should be acknowledged, so that all of us can be happy. In this spirit I invited Reverend Musa and other Christians from the Roman Catholic Church and ECWA and they are with us here so that they can listen to this brief session. But of course Sharia has been with us for long in this country.

With these few words of mine, I pray that Allah may assist you, may He guide you and may Allah make Sharia implementation a success in this State.

The Emir of Katagum, Alhaji Muhammadu Kabir Umar:

Indeed, my biggest pride is that our people are Muslims. In fact like I said, I think it is very difficult to get even one or two percent non-Muslims from among our people.

Fine, we will give you suggestions. Later our *ulamas* and our members of the State House of Assembly should also be given opportunity to make their own input.

I myself was once a member of the Federal House of Representatives.³² We were the ones that brought the Penal Code. We brought the Penal Code because things were then becoming unstable. We were then under colonial administration and they were daily and constantly bringing things that only suited their interest. It was later that *Sardauna* thought over the situation and started bringing issues of Sharia. We sent people to Sudan and Pakistan so that they could see how Sharia was being practicalised in those countries. The Penal Code was based on Maliki law. That was why a committee was set up and sent to Pakistan and Sudan. I think the countries were three, so that they could see how those countries were doing their own. When they brought their report, we gathered *ulamas* who read the report and separated the wheat from the chaff, separating those things that were Islamic from those that were not Islamic. The Islamic things formed the basis of the Penal Code.

Well, you know just like the present regime, we suffered and it took us long before we brought an end to colonial administration. At that time, most judges were giving judgements based on their wishes in the dispensation of justice. In view of this, take your time before you select judges. There will be a lot of problems before people strictly abide by the laws. However, is there any Muslim who will say Sharia should not be implemented? Only if he is not truly a Muslim.

I want to assure you that, we Muslims are completely in agreement with the implementation of Sharia even at the national level. I only want you to do one thing. That is enlighten the people, because up to now non-Muslims believe that Sharia implementation will affect them. Yesterday, somebody told me that there was a meeting – was it at Benin or where? – of people who want mineral resources in Nigeria to be removed from the control of the Federal Government and to be put under the control of the States from which those minerals are derived. I want us to be very careful here. This country is multi-religious. There are Muslims and non-Muslims alike. We should be very cautious in our approach and stick firmly to the way of Allah. And we should ponder over this Penal Code. It is based strictly on Maliki law. There was no hidden agenda at all³³ as Maliki law itself is Sharia.

I pray for success for you. May Allah reward you for this assignment. But we should be very careful because we are in trouble unless you enlighten the people. Non-Muslims will not be affected by the implementation and the Muslims that will be affected are the ones that called for its implementation.

³² Sic. The Emir goes on to say that “we were the ones” who brought in the Penal Code of 1960 etc.; all of that was of course done by the government of the Northern Region.

³³ “Ba wani dabara aka yi a chiki ba”.

If I may recall, Sheikh Dahiru Bauchi has been complaining about the holidays Christians do in a year in Nigeria. He drew a distinction between their own and those of Muslims. I therefore pray that may this not bring any problem in Nigeria. Thank you.

The Emir of Jama'are, Alhaji Muhammad Ahmad Wabi III:

I want to say that our neighbouring States have started prohibiting immoral things, which explains the influx of people into our State. Therefore I urge this Committee to recommend to the Governor to follow suit so that the influx of people from the neighbouring States into our Local Government that has resulted from the implementation of Sharia elsewhere can be checked. For instance, prostitution and drinking of alcohol should be prohibited. I believe if we start with these, there will be significant reduction in the commission of immoral acts in Jama'are and Bauchi State in general. I hope this will reach the Executive Governor of Bauchi State.

I pray for this Committee and wish you all the best. By the grace of Allah, you will be getting our suggestions from time to time in writing or we will send delegates to you from among our representatives at the House of Assembly. I believe this will be good.

In view of the time, I wish once again to thank His Excellency the Executive Governor of the State and your Committee members. *Alhamdu lillahi*, thanks be to Allah. All the Committee members are educated and the issue of Sharia is already there in the Qur'an and the Hadith of Prophet Muhammad (SAW) and in other books. Because of that, I think it will not be difficult. May my special prayer reach you. May Allah assist this Committee and our State – Bauchi State. May Allah make Sharia implementation a reality in the State, particularly that we have long been waiting for it. We pray for Allah's assistance to Muslims and to Islam in general. May Allah make Sharia to be an instrument of peaceful co-existence in Nigeria. *Assalamu alaikum warahmatul lahi ta'ala wabaraka tubu.*

(2) Media Visits – 2nd August 2000³⁴

(Original of this transcript is in English)

Sa'in Katagum Alhaji Muhammadu Danmadami [Chairman of the Subcommittee on Public Enlightenment]

I know you are already aware the Executive Governor Alhaji Ahmad Adamu Mu'azu inaugurated the Sharia Implementation Committee on the 29th of June. In fact the Committee was established to advise the Governor on ways and means of hitch-free implementation of Sharia, the complete operationalisation of full implementation of the Islamic law in the State.

³⁴ The heading to this section of the transcripts reads in full: "Media Visits by the Publicity Subcommittee in the State Implementation Committee (2-8-2000)". Cf. the Report of the Subcommittee on Public Enlightenment, Appendix V *infra*, "Detailed Programmemes" ¶ vii: "In order to establish a good working relationship with the media, the Subcommittee visited all the media houses in Bauchi on 2nd August 2000, during which useful discussions were held to the mutual benefit of the subcommittee and the media executives concerned."

So he gave the Committee certain terms of reference that will facilitate its work and to advise Government on the structure, personnel, training under the system. The other one is the amendment of the Penal Code. Number three is to organise seminars, discussions, drama presentations, working visits with a view to enlightening the public, particularly the non-Muslims on the rights and duties under the Sharia legal system.

And accordingly, this Subcommittee has been directed to co-opt the Chairman of the Christian Association of Nigeria or any other non-Muslim that is found to be most useful.

The Committee is to submit its recommendation to the Government within three months from the date of inauguration. And accordingly they are also to propose time for the Sharia to take off in the State, after having taken into account all the pre-requisites, that is both legal requisite and infrastructural requisite. Then, the Committee may also be assigned any other job by the Governor.

Now we had subsequent meetings after the inauguration and during one of these meetings, the Committee was broken into three subcommittees. One of them is the Public Enlightenment Subcommittee. This [Sub]committee with [sic] the sole responsibility for the public enlightenment assignment as per the terms of reference.

The other subcommittee is the Documentation and Codification Subcommittee. This [Sub]committee is to carry out documentation involving amendment to the Penal Code as indicated and other laws relevant to Sharia that must be amended. And then also is their duty after visiting those States that have already accepted Sharia, to develop Bauchi State Sharia Penal Code. Then the Judicial Structure and Personnel [Sub]committee is to work out all infra-structural and personnel details, as well as training needs of these Sharia Courts judges.

So at the end of it all, the work of these committees would be collated to produce the Committee's report within three months to be submitted to His Excellency, the Governor for further action. So in fact here we are, the members or some of the members, because some are unavoidably absent to cover some of our assignments.

As I said earlier, Bauchi State is not the first State to decide to adopt a Sharia system. Other States such as Zamfara, Niger, Sokoto and Kano have done so before. Only recently, even. Yesterday and today Katsina and Jigawa have just launched full Sharia in their States, and we know Yobe, Borno, Gombe, Kebbi and Kaduna States have indicated their intention to adopt Sharia system in the near future so this brings to 12 the number of pro-Sharia States in the country so far.

So in order to carry out its assignment effectively, as possible, this Committee has organised seminars, workshops, symposium, live discussion, radio link, drama presentation, panel discussion and *da'awah* and public enlightenment tour of all the 20 Local Governments in the State, as follows.

1. Live discussion. This is the first engagement we will have in Bauchi capital. It has been slated at the Multipurpose Hall on Saturday the 5th August at 10:00 o'clock. In fact we have invited over three hundred people, and this is made up of Sharia Court judges, Area Court judges, organisations from all the twenty Local Governments, representatives

of organised interest groups, and general representation of ordinary members of the public throughout the State.

For the seminars, in fact we made it two seminars. One in Bauchi from 12-13 of August at the same venue, Multipurpose Hall at 10:00 a.m. each day. Renowned resource [persons] have been invited to present papers on various aspects of Sharia and Islamic law. The second seminar will take place in Azare from 19th – 20th at 10.00 o'clock each day. The venue will be arranged by the Chairman of Katagum Local Government.

Some of the topics of these seminars are as follows and which are not exhaustive include the problems of Sharia legal system in a multi-cultural and multi-religious society and their solutions. We want the resource person to do his homework here so that the members of the public will benefit. The second item, the efficacy of the Sharia legal system in the control of crimes and other social offences, comparative of the Islamic legal system and English common law as applied to the Nigerian community, the rights and privileges of Muslims and non-Muslims alike under the Sharia, the sources of Sharia and Islamic jurisprudence generally, Sharia in Nigeria from the historical perspective and many other topics.

Some of the resource persons we have invited include Dr. Ibrahim Umar Kabo, who is a renowned scholar, and also Chairman Council of Ulama, Kano State Chapter, Dr. Umar Sani Fagge, a lecturer at Bayero University, Kano, Sheikh Salihu Suleiman Ningi who is with us here, Sheikh Ibrahim Idris, Imam of Gwallaga mosque. Then *Ustaz* Turaki Aliyu Misau of the A.D. Rufa'i College for Legal and Islamic Studies, Justice Abdulkadir Orire, retired Grand Kadi of Kwara State and Justice Bashir Sambo of Abuja.

Another subject we intend to carry out is *da'awah* and public enlightenment tour. We will undertake an extensive tour of all the twenty Local Governments of the State, this will be undertaken by two committees, that is two teams. The Committee will be divided into two teams. One will be in northern side, while one will be in southern side of the State.

Yours are expected to be completed between 7th and 19th of August. Our target audience will normally be all the people of the entire Local Government including the Local Government Chairmen, their Councillors, their Heads of Departments and the Emirs, District Heads, Village Heads, sheikhs, imams and other scholars, and other community leaders. Each Local Government we will advise it to establish public enlightenment committee and members of this committee will be part of the target audience, and then representatives of all Muslim organisations in the Local Government Area.

Topics must relate obviously to Sharia implementation such as the meaning of Sharia itself, the aims and objectives of Sharia, sources of Sharia, duties of Muslims under the Sharia, rights and obligations or privileges of even non-Muslims under Sharia itself. Then, the proper explanation of the core criminal offences and their punishment under Sharia system, such as the *budud*, the *qisas*, the *ta'azir* offences, even the civil and personal aspects of Sharia need to be explained properly. And then the differences between the common law as presently practised in most parts of Nigeria and the common law criminal procedure that is the CPC, and then the code that must be developed, that is Sharia procedure code, and there are many aspects of Sharia to be explained.

As directed by His Excellency the Governor, we [are] also to prepare some drama presentations so that we can actually depict various themes of the Sharia to the people, some don't know how to read and write, but they can understand what the message [is] given to them through drama. The Publicity Committee has organised the production of drama in drama and video cassettes so that they can be aired. We have the air time and so on. We also thought that Hausa written songs will also convey a old [sic: lot?] of message. We have commissioned two famous writers from Bauchi and the other one from Ningi.

We are in the process of arranging panel discussion and the Radio Link, when knowledgeable scholars will come and hold panel discussion on radio and TV, and also the Radio Link where people will be asking questions on Sharia.

The most important now actually is that about seventy percent of the work of the Committee, that is of the Implementation Committee itself, falls under the ambit of public enlightenment. Therefore, there is great need really for media coverage of all the activities of this Subcommittee. That is why I have gone at length giving you the programme.

The women programme would have been attached, but was also produced they would be doing the same thing as we are doing except the difference here is that, they will do it at different venues. As they go to the sisters we will go to the Muslim brothers.

That is why actually we are using this opportunity to appeal to the solidarity of the media so that we will join hands for a worthwhile job.³⁵

Managing Director, Bauchi Radio Corporation, Malam Sani Ahmed

*A'uzu billahi minashaidanir rajim.*³⁶ The Chairman Publicity Subcommittee, Sharia Implementation Committee, Bauchi State; Members of the Publicity Subcommittee of the Sharia Implementation Committee, Bauchi State; Members of the BRC management team present here; members of the press.

On behalf of the entire staff and management of the Bauchi Radio Corporation, I most sincerely welcome you to our premises this morning. I am highly delighted to have noted that the Publicity Subcommittee – Bauchi Radio Corporation is the first of the three electronic media organisations in Bauchi State to be visited by the Implementation Committee. That underscores the importance the Committee attaches to the operation of the radio.

I most sincerely thank members of the Committee recognising the importance and the role the media can perform in promoting the activities of not only the Publicity Subcommittee, but also the Sharia Implementation Committee in the State. It is our candid responsibility to ensure the success of all Government programmes and policy, because that is why we are established. We are established to serve the people and the Government. I feel Sharia Implementation Committee is not an exception, and I want to

³⁵ This last sentence actually reads: "That is why actually we are using this opportunity to appeal into solicity for the maidan so that we will goin hands for worth while job." The reading given above seems most probably what was actually said.

³⁶ "I seek Allah's protection from the evil one."

assure Sharia Publicity or Enlightenment Committee in particular, and the Sharia Implementation Committee in general, that Bauchi Radio Corporation will be in the forefront in making sure that all the activities of the Sharia Implementation Committee are given the due publicity it requires. I must assure the Committee that we have started doing that ever since the establishment of the Sharia Implementation Committee in the State. I am confident to say that we have been propagating almost all their activities. We have been [giving] publicity right from day one of the inauguration of the Committee up to the tours they have undergone to all the Local Governments in the State but three.

We have covered adequately all the activities of the Committee and we will not relent in our effort towards covering more of the programmes as outlined by the Honourable Chairman.

As I have listened attentively to the speech of the Chairman and I feel Sharia is all-embracing, whether you are a Muslim or a Christian, or a non-religious person, Sharia takes care of you. It deals with not only Muslims, but also non-Muslims alike, because under the Sharia legal system everyone has his own rights, and the Sharia takes care of that right.

It is my belief that the implementation of Sharia in Bauchi State, and in fact in the country as a whole will go a long way in sanitising the entire society. The Government programme, the anti-corruption programme will find a boost with the implementation of the Sharia in this country, because that is what Sharia is all about. Sharia is anti-corruption and I am sure once Sharia implementation is adopted, I have no doubt in my mind that we will have a society that is law abiding, a society that is crime-free and a society that everyone will love to live with.

So as I said earlier sir, we are committed to ensuring the success of the Sharia Implementation Committee in the State. And I am assuring you that we will do our best within the limited resources we have, and within our capability to make sure that your assignment is successful. I want you to count on our cooperation at all times. I wish the Committee a successful deliberation and I wish you success in all your undertakings. Thank you.

Managing Director, Trumpeter, Alhaji Muhammad Aminu Dan Bauchi

The Chairman Publicity Subcommittee, the *Sa'in* Katagum; other members of the Committee of the Publicity, we feel highly honoured that you find it necessary to visit us, and highlight this fabulous arrangement of yours. It is indeed fabulous, and I am certainly convinced that if you have been able to execute this line of action you followed, we will all be enlightened about the activities of your Committee. I didn't expect less from calibre of persons of yours and it has been my opinion that it was you that started this demand for Sharia in Bauchi State and *alhamdulillah*, God has answered your prayers and your Government a lot of followers [sic], among whom are my humble self. I congratulate you for the fight you started which God has answered your prayers and that of others by the establishment of Sharia Implementation Committee.

Without pressure coming from you and other Islamic scholars and other interest groups, I don't think it would have been possible or even for the State Government to venture into this Sharia issue. That some people had decided to make it controversial.

Actually Sharia is not controversial. It is unfortunate that our colleagues in the media, especially the print media, they have trivialised the issue, they have politicised the issue, but we thank God he has given you the courage and other leaders of Islam, the courage to still pursue the issue of Sharia despite the huge propaganda from the Western press, and I will like to appeal to you whatever the difficulties that you may face please don't concede to that kangaroo court of propaganda coming from the southern press.

As a journalist myself, I know the line of action they have taken is unprofessional. They have become rebels not only to the Muslim community in Nigeria but actually to the nation because most of the information coming from the Western press are really negative not against the Muslim but against the government of the day.

We here at Bauchi Printing and Publishing Company, you know we are the publishers of the *Trumpeter* newspaper, I would really say you have come to Sharia House, because we have identified ourselves with the implementation of Sharia in Nigeria not only Bauchi State.

If you see our publications there is an editorial we carried, "Sharia and the Nigerian Christians". It highlighted our position on the Sharia. And also, there is another editorial we carried, "The Sharia Issue and Obasanjo". We have made our point about the Sharia [illegible] president himself about this issue of Sharia. In particular, this particular editorial has been received widely nation-wide, and we received responses even from the Governor of Kebbi State.

We would like to assure you that we will give you adequate coverage, and in fact we will assign our reporter, and the seminar that will be staged, we will publish all the papers that will be presented free of charge, and any other activity if there is any other thing you need specially to be done by us, we will certainly do it. So I wish you all the best in your assignment.

The General Manager, Nigerian Television Authority, Bauchi, Alhaji Yakubu Muhammad

Chairman let me begin by welcoming you and members of your group to our premises this morning. On behalf of myself, members of management and the entire staff of NTA Bauchi you are welcome.

I consider the job of your Committee, the Public Enlightenment Committee as the most important of all the three committees, because no matter what amount of work the other two committees put into it, in the execution of their assignment if your Committee does not do a good job, all they have done will be rendered ineffective. I think it goes without saying that of all the States that have indicated their willingness to introduce Sharia legal system in their States, I think Bauchi State has by far adopted the most progressive approach.

We are all witnesses to the rancour that the introduction of Sharia has caused, and is still causing and it is my firm belief that this rancour and other things that are happening as a result of introduction of Sharia have to do with total lack of understanding of what Sharia legal system is all about.

When we talk about Sharia legal system, to a non-Muslim all it connotes is the amputation of one's limb. He does not know that under the Sharia legal system his rights and privileges are guaranteed, and are protected so most of the opposition that comes from fellow Christians is due to the fact that they do not understand what Sharia is all about and I may [not] be too wrong [when I]³⁷ conclude that even amongst Muslims, there is certain percentage of Muslims who do not have a full grasp of the Sharia.

So without public enlightenment you cannot really achieve anything. That is why I consider this approach as the most progressive of all the approaches adopted in this country. And like I always tell people, NTA Bauchi, though we be Federal Government owned, we are here in Bauchi State to serve the Government and people of Bauchi State, and to that extent, we are part and parcel of Bauchi State.

Any effort the Government of Bauchi State introduces we must be seen to be part and parcel of that. We are not unaware of our social responsibilities, the fact that we are partially commercialised does not make our social responsibility [any less], because if the State is on fire today, there wouldn't be NTA Bauchi and there wouldn't be any viewers.

So we have a stake in the well-being of the people of Bauchi State. We will make sure that there is peaceful co-existence in the State. And like I said this approach, I am sure at the end of the day, all the fears will be properly allayed, because once somebody knows that he has nothing to fear, I don't think that all this rancour and so on will arise.

For example, many Christians know that they have privileges they can enjoy as neighbours to their Muslim counterparts. They don't think about Sharia in these respects. They only think of the amputations of limbs, but we can educate such persons. Let us be fully educated, once the Muslims are fully educated, they can in turn help to educate fellow Christians. I am sure that without that education, I don't think if there will be peaceful implementation of Sharia in this country.

And I am happy to note that Bauchi State has set a very, very good example, even people of different faiths can be co-opted into this Committee, so that they can have a full grasp of what Sharia is all about, and with the full grasp of what Sharia is all about they can in turn inform their followers that they have nothing to fear.

Like I said we will give you 100 percent support and we have already started discussion on this issue of the jingle, we will give some air time for the airing of the programme whenever they are ready.

So Mr. Chairman, I would like to assure you that we are quite willing to assist this Subcommittee. Like I said, it is the most important of the committees. The success of this project depends entirely, like the Chairman has said 70 percent of the work of the [Main] Committee lies on this [Sub]committee. If you succeed, I am sure we are going to have a hitch free implementation of Sharia in Bauchi State.

So I would like to on behalf of myself and the entire members of staff of NTA Bauchi wish you a successful exercise.

³⁷ The text reads: "... and I may be too wrong wen to conclude ...".

Managing Director BATV, Malam Ibrahim Umar Udubo

The Chairman Publicity Subcommittee of the Sharia Implementation Committee, members of the Committee, first of all I would like on behalf of the management of Bauchi State Television to apologise for the inconvenience of having to park your cars at such a distance and cross the bridge to come to our premises. Now I would like to welcome you to our premises, expected you yesterday but I am sure, probably due to what I observed so you are welcome to our premises [sic].

I am really happy to note the calibre of people in the Publicity Subcommittee. In the past I know projects not as important as Sharia implementation, there are so many government projects that have been formed with good intention but they largely failed due to poor publicity coverage in their implementation.

The programmes of government [usually]³⁸ fail or succeed based on their acceptance or rejection by the society and society accepts or rejects largely due to what it understands of the intention of such a project.

So I am really happy to note the calibre of people in this Committee, and it shows how important the publicity aspects of this issue are taken, and I am sure you as the Chairman and the calibre of people in this Committee, I am sure you will do the right job.

We have also been following the itinerary of the Main Committee, and we have noted with satisfaction the selected targets and these are very strategic to the overall success of this difficult and delicate assignment.

Overall, I want to suggest that since from the terms of reference of the Main Committee [it] is obvious even before the formation of the Committee that the Government has already decided to implement Sharia legal system in the State, what it is aiming at is sincere, honest and highly informed advice on how best to implement the Sharia legal system in Bauchi State. With this in mind, I would want to suggest that three core areas be paid attention to in the final recommendations to the Government.

First of all, I am sure the Muslim *ummah* itself needs enlightenment, because largely how the *ummah* practices the core Sharia will attract other people. So it is very important for the Muslim *ummah* in the State [to] understand what is expected under this legal system.

The second thing is the non-Muslim community in the State, because I do not really believe, honestly I do not believe as people are saying that non-Muslims are not going to [be] affected by the Sharia. No, they will be affected but the main question is how are they going to be affected. As your neighbour, when something happens to you, certainly your neighbour is going to be affected but how is he going to be affected, that is the question. So they will need to be enlightened and educated. That is why your task is very sensitive and very difficult and important.

And the third is the critics of the legal system within the State and outside the State. Those who do not believe in the efficacy or the legality of the whole system, they also

³⁸ The text has “vevally”.

must be formed as special target, because they need to be even if they will not accept publicly. They will need to be told, they will need to be showed in clear terms that this is efficient and is legal, and it can work.

So these three core areas, I believe are important when recommendation is supposed to be given to the Government. This is where your Committee will have a difficult and important task.

On our side we guarantee that we will cooperate to have a time specifically for these programmes, and we have capable hands who will work together with members of your Committee to provide these programmes, air time is there. We can all put heads together. You can always criticise or suggest ways for adjustment in our programme schedules. We will be part of the Committee any time.

Thank you.

(3) Visit to Zamfara State

Translated from the Hausa by Ahmed S. Garba

[(a) Visit to the Secretary to the Zamfara State Government]

The Chairman of the Bauchi State Sharia Implementation Committee, Kadi Abdullahi Marafa:

As you are aware, Bauchi State under the able leadership of Alhaji Ahmed Adamu Mu'azu has accepted Sharia and has undertaken to implement it. To this end the Governor inaugurated a committee with 29 members, and gave it three months to devise means by which Sharia can be implemented in Bauchi State.

The Committee sat, and having understood the gigantic nature of its work, found it advisable to come to visit Zamfara State, because Zamfara State is the first State that opened the door for the implementation of Sharia in Nigeria. This is a very big achievement in the area of *jihad*. It was predicted that so many problems would result from the implementation of Sharia. Despite these predictions, Zamfara State had the courage to go ahead with it. *Alhamdu lillahi*. We have arrived, and spent a night and have seen how things are going on in a proper manner, with peace and harmony among the people in the State. So in sum, having discussed among ourselves, we felt it necessary to come in order to get some suggestions and relevant documents, so that we can be guided as to how to implement Sharia in our own State. Though there are differences here and there, we nevertheless have the same purpose, which is to apply Sharia to Muslims. It is because of this that this Committee has come to you for your suggestions. It is a must for us to come to this State.

Firstly, we appreciate the leadership role of the Executive Governor of Zamfara State because of the courageous steps he took in introducing the Sharia legal system here. Indeed, this is a very big *jihad*, may Allah reward him abundantly. Furthermore, we also appreciate your own efforts in assisting him, in ensuring that it happened, and also the efforts of other Muslims who contributed in one way or the other.

In addition, another most interesting thing is the fact that there are non-Muslims in your State and they too have accepted Sharia and believed it. Furthermore, as we are

hearing over the radio, Zamfara is now the State with the lowest rate of major crimes in the country. Nothing brings this about but the application of Sharia. Judging by this evidence, Sharia indeed is good for every State.

This, in summary, is what brought us.

Secretary to the Zamfara State Government:

We are happy with your visit which is very important as it deals with the issue of Sharia and information on how Sharia has been implemented in Zamfara from the beginning to date. It is indeed a matter over which we must all be happy that you chose to start by coming to Zamfara. I hope at the end of your visit, *insha* Allah, you will get all the necessary information you want for the purpose of implementing Sharia in Bauchi State. As you all know, we have started since the month of October, 1999 and since that time we have been going gradually and have achieved a lot.

As we all know, there are journalists especially from the southern part of this country whose interest is only to condemn Sharia through malicious writings about the State and the whole Sharia implementation programme. Well, any visitor who comes here particularly, Christians from the south, will testify that it is all a lie. When they see what is actually happening here, they too are showing their appreciation over how it is being done in Zamfara State.

It is because of this that I want to advise Bauchi State not to have fear in implementing Sharia. If you start, do not turn back. You should do whatever you think is necessary without any fear. In the end, whoever comes will appreciate it. Enemies of Sharia and Islam are the ones trying to spoil it and prevent its success. However, *insha* Allah, we will succeed and Islam will re-assert itself in this country

Therefore, we are happy indeed with your visit. We hope sincerely that this visit will be fruitful in achieving its objective. And lastly, we wish you safe journey back home in the name of Allah and pray that you meet your families in good health.

[b) Visit to Ministry for Religious Affairs]

The Permanent Secretary, Ministry for Religious Affairs, Zamfara State:

After the opportunity granted by Allah to the Government of this State as regards the successful implementation of Sharia, the Governor instructed that the establishment of this ministry be publicised and that it be made known that the ministry is to take care of matters relating to the religion of Islam in the State.

A substantive Commissioner has been appointed for the Ministry in the person of Alhaji Ibrahim Wakala Gusau who by the grace of Allah is well educated, and then myself as the Acting Permanent Secretary.

The Ministry has six departments. There is a Department for Religious Matters, Da'awah Department, Department for Planning, Research and Statistics and also there are the Departments for Finance, for Administration and for Judicial Matters. In addition to all these, a room has been created and called Tajweed Centre. The directors of the departments are all professionals, and each has an assistant. They were selected

from among degree holders from various other ministries and came together to form this ministry.

The main function of the Department for Religious Matters is taking care of anything that relates to religion. They scrutinise such matters carefully and then send them on to the Permanent Secretary who in turn forwards them to the Commissioner. They also deal with marital issues, for example, where a woman wants to marry somebody and her parents refuse. In cases like this the department has, as part of its functions, the power to involve itself with a view to reconciling the parents and their daughter. Again, if somebody converts to Islam, and is unemployed, the department can try to assist him. In addition, the ministry is to foster a harmonious relationship between Muslims and Christians.

The Department for Judicial Matters takes care of court-related matters. Anybody with a complaint can go to this department. Through the Da'awah Department the Government sponsors preachers by providing them with cars and a five thousand naira monthly allowance to enable them to go out and preach in different towns. This department thus represents the ministry all over the State. There is also the Department for Planning. If somebody writes a book with a view to making his own contribution to the implementation of Sharia or to Islam, and sends a copy to the ministry, the book is sent on to the Planning Department which studies it and determines whether the book is worth publishing. The Department of Finance deals with all funds coming into the ministry, allocating them for the proper functioning of all the departments and keeping records of all disbursements. Then we have the Administration Department which is related to all the other departments. Any paper on administrative matters must go through this department. They open a file for you and forward same for approval. It also deals with the relationship between this ministry and other ministries particularly with respect to issues of recruitment just like the Administration Department in every ministry. Finally there is the Tajweed Centre, which consists of people knowledgeable in Qur'anic recitation and its science. It trains *malamai*, *limamai* and *ladamai*³⁹ and other people who are spearheading Islamic activities in their communities and in the end gives out certificates to those who have qualified in those particular areas. Anything that has to do with Qur'anic matters is under this department.

There are also two parastatals under this ministry the Preaching Board and the Zakat and Endowment Board.

Take first the Preaching Board. Anything that has to do with building a new *juma'at* mosque must first of all be sent to the local Emir, who in turn forwards it to the Local Government Religious Advisory Committee which sits and deliberates on it and then sends it on to a local committee charged with ascertaining the worthiness of building the proposed mosque or not. If this committee considers it worthy, they make recommendation approving it to the Local Government. The Local Government then forwards same to the Preaching Board which in turn looks into the matter. The Preaching Board consults with senior *malamai* from every Islamic organisation. Its

³⁹ *Malamai* (sing. *malam*): Islamic teachers; from the Arabic *alim*. *Limamai* (sing. *limami*): those who lead the prayers; from the Arabic *imam*. *Ladamai* (sing. *ladami*): those who call to prayer; cf. the Arabic *mu'adhdhin*, often spelled *muezzin* in English.

approval, if given, is sent back to the Local Government. Furthermore, Emirs have no power to appoint *limamai*. When such persons are to be appointed, a list of the people who applied and are to be interviewed is forwarded to the Local Government, which in turn forwards it to the local Emirate Council's Religious Advisory Committee. Examinations are then conducted based on merit to appoint an appropriate imam. And again, any malam who wants to preach must go to the Preaching Board to be interviewed. If he succeeds, he is given a licence to preach. Where there is a dispute about a mosque, the Preaching Board descends into the arena in order to reconcile the parties.

As to the Zakat Board: it collects and distributes *zakat*. It has one director for collection and another for distribution. There are other directors apart from these two. Its main function is collection and distribution of *zakat*, and the receipt of *waqafi*⁴⁰ and their administration in accordance with the Sharia.

In view of the above therefore, if this type of ministry is to be established in Bauchi State, then people who want to devote their time and energy for the advancement of Islam are the ones to be considered. Because it is mandatory to employ people that are patient. This is the essential element for success in the work and paves way for other successes.

These are the functions of this ministry. *Assalamu alaikum warabamatullah.*

Executive Secretary, Zakat and Endowment Board, Zamfara State:

This board has the following organisational structures:

1. A part-time Chairman;
2. An Executive Secretary; and
3. Departments of Collection, Distribution and Endowments.

Each department has a director. In addition, there are ten other members in the area of management: for example there is the director of finance and a stores officer. Anything that has to do with administration such as funds emanating from the government is kept directly under the offices of the executive secretary and the director of finance.

But *zakat* donations have their own account which is different. Whatever comes in in the form of *zakat* goes through the director in charge of collection and the executive secretary and other members. They have a four-year tenure.

The State House of Assembly has passed a law governing the activities of the Zakat and Endowment Board.

In the area of publicising the board, we have tried to enlighten the people through the State radio station and that of Kaduna. In fact we have even used foreign radio stations. We have fixed billboards at various locations so that anybody coming into Zamfara will see. There are also posters carrying information in both English and Hausa on the importance of *zakat* and *waqafi*.

⁴⁰ *Waqafi*: Hausa plural of the Arabic *waqf*: religious endowments.

In each Local Government we have established a *zakat* department which enters into every nook and cranny and collects *zakat*. The main committee then goes round distributing what is gathered to those who deserve it. Whatever remains is taken to the headquarters at the State level for use throughout the State.

We are also hoping to buy a house of five hundred thousand naira for the accommodation of converts. This money is part of the surplus that I explained above which we got from our take-off grant. In addition, in the area of those who are sick, we will open an office with a view to identifying genuine cases in order to give necessary assistance to them. We are also establishing contact with orphanages so that we can get the names of all the orphans, photos of them, and affidavits documenting them because there is an organisation that we contacted which agreed to assist them in the area of education and other problems they may have.

But because this board is new, there is ignorance of what it stands for both among the rich who should donate and among the intended beneficiaries. We had series of challenges from the beneficiaries. But *alhamdulillah*, we have started the enlightenment campaign through the radio. People have started appreciating and are co-operating very well.

(4) Press Conference

Translated from the Hausa by Ahmed S. Garba

Press Conference by the Chairman of the Sharia Implementation Committee, Kadi Abdullahi Yakubu Marafa:

As you all know, His Excellency the Executive Governor of Bauchi State, Alhaji Ahmadu Adamu Mu'azu, inaugurated a Technical Committee for the Implementation of Sharia in this our Bauchi State.

On that day, in his speech inaugurating the Committee, he made it clear to everyone that Bauchi State has accepted to implement Sharia. This is a very good development and indeed we are happy and thankful to Allah for giving us the opportunity to witness this in our lifetime. It is especially gratifying that the Government has accepted to implement Sharia without much ado like in other States.

Recognising that the orderly implementation of Sharia will require planning and the setting up of certain structures, the Governor inaugurated a 29-member committee which as we all know consists of well known Islamic scholars, kadis both retired and serving who are knowledgeable in Sharia, and community leaders in the State. The Committee has already been given its terms of reference.

Firstly, the Committee is to make recommendations to the Government on the structure of the new Sharia courts, the things needed for their proper functioning, the type of judges that will be appropriate for them and the type of training the judges will need.

In addition, the Committee is to study laws currently in operation in the State with a view to removing those laws that in their understanding are inconsistent with the application of Sharia in the State and replacing them with appropriate ones. What we mean here is that we will identify these laws and come up with recommendations but

without doing anything that will tamper with the status of the State as a unit in the Nigerian Federation or with the Federal Constitution of Nigeria.

In order to carry out this work the Committee is required to organise meetings, workshops and seminars for deliberation on issues. Even the staging of drama presentations is not left out, with a view to publicising Sharia; and also travelling from one place to another around the State for the purpose of enlightening the people on their rights under the Sharia.

The Committee is required to expeditiously discharge this onerous responsibility within a period of three months. At the end of that period it is expected that the Committee will recommend to the Government the appropriate date for Sharia implementation to take effect, but first ensuring that all pre-requisites for the implementation are met by the Government for smooth take-off *insha* Allah. This is why we feel it is mandatory on us to start immediately. We have sat, deliberated and considered the gigantic nature of the task which requires extreme hard work if we are to achieve success.

For instance, if you want to start implementing Sharia, you must think carefully about the kind of courts you need. The courts we have now are not Sharia courts. They are courts designed to achieve three purposes. [They adjudicate cases where neither party is a Muslim, where one is a Muslim and the other is not, and where both parties are Muslims.]⁴¹ Therefore, if we say we want to implement Sharia, these courts would not fit our purpose. We must therefore think about the courts that will replace them.

Apart from this, there is the question of the judges who will staff these courts. It is not every Islamic scholar that you can say understands the whole of the Sharia. It is possible for one to know only some parts of the Sharia but not all. Most of our Islamic scholars believe that it is only when you want to do the work of a judge that you are required to know the whole of Sharia; meantime you will discover that they are only conversant with some parts. But once you establish courts, you must look for people who are well-versed in the whole Sharia. Besides this, their integrity must also be ascertained for justice to be done.

The judges' salary structure must also be formed. My opinion is that, to employ an alkali and pay him a salary of say five thousand or seven thousand or even ten thousand naira a month, and think that this will be enough for him to do efficient and effective work and to do justice, considering his obligations to his family, certainly, this must be looked into. If you want an alkali to do an efficient and effective work and to do justice, then he must be paid a salary that is adequate and sufficient to prevent him from doing other things to earn more money. Therefore, a very good salary must be paid to him, and in addition, accommodation and mobility must be provided.

Since the inauguration of this Committee, we have been subjected to various criticisms. But it seems to us that those criticising us are ignorant of what is happening. For instance, some say that to inaugurate a committee and give it three months to do its work is nothing but pretence and delay. This implies that all the problems I have just

⁴¹ The transcript, which seems to have omitted part of the thought, says merely "There are ones that adjudicate on people's rights even where both parties are Muslims".

mentioned mean nothing. Let me illustrate. We are in the rainy season right now. Why do we not bring out our farm produce? Because it is not possible. Before you bring it out, you must clear the farm, you burn the weeds and then you plant. What you planted must grow and mature before it becomes ripe enough for you take it home. You can see that it takes time. Or consider: is it possible for you to give birth to a baby today and expect him to start working tomorrow? This too is not possible. Even the religion of Islam did not begin overnight. The Qur'an – from the first verse where the angel Gabriel asks the Prophet to recite, to the last verse where Allah says "I have today perfected your religion for you and have chosen Islam for you as your religion" – this took three years of revelation. If Allah had wanted, He could have revealed all of it within a very short time. But in His wisdom, Allah revealed it gradually. Therefore, the Government have done the appropriate thing in forming this Committee.

Another criticism which is of no effect on us is that there are women members in the Committee, or people who have a tendency to compromise. I want to assure you that all the Committee members are people that hold firmly on to the truth. Each one of them, wherever the truth leads him, nothing will make him deviate from that path. These are not people who will compromise on Sharia. We are aware of the risk that is involved in this work but we are never intimidated. We never get discouraged. We are determined to discharge this responsibility without any fear. In our first meeting we undertook to do this work even if it will lead to our death for we know it is a *jihad*.

As to the inclusion of women in the Committee, it should be understood that this Committee is to come up with recommendations regarding the implementation of Sharia. It is not this Committee that will implement the recommendations. Therefore, the issue of involving women in the Committee is of no effect. Sayyidatina Aisha reported so many hadiths which are currently in use. If she had not been permitted to contribute in this way, we would not be benefiting from the application of those hadiths in our lives. Then also there are the allegations, aimed at confusing women about the aims of Sharia implementation, that with the coming of Sharia men will be asked to marry four wives, and that the amount of bride price men are expected to pay will be limited to some small amount. The women members of our Committee will assist greatly in explaining the real purposes of Sharia implementation to women and overcoming these confusions.

I therefore appeal to all to give this Committee a chance and to give it all necessary cooperation. We must remember that for years – right up until the coming into being of the present administration – we have been under laws alien to our religion and have been appealing for the opportunity we now have to implement Sharia in full. Every Muslim should congratulate his fellow Muslims over this development. It is now that we will finally achieve our aim.

(5) Live Discussion

Translated from the Hausa by Ahmed S. Garba

Live Discussion on Sharia Conducted on 5 – 1 – 2000:

Turaki Aliyu Misau:

We have a federal Constitution because of the multi-ethnic and multi-religious nature of the people of this country. Federalism gives everybody a sense of belonging and allows

everyone to have a say in the affairs of the country without requiring that we must all be the same. Muslims needn't become the same with non-Muslims, nor must non-Muslims convert to Islam by force. The Constitution doesn't require this. Therefore anybody who says that Sharia, just as it was revealed by Allah, cannot be implemented, or that Muslims have no legitimate right to it under the Nigerian Constitution, is not being fair to Muslims. Sharia implementation is possible under the Constitution and we should do it.

It should be understood that we have the English common law in operation, which creates enmity because it is an unjust law. If you judge unjustly against a person, he will never like you. Prophet Muhammad (SAW) has told us the principle upon which Allah built the human heart: it loves the one who is good to it and hates the one who cheats it. *Sadaka rasulullahi*⁴² (SAW). This is how things are. We should therefore come back to the truth. There is nothing what has not been done in Nigeria. There was colonisation, there was politics based on the English model, there was the soldier-type communism: none has brought solution to our problems.

Sharia is the only solution. It will solve these problems for us but subject to a condition. This condition is that those steering the affairs of government should change their behaviour from what it is now. Leaders should become just, should not look at themselves as superior to others because of their official positions or their origins, should fear Allah and do good, should lead by example, and should stick to the truth and be guided by it. They should do these things not for their own enrichment or because they want to get an official post, but for the sake of Allah.

Muslims should know that all these are possible only if one is educated, in both Arabic and Western education. Whatever knowledge you acquire or whatever profession you practice, your religion will be in it. In my understanding, some knowledge is hidden and some is apparent. The apparent one is divided into two. There is knowledge of *ibada* and knowledge of *mu'amala*,⁴³ that is the professions and relationships with other people. Whether you are a businessman, a contractor, or a judge or whatever, all are under *mu'amala*.

So if we really want this Sharia to be implemented smoothly Muslims must be educated. If it is a businessman dealing with measures, he should measure well in accordance with Sharia. Whatever he does, he should do it based on truth. Contractors should execute their contracts faithfully and in accordance with this Sharia. A policeman should not ask for anything as inducement to effect an arrest of a person alleged to have committed an offence or from the person he arrests. The judge should not accept a bribe in return for giving judgment between two people.

We must be on the look-out. Islam provides for all these things and like Prophet Muhammad (SAW) said Allah's message should be passed on to others even if only with a quiet word. It is incumbent on each Muslim to call others to the religion of Islam. If they deviate, he should show them the right path. People should assist one another in

⁴² "The Prophet has spoken the truth."

⁴³ *Ibada* = Arabic *ibadat*: that part of the Sharia which regulates matters of religious belief and worship. *Mu'amala* = Arabic *mu'amalat* ("transactions"): that part of the Sharia which regulates the conduct of Muslims in social life and defines their duties towards other members of society.

doing right and not in committing evil, should visit one another and leave one another in peace. If somebody is sick, you should visit him, if he dies, follow his corpse to the grave along with others and sympathise with his people. And if your brother Muslim seeks for your advice, advise him well. Do not deceive him because he has fallen into a path that will make you laugh at him.

All these principles must be well entrenched in people's minds before we will enjoy the application of the Sharia itself. If these attitudes are well fixed in our minds and in our behaviour, the judges will not have anybody before them for judgment.

May Allah assist us. *Assalamu alaikum.*

Alhaji Muhammad Danmadami:

Committee members and other guests, *assalamu alaikum.* I am happy to be here representing the Sharia Implementation Committee of Bauchi State. I am the Chairman of the Subcommittee on Public Enlightenment. I remind you, as is well known, that on the 28th July, 2000, His Excellency, the Executive Governor of Bauchi State, Alhaji Ahmadu Adamu Mu'azu, inaugurated the Committee that will recommend to the Government those steps necessary to ensure full implementation of Sharia in this State. The Committee will discharge this onerous responsibility, based on the following terms of reference as provided for by the Government.

1. To recommend to the Government the types of courts needed and their structure, the calibre of people to work in those Sharia courts, such as the judges, their qualifications and the conditions governing judgeship in Islam and other staff of the court. Also, to suggest ways and criteria for appointing people to work in the system.
2. To recommend amendments to the penal code in use now according to Sharia and within the framework of the 1999 Constitution of Nigeria.
3. To enlighten the people, including non-Muslims, on the good intentions of the Government in implementing Sharia, by bringing kadis of the Sharia Court of Appeal, heads of Islamic organisations, prominent businessmen, scholars, and other groups⁴⁴ together with a view to deliberating on issues to understand the aim of the implementation. The Committee is also to use other means of communication get the message across on the aims of Sharia implementation in Bauchi State, and to pay official visits to all parts of the State to enlighten the members of the public.
4. To complete the work and submit a report and recommendations to the Government within three months from the date of inauguration and also to suggest to the Government the appropriate date for taking off of the whole programme.

This must be done by first ensuring that all pre-requisites for the implementation are in place. After inauguration, the Committee is to form three subcommittees to facilitate and hasten their work and to enable them finish in time. These committees are as follows:

⁴⁴ The text has *sauren kabilu*, "other ethnic groups".

1. Committee for the amendment of the Penal Code to conform with the Sharia and the Nigerian Constitution 1999.
2. Enlightenment Committee on the good intention of the Government to implement Sharia in this State.
3. Committee to ascertain the things needed and in what numbers, including staff, for the implementation of Sharia in the State in such a way that the implementation can be successful.

Today's gathering is one of those organised by the Enlightenment Subcommittee. Among the things supposed to be discussed in a gathering of this nature are:

1. The meaning of Sharia and all its various branches.
2. The position of the penal code with regard to the Sharia.
3. The position of the Nigerian Constitution 1999 as regards the Sharia.
4. Training of judges and Sharia court staff.
5. The rights of non-Muslims under the Sharia.
6. The behaviour of Muslims towards the non-Muslims.

Well, my opinion on these, is that, let me start with Sharia. Most non-Muslims, and some Muslims too, anytime you talk about Sharia, the first thought they have in their minds is of amputation of the hand of a thief or lashing one who drinks alcohol and related things. This is just giving a dog bad name in order to hang it. Sharia belongs to Allah as Allah guided his Prophet and his people on the right path. The meaning of Sharia is doing all that Allah said should be done and not doing what Allah said should not be done, as it is provided for in the glorious Qur'an and the Hadith of the Prophet (SAW).

[The transcript breaks off at this point.]

(6) Panel Discussion

Translated from the Hausa by Ahmed S. Garba

Radio Panel Discussion of the State Sharia Implementation Committee:

Dalhat [the programme host]:

Listeners at home, we once again welcome you to our programme *Dausayin Musulunci*.⁴⁵ Today we will be discussing issues relating to Sharia and how it should be implemented in this State as it has been implemented in other States.

With me in today's programme is his highness *Sa'in* Katagum Alhaji Muhammadu Danmadami, who is the Chairman of the Committee on Public Enlightenment on Sharia. We also have Malam Ja'afar Mahmud Adamu, who used to participate from time to time in our programmes; he has come all the way from Kano. Then we have Dr. Hadi Sheikh Dahiru Usman Bauchi, who joins us today for the first time on this programme.

As I said, we will be discussing issues relating to Sharia. Dr. Hadi, let us start with you. In most instances, when we mention the word Sharia Muslims and non-Muslims seem to have different understandings of the meaning of the word. What can you say so

⁴⁵ *Dausayin*: signifies prosperity, well-being.

that anywhere one comes across the word Sharia one would easily understand what it means?

Dr. Hadi:

*A'uzu billabi minal shaitanir rajim, alhamdu lillah.*⁴⁶ Well for a start, Sharia consists of two things. Firstly those things revealed to the Prophet Muhammad (SAW). These are called Sharia. Secondly, when we talk of Sharia, there is the idea of going to the court where there is litigation at the end of which a judgement follows. In the context of our discussion on this programme these two senses in which the word Sharia is used are relevant.

Firstly, all that constitutes Sharia, from issues of ideology, up to the rules and forms of worship (*ibada*) and daily transactions (*mu'amala*) and penalties for breach of Muslim precepts (*kaffarori*) up to what relates to court: all are practised in Nigeria. There those who apply Sharia one hundred percent on themselves. For whoever says he will not drink alcohol, will not have illicit sexual intercourse, will not steal, has actually applied Sharia on himself. But there is a particular place where the government must contribute. Well *alhamdu lillahi*.

Discussion:

Sharia has been practised in this country of ours since the days of Shehu Dan Fodio. If we carefully observe we will see some examples here in Bauchi State. For instance, you will discover that close to the house of Shehu Dan Fodio's own representative in Bauchi is a mosque. This clearly shows that Sharia was being practised at that time.

There are various things that can adversely affect Sharia practice. This happens, for instance, when the Sharia judge is ignorant of the law, or he knows it but allows his personal interest to influence his sense of judgment, or he knows it but compromises his judgment when approached by litigants. Again, politics can affect Sharia practice. This has been a problem since as early as about 52 years after the Prophet Muhammad (SAW) left this world. There was then an emir who sent his army to wage war against Medina. In our own country, by about 50-60 years after the death of Shehu Dan Fodio, things had changed for the worse.⁴⁷ The Qur'an tells us that when people refuse to abide by Allah's law, their hearts dry up. In our case Allah brought the white man who confiscated our country from us.⁴⁸

Discussion:

There are seven⁴⁹ things that Sharia protects: a man's life, his morals, his property, his family, his reputation, his power to reason, and his religion. In the whole world everybody wants these things to be protected for him. Take life for instance. Wherever you go in this world, to kill is not an acceptable practice. However Allah has decreed that if you are sensible, he who kills should be killed too. This is to save other lives. On the

⁴⁶ "I seek Allah's protection from the evil one, praise be to Allah."

⁴⁷ This paragraph is somewhat garbled in the transcript in Hausa; this reconstruction we believe captures the sense.

⁴⁸ "Idan zamani yayi wa mutane nisa, sai zukatansu su kekashe. To shikenan, sai Allah ya kawo bature ya kwace kasar baki daya."

⁴⁹ The transcript says "five", but seven are listed.

issue of protecting one's reputation, the verse on defamation was revealed. This is why Sharia prohibits such exchanges among youths as calling somebody a bastard. If you do this, the alkali can give you 80 lashes for it. Therefore, we should be careful.

On the area of protecting one's power to reason, countries of the world are all fighting against drugs. In Nigeria we have the Nigerian Drug Law Enforcement Agency (NDLEA). On protection of one's religion, it is known that no one on earth lives without a religion. But the name of the religion may vary. This is why all the world languages have the equivalent of the word Allah.

Discussion:

This indicates that everybody in his conscience believes that there is a power above all powers. Sharia means ideology, worship, daily transactions and penalties for breach of Muslim precepts.

Dalhat:

The discussion indicates that there is need to give people a particular discipline so that they can practise an Islamic way of life. Now Malam Ja'afaru, if we consider the changes so far witnessed in governance in this country, what is the main thing that brought on the agitation for Sharia? What can you say about the agitation for Sharia so far?

Malam Ja'afaru Mahmud Adam:

*Alhamdu lillahi rabbil alamin, wassalatu wassalam ala asbratil mursalin, nabi yyina Muhamadu, ala alibi wa sabbibi a jama'in.*⁵⁰ Well, like Dr. Hadi said, Sharia has been in existence in this country for a long time. However, it was its operation that met set -backs.

Discussion:

Allah (SWT) has said through his Prophet Muhammad (SAW) that no society strives to establish the truth unless Allah provides within it people who are firm indeed among the Muslims. In accordance with this, the current agitation for Sharia is a result of the teachings of Islamic scholars and the cooperation the scholars have gotten from politicians and some well-to-do people in the society. These are the people that came together with a view to bringing Sharia back to life in this country.

We can not credit any one individual as responsible for this. However if one carefully observes and goes to places like Zamfara, Kano, Sokoto, Katsina and Bauchi States, one can not rule out the possibility of identifying some names from among the people, whether from among the *ulamas* or from among the people generally, to whom one can attribute the revitalisation of Sharia. This confirms the promise made by the Prophet (SAW) that no society is destroyed among my people if it includes some who adhere firmly to the truth. He who fights against the faithful will never succeed in harming them. Opposition from their enemies never discourages them. Allah's assistance is with them for he says: "If you assist Allah, Allah will assist you".

⁵⁰ "I give thanks to Allah, the Lord of the worlds. I seek blessing and peace for the highest of messengers, our Prophet Muhammad, and also for his family and all his companions."

The contribution of Muslims who have studied the common law must also never be forgotten, particularly in the interpretation of certain provisions of the Nigerian Constitution 1999, upon which it has now been understood that Sharia can be implemented in Nigeria. You can see that they really contributed.

Dalhat:

Well, Your Highness *Sa'i*, it could be said without fear of contradiction that you are the people at the forefront in the agitation for the implementation of Sharia in this State. What is your impression about how well the people understand the Sharia implementation programme, considering your efforts to enlighten them about the direction of Government in this regard?

Discussion:

Alhaji Muhammadu Danmadami:

*A'uzu billahi minal shaidanir rajim, bismillahi rahmanir rabim. Wasallallahu ala nabiyul karim, wa ba'at.*⁵¹ Well, the struggle for the re-introduction of Sharia in Bauchi began since last year when Islamic organisations in Bauchi, about thirteen of them, came together and asked me to lead them to the House of Assembly of Bauchi State, where a demand was registered that since Muslims in Bauchi State are about 98% of the population, the House of Assembly should pass a law for the full implementation of Sharia in the State like it was done in other States.

Since then, things started moving. The honourable members of the House of Assembly no doubt visited Zamfara and other States in order to make headway on how to approach the issue before them. They even went further to make a bill to that effect. When the Governor came out openly to disclose his intention to start implementing Sharia, he formed this Committee chaired by *Marafan* Bauchi under which this Subcommittee on Publicity/Enlightenment was formed. This Subcommittee has so far done a lot in the area of enlightenment. The Committee has visited all Local Government Areas in the State and had discussions with the Local Government chairmen and imams, judges and other people. And some days back, the Committee organised seminars at Azare and Bauchi, in which prominent scholars from different States especially Kano attended and gave talks on Sharia to further enlighten the people, and also who and who will be affected by Sharia and the protection of the rights of the non-Muslims under the Sharia.

They further gave talks on the relationship between Sharia and the Nigerian Constitution, and the contributions Muslims are expected to make to facilitate the implementation of the Sharia. Indeed, a great success has been recorded as regards the acceptance by the people of the implementation especially among youths who are educated in both Islamic and Western education. It is very clear from their agitation for Sharia implementation that Muslims do love their rights, particularly that it is now one hundred years since colonialism began the violation of those rights.

⁵¹ "I seek the protection of Allah from the evil one. In the name of Allah, the beneficent, the merciful. The blessing of Allah be upon the highest of his messengers."

Government under Nigeria's federal Constitution is not like it was under the military, with its unified command structure. Why it is called federal is because of the many differences among the people of Nigeria both in religion and in ethnicity. If we want peaceful co-existence, our Constitution must acknowledge these differences particularly the one I am most familiar with, which is Islam. *Alhamdu lillah*, the Constitution does not prohibit the application of Sharia because if you look at section 6(4) paragraphs (a) and (b), it allows the States to establish such courts as they feel are necessary as a way of responding to the yearnings and aspirations of their people.

Furthermore, the Constitution allows the States to replace certain categories of courts. For example, States that wish to implement Sharia can replace Area Courts with Sharia Courts by repealing their Area Courts law with a Sharia Courts law. The result will be that all Area Courts in the State will become Sharia Courts.

In addition, there is section 36(12) of same Constitution where it is stated that a Nigerian citizen shall not be charged with a criminal offence unless that offence is defined under a written law. Therefore, a House of Assembly of a particular State that wishes to implement Sharia can identify and pick from the provisions of the Glorious Qur'an those provisions dealing with *hudud* offences, as Dr. Hadi stated earlier, since under Sharia it is Allah himself that provided the punishment in respect of those offences. Indeed, Allah has finished the work. Ours is only to implement. It is only a person who does not understand the provisions of the Constitution that can think of contesting the fact that the State Houses of Assembly have such power. And for the avoidance of doubt, if they do not have such power, it then means that the Constitution is nothing but a useless piece of paper.

There is also section 38 of the same Constitution, which makes guarantees the right of every Nigerian to practise any religion of his own choice whether in his capacity as an individual or as a group either in his house or in public. This indicates that Muslims do have the right to practise Sharia. But nobody can force your child particularly in school to practise any religion different from your own religion.

In Islam, Sharia is the practical way of expressing the religion itself because whatever you want to do is governed by Islam under Sharia. And I want to make it clear that common law itself has its origin from the religion of Christianity.

Dr. Hadi:

Well, sir, you know, the Queen of England is the head of the Church of England. This indicates that all they are practising is based on the religion of Christianity. Everybody knows that the Queen's crown has a cross on it. Things like this no doubt show that common law has its origin from the religion of Christianity.

Alhaji Muhammadu Danmadami:

Because of this, Muslims should not be bashful about pursuing their rights. He who says they should not do it is the one that is not encouraging peaceful co-existence. For instance, if a non-Muslim says there can only be peaceful co-existence if Muslims stop the implementation of Sharia and put a stop to all effort in that respect, this is impossible. But equally, Muslims cannot stop Christians from practising their own

religion. Therefore, to ensure peaceful co-existence, the provisions of the Constitution must be followed.

Dalhat:

*Masha Allah.*⁵² Well, viewers, it is clear that we have gone far in our discussions, but time has run out for today. Join us in our next programme with the same scholars for a continuation of our discussions on the issues of Sharia. On behalf of His Highness, the *Sa'i* of Katagum, Alhaji Muhammadu Danmadami, Sheikh Ja'far Mahmud Adam and Dr. Hadi Sheikh Dahiru Bauchi, I say *assalamu alaikum warahmatul lahi wabarakatuhu.*⁵³

PART II

Dalhat:

Listeners, *asalamu alaikum*, I say hello to all of you. If we can recall, in the last edition of this programme we had discussions with some scholars on issues affecting Sharia in this State and Nigeria in general. In this week's edition we will continue from where we stopped. With me here are His Highness the *Sa'i* of Katagum, Alhaji Muhammadu Danmadami, *Ustaz* Ja'afar Mahmud Adam and Dr. Hadi Sheikh Dahiru Bauchi. Today, I think it is appropriate to look at the nature of the implementation of Sharia. This is because some people feel it has political undertones. *Ustaz* Ja'afar, based on your struggle in Kano, what can you say about this assertion.

Malam Ja'afar Mahmud Adam:

*Assalamu alaikum wassalatu wassalamu ala asbratil mursalin, sayyidna muhammadu wa ala aliyhi wassabbihij ajmai'in.*⁵⁴

In fact, the allegation that this issue of Sharia implementation has some political undertones is not true. I know this because I personally have attended so many conferences aimed at ensuring the implementation of Sharia not only in Kano or Bauchi States but also in other places like Maiduguri, Zamfara and Katsina. At these conferences different research papers were presented in my presence. And so many Islamic scholars, lawyers and politicians offered their written comments. I did not see anything that resembled politics there. However, that assertion may not be unconnected with the fact that in most of the States where the agitation for the implementation of Sharia started, the All Nigeria People's Party (ANPP) is the party in control of the States. But while this was happening, Kano State with People's Democratic Party (PDP) in control joined the race by implementing Sharia too and it was followed by Bauchi State, another PDP State. Therefore, to allege that Sharia implementation has political undertones is not true based on apparent reasons. At best it is correct to say that the development only indicates the thirst of Muslims to revive the Sharia. But as is well known, whatever good thing a man tries to do, he will face obstacles here and there, particularly in the form of accusations by his fellow human beings. Such accusations can be proved wrong as time goes on. Therefore, I still want to emphasise that the whole thing embodies our collective

⁵² "May Allah be pleased."

⁵³ "May the peace and blessings of Allah be upon you."

⁵⁴ "Peace be upon you. I seek blessing and peace for the highest of messengers, our leader, Muhammad, and also for his family and all his companions."

demand as Muslims to ensure that Sharia is applied on us in States where we are the majority.

Dalhat:

Well, Your Highness, *Sa'iz*, what can you say about the feeling of some people that the provisions of the Constitution can be amended to put a stop to the struggle to implement Sharia?

Alhaji Muhammad Danmadami:

Yes, this is possible. However, if you look at the Constitution, all the provisions used in implementing Sharia are also contained in the 1979 Constitution. It is only that such provisions were not then understood. But people have understood them now. If it is now decided that these provisions be amended just to prevent the implementation of Sharia, this will amount to preventing people from practising their religion.

It should be understood that the Constitution itself is a voluntary agreement between entities. It lays down the fundamental rights of the people. If these are violated, it is left for those affected by such violation. If they accept it, then they should prepare to live in degradation. If they do not accept it, it must be changed.

If you look at the history of this country, I am happy to say that the issue of Sharia has united Nigerian Muslims. In the past it has been difficult to find an issue capable of bringing Muslims together at the same time.

Dalhat:

Non-Muslims have expressed some fear. What do you think? If Sharia is properly implemented, can the rights of non-Muslims be protected?

Dr. Hadi:

Before I answer this question, I have a comment on the issue of politics in Sharia. The Qur'an is Allah's commandment; it is a representative of Allah on earth. Now how can we practise the art of governance? Islam recognises politics (*siyasa*), to talk less of saying that if a Muslim engages himself in it he commits an offence. But what happened in the States agitating for Sharia was not for reasons of local Nigerian politics. It wasn't any one political party that was being supported – not at all. However, if we are referring to politics in the art of governance, then we are talking of a different thing.

We used to hear about Reverend Jackson, a one-time presidential aspirant in America. It is surprising that people did not address him as Jackson without the prefix "Reverend" i.e. a priest in the Christian religion. This indicates to you the personality contesting so that you know who to vote for. Here in Nigeria we have a person who served as Governor for two terms in Taraba State. "Reverend" is usually prefixed to his name. Therefore, if a Christian is really a friend to the Muslims of Nigeria and he takes advantage of the name of his religion in order to practise politics, he has certainly improved his leadership style.

Before the death of the Prophet (SAW), why didn't he designate a successor? This is because he had taught his companions the processes of *siyasa* and expected them to practise it. The white men copied everything that relates to the art of governance from

Islam and this was why Spain and Portugal were the first to initiate colonialism and later England and France followed them behind.

Now, back to your question, that is how to protect the rights of non-Muslims under Sharia. It should be noted that since the time Nigeria was amalgamated in 1914, we have lived peacefully with Christians. Even during the time of Shehu Usman Dan Fodio we lived with them. We did not fight with them. No Muslim in Nigeria ever took weapon and attacked them. There is a verse in *Suratul Bakara* (the Camel) where Allah said "There is no compulsion in religion". Even where you are instructed to take weapon, the purpose is for self-defence and not for you to attack somebody. For example, in Zamfara State there was a very big gathering on the day marking the beginning of Sharia implementation. But was anybody affected or was there any instance where people gathered and dealt with any non-Muslims? This indicates that Islam encourages peaceful co-existence all the time.

In addition, in Zamfara, where Sharia has been implemented now more than one year, it has been said and repeated several times that there is no single non-Muslim who publicly complains that he has suffered any damage whatsoever from the implementation. Instead, we have been hearing that the Christians take their matters to Sharia courts instead of the magistrate courts meant for them.

Dalhat:

Now, Malam Ja'afar, there is problem of enlightenment for the Muslim women on the issue of Sharia implementation. Some people believe that with the implementation of Sharia, women's rights will be violated. What can you say about this?

Malam Ja'afar Mahmud Adam:

Yes, it is true that there are people who believe that with the implementation of Sharia, bride price will be fixed so that the bride price of a virgin will be like seven hundred naira and that of a divorcee even less than that of a virgin. They think that this is part of the Sharia implementation policy.

In fact this story is not true. In Islam bride price is not a fixed amount, and there is no maximum bride price. If we look at most of the marriages Prophet Muhammad (SAW) himself contracted as reported in hadith, in Buhari in particular and other Islamic books of sunnah, it is said that he used to pay bride price or paid that of his children with an amount that equalled eleven and half *ukijya*. One *ukijya* is equal to forty *dirhams*. If you convert this into today's naira equivalent, it will amount to about two hundred and thirty thousand naira. Therefore if the Prophet (SAW) during his time paid bride price or paid that of his children with such a large amount, then it will not be correct to say that bride price should be limited to seven hundred naira. The issue does not arise. Indeed, Prophet Muhammad (SAW) said that the best bride price is the one that is moderate. What is "moderate" changes from time to time or from generation to generation. And it also changes from one person to another. Fixing a particular amount as bride price is not correct and it is unknown to Islam.

It is also rumoured that with the implementation of Sharia men will be forced to marry four wives. This rumour causes confusion among women and is capable of inciting them to protest against the implementation of Sharia. In fact this is not true. If Sharia is what is to be implemented, it is Qur'an and Hadith. In the Qur'an, in *Suratul*

Nur (the Light) Allah said that those who are not capable of paying bride price or feeding a wife should exercise patience by not marrying until Allah enriches them from his bounties. This is what Sharia says. So why should it be said that somebody who is urged to exercise patience will be forced to marry four wives?

In addition, it is reported by Muslim in a hadith from Abdullahi son of Abbas that the Prophet said: “O you gathering of youth, he who is capable of marrying should marry”, because marriage will prevent him from approaching *zina*. But he who is not capable should fast because fasting removes the psychological urge for sex. Therefore you can see that even during the time of the Prophet (SAW) he did not force people to get married; indeed some companions of the Prophet had not gotten the money to marry even by the time the Prophet left the world. Therefore, the assertion that with the implementation of Sharia men will be forced to marry additional wives cannot in any way be true. Sharia takes into account the capacity of the person who is supposed to be responsible for the wife.

There is no system in the world that ensures the protection of the rights of women as well as the Islamic system does. It recognises that women are human beings, unlike other religions which regard women as something else, unsure whether they are human beings or not. It was only later that other systems accepted the fact that women are indeed human beings; Islam has asserted this from the start. These other systems, however, believed that women were created to serve men as slaves. But Sharia right from the beginning accepted her being human and her faith in Allah was accepted just as that of men, to the extent that wherever it is said “O ye who believe”, both men and women are implied. Furthermore, just as men are rewarded with paradise so also are women.

As I said, Sharia establishes and protects the rights of women in the most appropriate manner in accordance with the nature of women. What we say however is that we do not agree with going beyond what Sharia provides in the name of “women’s liberation” – with women competing in every way with men. This is not good for women. It is known that it is men who drive trailers from Maiduguri to Lagos; but if women are really to compete, then they should be asked to drive trailers too. Again, it is men that carry heavy loads such as bags of cement or of maize or millet on their backs and climb up onto lorries with such loads. In the past, men went to the forest to cut firewood. If women were also to do same as men in all these aspects, could we in the name of Allah say that we were being just and fair to them?

We are not saying that women should not go out. Rather, we are saying that if they go out, they should go out in a reasonable way. We do not say that women should not work, but that they should work in a reasonable manner, that is in accordance with their nature as women. And if it is said that all that men do, women should also do, then who will take care of the responsibilities within the home? Furthermore, all the noise-making in the West about women being equal with men is all a lie. In America, no woman has ever been the head of state out of about forty presidents in more than two hundred years. Even today in the West there is a difference between the salaries of men and women – even when they go to the same place of work and work the same hours.

Dr. Hadi:

On what you just said, *wallahi* women now in England can drive buses with more than a hundred passengers. Indeed, I once boarded a bus from Scotland with a woman driving

throughout the night up to London. But by the time she becomes old there will be a problem. I once saw over the television, one old woman who went to collect her pension and she was pushed down by somebody. She was about 102 years old. Now, why do you think that an old woman like this does not have a grandson or granddaughter or any other relative who will assist her to collect her pension? This is because at the time she should have been giving birth, she was busy doing other things and refused to have children. And now when she needs them she can no longer conceive.

Dalhat:

Now, Your Highness *Sa'î*, do you have any advice?

Alhaji Muhammad Danmadami:

Well, Muslims should thank Allah all the more for giving us this opportunity; it is Allah alone that could have brought it about. People should renew their faith the more. If one says *la'ila ha illallah Mubamma da ar-r-asulullah*,⁵⁵ it should be right from the bottom of his heart. And if this is true, he should accept the fact that it is only Allah that is capable of legislating any law for him. Anybody that legislates against Allah's law will not be obeyed by those who truly accept that phrase above.

One should also rectify his manner of worshipping Allah. It is not enough to say that you believe in Allah just with your mouth. No, you should be offering your prayers in the congregation. All this can only be done with knowledge. Therefore it is necessary to seek for religious knowledge by going back to school. In addition to increasing their knowledge, Muslims should respect one another – not only your brothers or relations. If a Muslim is sick, visit him, show him affection every day. Invite people towards the religion of Islam, both your neighbours and others in your town and wherever else you go.

⁵⁵ "There is no god worthy of worship except Allah, and Muhammad is His messenger."

Appendix V

Report of Subcommittee on Public Enlightenment

The aftermath of the inaugural meeting of the Main Committee held on the 31st July 2000 gave birth to the formation of Public Enlightenment Subcommittee. The Subcommittee has this term of reference:

To organise seminars, discussions, drama presentations and working visits with a view to enlightening the public, particularly non-Muslims on their rights and duties under the Sharia legal system.

The composition of the Subcommittee is as follows:

(i)	Alh. Muhammadu Danmadami (<i>Sa'in</i> Katagum)	-	Chairman
(ii)	Alh. Umaru Dahiru	-	Member
(iii)	Sheikh Ibrahim Idris	-	Member
(iv)	Muhammad Barra'u Abdullahi	-	Member
(v)	Alh. Ibrahim Yaro-Yaro	-	Member
(vi)	Alh. Daudu Abubakar (<i>Zannan</i> Katagum)	-	Member
(vii)	Sheikh Salisu Suleiman Ningi	-	Member
(viii)	Alh. Abdulhamid Muhammad	-	Member
(ix)	Alh. Baba Ma'aji Abubakar (<i>Sarkin Malaman</i> Bauchi)	-	Member
(x)	Sheikh Dan'Azumi Musa	-	Secretary
(xi)	<i>Ustaẓ</i> Turaki Aliyu Misau	-	Member
(xii)	Hajiya Aisha Awak Ja'afar	-	Member
(xiii)	Dr. (Mrs.) Habiba Muda Lawal	-	Member

In order to carry out its assignment in good time and as effectively as possible, the Public Enlightenment Subcommittee decided to organise seminars, workshops, symposia, live discussions, radio link, radio and TV jingles, drama presentations, panel discussions on TV and radio and *da'awah* and public enlightenment tours of all the twenty Local Governments in the State for both male and female audiences.

DETAILED PROGRAMMES OF THE PUBLIC ENLIGHTENMENT SUBCOMMITTEE

i. Live Discussions. This took place in Bauchi at the Women Development Centre auditorium on Saturday 5th August, 2000 to which over 300 persons were invited, made up of Sharia Court of Appeal kadis, Area Court judges, leaders of Islamic religious organisations from all the Local Governments, representatives of organised interest groups, imams and Muslim scholars, representatives of resident ethnic groups and general representation of the public. Some of the subjects discussed include:

- 1) The meaning and objectives of the Sharia legal system and those affected by it.
- 2) Position of the Penal Code in relation to full Sharia practice.
- 3) Position of the 1999 Constitution in relation to Sharia practice.

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- 4) Adequacy or otherwise of the existing Area Court organisation in relation to requirements under the Sharia legal system.
- 5) Facilities for the training of Sharia Court judges.
- 6) Rights of non-Muslims under the Sharia legal system.
- 7) Contribution of Muslims for a hitch-free implementation of Sharia legal system.

ii. Seminars. Two seminars were held. The first at Azare between 19th – 20th August 2000 for both male and female audiences. The second at Bauchi between 26th – 27th August 2000 for male audience and 2nd – 3rd September, 2000 for female audience at which renowned Islamic scholars presented papers on various aspects of Sharia and Islamic law generally. Some of the topics of the seminars include:

- 1) The challenges of Sharia legal system in a multi-cultural and multi-religious society
- 2) The efficacy of the Sharia legal system in the control of crime and other anti-social offences
- 3) Comparative analysis of the Islamic legal system and the English common law as they apply to the Nigerian community
- 4) The rights and privileges of Muslims and non-Muslims under the Sharia
- 5) Sources of the Sharia and Islamic jurisprudence generally
- 6) Sharia as a means of establishing good family life
- 7) Position of working women under the Sharia
- 8) Sharia in Nigeria from historical perspectives

Some of the resource persons invited include:

- a) Dr. Ibrahim Umar Kabo, Chairman Council of Ulama Council of Nigeria, Kano State
- b) Dr. Umar Sani Fagge, Lecturer, Bayero University, Kano
- c) Alh. Yahaya Faruq Chedi, Lecturer, Bayero University, Kano
- d) Dr. Hadi Dahiru Usman, Bauchi (represented Sheikh Dahiru Usman Bauchi)
- e) Sheikh Salihu Suleiman, Ningi
- f) Sheikh Imam Ibrahim Idris, Bauchi
- g) *Ustaz* Ja'afar M. Adam, Kano
- h) *Ustaz* Turaki Aliyu Misau, A.D. Rufai College of Islamic Legal Studies, Misau
- i) Mal. Balarabe Isa Tafawa Balewa, Sharia Court of Appeal, Bauchi State
- j) *Ustaz* Ahmad Yusuf (ATAP Bauchi)
- k) Malam Albashir Tahir, Jahun, Bauchi

iii. Da'awah and Public Enlightenment Tour of Local Governments. The public enlightenment tours of the 20 Local Governments were undertaken from 7th to 14th August 2000. The target audience during these tours were the entire people in each Local Government including Local Government Chairmen, Councillors and Heads of Departments, Emirs, District Heads, Village and Hamlet Heads; imams, scholars and other community leaders; members of the Local Government Public Enlightenment Committees and representatives of each Muslim organisation.

Topics for discussion were directly related to Sharia implementation such as the meaning and aims of Sharia, the sources of Sharia, the duties of Muslims and rights and

privileges of non-Muslims under Sharia. The core criminal offences and their punishments under Sharia (*budud, qisas, ta'azir*); civil and personal law, the differences between common law procedure code and conduct of judges of Sharia Courts.

Speakers during these occasions included: The Chairman of Public Enlightenment Subcommittee; the Local Government Chairmen; the Emirs or District Heads; scholars from the Public Enlightenment Subcommittee; scholars/imams from the Local Governments.

iv. Drama Presentations. The production of drama on radio and video cassettes was organised by the Subcommittee for presentation to the public at selected times. The radio drama presentation was in four parts covering 45 minutes each and television presentation was in three parts covering 30 minutes each.

v. Hausa Written Songs. Two writers, one from Bauchi and the other from Ningi, produced written songs in Hausa on Sharia implementation in Bauchi State, which were recorded on radio and video cassettes to be presented to the public at selected times.

vi. Panel Discussion and Radio Link. A radio panel discussion touching on all aspects of Sharia was recorded at the BRC studio on Saturday 2nd September 2000. The following were the discussants: Malam Ja'afar M. Adam, Bauchi; Alh. Muhammad Danmadami (*Sa'in* Katagum); Chairman, Public Enlightenment Subcommittee.

vii. Media Coverage Generally. In order to establish a good working relationship with the media, the Subcommittee visited all the media houses in Bauchi on 2nd August 2000, during which useful discussions were held to the mutual benefit of the Subcommittee and the media executives concerned.

viii. Printing of posters. In an attempt to sensitise the society especially on the grievances of Islamic penal offences, posters were printed. These were to educate people on the evils of antisocial behaviours like telling lies, fornication, adultery, theft, aggrandizement, mistrust, dishonesty, false witness and so on. It also includes educating people on the prohibition of all intoxicants and the inculcation of peaceful co-existence between Muslims and non-Muslims. These posters were distributed free of charge all over the State through the twenty Local Government Areas.

ix. Outstanding Programmes of Public Enlightenment. Workshops on Sharia are being planned to take place in Bauchi as soon as funds are available for the following categories of public officers:

1. Governor, Deputy Governor, Honourable Commissioners and Legislators
2. Permanent Secretaries, Directors and Heads of parastatals of both State and Federal
3. Local Government Chairmen, Deputy Chairmen, Secretaries, Councillors and Heads of Departments
4. Emirs and Chiefs, District Heads, Village and Hamlet Heads and traditional title holders
5. All court personnel
6. Law enforcement agencies

x. Radio Jingles. In order to keep the society alive to its duties and responsibilities under the Sharia, BRC was commissioned to write suitable jingles to be aired to the public in form of paid advertisements during prime times. The jingles were also to highlight the rights and privileges of non-Muslims.

RECOMMENDATIONS

1] Sustenance of Sharia. Certain permanent structures must be established simultaneously with Sharia practice in order to sustain it permanently. The Committee therefore recommends as follows:

a) The immediate establishment of a full fledged Ministry of Religious Affairs at State level. This will among other things ensure continuity and effective implementation of Sharia. Some of the responsibilities of this Ministry will include:

- i) The collection and disbursement of *zakat* that should be done by a Board to be appointed by law for that purpose.
- ii) Establishment of Da'awah Coordination Committee, organised under a Council of Ulama to undertake a sustained public orientation and non-formal Islamic education as well as public enlightenment on the responsibilities of Muslims and rights of non-Muslims under the Sharia.
- iii) Propagation of Islam.
- iv) Regulation of fasting timing – commencement and ending of Ramadan fasting.

b) Establishment of facilities for the inculcation of the spirit of self-awareness in individual Muslims – Da'awah.

The preservation of Islamic culture and traditional values is a direct way of re-enforcing the Sharia practice. The most immediate contribution Muslims can make towards re-enforcing Sharia is to develop an awareness of our future as a body of *ummah* and this should start from the individuals extending to the communities until it reaches the *ummah*, the supranational brotherhood of Islam. The future of Muslims is in our rediscovery of our individual selves and then consciously striving to assert our identity in our way of life, which is the Sharia. The primary aim of the individual Muslim should therefore be to train his “self” or “ego” to match the strength of steel and he can only achieve this by behaving as a *mu'min*. A *mu'min* is a believer in Islam who practises the Sharia in its entirety and whose belief pervades all his actions.

When, however, a *mu'min* confronts other believers and followers of the Sharia he becomes softer than silk, but if it is a fight for justice he becomes even harder than steel. A *mu'min* is also humble like the dust, which is trodden under the feet, but after acknowledging, “Allah is the Greatest” he rises beyond imaginable heights because then there remains no greatness of any being which can overawe him.

2] Education. A good Muslim must sincerely worship his Creator, Allah, as well as work hard materially for an honest living in the manner prescribed by Islam. In other words, he has to keep the body and soul together by neither neglecting the world in which he has to live even though for a while, nor the hereafter which will be his eternal place of abode. He must therefore always strive for the good (lawful things) of this world

and that good (pleasure of Allah) of the hereafter, continuously praying to Allah for help, guidance and protection in his effort to maintain this balance. Leading such an honest and purposeful life in accordance with the Sharia cannot be possible without adequate knowledge of the Holy Qur'an, Hadith, *fiqh* (jurisprudence) and knowledge of the principles of lawful dealings and transactions with other human beings and even animals (*mu'amalat*) as prescribed by the Sharia. Knowledge of the natural, physical and social sciences, arts and other humanistic sciences, is therefore also essential for orderly scientific, social and large-scale industrial development. Proper acquisition of such knowledge will help to ensure the rapid development of trades and professions such as medicine, surgery, engineering, manufacturing, agriculture etc. It will also help to ensure the economic empowerment of the *ummah* enabling citizens to lead a decent, honest, independent and contented life in this world and to return to a more blissful and ever lasting life in the hereafter.

In our country today, however, there are so many contradictions, which inhibit the striking of such a balance. Many Muslims are so engrossed in their worldly materialistic pursuits and insatiable lust for political power that they hardly give any attention to the pursuits of religious excellence. On the other hand there are many Muslims who are so extremely devoted to the religion that they give little or no attention to their essential worldly needs such as having a sustainable profession or trade in order to earn a decent, honest and independent living and to contribute to the well-being and sufficiency of the *ummah*, thus maintaining their dignity and that of their religion. There are also others who have neither the knowledge of the religion nor of any sustainable trade or profession. Such people in most cases end up unjustifiably dependent on others for their sustenance.

There is thus a disparity, because of this imbalance between the so-called Western educated intellectuals locally referred to as *'yan boko* and the Islamic scholars and other referred to as *malaman zaure*. This disparity has often led to mutual suspicions between these categories of present day Muslims and in many cases estrangement, breakdown of channels of communication, social disorganisation and disunity making the consolidation of the *ummah* and the attainment of its objectives difficult.

It is a well-known fact that any knowledge that is not based on faith (*iman*) and the fear of Allah (*taqwa*) can only lead to self-destruction and degeneration of the society. Therefore, in order to solve the anomalies enumerated above and to ensure and sustain the practice of Sharia the Committee recommends as follows:

a) Primary and Secondary School Education. Arabic should be compulsory in all primary and secondary schools and be separated from Islamic studies. That the contents of primary and secondary curricula be significantly reviewed in order to include the teaching of full Islamic Religious Knowledge to Muslim students of these schools wherever they may be. Science, humanistic and other useful subjects should continue to be taught as at present but much more emphasis should be given to the teaching of the Holy Qur'an, Hadith, *fiqh* and the Arabic language. This should ensure that by the time a pupil completes secondary education he/she would be well grounded in his/her religion and be able to read, write and speak the Arabic language fluently as he/she now does in English and other foreign languages. He/she should be able to build on this solid foundation at the university and become an Islamic and Arabic scholar as well as in other

sciences (*mu'amalat*). The Sharia will very much draw from the products of such a system especially those who will study and become well versed in jurisprudence.

b) Islamic University. According to a statement of a sage, "the soul of a people is mirrored in its universities". In Nigeria today this statement would appear to be untrue as almost all our universities mirror the soul of Europe and America since they only reflect Western type of civilisation and social life.

Universities should actually be responsible for providing, through the humanities, religious and natural sciences, an education that should give meaning to life. Experience has shown that the adaptation of a balanced higher (university) education to political, economic, social and cultural changes is indeed inevitable. A call for the establishment of an Islamic university by Nigerian Muslims to mirror the soul of the *ummah* could not therefore have come at a more appropriate time than now. Experience has shown that any knowledge that is not based on faith (*iman*) and the fear of Allah (*taqwa*) can only lead to self-destruction and degeneration of the society. The success of Sharia implementation will therefore, invariably depend on the intellectual quality and ability of the judges and other court staff interpreting and enforcing it. In view of the foregoing facts, the Committee recommends that the Bauchi State Government should:

- 1) Establish an Islamic university to address the imbalance between material and spiritual educational needs of the people as well as to help to sustain the Sharia legal system.
- 2) Or a separate campuses for women [sic]. Prevail on the Federal Government to set aside one or two of the existing universities in the country exclusively for women; and to be staffed from the vice-chancellor to the lowest staff by women. This will help to provide the conducive atmosphere for women to pursue higher education without unnecessary impediments.
- 3) Prevail on the Federal Government to separate female students' campuses from those of male students in the existing universities.
- 4) As a matter of urgency reorganise the school system by separating male schools from female schools in respect of primary, secondary education and teachers training as well as prevail on the Federal Government to do the same in respect of all such institutions in the State under its control. This will ensure that students begin to experience living within the Sharia right from their formative ages.

c) Qur'anic Schools: The learning of the Qur'an should be the first task of every properly educated Muslim child since the Qur'an is the absolute reference frame; that is to say the perfect standard or model for every Muslim man and woman and the fulcrum around which his/her behaviour revolves.

It has therefore been a long-standing tradition of Northern Nigeria, the setting up of Qur'anic schools to teach children the reading and memorisation as well as the values of the Qur'an. In spite of certain shortcomings in our present day methods, the original essence of the learning of Holy Qur'an goes back to the same tradition established by Prophet Muhammad (SAW) about 1400 years ago which was spread to all over the Muslim world.

History has shown that all other branches of knowledge, the natural sciences such as biology, chemistry, physics, medicine, engineering, history and other disciplines had their origin from the teachings of the Qur'an. The renaissance or the rebirth of learning of the [14th – 17th centuries]⁵⁶ Western Europe would not have succeeded without the input from books written by Islamic scholars during the Muslim occupation of some parts of Western Europe.

Since the time of Sheikh Usman Dan Fodio of the Sokoto Caliphate and Sheikh El-Amin El-Kanemi of Borno a system of Islamic education, the learning of the Qur'an with dignified and secure role for the teachers was firmly established in Northern Nigeria.

There were the *tsangaya* which were centres run by Qur'anic teachers with residential and other facilities for the students. Volunteers undertook to feed the students who did not have to go round begging for their sustenance. The society knew its responsibility then and thus morally and materially supported these learning centres. With the passage of time especially during the colonial occupation of Nigeria, however, the centres became neglected. The support was not forthcoming from the society as it should and the Qur'anic schools were gradually losing status due to their poor condition. The attention of both teachers and students was diverted to the pursuit of the means of sustenance, which the society should have otherwise guaranteed.

The advent of colonial rule in the 19th century and the amalgamation of the Northern and Southern protectorates in the 20th century saw the removal of the indigenous Islamic system of governance. Islamic system of education was thus deprived of its political base that nurtured it and budgeted for its continuous existence. In Northern Nigeria, the political, economic and educational sectors of life were all indirectly controlled and budgeted for by the colonial administration in accordance with its own agenda. No adequate provision was made for the Islamic system of education. The foundation of Islamic culture that nurtured the educational system was thus destroyed in both Sokoto and Borno caliphates.

The *tsangaya* or *makarantan allo* Islamic educational organisation, however, refused to be wiped out. It continued to exist even though marginally, to this date in spite of being deprived of its support base. Today the system exists in pathetic condition of abject poverty as characterised by the “bowl-bearing” pupils struggling for basic sustenance in their effort to learn the Holy Qur'an. Since the basis of the Sharia and the Islamic law is the Holy Qur'an and the Sunnah of the Messenger of Allah (SAW) and since there can be no Sharia without sound knowledge of the Qur'an, the Committee strongly recommends that Government should embark on a serious rehabilitation of all *makarantan alkur'ani* in the State as a matter of urgency as follows:

- a) Reaching out to the target groups in order to mobilise them to participate in the rehabilitation effort by mobilisation campaign to enlist the support of intellectuals, the wealthy and people in authority to ensure collective awareness and support for the effort.

⁵⁶ The text has “7th century”, no doubt a typographical error.

- b) Public enlightenment campaign on parents on the implication of the uncontrolled and uncoordinated nature of the present system of *makarantan allo*.
 - c) Comprehensive survey of types, location, number of pupils, welfare and infra-structural standards of all *makarantan allo* in the State.
 - d) Establishing model Qur'anic schools to give the pupils sound and balanced education under a good welfare package that will protect them against social ills and abuse through the following:
 - i) By selecting at least 3 schools, as a short-term measure, in major towns to be catered for by the government.
 - ii) By organising proper curriculum, school calendar in accordance with the relative ages of the pupils.
 - e) Regrouping of the selected schools into *tsangaya* as model boarding schools with complete welfare package for staff and students, uniform curricula, syllabus, calendar, time-table, provision and maintenance of class-rooms and learning materials.
- 3] *Zakat*. In order to firmly establish Sharia, there is need for economic empowerment of the populace. In addition to the poverty alleviation programmes embarked upon by the Government, consideration should also be given to the formal institutionalisation of collection and disbursement of *zakat* as additional source of funds for poverty alleviation.

Zakat is one of the five fundamental principles of Islam coming third after the articles of faith and *salat* (five daily prayers). Whilst *salat* is the obligation of the body, *zakat* is the obligation of the wealth. The word *zakat* literally means both "purification" and "growth/blessing". It is that portion of a Muslim's wealth that is designated for the poor. It is obligatory on every free Muslim, male and female, young and old, sane or insane. It is prescribed by Allah, the Exalted, corroborated by His Messenger, Prophet Muhammad (SAW) in his Sunnah and upheld by consensus of the Islamic community (*ummah*).

The authority for *zakat* is found in both the Holy Qur'an and the Prophet's Hadith. In *Surat At-taubah* verse 103, Allah the Exalted commands: "Take charity from their property in order to purify and sanctify them..." The intention is to purify the wealth of believers by setting aside a proportion of it for those in need.

It is related by At-Tabarani as in *Al-Awsat* and *As-Sagir*, on the authority of Ali (RA) that the Prophet (SAW) said: "Allah has enjoined upon rich Muslims a due to be taken from their properties corresponding to the needs of the poor among them. The poor will never suffer from starvation or lack of clothes unless the rich neglect their due. If they do so, Allah will surely hold them accountable and punish them severely."

In spite of the importance of *zakat* as shown in the above Qur'anic injunction and the Prophet's Hadith, many Muslims do not pay *zakat* dues. There is also a large percentage of Muslims who are guilty of miscalculation, improper deductions and haphazard distribution. This is largely as a result of the following reasons:

1. Ignorance of the Islamic injunction on *zakat*; controversies as to the application of the specific principles governing *zakat* and the absence of readily available materials for *zakat* computation.
2. The absence of political structures necessary for imposition of *zakat* in many countries including Nigeria.
3. The complexities of today's business. Very little has been written about a specific Islamic theory of *zakat* computation on a great deal of today's business assets, business transactions and set-ups.

Having regard to the fact that in order to firmly establish Sharia in the State, there is a need to economically empower the people, the Committee recommends that Government should consider as a matter of urgency the institutionalisation of the principles of *zakat* by:

- a) Establishing a Zakat Board or Council by legislation that will be responsible for the collection and distribution of *zakat* in accordance with Allah's commandments. The board should comprise 11 members including the chairman and should be served by an executive secretary. This board or council may also administer other endowment funds.
- b) Conducting a campaign for public sensitisation and mobilisation first targeted at traditional rulers, prominent elite, the wealthy and the cream of the society whose support for and participation in the scheme is critical for its success. Secondly, the campaign should be targeted at urban and rural dwellers and scholars. Scholars should be commissioned to write books on all aspects and implications of *zakat*.

The Zakat Board should be manned by carefully selected persons of proven integrity, transparent honesty and impeccable record of achievements.

4] Amendment to Existing Laws. In order to ensure smooth implementation of Sharia all existing laws contained in Vols. 1 & 2 Bauchi State Laws 1991 should be amended to conform with Sharia practice. The amendments should take effect simultaneously with the new Sharia Penal Code:

- a) Area Courts Law
- b) Criminal Procedure Code (CPC) Cap 35
- c) District Courts Law Cap 37
- d) Liquor Law Cap 71
- e) Penal Code Law Cap 94
- f) Sharia Court of Appeal Law Cap 122
- g) Cinematography Law
- h) Censorship Law
- i) Gaming Law.

5] Implementation of Sharia. Implementation of Sharia virtually means the enforcement of the Islamic law with particular reference to the *budud*, *qisas* and *ta'azir* offences and payment of *dijab* (compensation) instead of *qisas* as well as the enforcement of judgments in civil and personal cases.

Hudud offences include:

- 1) Adultery and fornication (*zina*)
- 2) False accusation to defame character (*qadhf*)
- 3) Drinking of intoxicants
- 4) Theft (*sata*)
- 5) Robbery (*fash*)
- 6) Treasonable (*tamaye*)
- 7) Apostasy (*ridda*)
- 8) Intentional Homicide
- 9) Unintentional Homicide
- 10) Homicide by mistake
- 11) Intention by mistake [sic]
- 12) Unintentional bodily injury (*rauni*)

Against all these offences Allah (SWT) has prescribed specific punishments (*uquba*) in the Holy Qur'an.

Qisas offences include all offences of bodily hurt or injury whereby the Divinely prescribed punishment is retaliation such as loss of limbs, eyes, nose, ears and other grievous bodily injuries, in which the aggrieved party has the option to demand for compensation (*diyab*) instead of retaliation.

Ta'aẓir offences include all other offences against which imposition of punishment is left to the discretion of the presiding judge, such as criminal breach of trust, forgery, currency counterfeiting etc.

Strictly speaking Sharia is not confined only to *hudud*, *qisas* or *ta'aẓir* offences which constitute only about one-fifth of the whole body of divine laws; it is also a complete way of life prescribed for all Muslims and includes absolute obedience to Allah, the Exalted and His Messenger, Prophet Muhammad (SAW); respect for and kindness to parents; kindness to children and the aged, good neighbourliness; honesty and truthfulness. It also includes rules about marriage relationships, property and land disputes and guardianship of orphans.

As can be seen, therefore, under the Islamic legal system only the *hudud*, *qisas* and *ta'aẓir* offences and civil cases pertaining to property and land disputes and personal law matters regarding marriage, inheritance, *waqf* and guardianship of orphans need the intervention of the Sharia Courts for enforcement or resolution. Obedience or not to all other body of divine laws will depend entirely on the degree or strength of the faith of each individual and the relationship with his Creator.

There will thus be no problems with the provisions of section 36(12) of the 1999 Constitution, which requires that all criminal offences be defined and punishments prescribed in a written law, before any citizen of Nigeria is convicted. Since all the major Islamic law offences have already been defined and punishments prescribed in the Holy Qur'an which can now be codified into a State law for enforcement.

6] Enforcement. The pre-requisites for effective enforcement should include: an efficient and loyal law enforcement organisation; a virile, well-informed and responsive citizenry, a well-organised judicial system and an articulate, dynamic, pragmatic and Islamically oriented executive and legislature.

It is the constitutional responsibility of the Nigeria Police under the Police Act to enforce all laws passed by the National Assembly, House of Assembly of a State or Local Government Council including any subsidiary legislation or instrument made under the provisions of a law.

It is therefore the binding duty of the Nigeria Police Bauchi State Command to enforce all provisions made under the Islamic law by the Bauchi State Government in furtherance of the Sharia implementation in the State.

Under the provisions of section 215 subsection 4 of the 1999 Constitution, “the Governor of a State or such Commissioner of the Government of the State as he may authorise in that behalf, may give to the Commissioner of Police of the 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...”

The Governor should, therefore, immediately before the coming into effect of the Sharia Penal Code in the State, draw the attention of the Commissioner of Police to his responsibility in enforcing the provisions of the code. Adequate use should be made of Aid Groups to facilitate flow of information to aid effective enforcement.

CONCLUSION

We, the members of the Subcommittee, would like to use this opportunity to thank His Excellency, the Executive Governor Alhaji Ahmadu Adamu Mu’azu and the Chairman of the Sharia Implementation Committee, Kadi Abdullahi Y. Marafa (*Marafan* Bauchi), for giving us the opportunity to serve on both the Main Committee and the Public Enlightenment Subcommittee. We hope our contribution, will by the Grace of Allah, positively assist the Government in the smooth and hitch free implementation of Sharia legal system in the State.

Attached hereto as Annex I is a suggested timetable for the commencement of Sharia implementation for consideration by the Main Committee [no such annex included in the report]. We also thank the chairmen of all LGAs, their deputies, secretaries, councillors, HODs and other staff for their wonderful contribution and support during our LG tours and seminars. We are also grateful to Emirs, District Heads, Hamlet Heads for their fatherly advice and moral support. Imams, Muslims, and members of all Muslim aid groups, *ulama*, community leaders, interest groups and the general public also deserve our appreciation for turning out in large numbers to listen to and participate in the discussions. We are most grateful to all media houses and their executives and staff for a wonderful coverage of the Subcommittee’s activities. Finally, we thank all members of our own Subcommittee and of other subcommittees of the Sharia Implementation Committee who very effectively participated in our programmes especially the Chairman of Main Committee, Kadi Abdullahi Marafa, Dr. Hadi Sheikh Tahir Usman Bauchi, of the Documentation and Codification Subcommittee, Mal. Zubairu Yakubu, *Ardon* Zaranda of the Judicial Structure and Personnel Subcommittee, the Secretary Habibu I. Shall, Deputy Secretary S. Ahmed Makama and the entire secretarial staff, may Allah shower His blessings on all.

[Then follow the names and spaces for the signatures of the members of the Subcommittee.]

Chapter 2 Part III

On the Adoption and Implementation of Sharia Legal System in Zamfara State

A paper presented at the JNI-sponsored seminar on Sharia in Jigawa State

by *Alb. Ahmed Bello Mahmud*

then the Hon. Attorney-General & Commissioner for Justice, Zamfara State

6th July, 2000

This paper is intended to be without details but straight to the point on the practical experience of Zamfara State in the adoption and implementation of the Sharia legal system in the State. The sequence of the steps followed and the problems/successes attained will be highlighted as well as the lessons learned for the benefit of other States willing to follow suit.

Introduction

Islam has existed in Northern Nigeria since the 9th century when Arab merchants had trade contacts with Borno Caliphate, spreading through Kano. By the 19th century the Usman Dan Fodio *jihad* had entrenched it in Sokoto Caliphate which spread to the south through Ilorin. British colonial administrators did not like the legal system they found in Northern Nigeria and so gradually enacted laws and made policies which restricted the strict application of Sharia laws because such laws were not acceptable to the modern world.

Post-independence governments in Nigeria continued to maintain the laws and policies which effectively prevented the adoption of full Sharia. Constitutional Conferences and debates were frustrating as relates to Sharia, and attempts by some radical Islamic sects to demand for Sharia were violently suppressed. It was not until about 100 years later that God wished and guided the Zamfara State Government to successfully adopt Sharia in a peaceful and constitutional manner.

The Steps Followed

1. *Committee Established:* The Executive Governor of the State Alhaji Ahmed Sani (Yariman Bakura), desirous to fulfil his campaign promises and the wishes of the people to adopt Sharia, established an 18-member committee to:

- i. examine and review all existing laws with a view to conforming with the traditions, culture, values and norms of the people;
- ii. examine and review the structures and control of Area Courts in the State;
- iii. facilitate effective administration of justice in the State.

The Committee submitted its report and made crucial observations especially on constitutional provisions relating to fundamental human rights, etc. Government accepted the report and my ministry was briefed to find out the “one best way” to adopt the legal system peacefully and without violating any provisions of the Constitution.

2. *Enabling Law*: This is the law established under section 6 of the 1999 Constitution that enables the State to adopt the Sharia legal system. It is called the Sharia Courts (Administration of Justice and Certain Consequential Changes) Law, 1999. Its other attributes include:

- i. establishes Sharia Courts;
- ii. confers civil and criminal jurisdiction in Islamic law in the courts;
- iii. enables the codification of Islamic penal laws (Sharia Penal Code) to satisfy the requirement of section 36(12) of the Constitution;
- iv. enables the codification of Sharia Criminal Procedure Code;
- v. allows for the repeal of existing Area Courts;
- vi. allows for the establishment of a State Council of Ulama;
- vii. provides for the administration, control and supervision of Sharia Courts initially vested in the Chief Judge, it is divested of him and vested in the Grand Kadi with effect from 29/06/2000.

3. *Government Policy Statement*: Meanwhile, Government made policy statements to curb all social vices, moral decadence and check rising crime wave by serving notice of intention to:

- i. prohibit prostitution and close down brothels in the State;
- ii. ban all forms of gambling and all games of chance;
- iii. [ban] consumption and dealings in liquor.

These policy statements drastically reduced the level of crime and consequently made the courts and police stations less busy.

4. *The Sharia Penal Code*: To satisfy the mandatory requirement of section 36(12) of the 1999 Constitution which requires that a person cannot be prosecuted for a criminal offence unless that offence is defined and its punishment is prescribed in a codified law to be passed by the legislature. We gathered inputs from the Sudan and Saudi Arabia of the Maliki School of Islamic legal thought and jurisprudence. All crimes and punishments were classified under *hudud*, *qisas* and *ta'azir* categories defined and punishable in accordance with Islamic law, as far as possible. (For reasons to be given later, the offence of apostasy (*ridda*) had a different treatment.) So amputation, caning, stoning to death, payment of diyah and forgiveness of homicide by relations of the victims became features of the new legal system in the State.

5. *The Sharia Criminal Procedure Code*: This is the code that provides for the procedure for prosecution of offenders and execution of judgement in the Islamic law model. The Sharia Penal Code is to the Penal Code what the Sharia Criminal Procedure Code is to the Criminal Procedure Code.

6. *Area Courts Repeal Law*: This is the law that repealed the then existing Area Courts and their enabling law in the State since they have been replaced by Sharia Courts.

7. *Sharia Court of Appeal Amendment Law*: Section 277 of the 1999 Constitution restricts the jurisdiction of the Sharia Court of Appeal of a State to matters of Islamic personal law. Since the established Sharia Courts have been conferred criminal jurisdiction and appeals from these courts exclusively lie to the Sharia Court of Appeal, it became necessary to expand the jurisdiction to entertain criminal appeals from Sharia Courts.

To argue that such jurisdiction can not be enlarged is to argue in favour of denying an appellant (e.g. convicted and sentenced to amputation) the right of fair hearing at the appellate division. In other words, the Constitution provides for the establishment of Sharia Courts, with criminal jurisdiction, the provision of penal laws and punishments, the due process of law which led to his conviction and sentence, but without an appellate court to hear his appeal.

8. *Other Laws/Policies:*

- i. Anti-corruption Commission Law. The commission has no power to prosecute, arrest or detain any person. It merely investigates allegations of corrupt practices against public servant at administrative levels only and reports to the executive for appropriate action. Such practices include over-invoicing, kickbacks, wrongful administrative action, injustice etc.
- ii. Zakat and Endowment Law. For the collection and distribution of *zakat* and a tribunal to sanction defaulters etc.
- iii. Marriage Expenses and Other Ceremonies Law. Regulates and reduces to the minimum marriage expenses.
- iv. Banning of traditional drums beating and praise singing. However exceptions are royal or farm drummers.
- v. Introduction of Government-approved standard weights and measures for use in commercial measurements in the State.
- vi. Observance of congregational prayers by civil servants in appropriate prayer time slots during office hours.
- vii. Appropriate dress code for women – the *hijabi*.
- viii. Rehabilitation and education of *almajiris* etc.

9. *Transition Period/Launching:* It is very necessary to create a transition period as was done in Zamfara, Sokoto, Niger and Kano States. This period (from 3 to 6 months) will enable smooth transition especially with the backlog of existing cases being heard in the old courts. Other advantages include:

- provides a period of screening and appointment of qualified alqalis both in learning and in character;
- construction of new courts or renovation of existing ones;
- training the alqalis, workshops etc.;
- provision of logistics support like books etc.;
- public education and enlightenment on Sharia etc.;
- allow for proper “handing over” from the old to the new system.

Launching the adoption of Sharia merely has symbolic significance, even though it serves a great deal in drawing an imaginary line between the past and the new beginning under Sharia. It reminds all and sundry that the day for the launch is just not any other day. Besides, it gauges the response of the people and the level of their commitment, sacrifice and acceptance of the legal system. A peacefully concluded launch, as in Zamfara and Kano, further disproves cynics who blame violence on Sharia and vindicate others who insist that the Kaduna violence has nothing to do with Sharia since it was neither adopted nor launched there.

10. *Other Necessary Conditions/Dos:*

1. Continuous education and enlightenment.
2. Respect of constitutional provisions so as to at least live to see the benefits of Sharia since litigation will be eliminated.
3. Peace and orderliness must reign, else Sharia will not take hold.
4. Respect Federal laws.
5. Mobilise the masses, imams, scholars and go together in a united stance.
6. Make best use of Friday congregational prayers to pass the word around.
7. Seek and obtain co-operation and support of the legislature/executive.
8. Be prepared to sponsor private bills on the Sharia laws especially the enabling and Penal Code Laws where number 7 above fails.
9. Provide for Joint Aid Groups to complement efforts of police.
10. Establishment of Ministry or Department for Religious Affairs (to represent all religious groups in the State.)

11. *Anticipated Problem Spots:*

- The offence of apostasy and section 38(1) of the Constitution.
- Prosecution by an uncooperative police under the Federal Government.
- Non-application of Sharia laws on non-Muslims must be maintained (Qur'an 2:256).
- Fundamental Human Rights provision especially the right to life and against torture/degrading treatment.
- Evidence under jurisdiction of the National Assembly.
- Criminal jurisdiction of the Sharia Court of Appeal.
- Codification of penal laws/punishments.

12. *Gains So Far (Excluding Capital Projects):*

- Drop in crime statistics.
- Less busy courts/police stations.
- Closure of all cinema theatres and beer parlours (except military barracks that was hitherto resisted).
- Controlled financial wastage and fraudulent practices.
- Ability to save enough to afford payment of minimum wage of ₦5,000 since 1st January 2000.
- Wealth redistribution.
- Phase II of Sharia with emphasis against bad habits like telling lies, backbiting and deceit/cheating in the public and private sectors.
- General orientation on the habits of observing congregational prayers at the proper times.
- Well-paid and motivated al-kalis.
- General re-orientation of the people towards the fear of Allah, the keeping of trust, the recognition of the difference between good/*halal* and bad/*haram* in every-day conduct.

13. *Pressure on the State/the Sharia Controversy:* The State went through unbearable pressure from CAN, the media, the Federal Government and other States (including States in the North who drew back on their commitment to adopt the legal system). Allah's guidance

and the high level of commitment/determination of the people and the Government saw us through. The belief of following a legal, peaceful and constitutional procedure reinforced our determination as we were to be later vindicated by the Federal Attorney-General. CAN later saw good reason and withdrew its suit against the State Government. The suits filed by civil rights organisations were struck out on grounds of lack of *locus standi* to challenge what does not affect you as a non-Muslim and non-resident in Zamfara State.⁵⁷ Media pressure still persists but at a lesser degree since other States like Kano, Sokoto, Niger now share in the pressure with Zamfara State.

Controversy has been generated by the antagonists of Sharia largely out of ignorance of what Sharia is, or out of bad faith and hatred for Sharia. They wrongly rely on section 10 of the Constitution, which does not make Nigeria a secular state. They refuse to appreciate that section 6 of the Constitution empowers the legislature to establish any court with jurisdiction to try and punish offenders under a codified law. And that section 38 allows for the observance of religion to the fullest.

Since Islamic law was cleverly replaced over time by the common law (which is largely Christian in orientation and reflective of Western values); and since the common law has failed to be effective in checking the rise in crime and moral decadence; it became necessary to try another alternative legal system that is a divine, comprehensive, universal and complete code of practice covering social, economic, political, spiritual and legal conduct of a Muslim from cradle to grave, including the aspect of the hereafter.

The adoption of Sharia by any person or State that professes the Islamic faith is not a question of choice. It is compulsory especially with the advent of democracy, constitutionalism and a federal system of government that provides the opportunity. Allah has stated in Qur'an 5:4, 5:45 and 5:47 that:

Whosoever judgeth not by that, which Allah hath revealed, is respectively referred to as unbelievers, wrongdoers and evil-livers. [sic]

Muslims in Nigeria have sacrificed enough by compromising the fullest observance of their religion over the years. Other non-Muslims should understand, appreciate and reciprocate these sacrifices by at least respecting the right of Muslims to adopt Sharia that does not affect them. The time has come and the people of Zamfara State have reached the limits where they demanded and insisted on their fundamental right to observe their religion as decreed by Allah and guaranteed by the Constitution. The

⁵⁷ The reference is to *Human Rights Law Service vs. Attorney-General of Zamfara State and Another*, No. ZMS/GS/M.36/2000, filed in the High Court of Zamfara State early in 2000 by a Lagos-based group (Human Rights Law Service, or Hurilaws, as to which see www.hurilaws.org). The suit challenged Zamfara State's programme of Sharia implementation on many grounds. The High Court quickly ruled that the plaintiff lacked *locus standi* and dismissed it. Three other virtually identical suits were filed at about the same time by individuals resident in Zamfara State, all Christians, all represented by the same Lagos-based lawyer (Olisa Agbakoba). These were consolidated under the name of *Yunana Shibkai, Dr. Emman U. Shebu and Evangelist D. Ishaya vs. Attorney-General of Zamfara State and Attorney-General of the Federation*, No. ZMS/GS/M.121/2000. After a year's maneuvering they too were dismissed by the High Court for lack of *locus standi* in the plaintiffs (1 February 2001). The dismissal was appealed to the Kaduna Division of the Court of Appeal, No. CA/K/321/2001. As of late 2006 the case was still pending and yet to be argued.

Muslims in southern parts of Nigeria suffer greater denial of this right, as the present system does not even allow them to regulate their conduct Islamically.

The Way Out

The way out is through constant dialogue between the protagonists and antagonists of Sharia. Good faith, respect for others' rights and beliefs and recognition of Nigeria as a pluralist society that is unified in diversity, will help. Non-Muslims must have the courage to reciprocate the respect which the Muslims have for Christian beliefs.

The Alternative

Failing the above, the only alternative is for all competing parties to agree to discard the alien common law and replace it with Sharia for Muslims, cannon law for Christians and customary law for the traditionalists as the basic laws for the country. Much of this was passed across by Governor Ahmed Sani and appreciated by the audience at an International Seminar on Sharia, Democracy and Conflict in Nigeria organised by the VOA in Washington in May 2000.

Conclusion

It is now accepted that the adoption of Sharia is constitutional. Evidence from Zamfara, Sokoto, Niger States and more significantly from the volatile Kano State show that violence is not part of Sharia, neither were the rights of non-Muslims affected thereby. While the Federal Government can not come between a Muslim and his God, so also must every governor, legislature and the judiciary in any of the 36 States of the Federation respect the wishes of its people (majority or minority) to practise and observe their religion **TO THE FULLEST**.

May Allah forgive us where we have erred and guide us through the right path.

Thank you.

Chapter 2 Part IV

White Paper on the Report of the Committee on the Implementation of Sharia in Kebbi State

June, 2000

1.0 INTRODUCTION

The Executive Governor, Alhaji Muhammad Adamu Aliero, had in October, 1999 constituted the Committee on the Implementation of Sharia Law (hereinafter referred to as the Sharia Committee), composed of the following as members:

- | | | | |
|------|---|---|------------|
| (1) | Alhaji Muhammad Zaria Musa
(Hon. Grand Kadi) | - | Chairman |
| (2) | Alhaji Ibrahim Mai'afu
(Attorney-General and Commissioner for Justice) | - | Member |
| (3) | Barrister Ibrahim Kangiwa
(Hon. Commissioner for Information) | - | Member |
| (4) | Justice Isma'ila Haruna Rasheed | - | Member |
| (5) | Kadi Tukur Argungu | - | Member |
| (6) | Kadi Mukhtar Imam Jega | - | Member |
| (7) | Alhaji Idris Koko
(Madawakin Gwandu) | - | Member |
| (8) | Professor A. A. Gwandu | - | Member |
| (9) | Barrister Abubakar Abdullahi | - | Member |
| (10) | <i>Khalifah</i> Usman Mukhtar | - | Member |
| (11) | Malam Abbas Jega | - | Member |
| (12) | Alhaji Yusuf Jibril Zuru | - | Member |
| (13) | Alhaji Ahmadu <i>Sarkin</i> Fada | - | Member |
| (14) | Alhaji Yusuf Muhammad Argungu | - | Member |
| (15) | Alhaji Aliyu Ahmad Bandi | - | Secretary |
| (16) | Yahaya M. H. Jega (co-opted) | - | Asst. Sec. |

1.1 The Sharia Committee's terms of reference included:

- to advise the Government on how best to entrench Sharia in the State legal system;
- to identify and review relevant State laws, so as to bring them in conformity with the Sharia legal system;
- to do any other thing necessary or incidental to the discharge of its responsibilities;
- to call for oral and written memoranda from the members of the public on the ways and means of entrenching the Sharia in the State legal system.

2.0 The Sharia Committee had completed its assignment and submitted its report to the Government. Having received the report, the Government thereafter appointed a White Paper Drafting Committee with membership as follows:

CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

(1) Professor A. A. Gwandu	-	Chairman
(2) The Attorney-General and Commissioner for Justice	-	Member
(3) Alhaji Umaru Isa	-	Member
(4) The Head of Islamic Studies, Department, College of Education, Argungu	-	Member
(5) Kadi Tukur Argungu	-	Member
(6) Alhaji Musa Aliyu Zuru	-	Member
(7) Malam Abbas Jega	-	Member
(8) Abubakar Abdullahi	-	Member
(9) The Solicitor-General and Permanent Sec.	-	Secretary

3.0 AREAS COVERED BY THE SHARIA COMMITTEE

3.1 Sharia Committee's Observation. At the end of 6 weeks of extensive deliberations and a working tour of the four Emirate Headquarters of Birnin Kebbi, Argungu, Yauri and Zuru, the Sharia Committee received total support for the implementation of the Sharia from their Royal Highnesses and the people of these Emirates.

3.2 Government's Decision. Government notes this observation, particularly the overwhelming support from their Royal Highnesses and the general public for the Sharia implementation in the State.

4.0 THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999

4.1 Sharia Committee's Observation. The Committee observes that the provisions of the Constitution of the Federal Republic of Nigeria, 1999 do not impede the implementation of Sharia law for the Muslims.

4.2 Government's Decision. Government notes this observation. In consequence thereof, it intends to implement the Sharia law on all the Muslims in the State and on all those who, though non-Muslims, opt to subject themselves to the Sharia law.

4.3 Section 6(4)(a). The Sharia Committee observes that under section 6(4)(a) of the 1999 Constitution, the House of Assembly has powers to establish courts other than those mentioned in the Constitution.

4.4 Government's Decision. Government notes this observation. In consequence therefore, Government will accordingly present an Executive Bill to the House of Assembly for the establishment of Sharia Courts and Upper Sharia Courts in the State.

5.0 APPLICATION OF SHARIA ON NON-MUSLIMS

5.1 Sharia Committee's Observation. The Sharia Committee observes that Islamic law is restricted to Muslims only unless a non-Muslim wishes to be tried by the Sharia Court on his own wish.

5.2 Government's Decision. Government notes this observation.

6.0 SHARIA COURT OF APPEAL

6.1 Sharia Committee's Observation. The Sharia Committee observes that one of the existing judicial structures for the implementation of the Sharia recognised by the 1999 Constitution is the Sharia Court of Appeal. However, the Constitution has limited the

jurisdiction of the Sharia Court of Appeal to the Islamic personal law with a provision, that the State House of Assembly may confer it with additional jurisdiction.

6.2 Government's Decision. Government notes this observation and will present to the State House of Assembly a bill to confer additional jurisdiction to the Sharia Court of Appeal of the State to cover civil and criminal matters on all aspects of the Sharia in accordance with the provisions of section 277 of the 1999 Constitution.

7.0 EXISTING LAWS AND EDICTS IN KEBBI STATE

7.1 Sharia Committee's Observation. The present operational laws in Kebbi State are 152 in number. Most of them are of regulatory and administrative nature. The Sharia Committee observes that most of these laws need some modifications and/or amendments.

7.2 Government's Decision. Government accepts this observation and will set up machinery to amend the laws so as to bring them in conformity with the Sharia law. Government further accepts that some of these laws shall not apply to Muslims.

8.0 AMENDMENT OF PENAL CODE

8.1 Sharia Committee's Recommendation. The Sharia Committee observes that most of the offences provided for by the Sharia are covered under the Kebbi State Penal Code, the only exception being that most of the punishments are not in accordance with the Sharia. The Sharia Committee recommends that the Penal Code be amended by the State House of Assembly to bring about such punishments for the offences therein as are recognised by the Sharia

8.2 Government's Decision. Government accepts this recommendation.

9.0 JURISDICTION OF SHARIA COURT OF APPEAL SECTION 275

9.1 Sharia Committee's Observation. The Committee observes that section 275 of the 1999 Constitution empowers any State of the Federation that requires it to establish Sharia Court of Appeal.

The Committee further observes that section 277 restricts the jurisdiction and power of the Sharia Court of Appeal to civil jurisdiction and specific matters and causes and also, this section empowers the House of Assembly to confer additional jurisdiction on the Sharia Court of Appeal.

The Committee recommends that all questions involving Islamic law whether civil or criminal, be conferred upon Sharia Court of Appeal.

9.2 Government's Decision. Government accepts this recommendation and has already taken steps towards that direction.

10.0 ESTABLISHMENT OF NEW COURTS

10.1 Sharia Committee's Recommendation. The Committee recommends that Sharia Court and Upper Sharia Court be established. The Committee further recommends that a Sharia Court be established in each district of the State and in such other places where it is necessary. Similarly, an Upper Sharia Court should be established in each Local Government headquarters.

10.2 Government's Decision. Government accepts this recommendation.

11.0 COMPOSITION OF MEMBERS OF UPPER SHARIA COURT AND SHARIA COURT

11.1 Sharia Committee's Observation. The Upper Sharia Court shall be composed of a president and one member, while Sharia Court shall have a single alkali.

11.2 Government's Decision. Government accepts that the Upper Sharia Court shall, while sitting as a first instance court, be composed of a single judge. On the other hand, the Upper Sharia Court shall be composed of 3 or 2 judges while sitting as appellate court. Provided that the Grand Kadi shall always decide the membership of appellate Sharia Court. Government further accepts that the Sharia Court shall be composed of a single judge.

12.0 QUALIFICATIONS FOR APPOINTMENT OF PRESIDENT AND MEMBERS OF UPPER SHARIA COURT

12.1 Sharia Committee's Recommendation. A person to be appointed as a president or member of an Upper Sharia Court shall be:

- (i) a serving judge; or
- (ii) a legal practitioner in Nigeria who has been so qualified for a period of not less than seven years and has obtained a recognised qualification in Islamic law from an institution recognised by the Judicial Service Commission; or
- (iii) an alkali of the Lower Sharia Court who has been serving in that capacity for a period of not less than five years.

12.2 Government's Decision. Government accepts this recommendation and adds that in addition to the above qualifications, he shall be a male Muslim with an impeccable record of Islamic piety. In addition, qualification for appointment as Upper Sharia Court judge shall also include such qualification as may be acceptable by the Judicial Service Commission.

13.0 QUALIFICATIONS FOR THE APPOINTMENT OF AN ALKALI FOR THE SHARIA COURT

13.1 Sharia Committee's Recommendation. A person to be appointed as an alkali of a Sharia Court shall be:

- (i) a serving Area Court judge; or
- (ii) a legal practitioner in Nigeria with bias in Islamic law who has been so qualified and has recognised qualification acceptable to the Judicial Service Commission.
- (iii) any other qualification acceptable to the Judicial Service Commission.

13.2 Government's Decision. Government accepts this recommendation and adds that in addition to the above qualifications, he shall be a male Muslim, with an impeccable record of Islamic piety.

14.0 CONTROL AND ADMINISTRATION OF SHARIA COURTS

14.1 Sharia Committee's Recommendation. The Committee recommends that administrative control and supervision of the Sharia Courts shall be under the office of the Grand Kadi.

14.2 Government's Decision. Government accepts this recommendation and directs the Attorney-General and the Solicitor-General to identify and recommend those specific aspects of the administrative control and supervision to be vested on the Grand Kadi.

15.0 APPOINTMENT OF WALI OF THE SHARIA COURT

15.1 Sharia Committee's Observation. The Judicial Service Commission on the recommendation of the Grand Kadi shall appoint the Wali of the Sharia Courts. The Wali shall advise the Grand Kadi on appointments and discipline of the president and members of the Upper Sharia Court and the alkali of the Sharia Court, as well as the applicable laws of practice and procedure of the Sharia Courts.

15.2 Government's Decision. Government rejects this recommendation on the grounds that it will be inconsistent with the constitutional provisions on the appointments of judges and the functions of the Judicial Service Commission.

16.0 QUALIFICATIONS FOR THE APPOINTMENT OF WALI

16.1 Sharia Committee's Observation. A person shall not be appointed to the post of Wali of the Sharia Court unless:

- (i) he is a retired Upper Area Court judge or a retired kadi from the Sharia Court of Appeal;
- (ii) he is qualified to be appointed as an Upper Sharia Court judge, a president or member of the Upper Sharia Court.

16.2 Government's Decision. Government rejects this recommendation on the grounds that the office of the Wali will not, for now, be created.

17.0 STAFF OF THE SHARIA COURTS

17.1 Sharia Committee's Recommendation. To avoid redundancy and abuse of office in the Sharia Court the number of staff to man it shall be restricted to the following

Registrar (*al-mufti*)
Court Clerk (*al-katib*)
Estate Distributor (*al-qasim*)
Valuer (*al-muqanwin*)
Interpreter (*al-tarjuman*)
Messenger (*al-khadim*)
Bailiff (*al-awn*)

The Committee recommends that the alkali and staff of the Sharia Court shall be public officers to be appointed by the Judicial Service Commission. The Judicial Service Commission shall determine salaries and allowances of the president, members, alkali and staff of the Sharia Courts.

17.2 Government's Decision. Government accepts the recommendation on the staffing of the Sharia Courts and adds that the Sharia Courts shall employ such other staff as it may require for the due discharge of its functions. Government will also provide adequate and generous conditions of service for judges and staff of the Sharia Courts.

18.0 JURISDICTION AND LAW OF THE SHARIA COURT

18.1 Sharia Committee's Recommendation. The Sharia Courts shall be competent to hear and determine all civil matters and causes where all the parties are Muslims including any proceeding involving:

Marriage under Islamic law (*al-nikah*);
Guardianship and maintenance (*al-kafala*) and (*al-nafaqa*)
Succession (*al-mirath*), will (*al-wasiyya*), gift (*al-hiba*), endowment (*al-waqaf*), pre-emption (*al-shuf'a*) and trust (*al-amana*);
Land law (*kenem nizamil aid*);
Contract (*al-aqd*);
Tort (*al-jinaya*);
Commercial law (*abkamul buyu*);
Company law (*abkamul sharikat*) and (*al-musharakah*).

The Sharia Courts shall, in addition to the above, hear and decide all criminal cases in which suspects or accused person(s) is/are Muslims including:

Homicide (*qatlul-nafs*);
Robbery (*al-hiraba*);
Theft (*al-sariqa*);
Defamation (*al-qazaf*);
Drunkenness (*shurbul khamr*);
Causing grievous hurt (*al-qisas*);
Homosexuals (*al-lumat*);
Adultery (*al-zina*)
Lesbianism (*as-sibaq*);
Bestiality (*watul dabba*);
Perjury (*al-tazwir*);
Offering and receiving gratification (*al-rishwa*);
Criminal breach of trust (*al-khiyanah*);
Cheating (*al-gishsh*);
Mischief (*al-fasad*);
Receiving stolen property (*shira'u mata'il sariqah*);
Giving false evidence (*shahadatul-zur*);
Apostasy (*al-ridda*);

The Committee recommends that all capital offences shall be triable by the Upper Sharia Court.

18.2 Government's Decision. Government accepts these recommendations.

19.0 APPLICABLE LAW IN SHARIA COURTS

19.1 Sharia Committee's Observation. The applicable law in both civil and criminal proceedings shall include:

The Holy Qur'an;
As-Sunnah and *Al-Hadith*;
Al-Ijma;

Al-Qiyas;
Al-Masalib Al-Mursala;
Al-Istihsan;
Al-Istishab;
Al-Urfwal-Adat;
Mazhabul Sahabi;

Other subsidiary sources as interpreted by the reference books.

19.2 Government's Decision. Government accepts this recommendation.

20.0 REFERENCE BOOKS

20.1 Sharia Committee's Recommendation. The reference books for Sharia Courts shall be:⁵⁸

Risala
Mukhtasar
Tuhfa
Adawi
Fawakibud Dawani
Ibn Ashir
Bidayatul Mujtabid
Mudawwanatul Kubra
Muwatta Malik
Mayyara
Bahjah
Jawabirul Iklili
Dasuqi
Khirsbi
Bulghatul Salik
Mawabibul Khallaq

Other reference books recognised by Maliki school of law.

20.2 Government's Decision. Government accepts this recommendation

21.0 PRACTICE AND PROCEDURE

21.1 Sharia Committee's Recommendation. The practice and procedure to be applied by a Sharia Court shall include:

- (i) the Islamic law and procedure as contained in the sources and reference books.
- (ii) the Grand Kadi shall issue rules of practice and procedure to include fees payable and execution etc.

21.2 Government's Decision. Government accepts this recommendation

22.0 OBSERVATIONS

⁵⁸ For bibliographical information about the books included in this list, see the "Bibliography of Islamic Authorities" in Chapter 6 of this work, Vol. V. We use here the short titles as in the bibliography, which sometimes vary slightly from the White Paper's text.

22.1 Sharia Committee's Observations. The Sharia Committee after listening to oral advice and suggestions and having discussed the written memoranda received observes as follows:

- (i) that the background to the call for the revival and full implementation of the Sharia in Kebbi State was the dissatisfaction of both the Government and the people with poor administration of justice as well as the collapse of the social and political institutions of our society which is manifested in the prevalence of social vices such as corruption, nepotism, tribalism, abuse of public office and position, drunkenness, cheating, fornication, armed robbery, gross violation of human rights among others, which are taking their toll on the national psyche on a daily basis under the very nose of the existing judicial system which is largely Western in its orientation and origin and which is so far removed from our cultural heritage that not surprisingly, it has failed to provide adequate remedy to all these evils;
- (ii) that for the Muslims and non-Muslims alike, it is now time to look back to the good old days when Sharia was in full operation in some parts of this country. In those days, historical documents testify, there was security of life and property in all the territories where Sharia was being practised and people lived in harmony, peace and tranquillity;
- (iii) that the social decay and moral decadence today is similar to what obtained during the *jabiliyyah* period in Saudi Arabia, and that almost as soon as the Sharia was implemented these vices evaporated into thin air;
- (iv) that in Saudi Arabia today serious crimes and anti-social behaviour have been reduced to a minimum due to the implementation of the Sharia;
- (v) that seeing the effect of the implementation of the Sharia in this part of the country before the arrival of the British colonialists and the miracle it performed in Arabia during the early days of Islam as well as its effect in modern Saudi Arabia, the Muslims in Kebbi State call loudly for its entrenchment into our legal system once again as a remedy to our predicaments;
- (vi) that Sharia is part and parcel of Islam and cannot be separated from it. Its application is as binding on the Muslims as is the observance of prayer, fasting, pilgrimage etc.;
- (vii) that under Sharia all are equal before the law, the rich and the poor, the ruler and the ruled, and equality before the law is absolute. There is no privileged class and no one has immunity to protect him if he falls foul of the Sharia;
- (viii) that Sharia is not new in this country; it was in existence from 1804 to 1903 when the British administration conquered the Sokoto Caliphate and suspended or modified certain provisions of it to suit their administrative system. They excluded some important provisions of the Sharia like those relating to *badd* punishment for homicide and theft and allowed Muslims to implement only the civil aspects of the Islamic law, which is referred to in our Constitution as Muslim personal law.

22.2 Government's Decision. Government notes the observations under paragraph 21.1 (i) – (viii) [sic: 22.1].

23.0 RECOMMENDATIONS

[Begging, Praise-singing, etc.]

23.1 Sharia Committee's Recommendation. The Committee recommends that begging, praise-singing and all forms of immoral gatherings and activities during marriage and naming ceremonies (such as luncheons, picnics, cocktail parties and disco) be banned and made illegal and punishable in Kebbi State.

23.2 Government's Decision. Government accepts this recommendation. However, Government will take steps to rehabilitate beggars and praise-singers through the Poverty Alleviation Programme. Government will also enact laws banning begging, praise-singing and immoral gatherings. In this regard, Government will ensure leadership by example.

[Bridal Gifts]

23.3 Sharia Committee's Recommendation. The Committee recommends that the bridal gift given by the suitors to brides (customarily known as *lefe*) should be abolished and be made a punishable offence in Kebbi State. In place of it only dowry (*al-sadaq*) shall be payable.

23.4 Government's Decision. Government accepts this recommendation.

[Music]

23.5 Sharia Committee's Recommendation. All forms of music such as *Wenrage*, *Wai-maya baya*, *wasigidi* etc. during marriage, naming ceremonies or any other occasion should be banned throughout Kebbi State.

23.6 Government's Decision. Government notes this recommendation and comments that all forms of gatherings or activities that are un-Islamic are banned in the State. Accordingly, the State Cultural Troupe shall be reconstituted and re-organised to ensure that it conforms to the principles of the Sharia.

[Extravagance in Marriage]

23.7 Sharia Committee's Recommendation. Extravagance in marriage should be prohibited. During marriage contract the suitor shall pay only *sadaq* (dowry) to the bride in accordance with the Sunnah. Payment of all forms of levies and other traditional gifts such as *kudin mai unguwa*, *kudin 'yan banga*, *kudin tobassai* etc. should be made illegal and punishable under the law. This prohibition also applies to circumcision and naming ceremonies. District, Village and Hamlet Heads and elders (i.e. community leaders) should be required to bring to the notice of the law enforcement agencies, names of all those who contravene this order in their areas of jurisdiction.

23.8 Government's Decision. Government accepts this recommendation. However, *'yan agaji* (Aid Group) should be involved along with the Emirs and other community leaders.

[Public Enlightenment]

23.9 Sharia Committee's Recommendation. Imams of mosques as well as Islamic preachers should be involved in enlightening the public on the need to observe these laws in the interest of the society.

- 23.10 Government's Decision. Government accepts this recommendation.
- 23.11 Unmarried women.
- 23.12 Sharia Committee's Recommendation. All unmarried women should be encouraged to marry, and their relations and the general public should be encouraged to help them before they find husbands.
- 23.13 Government's Decision. Government accepts this recommendation.
- 23.14 Prostitution.
- 23.15 Sharia Committee's Recommendation. Prostitution in whatever form should be prohibited and all prostitutes engaged in this un-Islamic and social vice shall be required either to give it up or face the full weight of the law. If they reform, however, their relations and the general public should also be encouraged to assist them pending the time they find husbands or an honourable means of livelihood.
- 23.16 Government's Decision. Government accepts the first part of paragraph 23.15. However, as for the second part, Government will in addition, assist those that reform through the Poverty Alleviation Programme or any other means.
- 23.17 Weights and Measures.
- 23.18 Sharia Committee's Recommendation. The Committee recommends enforcement of strict adherence of standard weights and measures in our markets throughout the State. Commodities like tubers, vegetables, meat, fish, fruits etc should all be sold by standard weights and measures.
- 23.19 Government's Decision. Government accepts this recommendation with the following comments: Government will introduce, gradually, the use of scales throughout the State.
- 23.20 *Khul*.
- 23.21 Sharia Committee's Recommendation. The Committee observes that *khul* is a type of divorce normally resorted to where a wife seeks divorce from a husband but has no valid legal justification to obtain it, her husband not being willing to grant the request gratis. The Committee also observes that since no fixed amount of money or property is charged for *khul* by the law, some husbands/judicial officers often demand unreasonably high amounts for it, thereby making it impossible for the wife to pay.
- The Committee therefore recommends that the judicial officer/alkali concerned in deciding the amount should use his discretion and affect a divorce by getting the wife refund to the husband the amount he paid as her *sadaq*.
- 23.22 Government's Decision. Government accepts that in *khul* divorce, the wife is to refund only the amount paid to her as *sadaq*.
- 23.23 Mode of Dressing.
- 23.24 Sharia Committee's Recommendations. People, both male and female should generally dress decently. Muslim women in particular should dress in accordance with the Islamic injunction. Indecent dressing in any form should be prohibited. Non-Muslim

women who opt not to dress in accordance with the Islamic injunction should nevertheless dress decently as provided for in the Bible and should not expose their bodies in a manner capable of tempting members of the public.

23.25 Government's Decision. Government accepts this recommendation. However, non-Muslims should also be required to dress decently.

23.26 Gambling, Pools, Kalo-Kalo, Raffles, Etc.

23.27 Sharia Committee's Recommendation. Gambling and all other games of chance involving money or property, such as pools, raffles and *kalo-kalo* shall be prohibited.

23.28 Government's Decision. Government accepts this recommendation.

23.29 Girls School and Education.

23.30 Sharia Committee's Recommendation. The Ministry of Education should ensure that only responsible principals, teachers and other staff should be posted to girls' institutions. Persons known to be morally corrupt should under no circumstances be posted to girls' schools.

During visiting days only girls' parents or those authorised by the parents should be allowed to visit the girl students. Principals and duty masters should check staff involved in immoral relationships with the female students and report immediately to the Ministry for necessary disciplinary action. Roll calls should be observed to check students sneaking out of the school at night or during the daytime.

23.31 Government's Decision. Government accepts this recommendation. However, headmasters in primary schools will be directed to separate male and female sexes in classes 4, 5 and 6. Government also directs the heads of tertiary institutions to get their students and staff to observe the laws and regulations concerning decency of dress and mingling of sexes. In the long run, Government will look into the possibilities of establishing separate tertiary institutions for males and females.

23.32 Hawking on Streets by Girls.

23.33 Sharia Committee's Recommendation. Girls' hawking law should be strictly enforced.

23.34 Government's Decision. Government accepts this recommendation.

23.35 Liquor Law.

23.36 Sharia Committee's Recommendation. The State Liquor Law should be strictly enforced. Traditional leaders and the law enforcement agencies should assist to enforce the law and also expose drug traffickers and pushers wherever they may be found in the State.

23.37 Government's Decision. Government accepts this recommendation with the comment that the traditional rulers and general public should assist the law enforcement agencies to enforce the law. Government will further request the services of the Aid Group and *'yan banga* to complement the enforcement process.

23.38 Un-Islamic Literature.

23.39 Sharia Committee's Recommendation. All immoral literature should be banned from circulation to ensure conformity with Islamic ethics and practices.

23.40 Government's Decision. Government accepts this recommendation and will set up a Censorship Board to implement it.

23.41 Abuse of Animals.

23.42 Sharia Committee's Recommendation. In view of the cruelty to the animals concerned and danger to the public, the use of animals such as hyenas, monkeys, snakes etc. to entertain people should immediately be banned. It is observed that there is abuse, exploitation, danger and cruelty in these practices.

23.43 Government's Decision. Government accepts this recommendation.

23.44 Female Arabic and Islamic Schools/Higher Islamic Studies Schools.

23.45 Sharia Committee's Recommendation. Considering the urgent necessity for improving the moral standard of our youths, more girls' Arabic and Islamic institutions should be established in the State in addition to the only existing one in Kangiwa. In the alternative and in order to reduce cost, some of the existing girls' institutions could be converted to such schools. This is imperative as most of the kadis (qadis) and other renowned Islamic scholars in the State in particular and the country in general are products of such schools as Arabic secondary and teachers' training schools as well as High Islamic Colleges. More of these types of schools should be established to maintain and improve on the number of these Islamic oriented personnel. This will also improve Islamic awareness within the society.

23.46 Government's Decision. Government accepts this recommendation.

23.47 Provision of Employment for Youths.

23.48 Sharia Committee's Recommendation. The Committee observed the alarming rate of youth's unemployment in the State. It therefore recommends that our wealthy State indigenes residing both within and outside the State be encouraged to invest in the State by establishing factories, industries and other small-scale commercial enterprises. The State Government should, therefore, create a favourable and conducive environment to facilitate this by providing land, access roads electricity, pipe borne water etc.

More of technical and vocational schools should also be established and should be provided with adequate, qualified and motivated instructors. This is to ensure that more boys and girls are trained as artisans. The spirit of apprenticeship should be inculcated in these students to prepare them adequately for the open labour market. The spirit of dignity of labour should also be inculcated in these artisans.

23.49 Government's Decision. Government accepts this recommendation. Government will consider giving loans to artisans under the Poverty Alleviation Programme.

23.50 Code of Conduct for Judicial Staff, Government Officials and Political Office Holders.

23.51 Sharia Committee's Recommendation. A Code of Conduct should be drawn up for the judicial staff, government officials and political office holders. The Islamic law

has a comprehensive written code of judicial ethics for judges. The office of the Grand Kadi (Qadi) should see that those codes are observed and maintained accordingly. This should be borne in mind in the process of electing or employing any of these categories of people and must be observed by them while on the job. Failure to follow the Code of Conduct should attract disciplinary action. Council of Ulama or *Majlis Al-Shurah* may be assigned the responsibility of monitoring adherence to this code and reporting their findings to the appropriate authorities. In this regard the Committee recommends setting up of this Council.

23.52 Government's Decision. Government accepts this recommendation.

23.53 Traditional Rulers and Elders as Arbitrators.

23.54 Sharia Committee's Recommendation. Traditional rulers at all levels should be encouraged to ensure peaceful settlement of family disputes. This will hopefully reduce congestion of cases in the Sharia Courts and maintain mutual ties within the family in particular and the community in general.

23.55 Government's Decision. Government accepts this recommendation. However, the traditional rulers and the elders will be assisted by the *ulamas*.

23.56 Establishment of Zakat or Fatwa Committee/Al-Shurah Majlis.

23.57 Sharia Committee's Recommendation. A strong committee made up of people of proven integrity should be established in the State to collect appropriate *zakat* in accordance with the teaching of Islam. This committee should also be charged with the responsibility of organising the necessary enlightenment training aimed at both securing the confidence of the public and getting them understand the necessity of giving out *zakat* by those qualified to do so.

A Fatwa Committee/*Majlis Al-Shurah*, comprising very learned Islamic scholars should be established to examine new issues brought about by changing times and circumstances – issues which have not been treated in the existing Maliki School books – and come up with their findings.

Government should create a department to harmonise activities of such Islamic institutions as Preaching Board, Zakat Institute, Fatwa Committee, and Pilgrims Board etc.

23.58 Government's Decision. Government notes the above recommendation. However, in view of the importance Government attaches to the implementation of Sharia law in the State, Government finds it appropriate to establish a Ministry for Religious Affairs to harmonise and coordinate the activities of Islamic boards, organisations, institutions, etc.

23.59 Hoarding.

23.60 Sharia Committee's Recommendation. Government should look into the possibility of establishing a committee to check hoarding and regulate storage of commodities. Middlemen should be identified and certified by the relevant authorities.

23.61 Government's Decision. Government accepts this recommendation. However, payment of *la'ada* to the middlemen shall always be borne by the seller.

23.62 Lost Property.

23.63 Sharia Committee's Recommendation. An office for the safe keeping of lost property should be established in all Local Government headquarters.

23.64 Government's Decision. Government accepts this recommendation and in addition to that, it will establish offices in other appropriate places in the State.

23.65 Cumbersome Criminal Procedure.

23.66 Sharia Committee's Recommendation. If the Islamic criminal law is to be applied properly, some of the cumbersome procedures of the existing Criminal Procedure Code have to be discarded. Adequate arrangements should, therefore, be made to make it possible for all those who commit offences to be brought to justice in good time. It is also important that those prosecuting in Sharia Courts should be well versed in Islamic procedures. The possibility of obtaining the services of Hamlet and Village Heads, vigilante groups and aid workers in reporting the commission of crimes should be considered. It is also suggested that bail of criminal suspects should depend on the gravity of the offence committed.

The Committee further recommends that junior staff of the Federal institutions in the State should be employed, locally, especially the police cadre who can assist in enforcing the Sharia system being introduced now. In the execution of *badd* offence, Governor's consent must finally be obtained before execution.

23.67 Government's Decision. Government accepts this recommendation and comments that in the execution of *badd* sentences the Governor's consent shall be sought in all cases involving life or amputation.

23.68 Strengthening the School of Legal Studies in Yauri.

23.69 Sharia Committee's Recommendation. The School of Legal Studies in Yauri should be provided with all the necessary facilities and staff to adequately prepare it to cope with the additional teaching and research which will necessarily result from the envisaged revival of the implementation of the Sharia in the State.

23.70 Government's Decision. Government accepts this recommendation.

23.71 Payment of *Diyah*.

23.72 Sharia Committee's Recommendation. Payment of *diyah* should be made to victims or their heirs on demand where the Sharia provides for such payments. The extent of *ta'azir* penalties on minor offences should be spelt out to avoid discretionary tendencies of judges and no fine should be imposed as *ta'azir* except where necessary.

23.73 Government's Decision. Government accepts this recommendation.

23.74 Commensurate Salary for Public Officers.

23.75 Sharia Committee's Recommendations. The Civil Services Rules and Regulations which are in line with the demands of the Sharia, particularly issues bordering on public integrity, justice, punctuality to work, fairness in official dealings and working for the progress and development of the State should be strictly adhered to.

On the side of the Government it is necessary that it should pay workers adequate wages sufficient to cater for their needs and the needs of their families. This will likely

reduce corruption to the barest minimum as happened in the country during the early sixties and seventies.

23.76 Government's Decision. Government accepts this recommendation.

23.77 Inflationary Tendencies of Contracts.

23.78 Sharia Committee's Recommendation. The tendencies of inflating contracts should be stopped. Officially approved profit margin due to contractors should be strictly adhered to or reviewed. It is expected that where a public officer knows that a contractor is making only little profit, he is not likely to demand gratification from him.

23.79 Government's Decision. Government accepts this recommendation.

23.80 Public Enlightenment Campaign.

23.81 Sharia Committee's Recommendation. Judging from the memoranda received and oral submissions made to it, the Committee has been convinced that it is absolutely necessary to organise public enlightenment campaigns all over the State in order to enlighten all sections of the populace on the meaning of the Sharia and how it will affect them. Consequently the Committee recommends that appropriate lectures, symposia and workshops be organised for organisations and individuals in order to give them the necessary information they need to fully understand and appreciate the meaning of the Sharia and the implication to them of its adoption and implementation.

It is also recommended that the special programme created by our media houses in order to enlighten the general public on issues relating to the Sharia and its enforcement should continue as long as the need for them remains.

The Committee also recommends that some members learned in Sharia, common law and administration should visit Muslim countries like Saudi Arabia, Sudan etc. to observe these countries' court systems and procedures, as well as their administrative arrangements as they affect Islam, the general religious structures which are involved in the administration of justice, governance, propagation (*da'awah*) and guidance (*irshad*).

23.82 Government's Decision. Government rejects this recommendation. But in the alternative, Government will set up a high-powered committee to liaise with other friendly countries to win their support and assistance on the implementation of Sharia law in the State.

Chapter 2 Part V
Report of the Committee for the Implementation of Sharia
in Kebbi State

Submitted to His Excellency the Executive Governor
Government House
Birnin Kebbi

18 January, 2001

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COMMITTEE FOR THE IMPLEMENTATION OF SHARIA

C/O Office of the Secretary to the State Government

Kebbi State

Birnin Kebbi

REF:.....

18TH January, 2001

Your Excellency the Executive Governor of Kebbi State, Alhaji Muhammad Adamu Aliero,

Your Excellency the Deputy Governor of Kebbi State, Alhaji Abdullahi Abubakar Argungu,

Honourable Speaker of the State House of Assembly,

Honourable Chief Judge and Grand Kadi,

Honourable Commissioners and Special Advisers here present,

Permanent Secretaries and Heads of Extra-Ministerial Departments here present,
Invited Guests, Members of the Press, Ladies and Gentlemen.

Assalamu Alaikum!

All praise is due to Allah the most high, the Creator of man, the Law Giver, He who guides to the straight path, the path which leads to salvation for those who follow it and to hell fire for those who deny it. Peace and blessing of Allah be upon His Noble Prophet whom we are commanded to follow his footsteps.

Your Excellency may recall appointing this Committee of nine members under the Chairmanship of Professor A.A. Gwandu on the 18th of August, 2000 and charged it with the onerous responsibility of preparing ground, among other things, for the successful implementation of Sharia in the State.

All praise be to Allah we have been able to do something with the help of Almighty Allah. The report we are submitting today is one of the milestones in discharging that responsibility. We shall continue to present reports and recommendations to strengthen Sharia implementation in the State as and when due *insha* Allah.

Your Excellency, we have submitted earlier an Interim Report and some Interim Recommendation which facilitated launching of Sharia in the State on the 1st of December, 2000. The Report before us is the first comprehensive submission on the issue of Sharia implementation in the State. It is divided into six chapters made up of introduction, strategy, situation report on the existing courts, public enlightenment campaign, selection of the new Sharia Court judges and general recommendations.

The Committee had so far recommended the establishment of only forty-five (45) Sharia Courts all over the State as a first step. Similarly, twenty-six (26) out of eighty six (86) judges in active service have been retained while among the sixty eight (68) applicants interviewed nineteen (19) candidates have been found suitable. Uncleared cases related to the selection exercise will be considered in due course.

Your Excellency, we are pleased to state that we have been able to discharge our duty without fear or favour, sincerely and fairly and without any interference directly or indirectly from the Government or its organs. This singular act of giving free hand to the

REPORT OF THE COMMITTEE FOR THE IMPLEMENTATION OF SHARIA IN KEBBI STATE

Committee has in no small measure, signified the sincere commitment on the side of Government to Sharia implementation in the State.

Your Excellency, on behalf of the Committee chairman and other members I wish to thank you for the opportunity given to us to contribute in this noble objective. We are grateful for all assistance rendered to us in connection with this exercise.

Finally, I wish to thank all the Committee members for their steadiness, tireless efforts and perseverance on the face of misguided accusations and outright lies labelled against them in the course of their work. I also wish to thank all those who contributed to the success of the Committee's work. May Allah reward all with *aljanna*. Amin.

ACKNOWLEDGEMENTS

All praise is due to Allah the Lord of the Universe, who, in His infinite mercy did whatever He did to all of us. Besides, in carrying out an assignment such as the one before us, it is necessary to have the support and request for assistance from various groups and persons as well as ministries and/or departments. We are indebted to so many more than it is comfortable to cite. However, the following deserve special mention:

- The Executive Governor of Kebbi State, Alhaji Muhammad Adamu Aliero, for giving the Committee members the rare opportunity to serve in the State Sharia implementation programme.
- The Deputy Governor, Alhaji Abdullahi Abubakar Argungu who helped in the purchase of the standard texts during the interview.
- The Speaker, Kebbi State House of Assembly Alhaji Muhammad Dantani and members of the House who patiently received the Committee during its seminar tour.
- The Secretary to the State Government for processing our request for fund, providing office accommodation, as well as other logistics.
- The Head of the Civil Service for his moral support, permission to use their computer and its operator who is most helpful.
- The Programme Manager, KARDA, Alhaji Usman Sa'idu Gulma for releasing their vehicle for the services of the Committee.
- The General Manager, KBTv and his staff for their continuous support and guidance in public enlightenment.
- The Chief Judge and Grand Kadi for support and advice from their various angles.
- All categories of participants who honoured our initiations for the enlightenment seminar.
- Council of Ulama, Kebbi State Branch, *Dan Masanin* Jega, Alh. Abdullahi Musa, the Secretary, Kebbi State Preaching Board and Alh. Usman Abubakar Damana for their unalloyed support and encouragement.
- Members of the public who responded to the Committee's efforts in screening the judges.
- The secretariat team of the Committee with particular reference to Malam Kakale, Malam Muhammad Bello Gwandu, Malam Umar Abubakar Kalgo, Malam Isa

CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

Abubakar, Malam Shehu A.A. for their untiring efforts towards the success of the Committee's assignment.

Once again thanks be to Allah through whose mercies and counties we are able to reach this stage of the assignment.

- | | |
|---|---------------------|
| a) Professor A.A. Gwandu | _____ ⁵⁹ |
| | Chairman |
| b) Alhaji Yusuf Jibrin Zuru | _____ |
| | Member |
| c) Malam Umar Ika (<i>Sarkin Malaman</i> Gwandu) | (sgd) _____ |
| | Member |
| d) Hon. Justice Sama'ila Bashar | (sgd) _____ |
| | Member |
| e) Kadi Tukur Sani Argungu | (sgd) _____ |
| | Member |
| f) Malam Abbas Jega | (sgd) _____ |
| | Member |
| g) Malam Abubakar Yauri | (sgd) _____ |
| | Member |
| h) Malam Abdur-Rahman Isah Jega | (sgd) _____ |
| | Member |
| i) Malam Umar Isah B/Kebbi | (sgd) _____ |
| | Member/Secretary |

⁵⁹ In the copy of this report made available to us, only the signatures of Professor Gwandu and Alh. Zuru are missing.

CHAPTER ONE: INTRODUCTION

1.1 Appointment of Kebbi State Sharia Implementation Committee. As part of the Government's resolve in responding to the yearnings and aspirations of Muslims in Kebbi State to implement Sharia for the public good and in conformity with their pattern of life, the Executive Governor of Kebbi State, Alhaji Muhammad Adamu Aliero approved vide Letter Reference No. SSG/728/VOLI of 18th August 2000, the appointment of the Committee for the Implementation of Sharia in the State (See Appendix A) with the following membership:

a) Professor A.A. Gwandu	Chairman
b) Alhaji Yusuf Jibrin Zuru	Member
c) Malam Umar Ika (<i>Sarkin Malaman</i> Gwandu)	Member
d) Hon. Justice Sama'ila Bashar	Member
e) Kadi Tukur Sani Argungu	Member
f) Malam Abbas Jega	Member
g) Malam Abubakar Yauri	Member
h) Malam Abdur-Rahman Isah Jega	Member
j) Malam Umar Isah B/Kebbi	Member/Secretary

The Government in this regard has taken yet another milestone towards realising these aspirations of the majority citizens of Kebbi State. This giant stride which is sequel to others before it, is designed to put Sharia implementation in Kebbi State on a very sound footing.

1.2 Terms of Reference. The Committee was given the following terms of reference:

- a) To prepare appropriate ground for the immediate take-off of the Sharia legal system in the State;
- b) To identify and provide court buildings and other necessary facilities for the Sharia Court in each of the Local Government Headquarters and District Headquarters in the State;
- c) To select suitably qualified candidates for appointment as judges of the Sharia Courts and make recommendations to the Judicial Service Commission for their appointment;
- d) To organise, in collaboration with the Islamic Preaching Board and the *ulama*, public enlightenment campaigns on the Sharia and its purport;
- e) To recommend any other thing necessary or incidental towards the successful implementation of the Sharia legal system in the State.

1.3 Inaugural Meeting. After members were variously served with their letters of appointment, the chairman and secretary arranged for an inaugural meeting on the 28th of August 2000. Six members were able to attend and the importance and implications of the assignment were discussed. At this meeting the need to fear Allah and to guard against any external influence were unanimously adopted as the Committee's watchword. Another meeting was scheduled a week later to enable all members attend and appreciate the task ahead and uphold the necessity to fear Allah in discharging their duties. In

addition to these preliminaries the meeting was to allow members to draw up the work plan.

CHAPTER TWO: STRATEGY

2.1 Setting up of Secretariat. A request was made through the Secretary to the State Government for an office accommodation whereby the conference room, Cabinet Office was arranged for the Committee's secretariat purposes. A four-wheel drive, was also provided to ease the Committee's movements and other transport needs. At the tail end of the Committee's work, a computer set from the Office of the Secretary to the State Government was made available for typing the Committee's final report.

2.2 Work Plan. To achieve the objective set out by the terms of reference, the Committee thought it wise to map out its strategies from the onset. Thus, a programme of action was drawn for getting reasonably qualified and fairly pious candidates to man the new Upper Sharia and Sharia Courts in the State. This programme is as shown in 4.0(b) of Appendix B attached.

2.3 Collection of Relevant Data. In an attempt to identify, study and comprehend the record of judges of both Upper Area and Area Courts as well as the general situation of the court buildings, the Grand Kadi and Director Area Court Division were requested to provide the Committee with the following information:

- a) Number and locations of all Upper Area and Area Courts in the State;
- b) List of names of Upper Area and Area Court judges in the State and their personal files;
- c) Record of reference books and furniture in the various Upper Area and Area Courts in the State;
- d) Any other relevant information and/or materials not included in (a) – (c) above.

2.4 Public Announcements/Advertisement. Selection of the right calibre of judges from the pre-existing ones is not an easy task. To achieve this goal, all possible avenues, within the limit of time and resources were exploited in this respect. Contact was made with Kebbi Television, Kebbi Radio in Birnin Kebbi and Zuru, various mosques and some NGOs to help get the public to send their assessment of serving judges of Upper Area and Area Courts in the State. The exercise aimed at providing an opportunity to the public to give their assessment of the serving judges. This will in no small measure help in exonerating the Government, the Committee members from the sentimental public judgment of wrong-doing against some judges who may be otherwise found suitable to be retained in the new system. The public is now involved in selecting the right persons to administer justice to them. It will also encourage individuals and groups to guard their tongues against frivolous allegations once there are no facts to support them. A person is innocent unless proven guilty and the onus of proof is on the complainant. This way, the innocent judges will be saved from the blanket impropriety stigma attached to all of them. Despite the effort of the Committee in getting the public to respond to this important issue, public response to the Committee's announcements however, was not encouraging. The complaints received were far below expectation given the public bashing of all serving judges. The few ones received were from B/Kebbi, Argungu, Yauri, Jega, Shanga and Koko/Besse Local Governments.

REPORT OF THE COMMITTEE FOR THE IMPLEMENTATION OF SHARIA IN KEBBI STATE

As difficult as the case is, the Committee considered this approach inevitable. To limit the choice of the new Sharia judges to the serving judges was further considered inappropriate as the timing for the take-off of the Sharia legal system is fast approaching and the Committee is not sure of getting the required number from them. To that effect, an advertisement of vacancies for the post of Upper Sharia and Sharia Court judges in Kebbi State was slotted in the New Nigerian of Wednesday 4th October, 2000. This approach aimed at getting the required qualified candidates academically from which to choose from.

2.5 Court Inspection Visits/Courtesy Calls. There are five judicial zones in Kebbi State, namely Birnin Kebbi, Argungu, Bagudo, Yauri and Zuru. Each of these has a number of Upper Area and Area Courts within it as shown below:

a) Birnin Kebbi Judicial Zone. This zone is made up of 7 no. Upper Area Courts and 19 Area Courts as follows:

- | | |
|---------------------------------------|---------------------------|
| i) Upper Area Court I
B/Kebbi | x) Area Court Ambursa |
| ii) Upper Area Court II
B/Kebbi | xi) Area Court Makera |
| iii) Upper Area Court III
B/Kebbi | xii) Area Court Gulumbe |
| iv) Upper Area Court Kalgo | xiii) Area Court Kardi |
| v) Upper Area Court Jega | xiv) Area Court Dalijan |
| vi) Upper Area Court
Maiyama | xv) Area Court Gulmare |
| vii) Upper Area Court
Gwandu | xvi) Area Court Kambaza |
| viii) Area Court Nassarawa
B/Kebbi | xvii) Area Court Gwandu |
| ix) City Area Court
B/Kebbi | xviii) Area Court Masama |
| | xix) Area Court Aliero |
| | xx) Area Court Sabiyal |
| | xxi) Area Court Jega |
| | xxii) Area Court Jandutsi |
| | xxiii) Area Court Sambawa |
| | xxiv) Area Court Andarai |
| | xxv) Area Court Karaye |

b) Argungu Judicial Zone. There are 4 no. Upper Area Courts and 13 no. Area Courts as follows:

- | | |
|--------------------------------|----------------------------|
| i) Upper Area Court
Argungu | ix) Area Court Kwaido |
| ii) Upper Area Court Augie | x) Area Court Yeldu |
| iii) Upper Area Court
Kamba | xi) Area Court Alwasa |
| iv) Upper Area Court Illo | xii) Area Court Fana |
| v) Area Court Argungu | xiii) Area Court Dolekaina |
| vi) Area Court Bayawa | xiv) Area Court Lolo |
| vii) Area Court Lailaba | xv) Area Court Bani |
| viii) Area Court Gulma | xvi) Area Court Tsamiya |
| | xvii) Area Court Kangiwa |

b) Bagudo Judicial Zone. This comprises 4 no. Upper Area Courts and 19 no. Area Courts as follows:

CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

- | | |
|----------------------------------|---------------------------------|
| i) Upper Area Court Bagudo | xii) Area Court Giro |
| ii) Upper Area Court Koko | xiii) Area Court Mungadi |
| iii) Upper Area Court Dakin Gari | xiv) Area Court Diggi |
| iv) Upper Area Court Bunza | xv) Area Court Bakuwai |
| v) Area Court Suru | xvi) Area Court Tunga |
| vi) Area Court Gwade | xvii) Area Court Zaria Kalakala |
| vii) Area Court Aljannare | xviii) Area Court Ka'oje |
| viii) Area Court Raha | xix) Area Court Besse |
| ix) Area Court Zogirma | xx) Area Court Koko |
| x) Area Court Tilli | xxi) Area Court Kende |
| xi) Area Court Kuka | xxii) Area Court Zagga |
| | xxiii) Area Court Jadadi |
- c) Yauri Judicial Zone. There are 2 no. Upper Area Courts and 8 no. Area Courts as follows:
- | | |
|------------------------------|------------------------|
| i) Upper Area Court Yauri | vi) Area Court Kwanji |
| ii) Upper Area Court Wara | vii) Area Court Ngaski |
| iii) Area Court Birnin Yauri | viii) Area Court Wara |
| iv) Area Court Shanga | ix) Area Court Zamare |
| v) Area Court Dugu | x) Area Court Atuwu |
- d) Zuru Judicial Zone. There are 3 no. Upper Area Courts and 13 no. Area Courts in this zone, which are as follows:
- | | |
|-----------------------------|-------------------------|
| i) Upper Area Court Zuru | ix) Area Court Bangu |
| ii) Upper Area Court Wasagu | x) Area Court Kanya |
| iii) Upper Area Court Ribah | xi) Area Court Bena |
| iv) Area Court Zuru | xii) Area Court Unashi |
| v) Area Court Mahuta | xiii) Area Court Ayu |
| vi) Area Court Marafa | xiv) Area Court D/Daji |
| vii) Area Court Danko | xv) Area Court Makuku |
| viii) Area Court Sanchi | xvi) Area Court D/Umaru |

There are thus 20 no. Upper Area Courts and 72 no. Area Courts in Kebbi State. Nineteen (19) out of twenty (20) Upper Area Courts and 44 out of 72 Area Courts were physically inspected by the Committee. An inspection form was designed as shown in Appendix C in order to ease the collection of the relevant data from the various courts. The Committee discovered to its dismay that most of these buildings are not habitable and sometimes are even dangerous to sit in. The fairer ones lack maintenance and the necessary facilities for proper court functions. Besides, more than 80% of those visited are hired buildings or provided by the District Heads. To say the least the situation is pathetic.

2.6 Interviews. Applicants were categorised into two groups for easy reference and handling. Eighty-three (83) out of eighty-six (86) judges in active service have appeared for the interview, while sixty-eight (68) out of ninety three (93) fresh candidates who applied have been interviewed.

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It is to be noted that the Committee has accepted High Islamic Studies Certificate or its equivalent as the basic qualification for judges in active service while National Diploma in Sharia or its equivalent was considered the basic necessary requirement for fresh applicants to the post of judge in the new Sharia Court system. The rationale behind this disparity is simple. New high standard of performance is expected from the new judges while the others have gained presumably vast experience which can put them at par with diploma holders or equivalent.

2.7 Interim Report. The Committee deliberated on all the issues under its terms of reference. However, at the end of its initial mandate only part of the issues were exhausted. An interim report was prepared and submitted to His Excellency requesting more time for the completion of the remaining work. In his response, he reiterated that the Committee has to continue its assignment as long as his administration lasts. A letter reference number SSG/728/T.2 written to the Committee indicated that members are “authorised to continue with their assignment beyond the date of the official launching of Sharia legal system in the State”.

In view of the above, some interim recommendations were submitted to the Government on Tuesday November 21st 2000 to allow the Government prepare for the official launching (see Appendix D attached).

CHAPTER THREE: DETAILED REPORT ON COURT INSPECTION AND COURTESY CALLS

The details of the Area Courts judicial administrative arrangement was obtained from the office of the Grand Kadi and Area Court Inspectorate Division before the commencement of the inspection tour on the 20th of September 2000. The wisdom behind carrying out this exercise was predicated by the need to have a physical touch of the situation so as to enable the Committee to assert its point of view.

3.1 Judicial Zones

3.1.1 Birnin Kebbi Judicial Zone. The exercise started with a courtesy call on His Royal Highness, the Emir of Gwandu, Alh. Almustapha Haruna Jokolo. At his palace, His Royal Highness offered useful suggestions and encouragement. The Committee’s resolve to be fair was enhanced by its understanding that their Royal Highnesses have appreciated the fact that undue external interference is one of the major issues that rendered the judicial system unjust and ineffective. Even the best judge can only be able to discharge his duties fairly and surely if he is not unnecessarily constrained externally. Twenty (20) out of the twenty-six (26) courts in this zone were physically visited.

The number of courts and cases recorded in this zone are as tabled below:

Table 3.1.1 BIRNIN KEBBI JUDICIAL ZONE
Court Location and No. of Cases from January to October 2000

S/N	Court Location	Court Type	No. of Civil Cases	No. of Crim. Cases	No. of Civil Appeals	No. of Crim. Appeals	Motion	Estate
1.	Nasarawa	U.A.C	201	61	30	7	41	-
2.	B.Kebbi (Nwala)	A/C	95	26	-	-	-	-

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3.	B/Kebbi	U.A.C.	122	36	10	2	6	16
4.	B/Kebbi	U.A.C.	126	42	12	1	-	-
5.	B/Kebbi	A/C	134	31	-	-	-	-
6.	Kalgo	U.A.C.	35	26	4	-	2	-
7.	Ambursa	A/C	113	15	-	-	-	-
8.	Dalijan	A/C	76	25	-	-	-	-
9.	Kambaza	A/C	64	16	-	-	-	-
10.	Gwandu	U.A.C.	92	51	27	2	17	-
11.	Gwandu	A/C	34	2	-	-	-	-
12.	Masama	A/C	125	35	-	-	-	-
13.	Aliero	A/C	52	20	-	-	-	-
14.	Jega	A/C	95	53	-	-	-	-
15.	Jega	U.A.C.	101	40	11	1	4	-
16.	Sabiyal	A/C	-	-	-	-	-	-
17.	Gulumbe	A/C	59	19	-	-	-	-
18.	Kardi	A/C	61	2	-	-	-	-
19.	Maiyama	A/C	175	57	8	-	-	-
20.	Andarai	A/C	121	30	-	-	-	-
21.	Karaye	A/C	59	2	-	-	-	-
22.	Jandutsi	A/C	108	22	-	-	-	-
23.	Mayalo	A/C	20	1	-	-	-	-
24.	Makera	A/C	52	24	-	-	-	-
25.	Sambawa	A/C	44	19	-	-	-	-
26.	Jandutsi	A/C	-	-	-	-	-	-

3.1.2 Argungu Judicial Zone. The difficult terrain in this zone inhibited the Committee from inspecting most of the courts to the north of Argungu. Nine (9) out of the seventeen(17) courts in this zone were visited after paying a courtesy call on the Emir. Records for the unvisited courts were obtained from the Zonal Inspector of Area Courts Argungu who offered to assist. The details are as shown below:

Table 3.1.2 ARGUNGU JUDICIAL ZONE
Court Location and No. of Cases from January to October 2000

S/N	Court Location	Court Type	No. of Civil Cases	No. of Crim. Cases	No. of Civil Appeals	No. of Crim. Appeals	Motion	Estate
1.	Alwasa	A/C	10	5	-	-	-	-
2.	Argungu	U.A.C.	95	20	2	2	5	12
3.	Argungu	A/C	78	32	-	-	-	-
4.	Bayawa	A/C	34	13	-	-	-	-
5.	Gulma	A/C	35	7	-	-	-	-
6.	Kamba	U.A.C.	247	36	5	1	-	6
7.	Dolekaina	A/C	51	26	-	-	-	-
8.	Augie	U.A.C.	62	27	15	5	3	5
9.	Lailaba	A/C	50	10	-	-	-	-
10.	Yeldu	A/C	55	22	-	-	-	-
11.	Kwaido	A/C	55	27	-	-	-	-
12.	Kangiwa	A/C	87	35	-	-	-	-
13.	Fana	A/C	-	-	-	-	-	-

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14.	Lolo	A/C	60	17	-	-	-	-
15.	Banni	A/C	57	13	-	-	-	-
16.	Tsamia	A/C	48	50	-	-	-	-
17.	Illo	U.A.C.	58	52	60	4	1	5

3.1.3 Bagudo Judicial Zone. This is the most rural of all the zones and the courts are situated in the remote areas. There are twenty three (23) courts in this zone whose litigation records are shown below:

Table 3.1.3 BAGUDO JUDICIAL ZONE
Court Location and No. of Cases from January to October 2000

S/N	Court Location	Court Type	No. of Civil Cases	No. of Crim. Cases	No. of Civil Appeals	No. of Crim. Appeals	Motion	Estate
1.	Koko	U.A.C.	97	53	11	-	-	7
2.	Koko	A/C	63	24	-	-	-	-
3.	Dakin Gari	U.A.C.	130	28	11	1	-	-
4.	Giro	A/C	120	30	-	-	-	-
5.	Bunza	U.A.C.	155	33	16	-	-	5
6.	Suru	U.A.C.	130	28	11	1	-	-
7.	Zagga	A/C	-	-	-	-	-	-
8.	Bagudo	U.A.C.	226	56	9	-	-	-
9.	Ka'oje	A/C	79	44	-	-	-	-
10.	Z/Kalakala	A/C	72	20	-	-	-	-
11.	Kende	A/C	61	8	-	-	-	-
12.	Bakuwai	A/C	71	18	-	-	-	-
13.	Raha	A/C	20	15	-	-	-	-
14.	Besse	A/C	96	21	-	--	-	-
15.	Zogirma	A/C	39	18	-	-	-	-
16.	Mungadi	A/C	--	-	-	-	-	-
17.	Jadadi	A/C	-	8	-	-	-	-
18.	Aljannare	A/C	59	22	-	-	-	-
19.	Gwade	A/C	31	10	-	-	-	-
20.	Diggi	A/C	-	-	--	-	-	-
21.	Tilli	A/C	-	-	-	-	-	-
22.	Kuka	A/C	-	-	-	-	-	-
23.	Tunga	A/C	-	-	-	-	-	-

3.1.4 Yauri Judicial Zone. At his palace, the Emir of Yauri expressed concern over the way and manner Area Court judges, especially those in his domain, dispense cases brought before them. It gives him continuous headache and leaves him to wonder whether those judges have faith in Allah and the last day – the day of reckoning when everybody is going to give account of what he or she does in life. He urged the Committee to fear Allah in discharging its responsibility and called on it to remember that the success or failure of the new arrangement depends to a large extent, on how honest and sincere it shouldered the task of selecting those who are to administer justice to the people. He promised his continuous support and prayer for the success of the exercise.

The Committee visited the courts in Shanga, Yauri and Birnin Yauri and sent one of its members from Yauri to cover the rest together with the zonal inspector. The details of cases recorded are as shown in the table below:

Table 3.1.4 YAURI JUDICIAL ZONE
Court Location and No. of Cases from January to October 2000

S/N	Court Location	Court Type	No. of Civil Cases	No. of Crim. Cases	No. of Civil Appeals	No. of Crim. Appeals	Motion	Estate
1.	Shanga	A/C	56	50	-	-	-	-
2.	Yauri	U.A.C.	341	77	12	10	-	12
3.	B/Yauri	A/C	142	36	-	-	-	-
4.	Atuwo	A/C	22	17	2	-	-	-
5.	Warah	A/C	38	19	2	-	-	-
6.	Gebbe	A/C	54	12	-	-	-	-
7.	Zamare	A/C	55	25	-	-	-	-
8.	Ngaski	A/C	64	22	-	-	-	-
9.	Dugu	A/C	109	12	4	-	-	-
10.	Wara	U.A.C.	45	31	3	-	-	-

3.1.5 Zuru Judicial Zone. Due to time constraints the Committee delegated its member from Zuru to visit all courts other than those visited collectively in Zuru on-the-spot assessment. The Emir of Zuru was visited briefly where the chairman in the person of Professor A.A. Gwandu expressed the purpose of our visit. The Emir expressed his desire to see the Sharia in practice and called on every Muslim to assist in its realisation. Much as some people misunderstood it he said, it is the life of a Muslim, which is non-negotiable.

There are sixteen (16) Upper Area and Area Courts in this zone where the following number of cases were dispensed as shown in the Table below:

Table 3.1.5 ZURU JUDICIAL ZONE
Court Location and No. of Cases from January to October 2000

S/N	Court Location	Court Type	No. of Civil Cases	No. of Crim. Cases	No. of Civil Appeals	No. of Crim. Appeals	Motion	Estate
1.	Zuru	A/C	122	89	-	-	-	-
2.	Zuru	U.A.C.	115	80	15	5	-	6
3.	Unlash	A/C	67	14	-	-	-	-
4.	Sanchez	A/C	26	11	-	-	-	-
5.	Kanya	A/C	-	-	-	-	-	-
6.	Marafa	A/C	37	21	-	-	-	-
7.	Bango	A/C	25	16	-	-	-	-
8.	Mahuta	A/C	29	28	-	-	-	-
9.	Wasagu	U.A.C.	218	55	14	4	-	-
10.	D/Umaru	A/C	29	10	-	-	-	-
11.	Danko	A/C	103	18	-	-	-	-
12.	Ayu	A/C	45	11	-	-	-	-
13.	Makuku	A/C	77	20	-	-	-	-

REPORT OF THE COMMITTEE FOR THE IMPLEMENTATION OF SHARIA IN KEBBI STATE

14.	Ribah	U.A.C.	128	47	16	2	2	-
15.	D/Daji	A/C	95	74	-	-	-	-
16.	Bena	A/C	100	93	-	-	-	-

3.2 Physical Structures. Generally court buildings in all the judicial zones have either roofing, floor and fissure problems. There are few court buildings that belong to the judiciary: four (4) out of twenty six (26) in B/Kebbi zone; five (5) out of seventeen (17) in Argungu zone; five (5) out of twenty three (23) in Bagudo zone; two (2) out of ten (10) in Yauri zone and six (6) out of sixteen in Zuru zone. Thus only twenty two (22) court buildings out of ninety three (93) belong to the judiciary. About seventy one (71) therefore were either rented or are in use on some terms negotiated with the various District Heads. In this situation, there is no gain-saying the fact that undue intimidation, external interference with judicial process and unbecoming financial requests become the order of the day. The Committee has heard at several locations complaints about non-payment of rent, intimidation of owners of rented houses converted to courts and vice-versa. Similarly, District Heads bring their weight to bear on judicial process. These and other complaints can all be tied to the fact that the judges are at the mercy of conditions on the ground in areas where they are posted.

Besides, some of the court buildings have been invaded by nasty smelling birds, which make life difficult for the inhabitants.

3.3 Judges Accommodation. There are a few locations where judges are occupying judicial quarters built primarily for the purpose. Unfortunately, these are so few and require urgent maintenance to make them habitable. Towns like B/Kebbi, Bunza, Jega, Bagudo, Yauri and Zuru have a house each built for the judges even though that of B/Kebbi has been converted to an office for the Inspectorate Division of the Area Courts.

In some places like Gwandu the Committee was informed of the existence of a piece of land belonging to the judiciary where the house of the alkali (judge) was formerly situated.

3.4 Working Materials. There is hardly any court, among those visited by the Committee, which can boast of even manageable quantity of working materials. Most of the courts have no record books other than cashbooks!! According to most judges they either buy the record books or lobby for it at the headquarters. In other words, the judges are not being provided with the necessary stationery for proper court function.

3.5 Furniture. In respect of furniture the story is almost the same. Fortunately however, the Local Government chairmen do assist some courts with couple of chairs and/or tables inherited from the Babangida political expedition. In many courts litigants sit on the bare floor since even the judge does not have the privilege of having a chair in his chamber. In many instances the Committee found the judge, the registrar and the clerks sharing a chair – each using the same when the need to sit arises. Thus there is a long cry for furniture in our courts to allow for a conducive environment for dispensing justice.

3.6 Staffing Situation. There is general staff congestion in courts situated in urban centres in the State. On the other hand, courts located in rural areas lack the necessary staff strength required to allow them to function effectively. For instance, there is for the

three (3) Upper Area and two (2) Area Courts in B/Kebbi a total of eighty one (81) staff which is far in excess of the maximum number required to conduct normal court operation. The Committee has noted based on discussion with many registrars and judges that a maximum number of nine (9) persons including the judge are enough for an Upper Area Court and eight (8) persons are also enough for an Area Court. The number in rural courts ranges mostly between two (2) to six (6) while the Zuru Area Court alone has twenty (20) staff. Kalgo Upper Area Court has fifteen (15) staff, five of which were confirmed to be idle. Ironically, court workload is not directly proportional to number of supporting staff posted to a particular court. For example, Yauri Upper Area Court (UAC) with only ten (10) staff has dispensed four hundred and fifty two (452) cases from January 2000 to October 2000 while Zuru Area Court with twenty (20) staff had only two hundred and eleven (211) cases disposed of within the same period.

3.7 Courts' Work Load. The Committee has noted with some sense of relief that most of the cases being handled by both the Upper Area and Area Court judges were civil matters in the realm of marriage, divorce, inheritance and land ownership. The number also varies from place to place, due to so many factors that include recording all cases whether they involve fine or not, and ability of the presiding judge to expedite action on cases and pass judgment on sound knowledge.

Tables 3.1.1 – 3.1.5 shown above have depicted the number and type of cases that were disposed of from the five judicial zones in Kebbi State from January to October, 2000.

CHAPTER FOUR: PUBLIC ENLIGHTENMENT

In its efforts to enlighten the public on Sharia and its purports, two approaches were mapped out: first the vital role of the electronic media in this regard was recognised and was given due attention. Secondly, the Committee shifted emphasis to a limited target audience that matters most in the current campaign for the implementation of Sharia i.e. top civil servants, traditional leaders, State and Local Government legislators, members of the business community, youth organisations and our working women.

4.1 Electronic Media Programme. The Committee has been given three slots per week by the management of Kebbi Television, so as to air its programme. The programme so far conducted was captioned *Sharia Rayuwar Musulmi*⁶⁰ aired both in Hausa and English and has been going on uninterrupted. The subject matter for the discussion varies from meaning and message of Sharia to its application in practical life. Other sub-themes include social life under the Sharia (marriage, divorce, business transaction and child welfare/good upbringing) and communal relations. The public response to those programmes that have been aired so far is to say the least most encouraging. The Committee feels the need to have such regular programmes in order to keep on sensitising the public on the Sharia whose spectrum is the life of the individual Muslim itself. On the other hand, the Committee has not done much with the opportunity provided by Kebbi Radio. It is hoped that in the near future the Committee will have the time to engage Kebbi Radio with its enlightening discussions.

⁶⁰ "Sharia the prosperity of Muslims".

4.2 Seminars. The Committee has conducted five (5) sessions of public seminar in the months of October and November 2000. Two (2) others for the State legislators and working women are envisaged shortly. The seminars so far dealt with issues of leadership, trust, justice, misconceptions about Sharia, business ethics and the role of youth organisations in implementing Sharia. The good result of this approach has been limited by poor communication, which hindered full participation by the target audience. The success or failure of the current drive for Sharia implementation in the State depends to a large extent on how those in the position of leadership grasp, understand and actualise its purport. It is therefore of immense importance for Government to consider enlightenment programmes for those groups other than the “once in a while” seminar conducted by the Committee.

4.3 Coverage. The Committee noted that both Kebbi Television and Radio have limited coverage of the State. Thus most of the Committee’s television programme is of limited spatial reach. However, since the Kebbi Council of Ulama has made efforts and is still making efforts towards enlightening people of the rural areas the Committee feels they should be encouraged to continue with such good works.

CHAPTER FIVE: SELECTION OF SHARIA JUDGES

This is one of the most sensitive and delicate aspects of the Committee’s assignment. Faced with two categories of candidates with varying ability and experience, the Committee resolved to conduct two separate interviews taking into consideration the attendant peculiarities of each of the groups. For judges in active service, no application was requested from them. However, the Committee decided that whoever failed among them can not send in an application again to rejoin the fresh candidates. A format was designed for marks allocation as shown in Appendix E which has the following features:

a) Qualifications (15)

Degree in Sharia	15 marks
Other related	12 marks
Diploma in Sharia	10 marks
Other equivalent	8 marks
Cert. in Sharia (Kano)	10 marks
Other equivalent	8 marks
High Islamic Studies	8 marks

b) Knowledge (from Questions & Answers) 30 marks

Knowledge of Sharia	20 marks
Arabic language	7 marks
Arabic writing	3 marks

c) File (10) marks

Positive remarks in file	10 marks
Negative remarks (query etc.)	0 marks
Neutral (none of the above)	5 marks

d) Experience (10)

In accordance with number of years of experience (1 mark/year)

e) Appearance (5)

(How decent the candidate appears and conducts himself)

f) Tazkiya (30)

Any complaint against a candidate will lead to loss of 10 marks

Similarly, for the fresh candidates the same parameters were considered though on a different weighing scale (Appendix F). More emphasis was placed on qualification and knowledge of the Sharia (60 marks) rather than on their public assessment. This is because whatever the public is going to say about them will have less bearing as compared to those in active service especially with regards to the job they are expected to perform. All the same, because of its importance whoever earned a negative remark from the referees is considered to have failed whatever his score is in the other areas.

5.1 Interview Result for Judges in Active Service. The outcome of the selection process (interview and cross examination of judges) is as shown in Appendix G attached. So far, only twenty-six (26) out of the eighty-three (83) persons who were interviewed among the judges in active service were considered suitable right away. Those that met immediately the minimum standard requirements of the Committee are as follows:

Name	Score (100)
[26 names omitted]	80: 1 70-79: 18 60-69: 7

The Committee in arriving at its decision above also considered the fact that each candidate was given the choice to select, out of ten (10) reference texts, the one with which he is too familiar. All of them chose the most common readily available text (*Al-Risala* of Abu Zaid) below which there is no material in legal matters. Anybody who aspire to be a judge and did not master the text under reference, must be kidding. Likewise, the Committee considered public complaints against most judges in active service which ranged from bribery and corruption, extortion, illegal relationship with female litigants and others, inability to write court proceedings, deliberate wrong judgment due to subterranean influence, inability to read Arabic text on Islamic law and dealing in hard drugs etc. In considering these criticisms each candidate was called upon to hear the accusation(s) against him and to defend himself. None among them agreed with the claim(s) against him. Having notified the candidate of the substance of the allegation against him, the Committee took the decision to recommend only those who met the standard set above. This does not in any way mean that those selected are blameless, free from any negative perspective. However, based on the standard set above they are the fairer ones among those interviewed. Allegations against others will be investigated fully and where it lacks substance the candidate will be cleared if he meets other requirements. This is the reason behind the remark ‘KIV’ against some of them.

The Committee therefore prays to Allah that all those cleared will be able to prove themselves worthy of the trust reposed in them.

5.2 Interview Results for Fresh Candidates. Out of the sixty-eight (68) candidates whose certificates met the requirements of the Committee only nineteen (19) have been cleared so far.⁶¹ These are:

S/N	NAME	MARKS	REMARKS
[1-19]	[names omitted]	80-83: 4 70-79: 13 60-69: 2	[all: "Recommended"]

Others whose referees report is being awaited or have scored a total of 55% or more in both examination and personal assessment will be reconsidered if the need arises. As earlier stated for any person to be recommended by the Committee he has to meet minimum requirement which is passing the interview and having a fairly positive character. To avoid unnecessary search for replacement in the case of any eventuality, candidates who have faired fairly have been marked with KIV for easy reference. Though in the final analysis the number recommended might exceed the number of courts proposed, the balance has been considered for other functions that have been dealt with in the following chapter on recommendations. The general score sheet for the new candidates is as shown in Appendix H attached.

CHAPTER SIX: RECOMMENDATIONS

In its Interim Report and submission to the Government the Committee has presented some tangible recommendations aimed at putting the Sharia programme on a smooth start. After the interview and having dealt with all the issues in its terms of reference, the Committee has, at this juncture, the following recommendations to make for the continuous smooth running of Sharia in the State.

6.1 Sharia Court Administration/Supervision. It is important that the Government has successfully transferred administrative control of Sharia Courts to Sharia Court of Appeal. This is but the first step. Other things that need to follow suit to compliment and help to strengthen and steady the new transformation are as follows:

6.1.1 Sharia Court of Appeal. This is the apex court for the new Sharia Courts in the State under the new arrangement. The general public had written and had spoken to the Committee members to bring to the notice of Government that there is the urgent need to revisit the composition of kadis of the Sharia Court of Appeal to bring it in conformity with the new wave and spirit of Sharia dispensation. To do this in their words is necessary as the re-organisational exercise will not be meaningful and effective without the transformation being thorough. On this note, the Committee wishes to remind the Government that this court (Sharia Court of Appeal) has its own peculiar position in the Constitution under which changes are effected in its rank and file. The Committee recommends to the Government to approach its legal expert for advice if it intends to deal with this problem, which is for all intents and purposes necessary.

6.1.2 Sharia Court Inspectors. The Committee noted with dismay the current composition of personnel in the Inspectorate Section of the Sharia Court of Appeal.

⁶¹ Appendix H shows only 18 candidates as having met the requirements of the Committee. One of the candidates listed here as having passed is shown in Appendix H as having failed.

The public have cried out on poor performance of these inspectors, as the judges hitherto do not comply with their instructions.

Noting these and the fact that some of them admitted lack of Arabic background and therefore their inability to read Arabic sources of Islamic law so as to be able to assess complaints, the Committee recommends as follows:

- i) The new Sharia Court system requires credible inspectors to supervise dispensation of justice in these courts. As such the Committee recommends that those to be appointed should be well versed in Sharia (jurisprudence) and its practical application. We therefore suggest that those who are qualified to be Upper Sharia Court judges among those screened should be appointed as inspectors with all the attendant benefits. To appoint an inspector who is lower in age, qualification and salary than the judge is nothing short of an open invitation to ridicule.
- ii) To ensure justice and fair play to both the judges and litigants, inspectors should not sit in their offices and call on judges to report to them in matters of dispute. Rather, they should go to the court and investigate the matter to close any chance of derailment of justice.
- iii) The inspectorate section of Sharia Court of Appeal should be re-structured in order to respond to the challenges ahead and address the new aspirations of the people.
- iv) Transfer of judges should be based on laid down principles and regulations to avoid such exercise being used as a weapon for witch hunting. A situation where judges lobby for posting to “lucrative” areas for no reason other than corruptive instinct should be avoided.
- v) Inspectors should be provided with the necessary mobility and the right salary structure to be able to carry out their responsibility diligently and effectively.

6.1.3 Other Sharia Court Staff. The Committee recommends that staff congestion should be avoided. It is suggested for the meantime, that for Upper Sharia Court the number of staff should not exceed eight (8) (the judge, registrar, two (2) court clerks, three (3) messengers and one security man) and seven (7) for the Sharia Courts (i.e. there should be only two messengers here in addition to those mentioned above). The public including some of the court messengers themselves have opined that there should be a shake-up in the registrars, clerks and court messengers cadres for the successful implementation of Sharia and effectiveness of the new judges. The Committee has noted during its tour that some messengers become sometimes the de facto judges in matters before the courts. Excess staff after selecting the required number should be redeployed. Free intermingling of the male and female staff should be avoided if not completely eradicated.

6.1.4 Record Books and Stationery. Enough standard record books should be provided promptly to avoid a situation where judges take to other means in order to get them for the judicial purposes. One of the major instigators to corrupt practice is the starving condition of our courts in terms of the primary ingredients needed for proper court function.

6.1.5 Reference Books. In most of the courts, Sharia reference texts including the Holy Qur'an are not available!! Where some are available the volumes are not the relevant ones. Those supplied earlier are usually removed by "unknown" judges who once served in the courts.

The Committee therefore recommends as follows:

- i) Each of the new Sharia Courts should have at least the following books:⁶²
 - *Al-Qur'an*
 - *Ihkamul Ahkam ala Tuhfatul Hukkam*
 - *Jawahirul Ikil*
 - *Dasuqi*
 - *Thamaruddani*
 - *Fawakihud Dawani*
 - *As'halul Madarik*
 - *Sirajus Salik*
 - *Bulghatus Salik*
 - *Fathu Aliyu Malik*
- ii) Proper handing over/taking over record should be maintained for each court so that pilfering of such court assets is reduced to the barest minimum.

6.1.6 The Selected Judges.

- i) The Committee recommends that the judges selected so far should have a formal introduction into their new role through a one-day seminar and/or a forum to address them or any other avenue considered feasible by the Government.
- ii) The Committee strongly recommends the review of their salary and other emoluments, which will assist to ensure complete devotion to their duty.
- iii) A refresher course should be arranged for them from time to time at least bi-annually or on quarterly basis. This should aim at assisting the judges to be academically active and attentive to their responsibility.
- iv) The judges selected should be made to understand in black and white that deliberate injustice would lead to dismissal. This in addition to the oath undertaken will help to constantly keep them on a tight rope;
- v) Government should endeavour to provide accommodation for judges wherever feasible. This should be considered as one of the top priorities in the new housing policy. Where there exist collapsed judicial houses they should be rehabilitated to assist in giving them the necessary comfort required in the discharge of their duties.

6.1.7 Court Agents and Touts. The Committee has received a number of complaints regarding these elements (*yan baranda kotu*) who were described by Isah Daba

⁶² For bibliographical information about the books included in this list, see the "Bibliography of Islamic Authorities" in Chapter 6 of this work, Vol. V. We use here the short titles as in the bibliography, which sometimes vary slightly from the text of the Sharia Implementation Committee Report.

Committee of 1987 in all details. Their mode of operation and connection will render any judicial system ineffective. The notorious ones in Koko and Shanga for example are as follows:

[five names omitted].

Others exist in other locations.

The Committee recommends strongly that these and other similar personnel parading the courts be expelled forthwith. Strong measures should be taken to ensure compliance. Any judge or inspector or registrar known to be harbouring such personnel should be relieved of his post.

6.1.8 Court Buildings. After visiting most of the premises where judges operate, the Committee recommends that a proper judicial structure should be constructed to meet the need of the service in accordance with the Sharia provision. Thus, a design is here proposed as in Appendix I for Government consideration.⁶³ Where pre-existing structures do not conform to this design a rehabilitation is recommended in order to meet the standard required.

6.2 General Recommendations. The Committee has submitted recommendations (7a - d) in its interim report (Appendix B). It has become imperative to reiterate some of them for their importance in monitoring Sharia implementation in the State. Others of general nature have been added here as might be observed. For the Sharia to have a solid base in the State the Committee recommends that the Government should:

- a) Legalise/recognise the function of voluntary Aid Groups/Organisations and establish a formal link with them for effective monitoring of Government Sharia policies. Without such an apparatus, the efforts put so far will be in vain. People according to Malam Abdullahi bin Fodio are likely to go back to their bad habits at the slightest opportunity. Thus, the presence of such a monitoring unit is what those people who sincerely want Sharia are yearning for all over the State. It is the backbone of Sharia. Its absence is a strong minus, which will lead the situation back to square one. May Allah forbid such things.
- b) To have a proper return to Sharia, Government should as a matter of urgency look into the following affairs:
 - i) Pay or arrange a solid programme to pay all reasonable workers' entitlements. There is no gain-saying the fact that this singular moral courage by the Government will boost the morale of workers to toe the line of honesty in their jobs and services. After all it is said: the proof of the pudding is in the eating.
 - ii) Design a programme to inculcate the fear of Allah in our youths, those at tender age and those that are becoming adults. Our educational system in the State should have its curriculum tailored towards Sharia compliance. This is the only way to ensure sustenance of the new Sharia initiative.

⁶³ No court design is included in the copy of the report made available to us.

- iii) Government should respect rules and regulations in appointment and retirements. A situation where seniority and other relevant factors are ignored for payment of homage, breeds indiscipline and contempt of Sharia.
- iv) Government should assign time for prayer so that other matters should give way for its observance. This will help breed a disciplined society, united in doing good and forbidding evil *insha* Allah.
- v) Civil servants at their places of work should from time to time organise sessions to assess their achievements and failures in a frank, sincere, honest and friendly atmosphere. Top Government officials should have a forum for them to be reminded of the trust reposed in them perchance their performance will improve.
- vi) Ministerial and departmental meetings should be strictly observed as the Executive Council has maintained a weekly meeting as much as possible. This will go a long way in reducing communication gap within the management and other staff, ensure sanity as well as checks and balances within the system.

6.2.1 Government Public Functions. The public is now watching every act of Government and expects it to comply with Sharia provisions as is applicable now in the State. The Committee calls on Government to note this public feeling and avoid any function that is devoid of morals and that which will stamp a nonchalant attitude towards its Sharia stand on its image. Similarly, Government parastatals such as Kebbi Television should be called upon to re-orient its choice of film for the public consumption and State-owned institutions of higher learning should beef-up moral control within their campus environments.

6.3 Committee's Assignment. After submitting this report, it is clear that the Committee has met the purpose of its appointment. However, by the letter reference SSG/728/T.2 and through oral discussion with His Excellency, the Committee has an extended mandate.

6.4 Problem of Begging by School Age Children. The Committee has discussed this problem extensively and has come up with the following suggestions:

- a) Government should liaise with the Emirs and District Heads to meet with the stakeholders (malams) to explain to them the evils identified/associated with the habit of begging by our young ones from the rural areas.
- b) It should be made clear to them that Government is seeking their understanding and assistance in handling the menace of the habit.
- c) The Emirs and District Heads should make efforts to convince them of the negative picture the habit gives to Islam and the Muslims. Similarly, the areas (brothel, garage etc.) to which these children end up in the name of seeking knowledge should be explained to them.
- d) They should be informed that the consensus of the early Muslim scholars is that Islamic knowledge can be obtained without necessarily resorting to this habit (begging) that brings shame and disrespect to the person engaged in it. Indeed the habit is not known other than in West Africa (the Western Sudan).

e) For this reason, they should be notified that the Government, the Emirs, the scholars and members of the community in general are to cooperate in the eradication of the menace.

6.5 Legislative and Executive Relations. Within the ambit of its mandate the Committee wishes to recommend and appeal to both the executive arm of government and the State legislative assembly to continue to work hand-in-hand to ensure the successful implementation of Sharia in the State. We pray to Allah to imbue all with wisdom and courage to eschew bitterness in carrying out all responsibilities.

6.6 Government's Sharia Programme. The Committee is working towards providing other relevant suggestions and recommendations for improving the nascent Sharia programme in the State *insha* Allah.

6.7 So, [sic]

Let all fear Allah, act sincerely and righteously and with the help of Allah we shall all succeed.

APPENDIX A: LETTER OF APPOINTMENT

OFFICE OF THE EXECUTIVE GOVERNOR

Office of the Secretary to the State Government
Birnin Kebbi

REF.NO. SSG/728/VOL. I

18TH August, 2000

COMMITTEE FOR THE IMPLEMENTATION OF SHARIA
IN THE STATE

The Executive Governor of Kebbi State, His Excellency, Alhaji Muhammad Adamu has approved the appointment of the above named Committee with the following membership:

- | | | |
|--|---|-----------|
| a) Professor A.A. Gwandu | - | Chairman |
| b) Alh. Yusuf Jibirin Zuru | - | Member |
| c) Malam Umaru Ika
(<i>Sarkin Malaman Gwandu</i>) | - | Member |
| d) Hon. Justice Sama'ila Bashar | - | Member |
| e) Kadi Tukur Sani Argungu | - | Member |
| f) Malam Abbas Jega | - | Member |
| g) Malam Abubakar Yauri | - | Member |
| h) Malam Abdur-Rahman Isah Jega | - | Member |
| i) Malam Umaru Isa B/Kebbi | - | Secretary |

2. The terms of reference of the Committee are as follows:
 - a) To prepare appropriate ground for the immediate take-off of the Sharia legal system in the State;
 - b) To identify and provide court building and other necessary facilities for the Sharia Courts in each of the Local Government Headquarters and District Headquarters in the State;
 - c) To select suitably qualified candidates for appointment as judges of the Sharia Courts and make recommendations to the Judicial Service Commission for their appointment;
 - d) To organise, in collaboration with the Islamic Preaching Board and the *ulama* public enlightenment campaigns on the Sharia and its purports;
 - e) To recommend any other thing necessary or incidental towards the successful implementation of the Sharia legal system in the State.
3. The Committee is to complete its assignment and submit its report to the Government not later than 30th October, 2000.

A.A. MUHAMMAD, mni
Permanent Secretary, Cabinet & Political Affairs
For: Secretary to the State Government

APPENDIX B: INTERIM REPORT

1.0 The Executive Governor of Kebbi State, Alh. Muhammad Adamu Aliero approved, vide Letter Reference No. SSG/728/VOL.I of 18th August, 2000, the appointment of the Committee for the Implementation of Sharia in the State with the following membership:

a) Professor A.A. Gwandu	-	Chairman
b) Alh. Yusuf Jibirin Zuru	-	Member
c) Malam Umaru Ika (<i>Sarkin Malaman</i> Gwandu)	-	Member
d) Hon. Justice Sama'ila Bashar	-	Member
e) Kadi Tukur Sani Argungu	-	Member
f) Malam Abbas Jega	-	Member
g) Malam Abubakar Yauri	-	Member
h) Malam Abdur-Rahman Isah Jega	-	Member
i) Malam Umaru Isa B/Kebbi	-	Secretary

2.0 The terms of reference of the Committee are:

- a) To prepare appropriate ground for the immediate take-off of the Sharia legal system in the State.
- b) To identify and provide court buildings and other necessary facilities for the Sharia Courts in each of the Local Government Headquarters and District Headquarters in the State.
- c) To select suitably qualified candidates for appointment as judges of the Sharia Courts and make recommendations to the Judicial Service Commission for their appointment.
- d) To organise, in collaboration with the Islamic Preaching Board and the *ulama*, public enlightenment campaigns on the Sharia and its purpose.
- e) To recommend any other thing necessary or incidental towards the successful implementation of the Sharia legal system in the State.
- f) The Committee is to complete its assignment and submit its report to the Government not later than 30th October, 2000.

3.0 The Committee held its inaugural meeting on the 28th of August 2000 under the chairmanship of Professor A.A. Gwandu with only six members in attendance. The importance of the assignment was emphasised and the need to fear Allah was unanimously adopted as the Committee's watchword.

4.0 Another meeting was scheduled a week later to enable contact with all the appointed members with a view to drawing the work plan for the assignment.

5.0 After the initial administrative hitches, the Committee was able to reconvene and took the following steps in order to achieve the objectives of its assignment.

- a) A secretariat was established at the Cabinet Office;

- b) A programme of action was drawn for getting reasonably qualified and fairly pious candidates to man the new Upper Sharia and Sharia Courts in the State. This programme includes:
- i) Advertising vacancies for the new Sharia Court judges in the *New Nigerian* newspaper and the Kebbi State electronic media.
 - ii) Arranging an interview for all serving judges of Upper Area and Area Courts who wished to continue as judges under the new system.
 - iii) Arranging similar interview for fresh candidates who meet selection requirements.
 - iv) Calling on the general public to write and/or notify the Committee of anyone among the judges of the Upper Area and Area Courts in active service who is considered not qualified due to his past record (of impropriety or social misconduct) which is not in consonance with the spirit of Sharia.
 - v) Selecting Kebbi Television and Radio as media outlets for public enlightenment.
 - vi) Organising a seminar for civil servants and other classes of Kebbi State citizens. The target audience include Kebbi State Executive Council and other top Government functionaries, Emirs, District Heads and the business class.
 - vii) Cooption of supporting staff from NOA, Preaching Board and Council of Ulama.
 - viii) Contacting other States ahead of Kebbi or on the same footing with it regarding the implementation of Sharia in order to learn from them and avoid their negative experiences and/or mistakes.
 - ix) Organising general sessions to discuss issues directly or remotely connected with Sharia implementation in Kebbi State.

6.0 The Committee has after 30 regular working days achieved the following:

- a) Slotting an advert in the *New Nigerian* of Wednesday October 4, 2000 inviting applications to fill for vacancies for Sharia judges in Kebbi State.
- b) Conducting physical inspection of 60 out of 89 court buildings in Birnin Kebbi, Argungu, Baguda, Yauri and Zuru Judicial Zones. The Committee discovered to its dismay that most of these buildings are not habitable and sometimes are even dangerous to sit in. The fairer ones lack maintenance and the necessary facilities for proper court functions. Besides, more than 80% of those visited are hired buildings or part of the District Head's office. To say the least the situation is pathetic. A proper design for a court building will be submitted along with the Committee's recommendations in the final report.
- c) Forty-four (44) locations have been identified for siting the new Upper Sharia and Sharia Courts. Nine (9) Upper Sharia Courts have been proposed along with thirty-five (35) Sharia Courts, one in each of the Local Government headquarters and some few other large districts.

The decision to limit the number of the new courts to 44 is based on the following reasons:

- i) The Committee's perception of its assignment as outlined in the terms of reference – especially in items (b) and (e) therein.
 - ii) Statistical analysis of all cases brought before all Upper Area and Area Courts in the State from January, 2000 to October, 2000. This data indicated clearly that some courts are unnecessary even if located in District Headquarters.
 - iii) Sharia Courts are not meant to be revenue in-lets for Government but rather premises where disputing parties are brought together for amicable settlement of the issues at stake in accordance with Allah's injunctions. Thus cases will be treated on their merit and with the necessary dispatch. As such there is no need for their proliferation.
 - iv) To be able to provide the necessary facilities and adequate remuneration for dispensing justice, a manageable number of courts is necessary.
 - v) In siting the courts spatial factors (distance, accessibility etc.), facilities (conducive court building) and expected volume of litigation were all considered.
 - vi) Some Local Government headquarters were recommended to have more than one court due to the expected volume of litigations in those areas as a result of the extended jurisdiction of the new Sharia Courts.
- d) Eighty-three (83) out of eighty-seven (87) registered judges have been interviewed so far. The result is being compiled.
- e) Contact has been made with Kebbi Television, Kebbi Radio in Birnin Kebbi and Zuru, various mosques and some NGOs to help get the public to send their assessment to serving judges of Upper Area and Area Courts in the State. The exercise aimed at providing an opportunity to the public to give their assessment of the serving judges. This will in no small measure help in exonerating the Government, the Committee members from the sentimental public judgment of wrong doing against some judges who may be otherwise found suitable to be retained in the new system. The public is now involved in selecting the right persons to administer justice to them. It will also encourage individuals and groups to guard their tongues against frivolous allegations once there are no facts to support them. A person is innocent unless proven guilty and the onus of proof is on the complainant. This way, the innocent judges will be save from the blanket impropriety stigma attached to all of them. Despite the effort of the Committee in getting the public to respond to this important issue, however, public response to the Committee's announcement has [not] been encouraging as the complaints received are far below expectation given the public bashing of all serving judges.
- f) Enlightenment programmes are continuing in Kebbi Television under the title *Sharia Rayumar Muslimi* which is aired every Friday, Monday and Wednesday. Radio programme however, is yet to commence due to logistic problems.

g) The seminars planned as part of the Committee's enlightenment campaign started with the one conducted on the 11th and 12th of October, 2000 aimed at sensitising top civil servants and traditional leaders. This was followed by a similar session conducted in Yauri on the 28th of October, 2000 on the request of His Royal Highness.

7.0 Some far-reaching decisions on the role of Aid Groups, *ulama*, the traditional leaders and Government towards sustaining the new Sharia system have been reached by the Committee. Details will *insba* Allah come up in the main report. However, as a matter of urgency the Committee calls on the Government to:

- a) Legalise the function of Aid Groups by enacting a law to be passed by the State House of Assembly recognising their operation and its limit. All Aid Groups should come together to set up a management team to be recognised by Government through which all contacts with the various Aid Groups will be made. Selected members of these groups should be given appropriate training.
- b) Instruct the Grand Kadi to inform all Upper Area and Area Courts to dispense with outstanding cases before the 24th November, 2000 for the new Sharia Courts to start on a fresh state. The wisdom behind this is obvious.
- c) Any hitch in the transfer process of Upper Area and Area Courts, should be decisively cleared by the Government. Political, personal or other related hindrances should not be allowed to mar the smooth take-off of Sharia in the State.
- d) Events capable of undermining the take-off of Sharia, like the recently conducted *dambe*⁶⁴ sessions, should be stopped by the State Government. Similarly such avenues that provide easy loss or gain of money should be outlawed. Together with *dambe*, they provide devil's workshop for people of easy virtue.

8.0 Issues outstanding:

- a) Interviews for fresh judges. The Committee has received as at 17th October, 2000 over seventy (70) applications for the posts of Upper Sharia and Sharia Court judge. They are yet to be screened and interviewed.
- b) Analysis of public complaints against some of the judges in active service is yet to commence. The final result of the interview conducted cannot be released without it.
- c) Seminars for members of the State House of Assembly and the business class as well as discussions with trade unions have not been conducted. It is of immense importance for all segments of the elite and/or leaders in the society to feel that they have a role to play in Sharia implementation.
- d) Recommendation to the Judicial Service Commission for appointment of the selected judges.
- e) Preparation of the final report.

⁶⁴ Boxing.

9.0 Evidently the task before the Committee is enormous and much has been achieved so far. Thus, given His Excellency's approach to Sharia implementation and the magnitude of the work before us, the Committee wishes to request His Excellency to extend its time frame by two more weeks to enable it, *insha* Allah accomplish its onerous assignment.

[Here follows the list of Committee members as in the Final Report; there are places for their signatures but no actual signatures.]

APPENDIX 'C': INSPECTION FORM

COMMITTEE FOR THE IMPLEMENTATION OF SHARIA
C/O Office of the Secretary to the State Government
Kebbi State
Birnin Kebbi

Court Inspection Form

1. Name of Court:
2. Location:.....
3. Assessment of Court Building:
Nature of Structure:
-
Conduciveness/Accessibility:.....
.....
4. Facilities:
 - a) Qadi's Chamber:
 - b) Court Room:
 - c) Registrar's Office:
 - d) Toilets:.....
 - e) Furniture:.....
 - f) Record Books:
 - g) Cupboard:.....
 - h) Reference Books:
 - i) Financial Records:
 - j) Staffing Situation:
 - i) No. of Staff:.....
 - ii) No. Necessary:

APPENDIX 'D': INTERIM RECOMMENDATIONS

1.0 His Excellency may recall the issues that were outstanding as at the time of submitting our Interim Report. *Alhamdu lillab* we have now dealt with most of them. As a result, we are hereby submitting some interim recommendations to enable the Government push ahead with its Sharia implementation programme. The issues at stake are delicate. Utmost care must be taken and diligent work has to be done in order to build a solid foundation for Sharia in Kebbi State.

2.0 The selection exercise (interview and cross-examination of judges in active service) has been completed. So far, only twenty-six (26) out of the eighty-three (83) persons who were interviewed among the judges in active service were considered suitable. Those that met the minimum standard requirements of the Committee are as follows:

[names of 26 judges omitted].

The selection of these judges was based on a format that rated their academic qualification, interview performance, past record, experience, conduct/appearance during interview and the public assessment of their character/performances. As difficult as the task of being fair to any two sides is, the Committee has taken a middle course in dealing with public complaints against all judges. Be that as it may, the Committee wish to state clearly that the judges selected are not free from any negative remarks. However, to the Committee's verification and within our judicial settings, they are the ones found most suitable so far.

3.0 The Committee has recommended forty-five (45) locations for siting the new Upper Sharia and Sharia Courts in the State. These locations and type of court assigned, are as shown in the table below:

S/N	LOCATION	DESIGNATION	COURT TYPE	REMARKS
1.	Birnin Kebbi	L/G Hqt District Hqt State Capital	2 U/Sharia Court 2 Sharia Court	
2.	Ambursa	District Hqt	Sharia Court	
3.	Argungu	L/G Hqt District Hqt	U/Sharia Court Sharia Court	
4.	Gulma	District Hqt	Sharia Court	
5.	Bachaka		Sharia Court	Border Town (distance)
6.	Bagudo	L/G Hqt District Hqt	U/Sharia Court	
7.	Kaoje	District Hqt	Sharia Court	
8.	Illo	District Hqt	Sharia Court	
9.	Zagga	District Hqt	Sharia Court	
10.	Yauri	L/G Hqt District Hqt	U/S Court Sharia Court	
11.	Dugu	District Hqt	Sharia Court	
12.	Ngaski	District Hqt	Sharia Court	
13.	Zuru	L/G Hqt District Hqt	U/Sharia Court Sharia Court	
14.	Kalgo	L/G Hqt	Sharia Court	

CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

		District Hqt		
15.	Kuka	District Hqt	Sharia Court	
16.	Gwandu	L/G Hqt District Hqt	U/Sharia Court	
17.	Kambaza	District Hqt	Sharia Court	
18.	Aliero	L/G Hqt District Hqt	Sharia Court	
19.	Jega	L/G Hqt District Hqt	U/Sharia Court	
20.	Kimba	District Hqt	Sharia Court	
21.	Maiyama	L/G Hqt District Hqt	Sharia Court	
22.	Andarai	District Hqt	Sharia Court	
23.	Dolekaina		Sharia Court	Border Town Security
24.	Koko	District Hqt	Sharia Court	
25.	Besse	L/G Hqt District Hqt	Sharia Court	
26.	Suru	District Hqt	Sharia Court	
27.	Augie	L/G Hqt District Hqt	Sharia Court	
28.	Kangiwa	L/G Hqt District Hqt	Sharia Court	
29.	Kamba	L/G Hqt District Hqt	Upper Sharia Court	
30.	Wara	L/G Hqt District Hqt	Sharia Court	
31.	Shanga	L/G Hqt District Hqt	Sharia Court	
32.	Mahuta	L/G Hqt District Hqt	Sharia Court	
33.	Dirin daji	L/G Hqt District Hqt	Sharia Court	
34.	Ribah	L/G Hqt	Sharia Court	
35.	Bunza	L/G Hqt District Hqt	Sharia Court	
36.	Dakin Gari	L/G Hqt District Hqt	Sharia Court	
37.	Wasagu	District Hqt	Sharia Court	
38.	Danko	District Hqt	Sharia Court	
39.	Gebbe	District Hqt	Sharia Court	Obstruction

The decision for the above selection and pegging of courts from ninety-four (94) to forty-five (45) was reached based on the following reasons:

- i) The Committee's interpretation of its terms of reference – especially items (b) and (e) therein.
- ii) Statistical analysis of all cases brought before all the ninety-four (94) Upper Area and Area Courts in the State from January, 2000 to October, 2000. This data indicated clearly that some courts are unnecessary even if located in district or Local

Government headquarters. For instance the total number of cases brought before Upper Area and Area Courts in Wara for the period under reference is 137 cases compared with 452 for one single UAC in Yauri Town. The following courts have recorded from January 2000 to October 2000 the cases against each of them:

a)	Mayalo	21	o)	Gebbe	66
b)	Alwasa	15	p)	Kende	70
c)	Raha	35	q)	Lolo	77
d)	D/Umar	39	r)	Kardi	63
e)	Sanchi	37	s)	Aliero	72
f)	Bango	41	t)	Kalgo	67
g)	Atuwo	41	u)	Karaye	61
h)	Gwade A/C	41	v)	Makera	76
i)	Gulma A/C	42	w)	D/Kaina	77
j)	Bayawa A/C	47	x)	Yeldu	77
k)	Gwandu A/C	36	y)	Bani	70
l)	Ayu A/C	56	z)	Marafa	58
m)	Sambawa	63	aa)	Mahuta	57
n)	Lailaba	60			

It can clearly be noted from the above figures that some of them have less than one (1) case per two (2) weeks. Will it therefore be reasonable to situate a court in such locations?

iii) Sharia Courts are not meant to be revenue inlets for Government but rather premises where disputing parties are brought together for amicable settlement of the issues at stake in accordance with Allah's injunctions. Thus cases will be treated on their merit and with the necessary dispatch. As such there is no need for their proliferation.

iv) To be able to provide the necessary facilities and adequate remuneration for dispensing justice, a manageable number of courts is necessary.

v) In siting the courts spatial factors (distance, accessibility etc.), facilities (conducive court building) and expected volume of litigation were all considered.

Most of the courts are hired buildings that are not suitable for legal functions. It was considered appropriate to limit the number to areas of manageable structures and/or those that can easily be rehabilitated.

vi) Some Local Government headquarters were recommended to have more than one court due to the expected volume of litigations in those areas as a result of the extended jurisdiction of the new Sharia Courts.

4.0 The Committee recommends as a matter of urgency that the Government should arrange to screen all other court staff in order to allow a clean start. However, this has to be done with utmost care to avoid witch-hunting.

5.0 Other decisions reached by the Committee will come in the main report shortly.

[Here follows the list of Committee members as in the Final Report. Again there are places for their signatures but no actual signatures.]

APPENDIX E: RESULTS OF SCREENING OF SERVING JUDGES

[Note: Appendix E consists of separate tables, one for each of the five judicial zones, for a total of 86 judges altogether. We summarise the five tables together here.]

S/N	Name	Qualification (15)							Knowledge (30)			File (10)			Experience (10)	Appearance (5)	Tazkiya (30)		
		Degree in Sharia	Other Related	Diploma in Sharia	Other Equivalent	Cert. in Sharia (Kano)	Other Equivalent	Higher Islamic Studies	Knowledge of Sharia	Arabic Language	Arabic Writing	Positive Remark	Negative Remark	Neutral	According to number of years of experience	Maximum Marks	Complaint 1	Complaint 2	Complaint 3
		15	12	10	8	10	8	8	20	7	3	10	0	5	10	5	20	10	0
[See summaries next page. Note: totals do not always add to the number of judges interviewed, because of omissions in the tables.]																			

86	names omitted	2	11	12	37	0	0	15	1: 3 2: 2 3: 5 4: 3 5: 11 6: 7 7: 5 8: 5 9: 9 10: 9 11: 1 12: 5 13: 4 14: 0 15: 7 16: 1 17: 3 18: 3 19: 0 20: 0	0: 5 1: 5 2: 16 3: 17 4: 22 5: 13 6: 6 7: 0	0: 6 1: 35 2: 32 3: 9	2	10	67	1: 0 2: 0 3: 10 4: 10 5: 20 6: 4 7: 8 8: 10 9: 2 10: 19	1; 0 2: 2 3: 16 4: 24 5: 41	no data given in these columns, but see Appendix G.
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APPENDIX F: RESULTS OF SCREENING OF NEW APPLICANTS

S/N	Name	Qualification (20)				Knowledge (60)					Report (10)			Experience (5)	Appearance (5)
		Degree in Sharia	Other Equivalent	Diploma in Sharia	Other Equivalent	Understanding Sharia	Questions on Sharia	Arabic	Dictation	Understanding	Positive Remark	Negative Remark	Neutral		
		20	18	15	13	20	20	10	5	5	10	0	5	5	5
[See summaries next page. Note: totals do not always add to the number of judges interviewed, because of omissions in the table.]															

1-71	names omitted	2	14	7	44	0: 1 1: 0 2: 3 3: 3 4: 1 5: 8 6: 2 7: 1 8: 4 9: 2 10: 10 11: 2 12: 2 13: 3 14: 2 15: 3 16: 2 17: 8 18: 6 19: 4 20: 0	0: 0 1: 4 2: 2 3: 5 4: 3 5: 11 6: 1 7: 6 8: 3 9: 5 10: 10 11: 0 12: 2 13: 4 14: 1 15: 7 16: 1 17: 3 18: 0 19: 0 20: 0	0: 1 1: 6 2: 1 3: 12 4: 10 5: 14 6: 5 7: 14 8: 3 9: 1 10: 0	0: 3 1: 23 2: 17 3: 16 4: 7 5: 1	0: 12 1: 18 2: 20 3: 11 4: 5 5: 0	no data given in these columns, but see Appendix H	0.0: 13 0.5: 2 1.0: 3 1.5: 5 2.0: 6 2.5: 9 3.0: 1 3.5: 1 4.0: 9 4.5: 1 5.0: 10	0: 0 1: 0 2: 3 3: 19 4: 26 5: 17
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APPENDIX G: GENERAL INTERVIEW RESULTS (SERVING JUDGES)

S/N	Name	Interview Score		P/Assessment Score (Tazkiya)		Final Score		Recommendation		
1-86	names omitted	0-9:	0	+0:	0	20-29:	0	“Fail Examination: Not Recommended”	32	
		10-19:	2	+10:	20	30-39:	4	“Fail Tazkiya: Not Recommended”	6	
		20-29:	15	+20:	32	40-49:	16	“Failed: Not Recommended”	2	
		30-39:	31	+30:	31	50-59:	22	“KIV”	17	
		40-49:	25			60-69:	22	“Pass: Recommended”	26	
		50-59:	9			70-79:	18	“Did not appear for the Interview”	3	
		60-69:	1			80-89:	1			
		70-79:	0			90-99:	0			

APPENDIX H: INTERVIEW RESULTS (SUMMARY) (NEW APPLICANTS)

S/N	Name	Interview Score		P/Assessment Score (Tazkiya)		Final Score		Recommendation	
1-68	names omitted	0-9:	0	+0:	6	10-19:	0	“Fail Examination: Not Recommended”	26
		10-19:	1	+10:	43	20-29:	1	“Fail Tazkiya: Not Recommended”	2
		20-29:	5	+20:	0	30-39:	3	“Failed: Not Recommended”	4
		30-39:	15	+30:	0	40-49:	9	“KIV”	15
		40-49:	13	Awaiting:	17	50-59:	10	“Left Judiciary: Not Recommended”	2
		50-59:	15	Sickness:	1	60-69:	11	“Not Recommended Due to Sickness”	1
		60-69:	15	Not	1	70-79:	12	“Pass: Recommended”	18
		70-79:	4	Active		80-89:	4		
		80-89:	0			90-99:	0		
						No final score	18		

**INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP
TO ADVISE THE SOKOTO STATE GOVERNMENT
ON THE ESTABLISHMENT OF SHARIA**

Submitted to His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto)
Governor of Sokoto State
on 13 October, 1999 and 16 December, 1999, respectively

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I.

**REPORT OF THE COMMITTEE SET UP TO ADVISE
THE SOKOTO STATE GOVERNMENT
ON THE ESTABLISHMENT OF SHARIA**

Submitted to
His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto)
Governor of Sokoto State
On Wednesday Rajab 4, 1420 A.H.
October 13th 1999

INTRODUCTION

- 1.1 On the 8th of October, 1999 His Excellency, the Governor of Sokoto State, Alhaji Attahiru Dalhatu Bafarawa, Garkuwan Sokoto, approved the appointment of a committee to advise the Government on the establishment of Sharia in Sokoto State.
- 1.2 The Committee has the following composition:
- | | | |
|--|---------------------------------|------------|
| (a) Alhaji Abdullahi Maccido Ahmad
Hon. Grand Kadi | - | Chairman |
| (b) Barrister Nuhu Adamu
Hon. A.G/Com. For Justice | - | D/Chairman |
| (c) Alhaji Tahir Muh'd Mai Akwai
Hon. Com. For Information | - | Member |
| (d) Alhaji Abdullahi Abdullahi Goronyo
Hon. Special Adviser On Special Duties
and Religious Affairs. | - | Member |
| (e) Hon. Justice M. H. Binji
High Court of Justice | - | Member |
| (f) Hon. Justice Bello Abbas
High Court of Justice | - | Member |
| (g) Hon. Kadi Muh'd Danchafe
Sharia Court of Appeal | - | Member |
| (h) Hon. Kadi Abdulkadir S. Tambuwal
Sharia Court of Appeal. | - | Member |
| (i) Hon. Usman Arzzika Binji
Chairman, Judiciary Committee
Sokoto State House of Assembly | - | Member |
| (j) Alkalin Alkalai M.B. Mai Wurno
Rep. Of Sokoto Emirate Council. | - | Member |
| (k) Professor A. A. Gwandu
Usman Danfodiyo University Sokoto | (absent on official assignment) | |
| (l) Dr. Sambo W. Junaidu
Usman Danfodiyo University Sokoto | - | Member |
| (m) Sheikh Sidi Attahiru Ibrahim | | |

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

	Committee on Religious Affairs	- Member
(n)	Ustaz Muh'd Mode Abubakar Committee on Religious Affairs	- Member
(o)	Ustaz Sidi A. Sidi Committee on Religious Affairs	- Member
(p)	Ustaz Muh'd Salisu Imam Isa Committee on Religious Affairs	- Member
(q)	Ustaz Muh'd Mansur Ibrahim Committee on Religious Affairs	- Member
(r)	Umaru Dahiru Esq. Private Legal Practitioner	- Member
(s)	Yahaya Mahmood Private Legal Practitioner	- Member
(t)	M. Abdullahi Sifawa Secretary Law Reform Commission Sokoto State.	- Member
(u)	Alhaji Faruk Ladan DPM Political Affairs	- Secretary
(v)	Bande Muh'd Rikina DDPM Admin. & Gen. Services	- D/Secretary

- 1.3 The State Government appointed 2 members to represent the State Committee on Religious Affairs. It was at the inaugural meeting of the main Committee that a decision was taken to co-opt 3 more members of the Committee on Religious Affairs, and allow in audience other members of the Committee. Also to be co-opted is M. Abdullahi Sifawa, the Secretary of the State Law Reform Commission.
- 1.4 The main Committee also co-opted two (2) lawyers, Barrister Aliyu Abubakar Sanyinna, a Private Lawyer and Barrister Muhammadu Saidu Sifawa, Director Legal Drafting, Ministry of Justice, Sokoto.
- 1.5 The Terms of Reference of the main Committee are:
- (a) To advise the Government on how to enshrine Sharia into the State Legal System and to effect the needed review on the State Laws for submission to the State House of Assembly for confirmation.
 - (b) To co-opt any person or group of persons that can contribute to the success of its assignment, and call for oral submission or written memoranda on the issue from members of the general public.
 - (c) To complete the assignment within one week from the date of inauguration.
- 1.6 The inaugural meeting was held on the 8th October, 1999 when two sub-committees were formed as follows:
- (a) Members of the Committee on Religious Affairs to prepare in detail and submit:

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

- i. the substantive penal law (*budud*)
 - ii. the procedural law.
- (b) The remaining members to prepare a draft bill for consideration by the whole Committee.

SUBSTANTIVE LAW AND PROCEDURE

- 2.1 The members of the Committee on Religious Affairs submitted its report which contains explanation on the seven (7) offences, procedure for proof and punishment. These are:
 - (a) Homicide (*qisas*)
 - (b) Adultery and homosexuality (*zina* and *luwad*)
 - (c) Theft (*sariqa*)
 - (d) Robbery (*al-mubaraba*)
 - (e) Drunkenness (*shurubul khamr*)
 - (f) Defamation (*al-qazaf*)
 - (g) Apostasy (*ridda*)
- 2.2
 - (i) The report was received and adopted by the main Committee. [See [Annex B](#) to the Final Report of the Committee, below.]
 - (ii) The report will be translated into English and submitted to the Honourable Grand Kadi to be incorporated in the rules of court. The substantive law had been incorporated into the [draft bill](#) by the main Committee.

DRAFT BILL [[annexed](#)]

- 3.1 The sub-committee which prepared the draft bill considered the following provisions of the Constitution of the Federal Republic of Nigeria 1999 (referred hereinafter as the Constitution), and its likely consequences and/or on the bill:
 - Section 1(1) and (3) on the supremacy of the Constitution
 - Section 4(7) which empowers the State House of Assembly to make laws for the peace order and good government of the State.
 - Section 6(4) and (5) which:
 - (i) allow the State House of Assembly to establish courts with subordinate jurisdiction to that of the High Court;
 - (ii) can have both original and appellate jurisdiction.
 - Section 10 which provides that the Government of the Federation or of a State shall not adopt any Religion as a State Religion.
 - Section 33 which provides that every person has a right to life, and no one shall be deprived intentionally of his life save in execution of a sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.
 - Section 34 which provides the fundamental right to dignity of human person.

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

Section 36 which provides for the fundamental right to fair hearing including:

- (i) the right to have the offence and penalty existing at the time of the commission of the offence;
- (ii) the offence and penalty to be written in a law of a State, a subsidiary legislation or an instrument under provisions of law.

Section 38 which allows for the fundamental right to freedom of thought, conscience and religion.

Section 275 which allows any State that requires it, to establish Sharia Court of Appeal.

Section 277 which restricts the jurisdiction and power of the Sharia Court of Appeal to:

- (i) civil jurisdiction;
- (ii) specific matters and causes.

but allows the House of Assembly to confer additional jurisdiction.

3.2 The sub-committee after discussing the provisions in paragraph 3(1) above, decided:

That the Sharia Courts can be established.

- (i) it shall only apply to Muslims;
- (ii) the Sharia is intended to reform the mind, and inculcate discipline, honesty and transparency.

That efforts should be made to avoid any conflict with the Constitution, and at the same time giving Muslims their full rights as provided in the Sharia, and guaranteed by the section 38(1) of the Constitution.

That the following Courts shall be established namely:

- (i) the Lower Sharia Court
- (ii) the Upper Sharia Court
- (iii) the Sharia Court of Appeal

That the Lower Sharia Court shall be constituted by an alkali sitting alone, while the Upper Sharia Court shall be constituted by a president and one (1) member.

That the Lower Sharia Court alkali shall be a person qualified to be an Area Court judge, while the president and members of the Upper Sharia Court shall be persons having qualifications of an Upper Area Court Judge.

That recognised, relevant or equivalent qualification shall be defined in the bill.

That in addition to the civil causes and matters listed under section 277 of the Constitution, the Sharia Court shall be conferred with additional civil and criminal jurisdiction in all causes and matters.

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

That both the Sharia Court of Appeal and Upper Sharia Court shall be conferred with appellate jurisdiction in civil causes and matters, and in criminal cases.

That the draft bill shall provide the sources of Islamic law and reference text books and authorities to be used by the Sharia Courts.

That the practice and procedure and the law of evidence applicable shall be Sharia Law of Maliki School.

That there shall be provided the fundamental and constitutional right to legal representation in criminal cases, and general right of representation in civil causes and matters.

That the presidents, members, al-kadhis and other staff of the Sharia Courts shall be public officers of the State.

That walis (inspectors) shall be appointed.

That there must also be provided provisions for:

- (1) right of appeal
- (2) review of the State Laws
- (3) provision for confirmation and execution of sentence of death.

That specific monitoring and advisory roles shall be given to the Emirate Council, Council of Ulama and State Committee on Religious Affairs.

Other ancillary matters.

GENERAL ADVICE AND RECOMMENDATIONS

There are certain obligations, conducts and behaviours, which are pre-requisites for the establishment of Sharia. It was unanimously agreed that the time given to the Committee will not be enough to receive any memorandum or oral submission from the general public. There is therefore the need for the government to extend the time given to this Committee, to at least two (2) months to:

- (a) accept or receive written memoranda and oral submissions
- (b) submit a detail report.

The issues to be covered by the Committee shall include advice on:

The need to review certain State laws i.e. Liquor Law, Sharia Court of Appeal Law, Area Courts Law etc.;

Adequate training, seminars and courses for the Sharia Court personnel;

Sufficient publicity through media, rallies and public lectures on what Sharia is all about;

Formulation of practice and procedure to guide the application of Sharia;

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Enforcement of Islamic law behaviour and control of anti-Islamic behaviour concerning:

- i. marriage ceremonies and bridal gifts
- ii. begging
- iii. praise singing
- iv. picnic and disco
- v. mode of dressing
- vi. prostitution
- vii. gambling
- viii. cinema and video houses
- ix. payment of *zakat*
- x. girls' schools and education
- xi. hawking
- xii. hoarding
- xiii. payment of *dijab*
- xiv. observance of the month of Ramadan
- xv. code of conduct for the personnel of Sharia Courts
- xvi. publication and translation of Islamic literature
- xvii. code of conduct for political leaders, traditional title holders and public officers

Creation of specific roles for Local Governments and traditional institutions;

Educating non-Muslims on the Sharia;

Construction and redesigning of our courts to conform with Islamic tradition.

- 4.3 The government shall consider a suitable date as the effective date for the implementation of the Sharia and take-off of the courts.

ACKNOWLEDGEMENT AND CONCLUSION

The Committee is ever grateful to Almighty Allah for giving His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto) the wisdom and courage to initiate the implementation of Sharia in Sokoto State. The Committee wishes to register its gratitude to His Excellency for giving the Committee the opportunity to serve in this assignment.

May the Almighty Allah continue to guide, help, assist and protect us all.

Dated 13th day of October, 1999

[Here follows the list of committee members again with place for their signatures.]

NB: The Draft Bill is hereby annexed

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

ANNEX: DRAFT SHARIA COURTS BILL

I assent this day of 1999

ALHAJI ATTAHIRU DALHATU BAFARAWA
(GARKUWAN SOKOTO)
GOVERNOR
SOKOTO STATE OF NIGERIA
BILL NOOF 1999

A BILL TO ESTABLISH SHARIA COURTS TO APPLY SHARIA LAW
IN SOKOTO STATE

PREAMBLE

WHEREAS the 1999 Constitution of Nigeria provides for a Federal System of Government in a Federation consisting of States and Federal Capital Territory based on the principles of democracy and social justice as guaranteed under chapter 1 thereof;

AND WHEREAS almost one hundred percent (100%) of the people of Sokoto State are Muslims and are desirous of being governed by Sharia law;

AND WHEREAS by the provisions of S. 38 (1) of the Constitution every person is entitled to freedom of thought, conscience and religion amongst other fundamental human rights enshrined under Chapter IV of the Constitution;

AND WHEREAS by the provisions of S.4 (7) and S. 6(4) & (5) of the Constitution the House of Assembly of the State is vested with powers to make laws for peace, order and good government of the State or any part thereof;

NOW THEREFORE, BE IT ENACTED by the House of Assembly of Sokoto State as follows:

PART 1 – PRELIMINARY

1. This Law may be cited as the Sharia Courts Law, 1999 and shall come into operation on day of Citation and Commencement
2. In this Law Interpretation
 - ‘alkali’ means the judge of the lower Sharia Court
 - ‘Attorney-General’ means Attorney-General of Sokoto State
 - ‘Chief Mufti’ means the Chief Registrar of the Sharia Court of Appeal
 - ‘Constitution’ means the Constitution of the Federal Republic of Nigeria 1999
 - ‘Governor’ means the Governor of Sokoto State of Nigeria
 - ‘Grand Kadi’ means the Grand Kadi of the State Sharia Court of Appeal

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- ‘Hadith’ means the sayings, teachings and approvals of the Holy Prophet Muhammad (SAW)
‘*ijma*’ means the consensus of opinion of renowned Muslim Jurists and Scholars on any issue in Islamic Law
‘Judicial Service Commission’ means the Commission established for the State under section 197(1) (c) of the Constitution
‘kadi’ means the kadi of the State Sharia Court of Appeal
‘member’ means alkali of the Upper Sharia Court
‘mufti’ means a registrar of the Sharia Court
‘person’ means a Muslim whether male or female
‘president’ means the presiding alkali of the Upper Sharia Court
‘*qiyas*’ means analogical deductions in Islamic Law
‘Qur’an’ means the divine and Holy Book of Islam revealed to Prophet Muhammad (SAW) by Almighty Allah containing a complete legal, moral, spiritual, economic and political system to govern the life and conduct of Muslims
‘Sharia Court’ means the Lower and Upper Sharia Courts established under this Law and shall include Sharia Court of Appeal
‘Sharia Court of Appeal’ means the Sharia Court of Appeal established under section 275 of the Constitution
‘Sharia law’ means the Islamic law and practices as prescribed by the Qur’an, Hadith, *ijma*, *qiyas* and other sources of Islamic law
‘State’ means the Sokoto State of Nigeria
‘wali’ means an inspector of Sharia Court

PART II – ESTABLISHMENT AND CONSTITUTION OF SHARIA COURTS

3. (1) There are hereby established in the State the following Sharia Courts: Establishment of Sharia Courts
- (a) The Lower Sharia Court
 - (b) The Upper Sharia Court
 - (c) The Sharia Court of Appeal
- (2) There shall be established a Lower Sharia Court and Upper Sharia Court in such designated areas the Grand Kadi shall decide by way of warrant.
- (3) The appointment of a person to the post of the president and members of the Upper Sharia Court and alkali of the Lower Sharia Court shall be made by the Judicial Service Commission.
- (4) The Upper Sharia Court shall be constituted by a president and one member.
- (5) The Lower Sharia Court shall be constituted by a single alkali.
4. (1) A person shall not be qualified to hold the office of a president or a member of the Upper Sharia Court unless: Qualification
- (a) he is a serving or retired Upper Area Court judge or
 - (b) he is a legal practitioner in Nigeria and has been so qualified for a period of not less than seven (7) years and has obtained a recognised qualification in Islamic law from an institution acceptable to the Judicial Service Commission or

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- (c) he has been an alkali of the Lower Sharia Court for a period of not less than five (5) years.
- (2) A person shall not be qualified to hold the office of an alkali of the Lower Sharia Court unless:
 - (a) he is a serving or retired Area Court judge or
 - (b) he is a legal practitioner in Nigeria and has been so qualified for a period of not less than five (5) years and has a recognised qualification in Islamic law acceptable to the Judicial Service Commission.
 - (c) Any other relevant qualification acceptable to the Judicial Service Commission.
- (3) Recognised qualification in this part of this Law means and shall include:
 - (a) a degree in Islamic law from a recognised university
 - (b) a certificate from the former Kano (Islamic) Law School
 - (c) a diploma or certificate in Sharia and Civil Law from a recognised university, college or institution
 - (d) a certificate from a school for Arabic Studies or higher Islamic Studies certificate.
 - (e) Sufficient knowledge of Islamic law and practical training.

PART III – JURISDICTION AND LAW

- 5. (1) A Sharia Court shall have jurisdiction to hear and determine civil matters and causes, where the two parties are Muslims, and in criminal cases where the suspects or accused person(s) is/are Muslims.
- (2) The Upper Sharia Court and State Sharia Court of Appeal shall only have appellate and supervisory jurisdiction over the Lower Sharia Court.
Provided that where the need arises the Grand Kadi shall have power to confer original jurisdiction to the presiding alkali of an Upper Sharia Court.
- (3) For the purpose of subsection (1) of this section the Sharia Court shall be competent to decide all civil matters and causes where all the parties are Muslims including any proceeding involving:
 - (a) Marriage under Islamic Law (*al-nikah*)
 - (b) Guardianship and maintenance (*al-kafala*) and *nafaqa*
 - (c) Succession (*mirath*), will (*wasiyah*), gift (*hiba*), endowment (*waqf*), pre-emption (*shuf'a*), and trust (*amana*).
 - (d) Land law (*hukmu niz'a'il aradi*)
 - (e) Contract (*al-aqd*)
 - (f) Tort (*al-diyah*)
 - (g) Commercial law (*ahkamul buyu*)
 - (h) Company law and partnership (*ahkamul sharikat* and *al-musharakah*).
- (4) For the purpose of subsection (2) of this section the Sharia Court shall be competent to try all criminal cases in which suspect(s) or accused person(s) is/are Muslim, including:

Civil
proceedings

Criminal
proceedings

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
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- (a) Homicide (*qatlul-nafs*)
 - (b) Robbery (*al-muharaba*)
 - (c) Theft (*al-sariq*)
 - (d) Defamation (*al-qazf*)
 - (e) Drunkenness (*shurbul-khamr*)
 - (f) Causing grievous hurt (*al-qisas*)
 - (g) Homosexuality (*luwat*)
 - (h) Adultery (*al-zina*)
 - (i) Lesbianism (*al-sihaq*)
 - (j) Bestiality (*wat'ul dabba*)
 - (k) Perjury (*al-tazwir*)
 - (l) Offering and receiving gratification (*al-rishwa*)
 - (m) Criminal breach of trust (*al-khiyanah*)
 - (n) Cheating (*al-gish*)
 - (o) Mischief (*al-fasad*)
 - (p) Receiving stolen property (*shira'u muta'il sariqa*)
 - (q) Giving false evidence (*shahadatul-zur*)
 - (r) Apostasy (*riddah*)
6. The applicable laws in both civil and criminal proceedings shall include: Law applicable
- (a) The Holy Qur'an
 - (b) Sunnah and Hadith
 - (c) *Ijma*
 - (d) *Qiyas*
 - (e) *Maslahat mursala*
 - (f) *Istihsan*
 - (g) *Istishab*
 - (h) *Al-urf*
 - (i) *Muzhabul-sahabi*
 - (j) Other subsidiary sources
7. The reference books to be used by the Sharia Court shall include the following texts and authorities: -
- (a) *Al-Risalah*
 - (b) *Mubtasar*
 - (c) *Tubfab*
 - (d) *Al-Adawi*
 - (e) *Al-Fawakih al-Dawani*
 - (f) *Ibn Ashir*
 - (g) *Bidayat at Mujtahid*
 - (h) *Al-Mudawwanah*
 - (i) *Muwattab Malik*
 - (j) *Mayyara*
 - (k) *Bahjab*
 - (l) *Jawahir-al-Iklil*
 - (m) *Dasuki*
 - (n) *Al-Khirshi*
 - (o) *Bulgatil Salik*
 - (p) *Mawabibul Hallaq*

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
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- | | |
|---|---------|
| <p>8. A Sharia Court shall have jurisdiction and power only over:</p> <p style="padding-left: 20px;">(a) Civil causes and matter where the parties are Muslims;</p> <p style="padding-left: 20px;">(b) Criminal cases where the suspect or accused is a Muslim.</p> | Persons |
| <p>9. Where only one or more of several suspects or accused person(s) are Muslims, the Sharia Court shall not have jurisdiction to hear and determine the case, but the court shall have the power to try the Muslims and refer the case of the others to the Area or Magistrates Courts, or such other court with competent jurisdiction to try the offence(s)</p> | Mixed |

PART IV – PRACTICE AND PROCEDURE

- | | |
|---|----------------------|
| <p>10. (1) The practice and procedure to be applied by a Sharia Court shall include:</p> <p style="padding-left: 20px;">(a) Islamic law and procedure contained in the sources and texts listed in section 6 and 7 of this Law.</p> <p style="padding-left: 20px;">(b) The Grand Kadi shall issue rules of practice and procedure to include fees payable, execution etc.</p> <p>(2) The law of evidence to be applied shall be the Islamic law of evidence of the Maliki School.</p> | |
| <p>11. (1) Every person who is charged with a criminal offence shall be entitled to defend himself in person or by a legal practitioner of his choice.</p> <p>(2) Every party to any civil proceedings may be represented by a legal practitioner of his own choice or by any relation or nominee.</p> | Legal representation |

PART V – CONTROL OF SHARIA COURT

- | | |
|---|--------------------------|
| <p>12. A Sharia Court shall be under the general supervision and control of the Grand Kadi.</p> | Supervision |
| <p>13. There shall be appointed by the Judicial Service Commission on the recommendation of the Grand Kadi, wali of Sharia Court</p> | Appointment of wali |
| <p>14. The functions of a wali shall include:</p> <p style="padding-left: 20px;">(a) advising the Grand Kadi on the appointment, performance, complaint and discipline of the president and members of the Upper Sharia Court</p> <p style="padding-left: 20px;">(b) advising the Grand Kadi on applicable law, practice and procedure, and changes thereon.</p> | Functions of wali |
| <p>15. A person shall not be qualified to be appointed as a wali of Sharia Court unless (qualification of a wali):</p> <p style="padding-left: 20px;">(a) he is a retired Upper Area Court judge or a retired kadi of the Sharia Court of Appeal, or</p> <p style="padding-left: 20px;">(b) he is qualified to be appointed as an Upper Area Court judge, a president or member of the Upper Sharia Court, or a Sharia Court of Appeal kadi, or</p> <p style="padding-left: 20px;">(c) he is recommended by the State Committee on Religious Affairs, and found fit by the Judicial Service Commission.</p> | Qualifications of a wali |

PART VI – STAFF OF THE SHARIA COURT

16. (1) there shall be the following staff of the Sharia Court:

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

- (a) Chief Mufti (Chief Registrar)
 - (b) Mufti (Registrar)
 - (c) Court clerk (*katib*)
 - (d) Estate distributor (*qasim*)
 - (e) Valuer (*muqawwim*)
 - (f) Interpreter (*tarjuman*)
 - (g) Messenger (*khadim*)
 - (h) Bailiffs (*am*)
- (2) The alkali and staff of the Sharia Court mentioned in subsection (1) and such other staff as may be required shall be public officers of the State to be appointed by the Judicial Service Commission.
- (3) The salaries and allowances of the president, members, alkalis and staff of the Sharia Court shall be determined by the Judicial Service Commission. Remuneration

PART VIII – APPEALS

17. (1) In any civil matter or cause, an appeal shall lie as of right from the decision of the Lower Sharia Court to the Upper Sharia Court.
- (2) In criminal cases an appeal shall lie as of right from the decision of the Lower Sharia Court to the Upper Sharia Court.
- (3) An appeal shall lie as of right in both civil causes and matters and in criminal cases from the decision of the Upper Sharia Court to the State Sharia Court of Appeal.
- (4) The appeals mentioned in sub-sections (1), (2) and (3) shall be filed within 30 days from the date of the decision.
- (5) The appeal shall be filed at the registry of the Sharia Court of Appeal or Upper Sharia Court as the case may be.

PART VIII – MISCELLANEOUS

18. (1) The president and members of the Upper Sharia Court, and alkalis of the Lower Sharia Court shall not be liable to be sued in any court for any act done or ordered to be done in the exercise of the jurisdiction conferred by this Law or any other, whether or not within the limits of the jurisdiction, provided that he at the time of such act or giving such order believed in good faith to have jurisdiction. Protection
- (2) The protection in subsection (1) of this section shall extend to the staff of the Sharia Court mentioned in section (16)(1) for all acts done in pursuance to any order of the court.
19. A Sharia Court shall have jurisdiction to punish summarily for the offence commonly known as contempt of court for any act committed in its presence intentionally done to question its authority or disobey its order. Contempt
20. A Sharia Court shall in addition to the powers conferred on it by this Law, apply the provisions of the following legislation with such modifications as may be necessary to conform with the principles of Sharia: Other legislation
- (a) Auctioneers Law (Cap 10) Laws of Sokoto State

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

- (b) Applicable Laws (Cap 6) Laws of Sokoto State
 - (c) Children and Young Persons Law (Cap 22) Laws of Sokoto State
 - (d) Courts Touts (Prohibition) Law (Cap 40) Laws of Sokoto State
 - (e) Criminal Procedure Code (Cap 41) Laws of Sokoto State
 - (f) Fatal Accidents Law (Cap 50) Laws of Sokoto State
 - (g) Infants Law (Cap 68) Laws of Sokoto State
 - (h) Legitimacy Law (Cap 79) Laws of Sokoto State
 - (i) Married Women's Property Law (Cap 91) Laws of Sokoto State
 - (j) Oath and Affirmation Law (Cap 97) Laws of Sokoto State
 - (k) Probation of Offenders (Cap 113) Laws of Sokoto State
 - (l) Sharia Court of Appeal Law (Cap 133) Laws of Sokoto State
 - (m) Area Courts Law (Cap 9) Laws of Sokoto State
21. (1) The provisions in the following laws and any other legislation applicable to the State which defines customary law to include Islamic or Muslim Law are hereby repealed: Repeal
- (a) Area Courts Law (Cap 9) Laws of Sokoto State
 - (b) Civil Liability Law (Cap 25) laws of Sokoto State
 - (c) District Court Law (Cap 44) Laws of Sokoto State
 - (d) High Court Law (Cap 60) Laws of Sokoto State
- (2) The provision of section 3 of the Applicable Laws (Miscellaneous Provisions) Law (Cap 6) Laws of Sokoto State which allows for the continuous application of the common law and doctrines of equity is hereby repealed.
22. A Sharia Court shall carry out the orders and directions of any superior court of record when required to do so, and properly within its jurisdiction.
23. Where an accused person appealed against a sentence of death, the sentence shall not be carried out until after the hearing and determination of the appeal.
24. Where a Sharia Court has sentenced a person to death or confirmed a sentence of death, the record of proceedings and order of the court shall be forwarded to the office of the Attorney-General, within two weeks and the sentence shall be carried out on a date fixed and specified by the Governor.

PART IX – SAVINGS

25. Pending the issuance of the rules of court, the rules applicable in the Area Courts in the case of civil matters and causes, and the Sharia Court of Appeal in the case of civil appeals shall be applicable with such modifications as may be necessary to conform with the rules as provided by the Maliki School of Jurisprudence. Rules of court
26. This Law shall only apply to causes and matters filed or offences committed after its commencement. Commencement and application

II.

**FINAL REPORT OF THE COMMITTEE SET UP
TO ADVISE THE STATE GOVERNMENT
ON THE IMPLEMENTATION OF SHARIA IN SOKOTO STATE**

Submitted to
His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto)
Governor of Sokoto State

16th December 1999

INTRODUCTION

On the 8th of October 1999, His Excellency, the Executive Governor, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto), approved the appointment of this Committee to advise the Government on the establishment of Sharia in Sokoto State. It was given one week within which to submit its report. The Committee has the following composition:

- | | | | |
|-----|---|---|------------|
| (a) | Alhaji Abdullahi Maccido Ahmad
Hon. Grand Kadi | - | Chairman |
| (b) | Barrister Nuhu Adamu
Hon. A.G/Comm. For Justice | - | D/Chairman |
| (c) | Alhaji Tahir Muh'd Mai Akwai
Hon. Comm. For Information | - | Member |
| (d) | Alhaji Abdullahi Abdullahi Goronyo
Hon. Special Adviser on Special Duties
and Religious Affairs | - | Member |
| (e) | Hon. Justice M. H. Binji
High Court of Justice | - | Member |
| (f) | Hon. Justice Bello Abbas
High Court of Justice | - | Member |
| (g) | Hon. Kadi Muhammad Danchafe
Shari'a Court of Appeal | - | Member |
| (h) | Hon. Kadi Abdulkadir S. Tambuwal
Shari'a Court of Appeal. | - | Member |
| (i) | Hon. Usman Arzzika Binji
Chairman, Judiciary Committee
Sokoto State House of Assembly | - | Member |
| (j) | Alkalin Alkalai M.B. Mai Wurno
Rep. Of Sokoto Emirate Council | - | Member |
| (k) | Professor A. A. Gwandu
Usman Danfodiyo University Sokoto | - | Member |
| (l) | Dr. Sambo W. Junaidu
Usman Danfodiyo University Sokoto | - | Member |
| (m) | Sheikh Sidi Attahiru Ibrahim
Committee on Religious Affairs | - | Member |

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- | | | | |
|-----|--|---|--------------|
| (n) | Ustaz Muhammad Mode Abubakar
Committee on Religious Affairs | - | Member |
| (o) | Ustaz Sidi A. Sidi
Committee on Religious Affairs | - | Member |
| (p) | Ustaz Muhammad Salisu Imam Isa
Committee on Religious Affairs | - | Member |
| (q) | Ustaz Muhammad Mansur Ibrahim
Committee on Religious Affairs | - | Member |
| (r) | Umaru Dahiru Esq.
Private Legal Practitioner | - | Member |
| (s) | Yahaya Mahmood
Private Legal Practitioner | - | Member |
| (t) | Umar Faruk Ladan
DPM Political Affairs | - | Secretary |
| (u) | Bande Muhammad Rikina
Admin. & Gen. Services | - | D/Secretary |
| (v) | Barrister Muhammad S. Sifawa
Ministry of Justice | - | Co-Secretary |
- 1.2 The State Government appointed two members to represent the State Committee on Religious Affairs. It was at the inaugural meeting of the main Committee that a decision was taken to co-opt three more members of the Committee on Religious Affairs, and allow in audience other members of the Committee. Also co-opted is Alhaji Abdullahi S. Sifawa, the Secretary of the State Law Reform Commission.
- 1.3 The main Committee also co-opted two (2) lawyers, Barrister Aliyu Abubakar Sanyinna, a Private Lawyer and Barrister Muhammadu Saidu Sifawa, Director Legal Drafting, Ministry of Justice, Sokoto.
- 1.4 The terms of reference of the main Committee are among others:
- (i) to advise the Government on how to enshrine Sharia into the State legal system and to effect the needed review on the State laws for submission to the State House of Assembly for confirmation.
 - (ii) can co-opt any person or group of persons that can contribute to the success of its assignment. It can also call for oral submissions or written memoranda on the issue from members of the general public.
 - (iii) the assignment is expected to be completed within one week from 8th October, 1999.
- 1.5 On the 14th of October 1999, the Committee submitted its Interim Report to the State Government comprising the draft bill to be processed with the State House of Assembly for ratification. It has also offered some key advice on how to implement Sharia in Sokoto State.
- 1.6 In consideration of the fact that Islam is a practicable and feasible religion relating to the whole life, the Committee saw the need and requested the State Government for an extension of two months. The extension will be used to

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

reconstruct and re-orient our populace on the importance of Sharia. The request was granted by the State Government. The Committee will, among other things;

- (a) study and work out how best to reform the present court structure to conform with Islamic provision;
- (b) study and redesign the practice and procedures in courts;
- (c) embark on re-orientation of the general public on the importance of Sharia in the State through organized discussions, seminars, workshops and *wa'azis*;
- (d) receive written memoranda and oral submissions from the general public.

1.7 The Committee held series of meetings during which three sub-committees were formed as follows:

- (a) Legal Sub-Committee
- (b) Publicity Sub-Committee
- (c) Sub-Committee on Structural Reform.

In addition, the contributions of the State Elders Consultative Committee under the chairmanship of the Former Executive President of Nigeria, Alhaji Shehu U. A. Shagari and Advisory Consultative Committee on Sharia under the Chairmanship of Alhaji Buhari Siriddawa, Sarkin Malamai were received.

2.0 [Specific Recommendations]

The Committee carefully reviewed the reports of its sub-committees, State Elders Consultative and Advisory Consultative Committees and unanimously recommended the following to the State Government for adoption:

a. **LAWS OF SOKOTO STATE**

The Committee recommends the amendment of the following in order to bring them in conformity with Sharia Law:

i. **Lunacy Law Cap 88 Laws of Sokoto State 1996.**

Recommends that sections 10, 11, 12, 13, 14, 15 and 17 should be amended to include alkali, wherever they refer to a magistrate, while section 20 be amended to include Sharia Court of Appeal where it refers to a High Court.

ii. **Collective Punishment Law Cap 28 Laws of Sokoto State**

The Committee considered this law outdated and that its provisions had never been implemented. It therefore recommends that this law should be repealed.

iii. **Auctioneers Law Cap 10 Laws of Sokoto State 1996**

The Committee observed that the only conflict of this law with Sharia is that bidders invited to buy goods under this law are not given the opportunity to examine the goods they are buying. It is therefore recommended that the law should be amended to give bidders access to the property they are buying.

iv. **Cinematographic Licenses Cap 24 and Censorship Law Cap 23 Laws of Sokoto State 1996.**

INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP TO ADVISE THE SOKOTO STATE
GOVERNMENT ON THE ESTABLISHMENT OF SHARIA

These laws are recommended for amendment to accommodate the recommendations contained in the report of the Committee on the need to enforce certain obligations.

v. **Transport Authority Law Cap 143 of Sokoto State 1999**

This law should be amended to accommodate the recommendations contained in the report of the Committee on the need to enforce certain obligations, conduct and modes of behaviour.

[numerals vi and vii skipped.]

viii. **Audit Law Cap 11 Laws of Sokoto State 1996**

There is the need to develop ways of carving out corruption and embezzlement in our public life, hence the need to amend this law to ensure efficient auditing and accountability.

ix. **Road Traffic Law Cap 127 and Road Traffic (Control of Hackney Carriages) Cap 128 Laws of Sokoto State 1996**

These laws need to be amended to bring them in line with the recommendations of the Committee.

x. **Boys Scouts Law Cap 15**

The Committee recommends a similar legislation to cater for Islamic organizations.

xi. **The Beast of Burden Preservation Law**

The Committee recommends that this law be enforced to stop sale of donkeys etc. for human consumption in the State.

xii. **Meat Law Cap 92 Laws of Sokoto State 1996**

First schedule of this law to be amended to remove pigs and other animals that are prohibited by Sharia.

xiii. **Penal Code Law Cap 104 Laws of Sokoto State 1996**

The Committee recommends that section 3(1) and (2) of the Penal Code should be repealed. The two sub-sections prohibit trial of any person other than in accordance with the provisions of the Penal Code.

xiv. **Effect of Section 39 of the Land Use Act 1978**

The Committee observed that this section gave the High Court exclusive jurisdiction to adjudicate on land matters in an urban area. By Sokoto State Legal Notice No. 11 of 1992 all Local Government headquarters are declared urban areas with a radius of eight kilometres from the headquarters.

This means therefore that the newly created Sharia Courts are excluded from hearing such cases. The Committee therefore recommends that the legal notice No. 11 be repealed.

xv. **Criminal Procedure Code Cap 41 Laws of Sokoto State 1996.**

The Committee recommends that a provision be made to the effect that the provision of the CPC should not be applicable in any proceedings before the Sharia Court.

xvi. Local Government Adoptive Rules

The Committee recommends that the following be amended to reflect the position of Sharia.

- (a) Sokoto State Legal Notice No. 25 of 1977
- (b) Sokoto State Legal Notice No. 2 of 1977 (Control of Beggars etc.)
- (c) Sokoto State Legal Notice No. 24 of 1977 (Control of Hawking)
- (d) Local Government Law No. 2 of 1977
- (e) Liquor Adoptive Rules 1977
- (f) Control of Advertising Adoptive Rules 1977.

xvii. Liquor Law Cap 81 Laws of Sokoto State 1996

This Committee recommends that this law should be amended to prohibit the sale and consumption of alcohol by a Muslim throughout the State.

The Committee recommends that the following laws should remain in force but should not apply to Muslims. The laws are:

- i. Administration of Estate Law Cap 10
- ii. Applicable Laws (Miscell. Provisions)
- iii. Burials Law Cap 18
- iv. Civil Liability (Miscell. Provisions) Cap 25
- v. Contract Law Cap 34
- vi. Defamation Law Cap 42
- vii. Fatal Accidents Cap 50
- viii. Infants Law Cap 68
- ix. Legitimacy Law Cap 79
- x. Limitation Law Cap 30
- xi. Pawn-brokers Law Cap 102
- xii. Money Lenders Law Cap 94
- xiii. Married Women's Property Law Cap 91
- xiv. Oath and Affirmation Law Cap 97
- xv. Prescription Law Cap 109.
- xvi. Property Law Cap 114
- xvii. Sale of Goods Law Cap 130.
- xviii. Torts Law Cap 141
- xix. Trustees Law Cap 145
- xx. Wills Law Cap 152

b. SHARIA COURTS (CIVIL PROCEDURE) RULES 1999

The proposed Sharia Courts (Civil Procedure) Rules 1999 were carefully drafted and recommended by the Committee to the State Government for adoption. Refer to [Annex A](#) for detailed rules.

c. **ISLAMIC CRIMINAL LAW PROCEDURE**

The Islamic Criminal Law Procedure was carefully drafted and recommended by the Committee to the State Government for adoption. Refer to [Annex B](#) for detailed procedure.

d. **TA'AZIRATU (CORRECTIONAL PUNISHMENTS)**

Islamic law has identified some offences that require correctional punishment, which were carefully reviewed by the Committee and recommended to the State Government for adoption. Refer to [Annex C](#) for details.

e. **MASS PUBLICITY**

The Committee observed that there is urgent need to re-orient our people on the importance of Sharia and its principles. It was on this ground that the Committee saw the need to promote understanding among both Muslims and non-Muslims on the general concept of Sharia.

The Committee suggested that in order to effectively disseminate information and re-orient general public on the issue of Sharia, the services of all means of communication ought to be employed. These include Rima Radio, Nigerian Television Authority, and national newspapers. The Committee also saw the need to conduct workshops, seminars and *wa'azi* at all levels of our society to enlighten both the urban and rural populace on the importance of adopting Sharia in Sokoto State. Details of the Committee's recommendations to the State Government on publicity are placed at [Annex D](#) for detailed study and implementation

To serve as the first step towards the preparation to adopt Sharia in the State, the State Government approved the conduct of State and Local Government *wa'azi*. The *wa'azi* was conducted successfully from 29th November, 1999 to 3rd December, 1999 at all Local Government headquarters and some few major towns. The reception accorded the groups by the rural populace was outstanding. It was a clear demonstration of people's overwhelming desire and acceptance of Sharia law in the State.

The State *wa'azi* was conducted on 7th December, 1999 at Shehu Kangiwa Square. The turn-out of people to witness the unprecedented event was overwhelming. It was attended by His Excellency, the Executive Governor, Alhaji Attahiru Dalhata Bafarawa (Garkuwan Sokoto), His Eminence, the Sultan of Sokoto, Alhaji Muhammadu Maccido Abubakar III, former President, Alhaji Shehu U.A. Shagari, the speaker and members of the State House of Assembly, the judges/kadis, prominent Muslim scholars and some important personalities in the State.

f. **WRITTEN MEMORANDA AND ORAL SUBMISSIONS**

Many written memoranda and oral submissions were received from different people of various walks of life. The memos touched on some of the most often questioned aspects of Sharia, particularly structural reformation and social conditioning

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necessary to provide the basis for the implementation of Sharia in Sokoto State. Few of the memos are summarised as follows:

i. **Mal. Aliyu Bello Galadima** of Sunnah Marriage Mediation Association

Suggested the need for the State Government to:

Establish Ministry for Religious Affairs to perform functions that are not catered for by the existing ministries, boards and parastatals/departments.

Ensure that prostitutes or free women as they are otherwise referred to, should be taken care of by the new Ministry for Religious Affairs, in houses designated for reforming them. Unions and associations like this will assist in the reformation and placement process.

See to it that law enforcement agencies fully enforce the law passed by the State House of Assembly in 1992 on marriage expenses.

Set up committee of people with proven integrity, whose membership should not exceed seven, to perform, among other functions, monitoring the activities of judges, policemen, traditional rulers and wealthy individuals to ensure that marriages are conducted in accordance with Islamic provisions

Incorporate the roles of Islamic organizations in the marriage processes and promote public awareness on the need to ease the process and curb extravagance.

Ban praise singing and notorious music during marriage and naming ceremonies.

ii. **Dalhatu Aminu Yartsakuwa**, Upper Area Court Judge

Suggested the need for the State Government to prepare and conduct refresher courses for the alikalis from time to time to ensure their competence in running their various courts.

iii. **Alhaji A.Y. Rabah** of J.S.S. Rabah

Suggested in his memo titled "Islamic Legal Perspective: An Overview" the need to observe the fundamental human rights as contained in the Holy Qur'an, Sunnah and *Ijma*. He particularly stressed the need for a social security policy sufficient to cater for the disadvantaged and under-privileged in our society. He added that provision of equal opportunities for all the citizens is crucial and fundamental. The rights of our children should be protected to ensure the building of a strong generation.

iv. **Muhammadu Maigero Dingyadi**

Suggested the need to promote pursuance of Islamic education by all citizens and encourage awareness on the part of the civil servants, traditional rulers and preachers. He also stressed the need to conduct tests for all the preachers to

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promote understanding and peaceful co-existence. In addition, he called on the government to always ensure a leadership of proven integrity.

v. **Muhammadu Gidado Liman**

Suggested the need for the State Government to establish a law banning:

- drinking and selling of alcohol
- prostitution
- gambling
- extravagance in marriages, among others.

He also emphasised the urgent need for the State Government to promote programmes at Rima Radio geared towards enlightening the general public on the importance of adopting Sharia in Sokoto State.

He stressed that the State Government in its next year's (2000) budget should make the promotion of the welfare of civil servants a priority through improved wages. It should also minimise the common man's burden of community tax and embark on projects that will promote the overall social and economic well-being of the people.

vi. **Mal. Aminu A. Bayero**

Suggested the need to map out a strategy geared towards promoting understanding, unity and harmony among Muslims within the State and beyond, particularly among the Islamic sects in the society.

vii. **Mal. B. B.**

Suggested the urgent need for the State Government to enact a law prohibiting prostitution and homosexuality in our society. He further stressed that mischief and cheating are becoming a common practice in our society and should be seriously addressed by the Government.

viii. **Barrister J. C. Shaka**

Traced the history of Sharia and Nigerian legal experience. He, among others, suggested the need for the State Government to:

- (a) Embark upon a mass public enlightenment or education on the meaning of Sharia law, its substance, procedure, scope and its implications – penal and civil;
- (b) Conduct an objective opinion survey in the State to determine whether the people really desire the application of Sharia law;
- (c) Train and send persons to be charged with the enforcement and administration of the Sharia law to countries where Sharia law has long taken roots to expose them to the practical application of this concept
- (d) Adopt Sharia only when the present economic, social and political institutions would ensure that the minimum basic standard of living is improved and facilities are available and guaranteed for all. And that the

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affairs of government and government officials are transparent and responsive to the needs of the people;

- (e) Ensure gradual introduction of the Sharia law so as to be able to monitor the effects and arrest any adverse developments arising from its application;
- (f) Ensure that life, rights and properties of non-Muslims are well protected.

ix. **Mal. Bello Ahmad Sokoto** of Ministry of Education, Sokoto.

Explained the consistency of Sharia law and its application as a complete way of life for all Muslims. He stressed that the implementation of Sharia solely depends on the understanding of the leaders and the led.

He emphasised that the leaders, in particular, must be ready to;

- lead by example
- keep to their promises
- be clean in words and practice
- avoid ostentations living
- ensure the rule of law
- make the weak (subject) strong etc.

He added that there is need for mass education to the general public on the importance of Sharia and the need to promote Islamic education cannot be overemphasised.

x. **Mohammad B. S. Tabanni** of Centre for Islamic Studies, ABU Zaria

Suggested the need to accurately distribute the roles, functions and jurisdictions of the courts to be established for an effective coordination and conduct of the legal processes.

xi. **Hajiya Laraba Dattijo** of Women Society

Narrated the historic and constitutional basis for the adoption of Sharia in the State and the roles played by women in the history of Islam. She suggested the need to involve and encourage women to participate in the process and implementation of Sharia in Sokoto State. She further emphasised the need to protect the rights of women in the society as prescribed in the Sharia law.

xii. **Murtala Yahaya**, Dan Tireda

Suggested the need for the State Government to come to the rescue of the younger ones. He stressed that the extravagant marriages in our society pose a serious threat to marriages and called on the government to curb the cost to make it affordable to the youngsters.

xiii. **Malami Giwa Abubakar**

Suggested the need to embark on mass public enlightenment of our people on the importance of adopting Sharia as a solution to our ongoing cultural decay,

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moral decadence, economic shamble, political instability and administrative uncertainties.

xiv. **Alhaji Ibrahim Umar**

Suggested the need to establish a Ministry for Islamic Affairs which will be responsible for supervision, administration and coordination of matters related to Islamic affairs.

xv. **Abdullahi B. Mohammed**

Suggested the need for the State Government to as a matter of necessity, arrange to conduct short courses for young girls in the fields of para-medical practice, such as nursing, laboratories, physiotherapy, pharmacy etc. Special arrangement should also be made to encourage the training of particularly, women in all fields of medicine and health care.

g. **STRUCTURAL REFORMATION**

The Committee observed the need to enforce certain obligations, conduct, and behaviour to go hand in hand with the establishment of Sharia concerning the following: -

- | | |
|---|---|
| i. marriage ceremonies and
bridal gift | xiii. payment of <i>dijab</i> |
| ii. begging | xiv. observance of the month of
Ramadan |
| iii. praise singing | xv. qualification, ethics and
responsibilities of an alkali |
| iv. picnic and disco | xvi. publication and translation of
Islamic literature |
| v. mode of dressing | xvii. a guide for political leaders,
<i>Sarakunan Musulunci</i> and public
officers |
| vi. prostitution | xviii. roles for Local Government and
traditional institutions |
| vii. gambling | xix. mode of transportation |
| viii. cinema and video houses | |
| ix. payment of <i>zakat</i> | |
| x. female education | |
| xi. hawking | |
| xii. hoarding | |

In the course of its deliberations, the Committee resolved to include any other relevant issue, which it considers to be of importance for the successful implementation of Sharia.

RECOMMENDATIONS

After thorough deliberation on the itemised issues, the Committee recommends as follows: -

i. **Marriage and Marriage Ceremonies**

Marriage ceremonies are to be conducted in a manner prescribed by Islam. Bridal/betrothal gift should be made moderate and affordable. The Government is to take appropriate steps to wipe out all kinds of extravagance usually associated with marriages and naming ceremonies.

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- ii. Picnic, disco as well as the newly innovated *wazgidi* dance usually associated with such ceremonies be banned and such immoral behaviour be made an offence punishable under the appropriate law.
- iii. Praise singing, drumming and begging should conform with Islamic traditions and should not be insulting or abusive. The Government is advised to provide more job opportunities to the unemployed so that its citizens can be gainfully employed to reduce the high rate of begging and other forms of social vices.
- iv. The Government should encourage its citizens to be self-reliant through training of handwork, crafts and other small-scale ventures. The Government should also cater for the handicapped by training them craft and providing them with basic assistance for take off.
- v. **Mode of Dressing**
All Muslims males and females should dress in a manner approved by Islam and *hijab* form of dressing be encouraged for females.
- vi. **Prostitution should be abolished throughout the State**
The law prohibiting prostitution should be enforced. Unmarried women should be advised, encouraged and assisted to get married as soon as possible.
- vii. **Liquor Houses**
Production, sale and consumption of all intoxicants be banned throughout the State. The licences of the existing liquor houses should be revoked.
- viii. **Gambling**
Gambling of any form should be punishable offence under appropriate law.
- ix. **Cinema and Video Houses**
Censorship Board should step up efforts to enforce the law banning all films, videos and other pornographic pictures that offend Islamic injunctions. Audio and video cassette sellers and rentals should be under the control and supervision of censorship Board of the Ministry of Information.
- x. **Mode of Transportation**
The Government should provide vehicles for transport at an affordable fare exclusively for women and should encourage organisations and well-to-do individuals to make their own contribution in this regard. Where there is only one mode of transport, some back seats should be reserved exclusively for women. Women should be discouraged from riding kabu-kabu as a means of transport.
- xi. [numeral xi skipped.]
- xii. **Zakat**
The Islamic policy of distribution of wealth through *zakat*, *sadaqat*, etc. helps a lot in discouraging accumulations and concentration of wealth in a few hands.

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The Government is advised to give emphasis on *zakat* collection and distribution as prescribed by Islamic injunctions. The Zakat Committee should intensify the collection of *zakat* and publish the amount and names of the individuals who give out the *zakat*.

xiii. **Female Education**

Female education is of paramount importance. There should be a deliberate policy to encourage female education in the State.

xiv. **Hawking**

Street hawking by girls and women who have reached the age of puberty pose a threat to the society and tend to encourage immoral upbringing of our youths. In order to eradicate evil and immoral behaviour usually associated with this kind of business, the Government is advised to take steps to stop street hawking by girls in the State.

xv. **Hoarding**

Hoarding of any essential food item is unlawful. It is through this inhuman practice that the society suffers a lot. Appropriate penalty be prescribed under Sharia and culprits punished accordingly to serve as deterrent to others.

xvi. **Diyah**

The payment of appropriate *diyyah* is to be determined in accordance with the prescribed Islamic principle.

xvii. **Observance of the Month of Ramadan**

Ramadan fasting is one of the five pillars of Islam. It is compulsory that all eligible Muslims must fast it, commencing after sighting the moon usually confirmed through an official announcement and ending as soon as the moon is sighted marking the end of Ramadan and the beginning of the month of Shawwal. It is unlawful to refuse to fast at all or to refuse to commence fasting after an official announcement confirming the sighting of the moon marking the commencement of the Ramadan. It is unlawful to refuse to break the fast at the end of Ramadan. Government is advised to take steps to utilise the services of Islamic preachers to enlighten Muslims on the significance of fasting. The offenders should be punished in accordance with Islamic law.

xviii. **Qualification, Ethics and Responsibilities of an Alkali**

a. **Qualification of an Alkali**

Alkali must, among other things, be: Muslim, sane, male, free, not a slave, matured, just, knowledgeable in Sharia, free of physical defects such as deaf, dumb and blind.

The qualification of an alkali should include the following qualities:

- i. Must not have been convicted of any *hadd* punishment
- ii. Must not be of questionable lineage/affinity

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- iii. Must not be a pauper
- iv. Must not be illiterate
- v. Must not be physically and mentally unfit
- vi. Must be intelligent and fully alert
- vii. Must be reserved and self-contented
- viii. Must be man of personality
- ix. Must be patient and tolerant
- x. Must be ready to seek opinion from learned people

An alkali must:

- i. Not also mingling with people of questionable integrity
- ii. Must be courageous in passing judgment without fear or favour
- iii. Must be thorough and meticulous
- iv. Must be an indigenous
- v. Must be intrinsically moderate.

b. Responsibilities of an Alkali

- i. He must treat all litigants before him on equal footing without fear or favour.
- ii. Parties in a dispute must be brought before the judge.
- iii. He must be careful in awarding *hadd* punishment i.e. where there is a slightest doubt in establishing the crime, he should refrain from awarding *hadd* punishment.
- iv. He must not keep an accused in custody without due process of law.
- v. He must shun bribery and corruption and must not indulge himself in dubious activities.
- vi. He owes it a duty to protect the rights of all Muslims and non-Muslims as against human rights infringement/violation.
- vii. He must not demand nor accept gift of any kind from litigants.
- viii. He shall dress decently at all times, he must wear complete attire i.e. gown, jumper, trousers, cap, turban and shoes while discharging his official duties.
- ix. He shall control his temper and must not harass or embarrass parties to litigation.
- x. He shall not indulge in commercial business activities that are in conflict with his judicial functions.

xix. Publication and Translation of Islamic Literature

The Government should encourage the publication and translation of Islamic literature. Government institutions such as office of the Grand Kadi, Law Reform Commission, Board of Arabic and Islamic Education and individuals

should be encouraged to translate and publish authoritative Islamic literature, particularly Sharia books.

xx. **A Guide for Political Leaders, Sarakunan Musulunci, Religious and Community Leaders as well as Public Officers**

- (a) Our leaders must be honest, trustworthy and God-fearing in all their endeavours.
- (b) They must shun materialism, be dedicated and hardworking in the discharge of their duties.
- (c) They must shun corruption, selfishness and nepotism.
- (d) They should teach/enlighten their subjects on the need to eradicate evil and immoral behaviour more particularly on the dangers of copying immoral behaviour by our youths.
- (e) They must ensure peaceful co-existence among the subjects.
- (f) They must be tolerant and accommodating.

xxi. **Roles for Local Governments and Traditional Institutions**

The general public enlightenment for the successful implementation of Sharia in the State could be achieved through the efforts of the Local Governments and the Traditional Institutions. The government should take steps to utilise these institutions, which deal directly with people at the grassroots level. Preaching by means of media organisations should be further intensified so as to make people understand the importance of Sharia and its applications.

xxii. **Islamic Economic System**

There are number of Qur'anic injunctions which have encouraged Muslims to engage themselves in lawful and wide ranging activities in trade and commerce.

Government should encourage its citizens to earn their livelihood in a lawful manner and provide assistance in appropriate cases. The development efforts should be spread over the rural areas of our State.

Government should intensify efforts to standardise weights and measures in the market to conform with Sharia.

Government should welcome and encourage the establishment of interest-free banking system in the State.

In rendering its social services to the people, there is the need for Government to provide food items and other essential commodities etc. at affordable prices particularly during the month of Ramadan to serve as an assistance to alleviate hardships of its citizens.

xxiii. **Prayer Timings**

The importance of prayer in the life of a Muslim which is one of the five pillars of Islam cannot be over-emphasised.

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Government is to ensure that during office hours and at any of its official functions, prayer times are strictly adhered to. Consequently, the Committee recommends timing of prayers as follows: -

Zuhr Prayer 1:45 pm to 2:00 pm

Asr Prayer 3:45 pm to 4:00 pm

xxiv. **Hajj – Pilgrimage**

Muslims travelling to Makka for *hajj* for the first time in their lifetime to discharge this important obligation as ordained by Islam be given priority. The intending pilgrims should be given a basic training. While the difficulties associated with *hajj* operation shall as much as possible be reduced.

[numerals xxv-xxix omitted.]

xxx. **Religious Instructions**

There is the need to intensify religious instructions in our schools. The subjects to be taught among others should include Arabic language and *tajweed*.

xxxi. **Refresher Course for Alkalis and Sharia Court Personnel**

Sharia Court personnel be trained on procedure from time to time to make them work more efficiently for the successful administration of Sharia in the State.

xxxii. **Civil service**

Remuneration for civil servants should be improved to cater for their basic social needs. A special consideration be given to judges' salary and welfare to guard against corruption. Government should consider giving interest-free soft loans to civil servants to reduce the problems of bribery, corruption and misappropriation of public funds. Government should base all appointments on qualification and/or seniority, merit and fear of Allah

The independence of the Service Commissions should be maintained as provided in the law to ensure disciplined civil service.

xxxiii. **Welfare Scheme and Continuing Education.**

There should be social security scheme that will cater for the aged, the disabled and likes in our society. The Women Centre for Continuing Education should be established in each Local Government Area of the State. The activities of the Centre should be publicised with a view to promoting self-reliance as enjoined by Sharia.

OTHER RECOMMENDATIONS

- (a) Enlightenment of the general public on the importance of Sharia and its application is strongly recommended. The importance of seminars, workshops and *wa'azji* on Sharia cannot be overemphasised. The Committee is still recommending the conduct of such activities as per [Annex D](#) to ensure that the people understand what the Sharia is all about.

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- (b) The Government should map out strategies geared towards improving agricultural production through fair distribution of fertiliser to farmers, providing small, middle and large-scale support to farmers and engage itself in large-scale farming. The objective is to ensure self-reliance and food security in our society.
- (c) The government should direct Ministry of Works, in liaison with the Sharia Court of Appeal, to redesign and construct the court structures that are in conformity with the Islamic injunctions.
- (d) The State Government should establish a Ministry for Islamic Affairs which will be responsible for supervision, administration and co-ordination of matters related to Islamic affairs.
- (e) Code of conduct for political leaders, traditional rulers, public officers and alkalis should be enforced.
- (f) The Government should make a special arrangement to train adequate manpower in the health care sector. Efforts should be made to balance the shortage of female nurses, lab technicians, physiotherapists, pharmacy technicians etc. through mass recruitment in the health care sector.

ACKNOWLEDGEMENT AND CONCLUSIONS

The Committee is grateful to Almighty Allah for giving His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto) the wisdom and courage to initiate the implementation of Sharia in Sokoto State. The Committee wishes to register its gratitude to His Excellency, the Executive Governor, and the people of Sokoto State for giving it the opportunity and support to serve in this assignment. The contribution of the members of the State Committee on Religious Affairs is worth noting. The Committee would like to extend its deep appreciation to those who have sacrificed their time and dedicated themselves to this cause.

May the Almighty Allah continue to guide, help, assist and protect us all.

Dated 16th day of December, 1999.

[here follow the names and signatures of the committee members.]

ANNEX A

SHARIA COURTS (CIVIL PROCEDURE) RULES 1999

1. When the parties appear before the court the judge must treat them on equal terms in seating, talking hearing and paying attention to them. There must be no discrimination regarding religion or position in life. The judge shall ask the plaintiff to state his claim. The claim must be realistic and unambiguous. If the subject matter of the claims is land, the plaintiff must mention its boundaries and its location. If it is money, he must tell the amount. If it involves animals he must mention them numerically and their descriptions. If it is something of money value he must mention the estimated value and if possible the object should be brought before the court. If the claim is not realistic in nature and if without substance, the judge should

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dismiss the case. If the claim, however, is not explanatory, the judge shall require the defendant to state what he knows about it. If afterwards it becomes clear that there is no definite claim to answer, the judge shall dismiss the plaintiff's claim.

2. When the plaintiff states his claim, the judge shall ask the defendant to give a reply to the plaintiff's claim. The defendant may admit either in whole or in part that he is civilly liable in the action. The defendant may also deny liability.
3. (a) If the defendant admits liability, the judge shall enter judgment in favour of the plaintiff; provided that the defendant is an adult person whose admission is acceptable under the Islamic law i.e. he is not subject to any disqualification.
(b) If the defendant keeps mute, the judge may try to get him to say something in answer to the claim. If the judge fails to get him to talk his silence may be construed as an admission of the claim and judgment shall be entered against him. The plaintiff shall not be made to take an oath in such circumstances.
4. Where the defendant denies the plaintiff's claim the judge shall determine the type of claim brought before him in order to decide who in fact is the plaintiff (*mudda'i*) and who is the defendant (*mudda'an alahi*) between the parties, so as to know on who the burden of proof lies. A party who cannot be helped by nature of his originality or custom is normally regarded as the plaintiff. Provided that in claims having connection with property or valuables; a house or a farm land; consummation of marriage so that a wife could qualify for full dowry; a divorce suit and dispute on child affinity which does not involve inheritance, the judge shall consider the nature of such claims, in order to assess which right may be established and which may not be by taking an oath.
5. In cases where the defendant denies liability, after the judge has determined who is a plaintiff and who is a defendant between the parties, the judge shall ask the plaintiff to produce evidence in support of his claim. If the plaintiff produces his witnesses the judge shall order them to be brought into open court one by one. He shall ask the first witness to state what he knows about the dispute between the two parties. If he does not testify anything the judge may discharge him. But if the witness gives evidence which supports the plaintiff's claim the defendant shall be allowed to cross-examine him. The judge shall allow a witness to defend himself against a challenge which may result in discrediting him or his evidence. If the defendant succeeds in discrediting the evidence given that evidence shall be discarded. But if he fails to succeed in discrediting the evidence that evidence shall stand. The judge shall allow witnesses in all cases to be cross-examined. Any judgment obtained in which a witness's evidence is not cross-examined shall be void. Provided the witnesses called to discredit evidence given by another witnesses shall not be subject to cross examination.

Examples of grounds for discrediting evidence are family affinity of the witness with the party on behalf of whom the testimony is given; marriage connections; allegation that a witness may as a result of giving evidence obtain some benefit or that he may remove some defects or loss from himself or that the witness is an

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enemy to a person against whom he has given the testimony; and such other instances that can disqualify a witness from giving evidence under the Islamic law.

Two witnesses shall be produced to discredit the testimony given by another witness. In the same way as a witness called to discredit the evidence of another witness shall not be cross examined, so also are the witnesses summoned by the judge himself to witness a confession made by the parties in open court not to be cross examined. The witnesses sent by the judge to witness the actual oath taking and the witnesses sent by the judge to ascertain the boundaries of a piece of land on which evidence has been given by some other witness or witnesses and the like shall also not be cross examined.

6. If an expert gives evidence in support of a claim either about a document or a thing the evidence shall be admissible under the Islamic law. Such a piece of evidence if given on a document the document itself must be produced before the court. No evidence can be given on a document without the production of the document before the court. The expert can give evidence on any matter orally before the court. Two experts may be produced to give evidence on a subject matter in dispute. The general accepted procedure, however, is to call one expert. Any fit and proper person including a non-Muslim may be called to give expert evidence. Where the expert cannot present himself physically before the court due to either ill health or for any strong reason which would make it impossible for him to appear in person the report on the matter shall be admitted in evidence by the court. The evidence of an expert can be challenged through cross-examination as to the extent of the expert's knowledge on the matter he has reported on. The expert can also be impeached that he has not given truthful testimony.
7. The judge shall give judgment in favour of the plaintiff if the judge is satisfied that the plaintiff has furnished him with sufficient evidence to support his claim, that is to say, he has produced two unimpeachable male witnesses or one male and two female witnesses or only two female witnesses in a matter which women have peculiar knowledge, for example, evidence on a child alleged to have been born alive. As a general rule no court shall base its decision on the evidence of one single female witness.
8. If the evidence in favour of the plaintiff does not satisfy the full requirements of the Islamic law, for example, in cases of dispute on a property where two witnesses are required, but only one gives evidence, the judge shall require him to take an oath in order to satisfy the requirement of the law. If the plaintiff agrees and takes an oath the judge shall enter judgment in his favour.

If he refuses to take an oath, the judge shall request the defendant to do so. If the defendant takes the oath the plaintiff's claim shall be dismissed. If however, the defendant himself refuses to take oath the judge shall enter judgment in the plaintiff's favour. (According to a maxim in Islamic civil procedure, whenever a litigant is asked to take an oath and if he refuses, the judge shall ask his opponent to take the oath in order to establish his case or absolve himself. If he too declines to take the oath the act of refusal by the opponent shall be construed as an admission by him of the first litigant's claim).

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9. If the plaintiff produces no credible witness to support his claim or he informs the court that he has no witnesses to produce in order to testify on his behalf, the judge shall ask the defendant to take an oath in order to rebut the claim. If he takes an oath he will be discharged and the claim of the plaintiff shall be dismissed. If however, the defendant refused to take an oath the judge shall offer the oath taking to the plaintiff and if the plaintiff takes the oath, judgment shall be entered in his favour. If the plaintiff declines to take the oath after it has been ordered to him that will be the end of his case and the claim shall be dismissed.
10. (a) Where the judge observes that each one of the opposing parties can be taken to be a plaintiff by the nature of the litigation e.g. where each one of them claims that he owns the subject matter in dispute e.g. a house, a farm, a piece of land, animals, clothing and house belongings which are suitable for the use of both male and female, in such situation, the judge shall look and see in whose possession is the subject matter in dispute, [if] it is in the parties' possession jointly, or in the possession of an independent person or in the possession of one of them. In all these circumstances the judge shall require each one of the litigants to produce his evidence. Anyone of them who can support his claim by evidence shall be given judgment in his favour and the whole subject matter in dispute shall be given to him. The judge shall dismiss the claim of any party who fails to support his claim with evidence.
- (b) Where both litigants support their claim with satisfactory evidence, the judge shall test the weight to be given to the evidence of each witness by finding which one of the parties' witnesses have given a more credible evidence. The judge will require that party to take an oath, as to the truth of his claim and then give judgment in his favour. A factor which is determined in establishing the evidence which carries more weight, is the consideration of length of history in which a witness knows the subject matter. The number of witnesses has no bearing to the weight to be attached to the evidence.
- (c) Where the judge tests the weight to be given to the evidence of each party and finds the weights of their evidence to be equal and none has more weight than the other in terms of credibility, in such a case their evidence will have to be discarded completely. They will be regarded as if they have told the judge at the beginning that they could not produce witnesses. In these two situations where the weight of evidence is proportionately the same and where from the start each one of the parties cannot produce a witness, the judge shall find out which of the parties in dispute is in possession of the subject matter, and give more consideration to that party. It can serve as cogent evidence for a party according to Islamic principles of law, if at the time of the dispute he is in possession of the subject matter. For this reason the judge shall require him to take an oath. If he takes an oath the judge gives judgment in his favour and dismiss the claim of the other party. If he fails to take an oath the judge then shifts the burden to the other party who is not in possession of the subject matter in dispute. If he takes the oath the judge shall give judgment in his favour. But if he fails to take an oath he forfeits his right, the judge will then give judgment in favour of the first

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party who refuses to take an oath and who is in possession of the subject matter in dispute (See Order 8 of these rules).

- (d) Where the judge finds that the subject matter in dispute is in the possession of both parties or that it is not in their possession [but] of someone else or that it is not in the possession of anybody, if the weight given to the parties' respective evidence in terms of credibility are on an equal basis or that none of the parties can produce any evidence, then, in these circumstance the judge will require each one of them to take an oath to support his claim. If all of them take an oath or all of them fail to take an oath the judge shall give judgment in their favour jointly and share out the subject matter in dispute between them. If, however, one of the parties declines to take an oath his right of claim is forfeited; the judge shall dismiss his claim and enter judgment in favour of the party who takes an oath.
11. If the claim brought before a judge is a suit against a deceased person's estate, or against someone who is away and his presence is impracticable, or is an infant or a lunatic, or the matter concerns an endowment right on the claimant, even if he can establish his claim by producing evidence without the judge directing the claimant to take an oath in addition to the usual practice. This is what is known as *yaminul kada'l*, the oath of payment. Once he takes an oath the judge shall give judgment in his favour. But if he declines to take this oath his claim is forfeited.
- A judgment debtor who is unable to settle his judgment debt whose poverty is proved by evidence, the judge will ask him to take an oath of *yaminul kada'l* before discharging him. The judgment debtor takes an oath that he has no means whatsoever to settle the debt and that whenever he acquires the means he will settle the judgment debt.
12. If the complaint brought before the judge is a matter concerning a claim based on strong suspicion made by the plaintiff against the defendant demanding some rights, the judge shall require the defendant to take an oath. If he takes an oath he is absolved. If he refuses to take an oath judgment shall be entered in the plaintiff's favour. The procedure of offering the oath to the plaintiff shall be exercised here. An example of such a case is where a suit is brought against a person entrusted with property like a shepherd or a businessman or a safe-keeper or storekeeper or a messenger, and the trustee reports that the entrusted property has got lost, but the owner of the property strongly suspected the trustees of negligence, mischief or misappropriation in causing loss. Such persons as are mentioned above are required to take what is called an oath of accusation before they are absolved. If such persons refuse to take oath the judge shall order them to settle the claim.
13. If a case becomes complicated or is a dispute between relatives or between important personalities which in the observation of the judge may result in disturbances of the peace or enmity the judge shall call upon the parties to submit to arbitration. If they agree to settle their matter out of court the judge will confirm such a settlement as agreed upon by the parties. None of the parties afterward can undo the settlement reached. Because it has already become a court judgment. But if they are unable to settle the matter out of court the judge shall continue with the

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case between them in the normal way and in accordance with the provisions of Islamic Law.

14. If the claim brought before a judge is not a claim for money or money value; for example, a marriage suit (not relating to inheritance) or divorce or Khul'1 or on cruelty to a wife or affinity (not relating to inheritance) or on manumission, in all these cases a claim cannot be substantiated unless male witnesses are produced. If the plaintiff fails to produce two male witnesses his claim cannot stand and the judge shall dismiss his claim. The defendant shall not be required to take an oath for this purpose.
15. In claims concerning matters in which males normally have no dealing or concern with, such as an allegation that a baby is born alive and that he cries after birth or an allegation that the period of menstruation has been observed or child delivery or a claim on conception or miscarriage or vaginal defect and the like, the evidence of two female witnesses are sufficient to establish the claim. And if the plaintiff produces two female witnesses who gave evidence on his behalf, judgment shall be given in his favour.

PRESCRIPTION (HUZI)

16. (1) If the claim brought before the judge is in respect of land ownership and the defendant has already been in possession of the land, for example a farmland or a house, the judge shall first take into consideration the rules governing prescription. If the party in possession of the land deals with it in all manners just like the owner for example, he demolishes it and rebuilds it or plants and harvests in it showing complete ownership like his personal property, the judge shall not entertain the claim of the other party if the judge is of the opinion that the period of prescription required by law has expired, provided that the original owner is present and has remained passive, making no claims and has not shown any reasonable cause which prevented him from doing so throughout the period of prescription.

The rule governing prescription is detailed below:

- (2) As a general rule the period of prescription under Islamic law is ten years. However, there are exceptions to the above rule as follows:
 - (a) Parties who are related through affinity or who are in-laws through marriage or who have joint ownership over the land in dispute, the period of prescription is forty years.
 - (b) In a situation where the parties are made up of men and women, a woman's right will not be forfeited however long her male relatives have been in possession of the jointly owned land.
 - (c) Relatives who are not on good terms with one another, the limited period of prescription for each one of them is ten years. This is an exception to the rule in (1) above.

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- (d) A party made up of a son and his father. The period of prescription will continue for a very long period of time up to sixty years (60).
- (3) If a party is silent over his right and does not ask for it until the period of prescription expires and later claims that the party in possession of the land is holding it on loan or for iskani (lodging) or for tenancy for life (ta'amiri) or on tenancy, his right of claim is not forfeited. The judge will investigate the claim and require proof from him by producing evidence. If he can establish his claim by adducing evidence the judge will enter judgment in his favour; but if he fails to establish the claim the judge shall require the defendant to take an oath in order to absolve himself.
- (4) If a party in possession of the land makes a counter-claim that he has bought it from the plaintiff or that he obtained it as a gift from the plaintiff the counter-claim shall be considered as proof provided that he takes an oath. The plaintiff shall not be allowed to call evidence in order to establish that the defendant has obtained possession through a loan or a tenancy once the period of prescription has expired. The expiration of the period of prescription is regarded as evidence for the party in possession of the land.
- (5) If the period of prescription has not expired as in the situations mentioned above, the plaintiff is still within time and can claim his rights. In these situations the judge will take cognisance of his claim and make an investigation accordingly. The judge shall give judgment either in favour or against the plaintiff depending on the provision of the rules of Islamic Law.
- (6) If the party in possession of the subject matter in dispute acquires it through confiscation or through the influence of any person in authority he can [sic: cannot] obtain ownership through prescription however long the period of possession. The other party is at liberty to seek his right from him at any time. If he can establish his claim with evidence the judge can give judgment in his favour. If on the other hand the other party cannot establish the claims, the party in possession shall be required to take an oath in order to absolve himself. Whoever knowingly buys a property or obtains it as a gift from someone whose property has been acquired through confiscation, the decision on his case shall be the same as that of confiscator. Likewise whoever knowing that the property in his possession, in fact belongs to the plaintiff at the time he acquires [it cannot (?)] later claim its ownership through prescription.
- (7) If a claim before the judge is in respect of animals or clothes the judge is to take into account the duration or the extent of the prescriptive period imposed by Islamic law on them. The prescriptive limitation between parties who are unrelated through blood in respect of used clothes is one year. If the clothes are unused the limitation period is two years. The limitation period is two years in respect of animals. The limitation period in respect of animals or durable goods like carpets in cases where the parties involved are related by blood shall be ten years.

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- (8) If a person sells, or gives out as a present or on charity any property belonging to the claimant while the claimant is present and has the knowledge that the property is being interfered with but keeps silent, the judge will not entertain his claim should he afterwards sue on the property. The law will regard him as having slept on his right. Before if he claims for the proceeds of sale the judge shall take cognisance of his claim.
17. If a complaint brought before the judge concerns a dispute on pregnancy or child legitimacy, it is necessary for a judge to pay attention to the provision of the law about the minimum and maximum periods of pregnancy. The minimum period of gestation is six months while maximum period is five years. For the above reasons:
- (i) If a husband divorces his wife and if she does not remarry after the completion of the *iddah* period, and then gives birth to a child within five years of the divorce and she attributes the child to her former husband who had earlier divorced her, the judge would declare the child to be that of the former husband.
 - (ii) If a husband divorces his wife and she completes her *iddah* period after which she contracts another marriage with a second husband who has co-habited with her and after which she gives birth to a child before the completion of six months from date of her second marriage, the court would declare the child to belong to the first husband. The marriage of the second husband shall be dissolved, as it would appear that it was during the pregnancy period that the second marriage was contracted. But if she delivers after six months or more, the child would be declared to be that of the second husband and the marriage valid.

LPAN

18. (1) If a person finds his wife in a state of pregnancy or finds that she has delivered a child or finds her in the act of committing adultery and intends to disown the pregnancy or the child or intends to make a case that she has committed adultery the law will allow him to dispute the ownership of the pregnancy or of the child or of defamation of adultery against his wife by taking an oath of *li'ani* and that the oath must be based on good reasons. A person can at any time be allowed to take an oath of *li'ani* in order to disown a child or pregnancy: whether the marriage is still in existence or not; whether the wife is passing her *iddah* or not, whether she is alive or dead and whether the child is alive or dead. But the law will not allow a husband to take the oath of *li'ani* in order to disown a pregnancy until he proves that after the wife's delivery he has had no sexual intercourse with her; or that after she has observed her menstruation period after which he finds her with pregnancy or a child he has had no sexual intercourse with her. However, if the second child is delivered within six months after the delivery of the first child the former shall be regarded as a twin of the latter, and the father could not disown him.
- (2) If a person marries a woman and she delivers a child within five months and twenty four days after consummation, the child could be disowned by the

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husband automatically, without undergoing any *li'ani* oath. This is because the child has been born within the period of gestation.

- (3) If a person divorces his wife and she remains unmarried and then after the lapse of five years she gives birth to a child such an issue could be disowned by the husband without necessarily taking an oath of *li'ani*.
- (4) If the husband of a wife is a young person who has not reached the age of puberty or is a person whose penis has been cut off or when the marriage was contracted both the husband and the wife living in different places far away from each other and that there is no possibility of their getting together at all even secretly, and yet the wife becomes pregnant and claimed that the pregnancy belongs to the husband such pregnancy can be disowned without resorting to the *li'ani* oath.
- (5) If a wife delivers a child becomes pregnant or commits adultery with the knowledge of the husband and yet he afterwards has sexual intercourse with her; his right for *li'ani* has been forfeited. His right for *li'ani* shall also be forfeited if he delays an application for *li'ani* without any justifiable reasons for two days after his knowledge of the disputed delivery or conception.
- (6) The case of *li'ani* cannot be entertained anywhere except in an open court before a judge who will adjudicate in the matter. Thus if a wife and her husband agree to settle a case of *Li'ani* out of court such an act is regarded as illegal and void.
- (7) When a judge passes judgment of *li'ani* on a husband and wife they will be required to take an oath at Juma'at Mosque if the couple are both Muslims. But if the wife is a Christian or Jew, she will be taken to a place she regards as sacred to take her oath there. It is essential that the *li'ani* oath is taken in the presence of people of unquestionable integrity whose number should not be less than four persons. It is desirable that the *li'ani* oath should be taken in the late afternoon. It is also desirable that prior to the administration of the oath of *li'ani* those who are to take it should be admonished to cause them fear of Allah so that they may decline from taking the *li'ani* oath.

When the husband and the wife agree on taking the oath, each one of the couple will swear five times. As regard to eye witnessing an act of committing adultery the husband will testify saying, "I bear witness and swear by Allah that I indeed saw her committing adultery." He repeats this four times. As regards to disowning pregnancy he will also testify saying "I bear witness and swear by Allah that I have not put her in a family way". He repeats this four times and then concludes with the fifth oath saying, "Allah's curse be upon me if I am a liar." The wife then takes an oath in respect of an allegation labelled against her for committing adultery saying, "I bear witness and swear by Allah that he has not seen me committing adultery". She repeats this four times. As regards to disowning pregnancy she will testify also saying, "I bear witness and swear by Allah that he has put me in a family way". She repeats this four times and then concludes with the fifth oath saying, "Allah's wrath be upon me if my husband is truthful".

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- (8) The husband shall be asked to take the oath first and if he declines to do so the pregnancy will conclusively be attributed to him, and he will be given eighty lashes as *badd* punishment for imputation of adultery to his wife. If he takes the oath he will be absolved against defamation and the pregnancy of the child will not be attributed to him. The wife will then be liable for punishment for adultery if she refused to take an oath. After the husband has taken the oath the wife will be requested to take the oath. If she takes the oath she will be absolved from the allegation of committing adultery and her marriage with the husband will be declared dissolved and she will be prohibited from marrying him forever. If at the beginning the husband refuses to take the oath but later comes back and says he agrees to take it he will not in that circumstance be allowed to do so. But if it is the wife who refuses to take the oath but later agrees to take it she will be allowed to take it so as to clear herself from the allegation of committing adultery, as her first refusal is regarded as an admission made by her that she has committed adultery. This is because whoever makes a confession for committing adultery but later decides to withdraw his confession the law will allow him to do so.
- 19 (1) The mode of taking the oath for confirming a right or for refuting an allegation is given in the words *Billabil lazji la Ilaha Illa Humu*. No matter of the faith swearer whether a Muslim, Christian, Jew or Pagan. If a civil claim amounts to a quarter of a dinar or three dirhams or an estimated value of one of them it is necessary that the person taking the oath must take it in the Jum'at Mosque and at the time of taking it he must be standing and facing *al-kibla*. If one of those conditions is missing the oath is incomplete and must be repeated[. The person] against whom the oath is to be taken can allow it to be taken outside the mosque (in court). While taking the oath Muslims hold the Holy Qur'an. Christians and Jews hold their Holy Books, Pagans hold the objects they respect as holy. Any swearer takes the oath in the place of worship which he regards as sacred. A Jew will have in addition to the above-mentioned mode of oath, the following words, "The Lord who revealed the Old Testament to the Prophet Moses (may peace be upon him)". The Christian will also add the following words: "The Lord who revealed the New Testament to Jesus (may peace be upon Him)". If a civil claim does not amount to a quarter of a dinar or three dirhams, the judge can order a person to take the oath anywhere, without necessarily going to a place of worship.
- (2) If a judge orders one of the parties to take an oath, that party takes the oath in the presence of the other party against whom the oath is to be taken. If the party against whom the oath is to be taken refuses to be present at the place of taking the oath to witness its performance the judge shall appoint two male witnesses who will watch the oath taking and the witnesses will be required later to testify in open court that the oath was in fact taken. Any reason or ground forwarded by the other party to reject the oath later will not be accepted.
20. In Islamic law for the court to accept the evidence of a witness he must have the following qualifications: He must be of unquestionable integrity, Muslim, adult, sane

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not a slave and not one who is heretical of the accepted doctrines of Islam and he must be a conscious man.

21. If a cause of action brought before a judge is a matter regarding inheritance (distribution of estate), it is necessary for a judge to make a full inquiry [into] five matters before he starts to distribute the estate. These are:
- (i) He must confirm the death of the deceased person whose estate is going to be distributed;
 - (ii) He must inquire into affinity of each of the legal heirs in relation to the deceased;
 - (iii) He must confirm the deceased's exclusive ownership over the estate;
 - (iv) He must inquire whether the deceased owes any debt; and
 - (v) He must inquire whether the deceased made any will.

Debt settlement comes first before the distribution of the estate. If any will is made by the deceased it will be complied with. But if the will is in respect of property it must be satisfied from one third of the whole estate only. A will cannot be made on the estate in favour of a person who is himself a legal heir.

22. After the judge has taken all the proceedings i.e. the parties have been heard and witnesses have given evidence and they have been cross-examined, it is necessary for the judge to give a chance to the party against whom judgment is to be passed by asking him whether he has something more to say for his defence before judgment is passed. If he says he has nothing more to add for his defence the judge calls one or two persons to testify that a chance of defence has been given to that party. Then the judge can pass his judgment.

But if the party says that he has something more to say, the judge shall allow him to say more and shall continue with the proceedings. After the hearing the judge will again request that party to state any thing more in his defence as before, and then the judge gives judgment.

23. If a judge finds that the aforementioned rules do not cover or adequately cover any Islamic procedure in any particular case, such judge shall be at liberty to apply any other rule of Islamic procedure which he considers appropriate to the case before him.

ANNEX B

PROCEDURE ON ISLAMIC CRIMINAL LAW OFFENCES UNDER ISLAMIC LAW

The position of Islamic law on enforcement of punishment [is] aimed at preventing the accused from committing further or similar offence and deterring others from drawing near such offence. Islamic law legalises the punishment of an offender for an offence to which no defined or standard punishment had been prescribed. This is known as *ta'azir* (correctional punishment). Under this type of punishment a judge is allowed to use his

discretion in awarding appropriate punishment where the offence does not warrant *badd* punishment.

Rationale behind *badd* punishment: The reason behind *badd* punishment is to prevent the vandalisation or destroying all those things recognised by all revealed religions on the need to protect them such as lives, religion, sanity, wealth and property.

The following are the essence of *badd* punishment:

- (a) Revenge execution of death sentence, prevent occurrence of homicide and bodily injuries.
- (b) Amputation of a thief's hand is a protection of wealth of others.
- (c) Stoning to death or caning adulterer purifies affinity.
- (d) The punishment for an alcoholic protects sanity.
- (e) Punishment for defamation is a protection of integrity.
- (f) Punishment for apostasy guards against religious abuse.

Offences and the Procedure to be Followed in Proving their Commission

There are seven types of criminal offences under Islamic law (Sharia) and each has a procedure to be followed in proving its commission before sentence.

1. Qisas

a. Homicide

The rule is that a person shall not be sentenced to death unless under the following circumstances.

i. There must be two reliable male witnesses: evidence of a single male and two females are not sufficient to convict in homicide cases. But such evidence is enough in payment of compensation provided there is no contradiction in the evidence of the two witnesses as to how the killing occurred.

Example:

Where one of the witnesses said "I saw him burn him" and the other witness said "I saw him slaughter him" if the suspect denies this, the punishment cannot be carried out provided the representatives of the person killed have accepted the evidence of the two witnesses above.

But where the representatives accept the evidence of only one of the two witnesses, then they will swear (*gasama* oath) and the suspect will be executed. This is because both the suspect and the complainants did not accept the evidence of one of the witnesses.

But where the accused confessed that he had slaughtered the deceased but the complainants are convinced on the evidence that said the deceased was burnt, if in the opinion of the judge the evidence carried weight, they will be asked to swear and based on this evidence the accused will be burnt in accordance with the view that *qisas* can be carried out on a person by way of burning him if the death he caused was by fire.

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Where however, the other evidence that said the deceased was slaughtered corroborated with the confession of the accused, then he will be asked to swear and will then be slaughtered.

ii. Where the accused person confessed the commission of the offence provided he is sane, and not an infant, then the sentence will be carried out.

iii. By way of *qasama* oaths:

- (a) Where the deceased made a dying declaration (*lausi*) i.e. where the accused [sic: deceased] before his death named somebody as the one who killed him.
- (b) Where there is one witness who witnessed the killing of the deceased by the accused.
- (c) Where there are two witnesses who testified that the accused caused injury that resulted to the death of the deceased.

In all these circumstances the accused will be killed.

Procedure for *qasama* oaths

This oath (*qasama*) is initiated where the person wounded made a dying declaration before his death. There are seven conditions to be satisfied before an accused can be sentenced to death under this procedure.

1. That the complainant alleges that it is the accused that killed the deceased with convincing evidence of one witness where the accused did not confess.
2. That the person killed is not a slave.
3. That the person killed is a Muslim.
4. That the complainants allege killing not injury.
5. That the complainants allege intentional killing.
6. That all the complainants have attained puberty.
7. That they are all sane.
8. That all complainants demand the revenge of the death of the deceased.
9. There should not be less than two complainants alleging intentional killing.
10. That along [with] their allegation there are other things to support their allegation such as evidence of one reliable person who saw when the deceased was killed or saw the deceased lying in a pool of blood while the suspect was still near him with an indication that he indeed did the killing.
11. That the complainant(s) must swear fifty (50) times before retaliation. It's the same oath if they are asking for compensation on an unintentional killing.

Exception

Qasama oaths cannot be administered in the following cases:

- (a) Where retaliation of injury is demanded if there are two witnesses on intentional injury, in this case retaliation is allowed.

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If it is unintentional then compensation is allowed. But where there is only one witness, the complainant(s) should swear to qualify to receive compensation if the cause of the injury occurred by mistake. But where it is intentional, *qasama* oath will be administered and revenge effected.

- (b) There shall be no *qasama* oaths for a slave and a non-Muslim.
- (c) There shall also be no *qasama* oaths where the deceased is found in between two congregations, one of Muslims and the other for non-Muslims and the killer not identified.

Prove

To secure conviction the following must be proved:

- (a) That the accused is sane and not an infant.
- (b) That he is not an enemy of war.
- (c) He is not a slave.
- (d) He is a Muslim.
- (e) He indeed beat the deceased to whom he was not father.
- (f) That deceased is not the one who is legally permitted to be killed.

2. Robbery (*birabah*)

This is to mount a roadblock in order to forcefully confiscate the wealth of others, in such a way that it will be difficult for:

- (a) A victim to escape;
- (b) Or to use anything that will terrify a person for the purposes of taking away his belongings;
- (c) Or to deceive an infant by taking him to a strange place to kill him in order to take away what he possesses;
- (d) Or to stay in the night or day time in a hidden place for the purposes of confiscating other people's wealth forcefully or killing another person instantly without his knowledge. The punishment for any of these is that the accused should be killed.

But where the accused did not kill his victim, the judge has discretion to order for any of the following:

- (a) To kill him; or
- (b) To kill him and then crucify him;
- (c) Or to amputate his hand and leg diagonally in order to restrain him;
- (d) To banish him.

3. Adultery

The offence of adultery can only be established:

- (a) Where the accused confessed the commission of the offence and did not retract up to the time he is to be executed.

- (b) Presentation of four reliable witnesses that witnessed the penetration of a male organ (penis) into the female organ (vagina) at one act. Where three out of the four witnesses testified the above but the other one witness did not, the three witnesses will be subjected to punishment for defamation.
- (c) The existence of pregnancy on an unmarried woman will subject her to *hadd* punishment even if she alleges that she was compelled unless if:
 - (i) she produces at least one reliable witness who testified that he saw somebody forcefully carrying her away;
 - (ii) or that he saw her crying holding whosoever she alleges had sexual intercourse with her; or
 - (iii) he saw her bleeding (from her private part).

In all these three circumstances she will not be subjected to *hadd* punishment for adultery.

Conditions to prove adultery

The punishment for adultery can only be enforced if the following conditions are satisfied:

- (1) That the accused is a matured person.
- (2) He is sane.
- (3) He is a Muslim.
- (4) That the offence is voluntarily committed.
- (5) That the offence was committed on or with a human being not an animal.
- (6) That the female co-accused is up to the recognised age for such cohabitation.
- (7) That the male co-accused must not have any claim or right over the female he was accused with or that he knows that the sexual relationship with her is prohibited.
- (8) That the female is not an enemy to the accused or a trusted unbeliever (under a treaty).
- (9) That the female with whom the offence was committed must not be dead.

4. Stealing (*sariqab*)

Dishonestly taking away the property of another without his knowledge with intention of depriving him of it.

a. Punishment of stealing

The punishment for stealing is *hadd* punishment by way of amputating the hand of the accused from the wrist, if the following conditions are satisfied. Amputation for stealing can only take place if:

- (i) That the accused is sane.
- (ii) That he has attained puberty or reached the age of 18.
- (iii) He is not a slave of the person he steals from.
- (iv) He is not a father to the person he steals from.

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- (v) The stealing must not be out of necessity such as hunger.
- (vi) That the property must be the type that can be lawfully sold.
- (vii) That the property stolen must not be in possession of the accused such as stealing his mortgaged property or stealing something equivalent to his due for a service rendered to his employer.
- (viii) That the property stolen must be up to the measure of $\frac{1}{4}$ of dinar or 3 dirhams or their naira equivalent.
- (ix) That the property stolen is kept in a place suitable for its custody such as a house, shop or on an animal or ship. It must not be placed where custom does not permit.
- (x) The property must have been removed from its original place of custody.
- (xi) The property must be stolen not confiscated.

b. Justification for carrying out the punishment

- (i) Right of Allah (SWT). It's a divine injunction that a thief's hand be amputated from the wrist of the right hand. If he repeats, the left leg will be amputated. If he repeats further his left hand will be amputated. If he commits it further, his right leg will be amputated. If he repeats further he will be beaten and detained.
- (ii) Right of individual. It is the right of the individual whose property was stolen to be compensated.

c. Conditions to prove stealing

- (i) Confession by the accused; or
- (ii) Presentation of two reliable male witnesses where a male and two females are presented or only one witness and oath, they are sufficient for payment of compensation.

5. Intoxication

Voluntary consumption of a substance by a Muslim, which leads to the loss of senses.

i. Prove for the offence of intoxication

(a) Presentation of witnesses that saw the accused while drinking alcohol or that smelled it. The witness must be one who knows what is alcohol. Evidence of one witness is sufficient.

(b) Confession by the drinker.

ii. Punishment

He will receive 80 strokes of cane if he is not a slave. If he is a slave he will receive 40 lashes.

iii. Conditions for proof

There are seven conditions to be satisfied before the punishment can be carried out on a drinker:

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- (a) He must have attained puberty or reached the age of 18.
- (b) He must be a Muslim.
- (c) He must be sane.
- (d) That the drinking was not for any reason or condition.
- (e) He knows what he drunk was alcohol.
- (f) That the drinking was voluntary.

iv. Procedure for punishing a drunken person

The lashing is done with a moderate cane that is neither soft nor hard. The accused will kneel down and will not be tied. He will be beaten on his back and shoulder but if he refuses to stay at one place, he can be tied up so that he can feel the effect of the beating.

Woman can be beaten on a wrapper that will not prevent her from feeling the pains of the beating.

A drunkard will not be caned until he regained his senses so also a sick person until he recovered. Similarly, lashing cannot be effected during a hot or a seriously cold weather for fear of the life of the accused.

The executioner must hold his fingers tied leaving second to the last and last fingers free (not stretched them) advancing his right leg and suspending his left leg then bend his forefinger up to the palm and then place his thumb on the cane to hold it while beating.

The cane described by Sheikh Jazuli should be made from single leather not two and should be soft.

6. Apostasy (*ridda*)

This is renunciation of Islam by a Muslim. The punishment is execution by death after the accused had been given 3 days to re-embrace Islam and he refused. He will be killed as unbeliever, with no funeral or bath and will not be buried in a Muslim's burial ground.

7. Defamation (*qadhf*)

This is to attribute to a person regarded as a complete gentleman, Muslim, adult or a virgin of marriageable age that they are adulterers or that they have no affinity or that they are a product of adultery, etc.

There are certain conditions that a person defamed should satisfy:

- (i) That he is a Muslim.
- (ii) That he is not a bastard and not a slave.
- (iii) If the defamation suggests the denial of affinity he must prove that he is an adult, sane, of good behaviour and possesses male organ, if the defamation is to the effect that he is an adulterer.

Punishment

If these conditions are satisfied, or proved by way of evidence, the defamer will be given eighty strokes of cane.

ANNEX C

TA'AZIRATU (CORRECTIONAL PUNISHMENTS)

Under Islamic law, there are no specific provisions regarding *ta'azir* punishment. It has not limited the extent of punishment to be awarded to an accused person, unlike *hadd* punishment for intentional murder or payment of compensation.

Example:

- Islamic law has prescribed as punishment for alcoholism, 80 strokes of cane.
- The killing of one who kills another intentionally and a revenge where injuries are inflicted, provided it did not amount to killing the accused.
- Islamic law has also stipulated how the payment of compensation is done.

On the other hand, Islamic law had identified certain offences that require correctional punishment and had vested powers to prevent or deter the commission of certain acts or to enforce the performance of certain things on the leaders for the purpose of protecting the rights of others and the right to live in peace etc.

Provided that those things prevented or enforced are not those that are prohibited or mandatory under Islamic law or renown aspect of it or a principle of Islamic law.

The rule is that punishments are classified according to offence. It starts punishment from a lesser to a most grave punishment and vested in the judge the discretion to punish the offender commensurate to his offence.

This rule does not apply where there exists a limit on the discretion of a judge to choose the type of punishment to be awarded on the offence or that the judge suggests a punishment which in his opinion is the type of punishment for what he perceived as an offence. A judge can only be permitted to enforce the punishment where the offence is established or where there has been prescribed, for every offence some punishments from which the judge will choose one and punish the offence based on it

There is also nothing that prevents *ulul-amr* (Muslim leaders) from prescribing punishment of lesser magnitude while prescribing, which the judge must follow in awarding punishment.

REFERENCES¹

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Al-Tashri'u al-Jana'i al-Islami vols. 1-2
Qawaninal Fiqhiyyah by Ibn Juzayy
Al-Abkam al-Sultaniyyah by Abi Ya'la
Al-Abkam al-Sultaniyyah [by Mawardi]
Ihkamul Abkam commentary on *Tuhfa*

¹ For further information on the works listed here see the "Bibliography of Islamic Authorities", Part IV of Chapter 6 of this work. The short titles given here are as in the bibliography.

ANNEX D

[On the campaign of mass publicity: first page of Annex D missing from source.]

d. **SUNDAY PHONE-IN PROGRAMME**

Programmes should be scheduled and conducted on Sharia for the next two months. The composition of the participants is as follows:

- i. 2 malams
- ii. 1 lawyer
- iii. 1 representative of the State Government

The participation should be on rotational basis.

e. **ENGLISH PROGRAMME**

The station should arrange 30 minutes English programme on Sharia.

f. **FILATANCI**

The station should arrange to incorporate the issues on Sharia in its *filatanci* programme for the benefit of the Fulani who cannot understand either Hausa or English.

2. **NIGERIAN TELEVISION AUTHORITY, SOKOTO**

a. **Discussion Programme**

A 30 minutes discussion programme on Sharia should be scheduled and conducted by the station in Hausa and English.

3. **NATIONAL NEWSPAPERS**

Articles on general issues of Sharia should be produced and published from time to time in the following national papers;

- i. New Nigerian
- ii. Weekly Trust
- iii. Guardian
- iv. A Yau
- v. The Path

The essence is to promote awareness and understanding on the issues of Sharia and its guiding principles.

4. **WORKSHOPS**

The workshops are designed to enlighten and re-orient the lawmakers, policymakers and public officers on issues of Sharia and its importance as a complete way of life for a Muslim. The workshops should be scheduled as follows:

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1. His Excellency and some individuals of his choice can arrange a designated venue and time together where the chosen lecturers can conduct the workshop for them.
2. **CATEGORY A**
Participants – Hon. Commissioners/Special Advisers and Permanent Secretaries only.
3. **CATEGORY B**
Participants – State Legislators only
4. **CATEGORY C**
Participants – Local Government Chairmen & Local Government Secretaries only.
5. **CATEGORY D**
Participants – Heads of State Parastatals
6. **CATEGORY E**
Participants – Directors in the State Public Service
7. **CATEGORY F**
Participants - Women
8. **CATEGORY G**
Participants – Trade Unions

TOPICS:

- i. Muhimmancin Shari’ar Musulunci a rayuwar Musulmi
- ii. Shugabanci a Karkashin hukumar musulunci
- iii. Tabbatarda adalci a cikin al’ummar musulmi
- iv. Kauda zalunci da cin rashawa a cikin al’ummar musulmi
- v. Muhimmancin Shawara da nasiha ga shugabanni
- vi. Muhimmancin da matsayin ilmin addinnin musulunci ga shugabanni
- vii. Koyi da halayen Manzon Allah Annabi Muhammadu (SAW)
- viii. Tsare lokuttan ibada da na mu’amala
- ix. Yiwuwar aiwatar da shari’ar musulunci a karkashin tsarin mulkin Nijeriya
- x. Abubuwan da ya kamata gwamnati tayi kamin zartarda shari’ar musulunci.

LECTURERS:

- (a) Prof. A. A. Gwandu
- (b) Dr. Sambo W. Junaidu
- (c) Alh. Abdullahi Maccido, Grand Kadi
- (d) Sheikh Sidi Attahiru Ibrahim
- (e) Ujmaru Dahiru Esq.
- (f) Ustaz Muhammad Mansur Ibrahim
- (g) Justice M. H. Binji
- (h) Ustaz Muhammad Isa T/Mafara

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- (i) Ustaz Mode Abubakar
- (j) Ustaz Sidi A. Sidi

5. **SEMINARS**

Seminars should be scheduled and conducted to enlighten the general public on the issues of Sharia and its importance in our society. The seminars are widely open to the general public.

THEME:

Dacewar Shariar musulunci ga kowace al'imma a inda anka fito da inda ake yanzu da inda anka do sa.

- i. Shariar musulunci, manufofinta da fifikonta akan sauran Shari'o'in zamani.
- ii. Laifukan da suka cancanci haddi da matakan da Alkali ya kan dauka kamin kai ga zartadda hukuncinsu.
- iii. Tattauna laifukan da ake wa horon tsawatarwa da kuma hikimar iyakance wadannan laifukan ga horon ta'azir kawai.
- iv. Matsayin wadanda ba musulmi ba a karkashin hukumar musulunci.
- v. Matsalolin hulda da kuma yin kara tsakanin musulmi da wanda ba musulmi ba, tare da hanyoyin walwale wadannan matsaloli.
- vi. Yancin dan adam a karkashin hulumar musulunci.
- vii. Muhimmancin zakka ga al'ummar musulmi da wadan da suka cancanta a baiwa.
- viii. Yanayin da ya kamata hukuma ta samar kamin zartadda hukumcin Sharia akan al'ummarta.
- ix. Gudummawar al'umma ga hana ayukkan assha.
- x. Bayanin shugabanni magabata da suka shahara da aikata adalci a lokacinsu da yadda ko yaushe aka tuna su ana kuma yi musu addu'a ta alheri.
- xi. Manufar siyasa da tsarinta a musulunci
- xii. Matsayin majalisan shawara a Shariar musulunci da gudummawar yan majalisa don kare Shariar musulunci
- xiii. Matsayin zartadda hukunce-hukunce da ba na musulunci ba akan al'ummar musulmi
- xiv. Alhukkan mata a cikin musulunci
- xv. Tarbiyar duya a cikin musulunci
- xvi. Muhimmancin tattalin arziki da kuma dogaro da kai a musulunci
- xvii. Dangantakar dauloli a tsarin mulki na musulunci
- xviii. Muhimmancin abubuwan da tsarin mulki na musulunci ya kunsu
- xix. Matsayin mata musdulunci a siyasar zamani
- xx. Gudummawar limmaman masallatan jumu'a wajen ilmantadda al'ummar musulmi da hadin kan su.
- xxi. Kasuwanci a cikin musulunci
- xxii. Masana'antu da bankuna a cikin musulunci

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xxiii. Yiwuwar aiwatarda Shari'ar Musulunci a karkashin tsarin mulkin Nijeriya

LECTURERS:

Prof. A. A Gwandu	Prof. Aminu Mika'il
Dr. Sambo W. Junaidu	Dr. Sule Ahmed
Sheikh Sidi Attahiru Ibrahim	M. Yahaya Na Malan Boyi
Ustaz Mode Abubakar	Dr. Dahiru Mohd Argungu
Ustaz Muhammad Mansur Ibrahim	Barrister Nuhu Adamu
Ustaz Sidi A. Sidi	Umaru Dahiru Tambuwal Esq.
Dr. Abdullahi Sifawa	Yahaya Mahmood Esq.
M. Abdullahi Shehu Sokoto	Justice Bello Abbas
Dr. Umar Bello	Alh. Abdullahi Maccido, Grand
Dr. Jafar Makau Kaura	Kadi
M. Bello D/Malan	Hon. Kadi Abdulkadir Tambuwal
Ustaz Muhammad Isa T/Mafara	Hon Kadu Muhammad Dan Tsafe
M. Hamza Suleiman	M. Aliyu G/Kanawa
M. Sambo Yusuf	M. Mansur Saidu – Faculty of Law
M. Sani Umar Musa	M. Mohammad Mode Shuni
Dr. Umar Lab'do	

The Committee agreed that all Islamic Organizations in the State should be co-opted to assist and participate in the conduct of the public enlightenment and the schedules programmes.

6. WA'AZI

- The Statewide *wa'azi* was conducted at Shehu Kangiwa Square and more *wa'azi* should be encouraged by the Government.
- A national *wa'azi* should be conducted in Sokoto at a date to be determined by the government.
- Continuous *wa'azi* at Sultan Bello, Shehu mosques and other strategic places in the metropolis and at Local Government level should be encouraged by the Government.
- Wide incorporation of all preachers to participate is required.
- Workshops should be conducted by each Local Government comprising V/Chairman, Councillors, Directors, District Heads, Village Heads, Malams and other functionaries.

**REPORT OF THE TECHNICAL COMMITTEE ON
CONSTITUTIONAL PROVISIONS FOR THE APPLICATION OF
SHARIA IN KATSINA STATE**

January 2000

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VOLUME I: MAIN REPORT

CHAPTER ONE

Preamble

The Committee was inaugurated on the 20th October, 1999 by His Excellency, the Governor of Katsina State, Alhaji Umaru Musa Yar'adua, at the Council Chambers, Government House. In his inaugural address, the Governor gave four point terms of reference to the Committee. He urged members of the Committee to work towards realising the objectives for which the Committee was set up. The initial duration of the assignment was a period of eight weeks.

The Terms of Reference

The terms of reference given to the Committee were as follows:

1. To examine the extent of State legislative powers as contained in the 1999 Constitution of the Federal Republic of Nigeria in relation to the application of Sharia.
2. To recommend for the full utilisation of such powers.
3. To submit report within eight weeks.

In addition to the above terms of reference, His Excellency the Governor, while inaugurating the Committee, added an additional term of reference, to wit:

4. To articulate the position of the Government and people of Katsina State on the proposed amendment to the 1999 Constitution of the Federal Republic of Nigeria.

The Governor charged the Committee to, first of all, draft a memorandum to be submitted to the Presidential Technical Committee on the Review of the 1999 Constitution before proceeding with its primary assignment.

Considering the importance and urgency of the Governor's directives, the Committee successfully completed the secondary assignment and submitted it to the Government on 13th December, 1999. While accepting the report of the secondary assignment, the Governor consented to the request of the Committee for extension of time in the conduct of its primary assignment.

Modus operandi

In view of the terms of reference, the public interest, and agitation generated by the subject of the assignment, the Committee considered and adopted the following as its mode of operation:

1. On the Primary Assignment:
 - (a) To extract all provisions relating to Sharia in the 1999 Constitution and examine State legislative powers and competence in relation thereto.
 - (b) To collate views, opinions and suggestions from a cross section of people on such provisions.

- (c) To determine the extent to which the State legislature could invoke its powers to legislate on Sharia and make recommendations on the exercise of such legislative powers.

2. On the Secondary Assignment:

- (a) To extract all provisions in the 1999 Constitution of the Federal Republic of Nigeria and consider the desire, wish and agitation of people of Katsina State in relation thereto.
- (b) To determine and suggest alternative provisions that would meet the yearnings and aspirations of people of Katsina State.
- (c) To work within the terms of reference of the Presidential Technical Committee on the Review of 1999 Constitution and draft a memorandum to that Committee presenting the stand of the Government and people of Katsina State on amendments to the 1999 Constitution.

3. Documents and Materials considered by the Committee

- a) 1999 Constitution of the Federal Republic of Nigeria.
- b) Memoranda received from associations and individuals and from the public.
- c) Public Hearings conducted by the Committee across the State.
- d) Documents from States that have initiated the application of Sharia.
- e) Submissions from professionals and elder statesmen as well as seminars, conferences and workshops on the application of Sharia.

The Committee having decided to conduct public hearings in order to get as varied views, opinions and suggestions from the public as possible, drew up a timetable, which guided the Committee in the conduct of public hearings on the assignment. The public hearings proved very useful and rewarding in the realisation of the objective of the assignment.

In its conduct of public hearings and collation of views, opinions and suggestions, the Committee contacted all such groups, associations, institutions and individuals across varied interests and callings. The list of all the groups, associations, institutions, individuals contacted by the Committee is attached as [Appendix A](#) to this report. Similarly some of the submissions received by the Committee are also attached as Appendix B.¹

After the public hearings and after receiving all written memoranda, the Committee carefully sorted out and evaluated the views, opinions and suggestions so far collated. It was these as collated, the 1999 Constitution and the terms of reference of the Committee, that formed the basis of this report. The report is contained in two volumes, Volume 1 consisting of four chapters covering:

1. Preamble/Introduction
2. Findings and Observations

¹ Ed. note: no Appendix B was included in the materials we obtained.

3. Recommendations and Conclusion
4. Appendices,

and Volume II consisting of the verbatim proceedings of the public hearings.

CHAPTER TWO

The constitutional provisions that relate to Sharia application as per the first term of reference of the Committee are as follows:

A. SECTION 4(6): This sub-section says:

The legislative powers of a State of the Federation shall be vested in the House of Assembly of the State.

and sub-section (7) says:

The House of Assembly of a State shall have power to make laws for the peace, order and good governance of the State or any part thereof with respect to the following matters:

- (a) Any matter not included in the exclusive legislative list set out in part 1 of the second schedule to this Constitution;*
- (b) Any matter included in the concurrent legislative list set out in the first column of part II of the second schedule to this Constitution to the extent prescribed in the second column opposite thereto; and*
- (c) Any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.*

FINDINGS:

Generality of the views, opinions and suggestions received by the Committee indicated the fact that the people of Katsina State have only one desire, that was to be governed by the laws and dictates of their religion ordained as Sharia. All the submissions received had shown the Committee in a convincing way, supported by authorities, that nothing short of the application of Sharia would bring peace, security, stability, social order and even economic prosperity. This is what good governance is all about and in line with democratic principles, if it is the desire of the citizens to be governed through the dictates of Islam, the State House of Assembly is under obligation to carry out the wishes of the electorates as per section 14 which provides:

It is hereby, accordingly, declared that:

- (a) Sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority;*
- (b) The security and welfare of the people shall be the primary purpose of government;*
- (c) The participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.*

OBSERVATIONS:

It is the observation of this Committee that the State legislature has the legislative power and competence under these sub-sections to review and reform all existing laws as well as enact new laws in line with spiritual, moral and social dictates of Islam in the form of Sharia.

B. SECTION 5(2): Provides that:

Subject to the provisions of this Constitution the executive powers of a State:

(a) Shall be vested in the Governor of that State and may, subject as aforesaid and to the provisions of any law enacted by a House of Assembly, be exercised by him either directly or through the Deputy Governor and Commissioners of the Government of that State or officers in the public service of the State; and

(b) Shall extend to the execution and maintenance of this Constitution, all laws made by the House of Assembly of the State and to all matters with respect to which the House of Assembly has for the time being power to make laws.

OBSERVATIONS:

This sub-section empowers the executive arm of the Government to execute all laws made by the House of Assembly for the betterment of the entire people of the State.

C. SECTION 6(2): Says that:

The judicial powers of a State shall be vested in the courts to which this section relates, being courts established subject as provided by this Constitution for a State.

Sub-section (4) says:

Nothing in the foregoing provisions of this section shall be construed as precluding:

(a) The National Assembly or any House of Assembly from establishing courts, other than those to which this section relates with subordinate jurisdiction to that of a High Court;

(b) The National Assembly or any House of Assembly, which does not require it, from abolishing any court which it has power to establish or which it has brought into being.

FINDINGS:

The general opinions, views and suggestions received and appraised by the Committee indicated two demands:

- a) An outright abolition of all courts systems and their replacement with purely Islamic courts;
- b) Establishment of Islamic courts to run side by side with the common law courts.

OBSERVATIONS:

The provisions of section 6(2) and (4) have given adequate and ample chance for the concurrent running of two separate legal systems i.e. Islamic law and Common law. This as contemplated by the provisions, is in line with other constitutional provisions e.g. Chapter IV Fundamental Human Rights. In addition, it would ensure the spirit of co-existence.

D. SECTION 10: This section provides that:

The Government of the Federation or of a State shall not adopt any religion as State Religion.

FINDINGS AND OBSERVATIONS:

As per Committee's findings and observations this section is not an impediment to the application of Sharia legal system, because applying Sharia does not mean adopting Islam

as a State religion. More so when the two legal systems i.e. Sharia and Common law would continue to operate side by side in the State.

E. SECTION 38 of the Constitution is one of the provisions that relate to the application of Sharia. Sub-section (1) provides:

Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

This provision happens to fall under Chapter 4 of the Constitution containing Fundamental Rights of the citizens, the infringement of which is enforceable under Section 46(1):

Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress.

FINDINGS:

In the course of its public hearings and from all the written memoranda received by the Committee, submissions were made on the provisions of section 38 of the Constitution. From the sum total of all submissions made before the Committee, the contention was that the provisions of this section had granted to the Muslims and indeed all adherents of other religions an unfettered right to be governed by and fully practise their religion. Some of the contributors argued that, since the Christians and traditional religionists had been granted the full application and right to be governed by the common law and customary law respectively, to deny Muslims the full application of Sharia was to deny them the Fundamental Right to freedom of religion as enshrined, recognised and even made enforceable under the Constitution. In justifying the argument that denial of Sharia was a denial of the right of Muslims to their freedom of religion, some of the contributors referred to religious texts and authorities. Some of these authorities are reproduced hereunder:

1. *"We have made for you a law. So follow it and not the fancies of those that have no knowledge."* Al-Jathiya 18.
2. *"Whoever do fail to judge by what Allah hath revealed, they are the unbelievers... Unfaithful... the evildoers."* Al-Ma'ida 44, 45 and 47.
3. *"O Believers (Muslims) enter fully into the fold of (Sharia) and do not follow the footpath of Satan, for he is your avowed enemy"* Al-Baqara 208.

Tracing the historical antecedents on the application of Sharia in the Muslim-dominated Northern Nigeria, some of the contributors claimed that it was the colonialists that carefully removed its application around 1958 to 1959. The partial application of the Sharia continued over the long military dictatorship that had no constitutional basis and therefore did not allow the Muslims to agitate for the restoration of its full application. It was argued further that with democracy now in place and in the realisation of people's right to self-determination under democratic setting, it is the wish and desire of the Muslims to have the full application of Sharia.

The argument of those who claimed that the denial of total application of Sharia is a denial of the right of Muslims to freedom of religion contended that Islam is a wholesome religion and a Muslim must be in the entire fold of Islam without any reservation. Thus, they argued that the thought, manners, dealings, conduct and behaviour of a Muslim must be subordinated to the dictates of Islam and anything short of that was unacceptable. A Muslim cannot divide his life into different compartments so as to follow Islam in one and discard it in the other.

OBSERVATIONS:

The Committee observed that contrary to the general misconception that section 10 of the Constitution makes Nigeria a secular state, section 38 which falls under Chapter 4 recognises religion and freedom to practise religion as fundamental right at par with such other fundamental rights as right to life, right to privacy, right to freedom of movement, right to freedom of expression etc. It was further observed that various religious callings have different approach, conviction and attitude to their religions. While some religious callings are only concerned with salvation and spiritual rejuvenation, Islam has as much to do with mundane life as it has with spiritual life. For instance, to the Muslims, Sharia and Islam are one and the same thing, because Sharia is the path that guides the Muslims. It is the Sharia that regulates the spiritual rules as well as the social contract. It regulates the rules of prayers as well as social, political and economic rules that govern the entire life of the adherents. From these observations it was clear that Muslims of Katsina State had no objection for other States in the Federation with predominance of Muslims, Christians or traditionalists to establish, re-establish or create such courts to apply laws respecting the wishes, values and aspirations of the people as well as determine all matters and questions affecting them.

It was the view of this Committee that Muslims of the State are justifiable in their demand for the full implementation of the Sharia. The constitutional provisions are very clear and unambiguous that the full application of the Sharia, to the Muslims, is the realisation of their fundamental rights to the practice of their religion. A close look at section 38(1) of the Constitution in relation to the application of Sharia will reveal the following:

- (a) That every Muslim is entitled to live and practise his religion and the religion of Islam is a complete code the practice of which cannot be in part.
- (b) That in the exercise of his fundamental right to freedom of religion, a Muslim can pursue his religious practice *“either alone or in association with others and both in private or in public.”*
- (c) That to *“manifest and propagate”* as used in section 38(1) means to *“practise and implement”*.

Finally, it was observed that *“freedom of worship”* as provided under section 38(1) of the Constitution is clear and unambiguous and does not restrict religious practices to the mosques, churches, temples or shrines. Freedom of worship implies the right to practise, observe, teach and propagate. The full implementation of the Sharia therefore is not in conflict with the provisions of section 38(1) of the Constitution.

F. SECTION 275(1): This section provides that:

There shall be for any State that requires it a Sharia Court of Appeal for that State.

FINDINGS:

Submissions made before the Committee on this provision were mostly from professional lawyers. Such submissions revealed, among other things, that this subsection empowered any State in the Federation that so desires, to establish a Sharia Court of Appeal. This provision is in pari passu with section 280(1) which equally empowered any State that so requires establishing a Customary Court of Appeal for that State. Though constitutional, the establishment of the Sharia Court of Appeal and the Customary Court of Appeal is not mandatory like that of a High Court of a State. It was rather made discretionary depending on the circumstances and peculiarities of any State that so desires either or all of the two Courts.

OBSERVATIONS:

The Committee observed that there is no contention as to the provisions of this section. There is already in existence a Sharia Court of Appeal in the State. The Sharia Court of Appeal shares the judicial powers of the State as specified under section 6 sub-section (2) of the Constitution:

The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this Constitution, for a State.

The courts to which section 6 relates at the State level are the High Court of a State [section 6(5)(e)], the Sharia Court of Appeal of a State [section 6(5)(g)] and the Customary Court of Appeal of a State [section 6(5)(i)]. These courts at the State level “...shall be the only superior courts of record...and save as otherwise prescribed by...the House of Assembly of a State, each court shall have all the powers of a superior court of record.” [section 6 sub-section (3)].

G. SECTION 277: Section 277 of the Constitution spelt out the jurisdiction of the Sharia Court of Appeal. The section provides as follows:

(1) The Sharia Court of Appeal of a State shall, in addition to such other jurisdiction as may be conferred upon it by the law of the State, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law, which the court is competent to decide in accordance with the provisions of sub-section (2) of this section.

(2) For the purposes of sub-section (1) of this section, the Sharia Court of Appeal shall be competent to decide:

(a) any question of Islamic personal law regarding a marriage concluded in accordance with that law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant;

(b) where all the parties to the proceedings are Muslims, any question of Islamic personal law regarding a marriage, including the validity or dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;

REPORT OF THE TECHNICAL COMMITTEE ON APPLICATION OF SHARIA IN KATSINA STATE

(c) any question of Islamic personal law regarding a *wakef*, *gift*, *will* or *succession* where the *endower*, *donor*, *testator* or *deceased person* is a *Muslim*;

(d) any question of Islamic personal law regarding an *infant*, *prodigal* or *person of unsound mind* who is a *Muslim* or the *maintenance* or the *guardianship* of a *Muslim* who is *physically* or *mentally infirm*; or

(e) where all the parties to the proceedings, being *Muslims*, have requested the court that bears the case in the first instance to determine that case in accordance with *Islamic personal law*, any other question.

FINDINGS:

All submissions before the Committee made contributions on the provisions of section 277. It was generally argued that a State House of Assembly had been empowered by the provision of sub-section (1) of section 277 to confer “*such other jurisdiction, by law*”, on the Sharia Court of Appeal. It was also argued in the submissions that the restricted and limited jurisdiction conferred by sub-section (2) is only applicable where no law had been made by the State House of Assembly. In which case, it was maintained, the Sharia Court of Appeal shall be limited to and competent only to decide on those questions and views stipulated under paragraphs (a) to (e) of sub-section (2) of section 277.

It was contended that, once a State House of Assembly makes a law and in that law confers general or special jurisdiction on the Sharia Court of Appeal, then the Sharia Court of Appeal becomes competent to determine issues, matters and questions arising from that law.

Similarly, by virtue of the provision that “*...in addition to all other jurisdiction as may be conferred upon it by the law of the State...*” the Constitution had given power to the State House of Assembly to confer any such jurisdictions original, appellate or special on the Sharia Court of Appeal within the legislative competence of the State Assembly.

OBSERVATIONS:

The Committee observed from the submissions made before it that there is the general misconception that section 277(2) has limited the jurisdiction of the Sharia Court of Appeal to only question of Muslim personal law. This, the Committee noted, was not intended to restrict and limit the Sharia Court of Appeal to Muslim personal law only. The same section 277 under sub-section (1) enables such other jurisdiction to be conferred on the Sharia Court of Appeal by law of a State. What was clear from the provision is the condition precedent that unless and until a law is passed by the State legislature, the Sharia Court of Appeal was limited and restricted to exercising the jurisdictions specified in paragraphs (a) – (e) of sub-section 2 of section 277. But the State Assembly might confer any such other jurisdiction in addition to that specified in the Constitution.

CHAPTER THREE

OBSERVATIONS AND RECOMMENDATIONS

1. GENERAL OBSERVATIONS

The Committee had the opportunity of meeting with, hearing from and listening to a cross section of interests from all over the State. It was the observation of the Committee that there is strong democratic urge amongst the citizens to have the full

application of Sharia. This was deduced from the crowds that gathered in all the centres where public hearings were conducted. There was the general feeling that what the Committee went out for was a referendum as has been confirmed by over 284,000 signatures and thumb prints collated and forwarded to the Committee. While some people had a clear understanding of the terms of reference of the Committee, others had a different notion about the Committee. As to be expected with the subject of the assignment, being religious in nature, a lot of sentiments and emotions were vented. This, the Committee observed, had both advantage and disadvantage. The apparent advantage was that people were given their democratic rights to put across their views, opinions and suggestions on certain aspects of their governance. The disadvantage was that some people held the view that the Government was not interested in the issue and it therefore set up a “Kangaroo Committee” to endorse its agenda. This perception might be understood from two angles. One was that of political opposition under which some politicians opposed to the Government might take cover in order to disrepute the Government. The other perception which was more obvious was the effect of the implementation and launching of Sharia in Zamfara State. The perception of an average citizen as understood by the Committee was that, if Zamfara State could do it, why not Katsina?

The Committee had the privilege of receiving contributions from some professionals who had reached the peak of legal and judicial profession, from those who had been and those who are still in the judicial dispensation. Similarly, the Committee was opportuned to have contributions from highly respected elder statesmen. The views and suggestions of these latter groups had particularly helped the Committee in no small measure.

Highlights of the Committee’s general observations, may be categorised into two:

- (i) The views of those calling and agitating for the total and immediate adoption of Sharia;
- (ii) The views of those calling for the gradual and systematic reform of the legal and social set-up.

Being a Technical Committee with specific terms of reference, and considering the views, opinions and suggestions collated by the Committee, it is deemed most appropriate by the Committee, to give its recommendations in two forms: the specific recommendations on the terms of reference and general recommendations based on the Committee’s findings in the course of the assignment.

2. SPECIFIC RECOMMENDATIONS

A. Term of Reference 1:

Having examined the provisions of the 1999 Constitution of the Federal Republic of Nigeria, the Committee identified the relevant provisions conferring certain legislative powers on the State legislature in relation to the application of Sharia as follows:

SECTION 4: Which provides under sub-sections:

(6) The Legislative powers of a State of the Federation shall be vested in the House of Assembly of the State;

and

(7) *The House of Assembly of a State shall have power to make laws for the peace, order and good governance of the State or any part thereof with respect to the following matters: that is to say:*

- (a) *Any matter not included in the exclusive legislative list set out in part 1 of the second schedule to this Constitution;*
- (b) *Any matter included in the concurrent legislative list set out in the first column of part II of the second schedule to this Constitution to the extent prescribed in the second column opposite thereto; and*
- (c) *Any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.*

From these provisions, the State House of Assembly is empowered to:

- i. Make laws on any matter that is not in the exclusive legislative list which only the National Assembly is empowered to make laws on.
- ii. Make laws on all and any matter on the concurrent legislative list, which power the State House of Assembly shares with the National Assembly.
- iii. Make laws on any specific matter the Constitution specifically empowered the State House of Assembly to make laws on.

As far as making laws outside the exclusive legislative list and within the concurrent legislative list is concerned, the State legislature is competent to make such laws that are in line with the wishes and aspirations of citizens of the State where such laws shall be applicable, particularly having regard to the provision of section 4(7) which states that:

The House of Assembly of a State shall have power to make laws for the peace, order and good governance of the State or any part thereof...

As the only organ vested with legislative powers of the State and considering laws as instrument of governance, peace, order and social equilibrium, the State legislature is fully empowered to enact laws that are relevant to the social needs and peculiarities of the citizens. Therefore, by virtue of the enabling constitutional provisions, the State legislature is competent to, among other things, make laws:

- 1. Declaring any act of omission or commission as an offence and providing punishment for such an offence and these include amending or re-enacting an already existing law and repealing any such law as per section 36(12) which provides:

Subject as otherwise provided by this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and penalty therefore is prescribed in a written law; and in this sub-section, a written law refers to an Act of the National Assembly or a Law of a State, any legislation or instrument under the provisions of a law.

By virtue of the above provision there is the need to codify the Sharia to be known as Sharia Code which would serve as a guide to the proposed Sharia Courts.

- 2. Enacting laws as to ensure social justice, for instance the means of collecting and administering obligatory alms (*zakaat*) from wealthy citizens and its utilisation.

3. Making laws to instil and encourage morality by, for instance, enforcing fair commercial transactions, discouraging exploitation and ensuring prudence and transparency.

The subject matters are as inexhaustible as the problems of the society are dynamic. The powers of State House of Assembly to make laws extend to such specific matters which the Constitution specifically empowers the Assembly to make laws on. On this the Committee identified provisions of the Constitution that empowers the State Assembly to make laws on the application of Sharia as follows:

1. Section 6 of the Constitution on the judicial powers of the State, after specifying superior courts of record under sub-section (2) has specifically empowered the House of Assembly when it provides under sub-section (4) that:

Nothing in the foregoing provisions of this section shall be construed as precluding:

(a) The National Assembly or any House of Assembly from establishing courts, other than those to which this section relates, with subordinate jurisdiction to that of a High Court;

(b) The National Assembly or any House of Assembly, which does not require it, from abolishing any court which it has power to establish or which it has brought into being.”

By the import of this provision, the State House of Assembly is competent to either establish such courts with subordinate jurisdiction to that of a High Court or abolish such other courts other than the High Court. Thus the State Assembly is competent to establish such courts to apply Sharia legal system to run side by side with courts applying the common law (English) legal system.

2. Section 277 sub-section (1) which provides:

The Sharia Court of Appeal of a State shall, in addition to such other jurisdiction as may be conferred upon it by the law of the State, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law, which the court is competent to decide in accordance with the provisions of subsection (2) of this section.

This sub-section, in essence, empowers the State House of Assembly to confer any such jurisdiction, original, appellate or special on the Sharia Court of Appeal within its legislative competence. The only condition precedent is that unless and until a law is passed by the State Legislature, the Sharia Court of Appeal is limited and restricted to exercising the jurisdiction specified under paragraphs (a) to (e) of sub-section (2) of section 277.

B. Term of Reference 2:

Having examined the extent of State legislative powers in relation to the application of Sharia under the 1999 Constitution of the Federal Republic of Nigeria and having identified the competence of the State legislature in relation to the application of Sharia, the Committee was of the view that the full utilisation of the powers of and exercise of competence by the State House of Assembly covers both the immediate and continuous and will involve the day to day working of the Assembly. Consequent upon the above, the Committee recommended as follows:

Matters for immediate utilisation of the powers of the State Assembly:

- a) Employ section 6 sub-section (4) to establish lower courts with exclusive Islamic law jurisdiction to run side by side with the existing courts. Such courts when established shall apply the existing Islamic law between **Muslims only**. However, due to the paucity of qualified personnel, it is recommended that at least one Sharia Court be established in each Local Government Area and one Upper Sharia Court be established in each Senatorial District of the State.
- b) Employ section 277 sub-section (1) to confer exclusive jurisdiction to the Sharia Court of Appeal to determine all appeals from such courts. Similarly, the Sharia Court of Appeal should be conferred original jurisdiction to determine such serious disputes beyond the powers of the lower courts as per section 6(5)(k) which provides:
Such other courts as may be authorised by law to exercise jurisdiction at first instance or on appeal on matters with respect to which a House of Assembly may make laws.
- c) A committee be constituted to work out such details as the structure, jurisdiction, composition etc of the proposed courts as well as the re-structuring of the Sharia Court of Appeal to assume its new functions.

Matters of continuous nature in the application of the powers of the Assembly:

These are matters of general nature that will involve the day to day working of the Assembly. The Committee is of the view that these come in form of general recommendations:

3. GENERAL RECOMMENDATIONS

For the effective achievements of the specific recommendations, the Committee was of the view that certain social and institutional reforms were not only desirable but also necessary. The reforms become necessary because taking Sharia as a set of legal norms alone will not make it possible to achieve any change or improvement in both the life style of the people and in governance. Sharia is a coalition of spiritual, moral, social and legal norms that are interwoven and interdependent. The general aim of Sharia is to inculcate personal consciousness and discipline in a social setting. The Sharia has provision on all social contracts (*mu'amalat*) from the most basic to the highly sophisticated with one underlying principle, that of guiding members of the society, individually and collectively, to work on their conscience and submit to voluntary compliance. Sanctions on deviance (crime and punishment) are exceptions to the general principles of Sharia. This, therefore, made the Committee obliged to make these general recommendations.

- (a) Law Reforms: As an instrument of social stability, laws must be relevant to the needs of the people for whom they are made. The laws of Katsina State as they stand for now cannot be said to be so relevant in addressing the needs of the citizens. Most of these laws are either those made by and inherited from the colonial administration or those enacted by the military regimes. For the laws of Katsina State to be relevant in addressing the needs of the society, their review in line with needs and aspirations of the citizenry becomes inevitable. The Constitution has given backing to such

reforms under section 4(6) and (7), section 5(2) and section 6(2). Review of the laws of Katsina State is achievable in the following manner:

- 1) Immediate composition of the State's Law Reform Commission. There is in existence the Katsina State Law Reform Commission Edict (law) that made provisions for the establishment, composition, functions etc. of the Commission. This Commission should be composed soonest for it to commence the review of all laws as aforementioned;
 - 2) Establishment of Consultative (Shura) Council. The Consultative Council would essentially advise the legislature and the executive on the relevance of all laws to be made. The Council is to be composed by learned *ulama* and jurists and its main function would be to ensure that all laws to be made conform with the spirit of Sharia while meeting the desires and aspirations of the citizens.
- (b) **Institutional Reforms:** It is not in dispute that most public institutions are in a state of total collapse. The degeneration of some institutions had been as a result of insensitive leadership and unpatriotic attitude on the part of the Government and the governed. The long exposure of systems that were superficially imposed without regard to relevance and needs of the society could be the only explanation to the decay of public institutions. Now that the citizens have the chance, granted by democracy, to voice out their feelings and agitation, the Government should rise up and be responsive to the yearnings and aspirations of the citizens. Institutional decay has affected almost all sectors and will need gradual reformation. However, sectors that touch on the life of the citizens most need urgent and serious reforms beyond the rhetoric of successive administrations. Of particular significance are the following sectors:

Education: There is the serious need to review and reform both the approach and infrastructures in our educational institutions. Similarly the attitude of the generality of the people has to change and it is the duty of the Government to mobilise and sensitise the people appropriately. Functional education is one of the pre-requisites for the application of Sharia because it cannot apply effectively to a largely ignorant society.

Health Care Delivery: Sharia system contemplates a responsive leadership that takes the welfare of its citizens seriously. An effective and functional health care delivery system is another pre-requisite for the Sharia system to take its full course.

Other areas where the Government should consider review of approach include provision of potable water, environmental protection, food security, employment generation and poverty alleviation. All these need to be addressed for the Sharia to apply in shaping and guiding the society.

- (c) **Judicial Reforms:** One institution that is very significant in any society is the court which is said to be the last hope of everyone. It is an institution without which peace, progress and development cannot be achieved. Though the decay of the judicial system cannot be taken in isolation with other social institutions, its case

presents grave consequence to the entire society. There had been so much cry of corruption, influence, abuse of power and general miscarriage of justice against the judicial institution. However, while all the complaints against the court system might be correct, the long neglect by Government of this institution had largely contributed to its present state. For social justice, equity, the rule of law and the protection of all members of the society to reign supreme, the judicial institution must be reformed and strengthened so as to attain independence in the discharge of its function and to gain people's confidence. Reform in the judiciary should address personnel, infrastructure and logistics. On personnel, only qualified, honest and upright people should be appointed as judges. One thing peculiar with the court system is the importance of its hierarchy. The lower courts at the grass root play an important role as the superior courts. As a fact, majority of the citizens are more in contact with the lower courts for settlement of disputes. What you find as court houses in the localities are dilapidated structures lacking even in basic conveniences. Stationery and other working materials are not there most of the times. It is the litigants that are made to provide or pay for these which certainly encourages corrupt practices. As for the proposed Islamic court system, one Sharia Court has been recommended for each Local Government Area and one Upper Sharia Court for each Senatorial District so that the Government may not be over-stretched in the provision of infrastructure, logistics and personnel. In whole, the Committee recommended that the Government should set in motion a machinery for judicial reforms by constituting a task force committee to undertake the reforms.

- (d) Ombudsman (Consultative and Complaint Agency): There is so much communication gap between the Government and the governed. Though people have elected representatives at all tiers of the government, the ideals of democracy are yet to be fully appreciated by the people. In the same vein, the communication channel between Government and the governed seemed not to be clear. In order to close this gap and for the Government to involve people in their governance, there is the need for Government to establish a consultative and complaint agency (Ombudsman) that would address these problems. In this way the government would be more of people oriented and certainly more responsive to people's needs. The agency when established is to be decentralised to cover all Local Government Areas and should also serve in settlement of minor communal disputes (*sulhu*). Such an agency is encouraged by Sharia system.
- (e) Zakat Council: *Zakat* is the obligatory Muslim alms imposed on every well-to-do Muslim. Under Islamic political system, *zakat* is a major source of revenue for running the Government through the public treasury (*beit ul-mal*). *Zakat*, therefore, is a necessary institution with Sharia. The Committee is of the firm conviction that establishment of a *zakat* institution would in addition to ensuring social justice and equitable distribution of wealth, serve as a catalyst for poverty alleviation. The Government should take bold initiatives to institutionalise *zakat* so that its moral and social objectives could be achieved. In this regard, it is strongly recommended that an agency, Zakat Council, be established by law. The Council shall be made responsible for the collection, management, distribution and general administration of the *zakat* funds. It is further recommended that a committee of experts be

constituted to work out such details as the organisational structure, functions, powers, composition etc. of the proposed Zakat Council.

- (f) Ethical Re-orientation: The imposition of values that are not relevant to the needs of our society, the long exposure to an alien system of governance and lack of moral orientation have resulted into the state of degeneration the society is in at present. There is pervasive corruption, nonchalant attitude and irresponsiveness amongst government functionaries on the one hand, and on the other hand there is general apathy and loss of confidence in the leadership leading to degeneration of authority. Some people's perceptions and attitudes towards government are generally that of mistrust and that some group of people have the mentality that Government properties belong to no one. With this kind of attitude between those in authority and the governed, there is very little hope for the progress of the society.

Since Sharia stands for raising the best community, it has become imperative that government should pay particular attention to serious ethical re-orientation that would imbibe in the populace the attitude of participatory governance. Islam has already prepared the ground for this. What remains is for the government to take steps towards actualising societal orientation. It is to be noted that the task of societal re-orientation has to cut across the entire societal set-up. It should begin from family formations, community level, attitude to work, trade and business and public facilities.

Leadership at different levels of the society should participate fully in getting education, enlightenment and mobilisation. For the ethical re-orientation to be achieved, the government should make good use of the religious leadership who through the process of *da'awab* will easily mobilise the populace. It is the Sharia teachings that would be employed in the ethical re-orientation. For the purpose of understanding, the Committee wishes to give some areas to be covered by the proposed ethical re-orientation programme:

- In commercial and business transactions Sharia enjoins just, fair and equitable dealings devoid of exploitation. The use of weights and measures should be institutionalised – the Committee appointed by His Excellency on this issue is in the right direction. In public places like schools, hospitals, public transport etc. the free mingling and mixture of male and female should be minimised.
- In the appointment of leadership at various levels of the society, regard should be given to merit. In particular in the appointment of traditional rulers consideration should be given to those who have some basic educational qualification in Sharia.
- On people's attitude towards public properties and facilities, there is a need to mobilise the people to appreciate that the care, maintenance and supervision of public facilities are a collective responsibility.
- Generally, it must be appreciated that ethical re-orientation involves the revival of all our socio-cultural values and it would appear that it is the only option left against further degeneration of the society.

CONCLUSION

The Committee having undertaken this noble assignment found it both challenging and rewarding. The Committee wishes to commend the initiative of His Excellency, the Governor, in being responsive to the yearnings and aspirations of the people that elected his government. The assignment had given the Committee the privilege of collating views, opinions and suggestions from across various interests throughout the State. The Committee evaluated views, opinions and suggestions and relied on provisions of the 1999 Constitution of the Federal Republic of Nigeria to come up with this report.

The Committee wishes to place on record its appreciation to the Governor for placing on its members such confidence as to warrant our choice for the assignment and for the rare privilege to serve the State in this important and historic assignment. In the same vein the Committee would like to appreciate the support and understanding it received from the Secretary to the State Government on all its logistic requirements. The Committee also wishes to appreciate the support and cooperation it received from Government functionaries, religious and traditional institutions, associations and organisations and the entire good people of Katsina State. We hope the government would study and accept our recommendations and would take necessary action.

Finally, we thank Allah the Almighty for His Mercy and guidance in the conduct of this assignment.

Members of the Committee:

- | | | |
|----|--|----------|
| 1. | Hon. Alhaji Ahmad M. Batagarawa,
(Grand Kadi) | Chairman |
| 2. | Alhaji Ibrahim S. Shema,
(Hon. Attorney-General/Commissioner for Justice) | Member |
| 3. | Hon. Justice Musa D. Abubakar,
(High Court of Justice) | Member |
| 4. | Alhaji Ahmad M. Bawa Faskari
(Permanent Commissioner, C.S.C.) | Member |
| 5. | Alh. Ishaq Nuhu Batagarawa
(Executive Director, Pilgrims Welfare Board) | Member |
| 6. | Malam Dalhatu S. Abubakar,
(Chief Registrar, Sharia Court of Appeal) | Member |

DATED THIS 20TH DAY OF JANUARY, 2000

APPENDIX 'A'

LIST OF ALL THE GROUPS, ASSOCIATIONS, INSTITUTIONS AND INDIVIDUALS CONTACTED BY THE COMMITTEE

1. INDIVIDUALS

i) EMINENT PERSONALITIES:

Gen. Muhammadu Buhari (Rtd)
Alh. M.D. Yusuf (Rtd. IG)
Alh. Ibrahim Coomassie (Rtd IG)
Amb. Moh'd Lawal R/dadi
Alh. Wada Nas
Alh. Mamman A. Danmusa
Alh. Bala Abdullahi Funtua

.ii) EMINENT JURISTS:

Justice Muhammadu Bello
Justice Mamman Nasir
Justice Umar Abdullahi

iii) RTD. GRAND KADIS:

Mohammadu Dodo
Usman Mohammed Daura
Abdul Mumini AbdulBaki

iv) ACADEMICIANS:

Prof. Auwalu Yadudu
Dr. Umar Malumfashi

2. ORGANISATIONS

- i) 2 Chairmen of Political Parties - PDP/APP
- ii) 2 Emirate Councils Katsina/Daura
- iii) 1 Convenor of Sharia Forum
- iv) 1 Sharia Court of Appeal, Katsina
- v) 1 High Court of Justice, Katsina
- vi) 1 Nigerian Bar Association Chairman
- vii) 1 Christian Association of Nigeria Chairman
- viii) 1 FOMWAN Chairman.
- ix) 1 Muslim Corpers Association of Nigeria President
- x) 1 Centre for Islamic Legal Studies, Zaria
- xi) 1 Council of Ulama, Katsina
- xii) 1 Local Government Inspectorate Department
- xiii) 1 Local Government Service Commission
- xiv) 1 Local Government Chairmen's Forum – Chairman

3. 34 LOCAL GOVERNMENT COUNCILS

VOLUME II: VERBATIM PROCEEDINGS

(QUOTATIONS IN THIS PROCEEDINGS ARE MOSTLY SKIPPED
DUE TO THEIR PECULIAR NATURE) [sic]

**PROCEEDINGS OF THE CONDUCT OF PUBLIC HEARINGS
AND CALL FOR MEMORANDA ON CONSTITUTIONAL PROVISIONS
FOR THE APPLICATION OF SHARIA IN KATSINA STATE**

1. ZONE 1: FUNTUA: FUNTUA, BAKORI, DANJA, FASKARI, DANDUME
AND SABUWA.

8TH NOVEMBER, 1999

(PRAYERS)

MC/PRO: *Bismillahir Rahmanir Rahim*. The Hon. Chairman Funtua Local Government; Hon. Councillors; the Sarkin Maska District Head of Funtua; Distinguished Committee Members; other Guests, Assalamu Alaikum. It is my honour and privilege to introduce to you this important event. Similarly, it became necessary for me to seize this opportunity and welcome you all to this Local Government (the venue of Funtua Zone). I therefore hope and pray for Allah's guidance, and successful deliberations.

The programme for the event will be as follows:

- i) Welcome Address by the Chairman Funtua Local Government Council;
- ii) Introduction of Committee Members and the Objective of the exercise by the Committee Chairman;
- iii) Presentation/submission of memoranda from representatives of the respective Local Government Area and two other groups from each Local Government. Individuals wishing to give contributions to this effort are also welcome. All this should be in brief considering the time limit;
- iv) Vote of Thanks by the District Head of Funtua.

We hope people will co-operate towards the successful conduct of this exercise. Now the welcome address by the Chairman.

ALH. YUSUF IBRAHIM NABATURE: Hon. Grand Kadi (The Committee Chairman); Distinguished Committee Members; the Hon. Councillors; the Sarkin Maska – District Head of Funtua; Distinguished Guests; Gentlemen of the Press.

Assalamu alaikum. All praise be to Allah for giving us the opportunity to witness this important event. I will first of all like to welcome the Committee members and all other guests to Funtua – the venue of Funtua Zone. Sharia, as we know is the Islamic legal system as ordained by Allah in the Qur'an and as practised through the Hadith and Sunnah of the Holy Prophet Muhammad (SAW). It also covers and regulates the whole aspects of life of a Muslim. I therefore wish to personally and on behalf of the entire people of Funtua Local Government express our humble support for the application of Sharia in Katsina State. This is the right time for us to make appropriate choice for our goodness and the future generation yet to come. Certainly, Allah has enjoined man to practise goodness, but this will only be appropriately applicable if we are bound by Sharia. I therefore call on all people to express your views with good faith and we should

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always fear Allah in all our undertakings. Finally, I wish the Committee a successful conduct of this exercise throughout the State. I wish everybody safe journey back to their respective destination. This is in addition to the continuous prayers for peace and progress of our beloved nation. Thank you. *Wassalamu alaikum*.

MC/PRO: It has been a welcome address by the Hon. Chairman of Funtua Local Government. I now have the honour to invite the Committee Chairman to apprise the forum on the exercise.

COMMITTEE CHAIRMAN: *Bismillahir Rahmanir Rahim*. All protocols observed. *Assalamu alaikum*. You are aware of the inauguration of this Committee and the conduct of this exercise. The essence of this forum is to seek your advises and contributions on the application of Sharia in Katsina State. Similarly, there is presently a committee set up by the Federal Government to review the 1999 Constitution, and memoranda were invited from organisations, groups and individuals to that effect. It is also part of our assignment to collate your opinions on the Constitution review so as to add input to the State Government's submission to the Constitution Review Committee. I therefore urge you to give your contributions objectively for the attainment of this noble goal. Now the members of this Committee with me here are: the Attorney General and Commissioner of Justice – Alh. Ibrahim Shehu Shema; Alh. Ahmed Moh. Bawa – a Permanent Commissioner in the State Civil Service; Justice Musa Danladi Abubakar – High Court Judge; and Mal. Dalhat Abubakar – Chief Registrar Sharia Court of Appeal who is also the Secretary of the Committee; and our press crew. One of the members who is not here now has been away on another assignment. I wish you successful deliberations. Thank you and God bless. *Wassalamu alaikum*.

MC/PRO: At this juncture, I will now call on the representative from Bakori Local Government to present his message.

MAL. ABDURRAZAK: *A'uzubillahi minassbaidanir rajim*. *Bismillahir Rahmanir Rahim*. *Wassalatu wassalamu ala Sayyidina Muhammad wa'ala alihi wa Sabbibi wassalam*. *Assalamu alaikum*. I am on behalf of the entire people of Bakori Local Government expressing our 100% support for the application of Sharia in Katsina State. We make this choice because Sharia is a complete way of life of every Muslim. We have prepared a memorandum in this regard, which is not readily available now but will soon be submitted to the Committee on our contribution. *Wassalam alaikum*.

MC/PRO: We shall now call on Faskari Local Government

ADAMU HARUNA IDRIS FASKARI: In the name of Allah the Beneficent the Merciful. Praise be to Allah the Lord of the world. May the peace and blessings of Allah be upon Muhammad (SAW). *Assalamu alaikum* fellow Muslim brothers, on behalf of the people of Faskari Local Government, I hereby give our submission wholeheartedly for the application of Sharia in Katsina State. We know Allah does not leave his servant without guidance and anytime He sent a Messenger, he will be sent with laws that would regulate the conducts and behaviours of his people. As such people are not allowed to choose what they want except that which Allah commanded. Therefore, we have no choice than this Sharia which is obligatory on all Muslims. But we have some advises to offer in order of importance to the Government and the people, as follows:

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1. Public enlightenment campaign on the application of Sharia through media houses;
2. Poverty alleviation – we are all aware of the present situation. Government should therefore take adequate measures to address this situation by providing job opportunities and other factors will be fully maintained;
3. Establishing more Islamic schools in the schools and maintaining the existing ones by providing facilities and incentives to the teachers;
4. Taking care of Christians and non-Muslims;
5. Appearance of women – there should be mode of dress expected from all categories of women in the State, i.e. whether married, divorcee or girl. This will protect their image and status;
6. Girls should no more use transparent dresses;
7. Adulterations – Government should take steps to check this activity all over the State;
8. Measurement – Government should provide measures to be used in our markets;
9. Welfare of civil servants is also one of the factors that would facilitate the application and maintenance of Sharia in Katsina State;
10. Alms-giving – this if properly practised will prevent most people from begging;
11. Establishing Ministry for Islamic Affairs;
12. Street selling of things by girls should no more exist.

This is the message from Faskari Local Government which I am delegated to convey. *Ma'assalam.*

LIMAN SA'ID FUNTUA: *Assalamu alaikum warahmatullah Ta'ala wabarakatuhu.* Even though I have come with my personal memo for submission, but as I am assigned to represent the people, I wish to express our profound gratitude and appreciation for the efforts of the State Governor towards the application of Sharia in the State. I would like to state here that the entire people of Funtua are in support of this Sharia issue in Katsina State. There were instances to prove this statement e.g. during the launching of Sharia in Zamfara State, the entire people of this area (except those who were not able to go) were at the State capital which was the venue for the event. And this is purposely due to our warm support and appreciation. Sharia is an obligatory factor in the life of Muslims because it is a complete way of life economically, morally and socially. In fact it is the only answer to the present problems. Sharia is a complete revelation sent to the Holy Prophet Muhammad (SAW) and we obey and follow this path. There are relevant verses enjoining man and guiding him of his way of life. Due to time factor, I will now submit my memo to the Committee and with this I hope the Committee and the Executive Governor will expedite action towards this end. Finally, I pray for Allah's guidance and protection and for the successful conduct of this exercise. *Wassalam alaikum.*

LIMAN SA'ID HASSAN FUNTUA: *Bismillahir rahamanir rahim. Wasallallahu alan Nabiyyul Karim. Assalamu alaikum.* The issue of Sharia is basically what we require now. I will now and always pray for the Committee members and Government of Katsina State for this effort. In short, I submit our full support on the issue of Sharia on behalf of my

people. But I have two advises to give to the authority – one, there should be justice in all actions and two; there should be no selfish interest among the leaders, everybody should be given what is due on him, no fear no favour – that is justice. I will stop at this juncture saying *assalamu alaikum*.

MC/PRO: We now call on Sabuwa Local Government

MAS'UD YUSUF SULEIMAN SABUWA: *Assalamu alaikum*. On behalf of the people in Sabuwa Local Government, I wish to express our support for the application of Sharia in Katsina State. Sharia is applicable to every Muslim right from his birth. *Wassalam*.

MC/PRO: Danja Local Government representative should come forward, please.

MOH. AUWAL JIBRIN DABAI: *Assalamu alaikum warahamatullahi Ta'ala wabarakatuhu*. I welcome all protocols observed [sic]. I hail from Danja Local Government and so decided to represent the people of that area. I warmly express our full support for the application of Sharia in Katsina State. If we could remember during the civil war late Sheikh Abubakar Mahmud Gumi (may his soul rest in peace) called on Muslims for Sharia application, but that was not done till today. I hope the Danja Local Government will be grateful with this representation because it is not authorised, I personally came with my own memo. *Wassalam alaikum*.

MC/PRO: I now call on Dandume Local Government

LAWAL SALIHU DANDUME: *Assalamu alaikum*. I stand here to express the view of the entire people of Dandume Local Government. In a nutshell, we submit and support the Sharia application in Katsina State and we have prepared some advises which will be submitted to the Committee. Thank you and God bless.

SHITTU ABDULLAHI MAHUTA: *Assalamu alaikum*. I am here on behalf of Jama'atul Izalatul Bidi'a wa'ikamatus Sunnah, Dandume Local Government branch. On behalf of this association, the entire people support the Sharia application in Katsina State one hundred percent. We are all Muslims and it will not be possible to separate Muslims and Sharia because Sharia itself is life. Besides evidences from the Holy Qur'an, I will now call the attention of both Muslims and non-Muslims to the fact that even the Constitution in question (1999) made provisions for the Sharia issue (section 38 and section 6(5)). Therefore, Sharia is the only answer now. Finally, we pray for the up-rise of Islam and Muslims and we hope and pray for the success conduct of this exercise. We also wish the Committee members and all other guests safe journey back home. *Assalamu alaikum*.

MUSA USMAN FASKARI: *Assalamu alaikum*. All protocols observed. I stand before this forum to say a little in addition to what has been said earlier. Certainly the application of Sharia is the only way that will make the life of Muslims and all others a modest one. But I would like to give a piece of advice to this Committee. This advice if accepted and adopted will help immensely towards sustenance of the Sharia and especially with regard to association with non-Muslims and Christians. When it comes to practice, courts should be separated, those for Muslims and whoever agrees to its judgment, then for Christians and non-Muslims. *Assalamu alaikum*.

NAFĪU BIN ABUBAKAR FASKARI: *Bismillahir Rahmanir Rahim. Assalamu alaikum.* I welcome the Committee members and other guests to this important event. What I want to contribute here is a call on all people to unite and work together for the development of our society, because they say 'Unity is power'. This is true, I therefore hope people will unite and love each other so that we achieve this noble objective. Thank you.

MC/PRO: Now we have got nominations from the Sarkin Maska District Head of Funtua, who would speak on behalf of the two groups from Funtua Local Government. They are Mal. Aminu Liman Mustapha and Alh. Muh. Anda Funtua.

MAL. AMINU LIMAN MUSTAPHA: *A'uzubillahi minasshaidanir rajim. Bismillahir Rahmanir Rahim. Wassalatu wassalamu ala Sayyidina Muhammad wa ala alibi wassabbibi wassalam. Assalamu alaikum.* Let me seize this singular opportunity to welcome members of this Committee and other guests to this great forum. We were doubting the intention of Katsina State Governor on the inauguration of this Committee before, but I am convinced beyond any reasonable doubt, considering the membership of this Committee that it is a reality and serious about the issue of Sharia application. First on the Constitution review, I mean the 1999 Constitution. The issue of its review does not even arise because it is not circulated for people to peruse and agree with the provisions as contained. Then on the issue of Sharia, this is worth of requesting for people's views because it is a complete way of our life originally and naturally. (There are several verses of the Holy Qur'an that explain this). So hope they will study it carefully. We should continuously pray for the attainment of this aim. *Bissalam.*

ALH. MUH. ANDA FUNTUA: *Assalamu alaikum.* The past speakers have said a lot on the issue of Sharia. What I want to add here is that Sharia has been on course it is only its application that is missing and this is due to our selfish interest. For example, we are encouraging corruption ourselves and which is forbidden, we know this, just imagine a person giving bribery to a policeman simply because he wants to escape from a judgment, how do you think that people will contribute towards this end? Therefore on behalf of Fityanul Islam (Young Muslim Association) I call on all people that we should be serious in this matter. Unless we face the reality and give appropriate views to the Government it may not be possible. Certain measures should also be taken to check the conditions of service of judges. They should be provided with all necessary requirements for the successful conduct of their assigned duties. I wish the Committee a successful conduct of this exercise. *Wassalamu alaikum.*

MC/PRO: We shall now listen to Barrister Usman Moh. Shu'aibu to present his memo.

USMAN MOH. SHU'AIBU ESQ.: *Assalamu alaikum.* Brothers in Islam, Mr. Chairman, I have prepared my memo in writing, but I hope I will be given the little time available to present it (the memo was submitted to the Committee as time was seriously against the forum).

MUH. LAWAL GIDE: *Assalamu alaikum.* I have prepared my memo, but due to time factor I will like to give its summary in a nutshell, On behalf of myself and family, I welcome members of this Committee and other Muslim brothers. We are talking on Sharia and democracy. It is a great issue with leaders, so I hope our leaders will look carefully on this issue for the maintenance of Sharia because we elected you to be the leaders and unless you do the right thing to the people then you will have to look for

them again. Finally, I hope the Sharia application will be a reality for the development of a genuine democracy. *Wassalam alaikum.*

COMMITTEE CHAIRMAN: Fellow Muslims, we will now give one chance after which the Attorney General/Commissioner of Justice will make a remark.

SALISU ABDULLAHI BAKORI: *Assalamu alaikum.* I just want to seize this opportunity to put more emphasis on this struggle. Whosoever contributes towards this, shall be rewarded by Allah. There are relevant cases in the history Islam but due to time limit, I hope people will keep this in mind. *Wassalamu alaikum.*

REMARKS BY ALH. IBRAHIM SHEHU SHEMA (Commissioner of Justice). All protocols observed. *Assalamu alaikum.* I want to shed more light on the assignment of this Committee. The Committee is given the assignment to go round and make consultations with people in order to seek out ways possible for the application of Sharia in the State and to find solutions to the possible effects. So people should erase the notion that Government is trying to weigh between its subjects. Thank you.

MC/PRO: Thank you Hon. Commissioner for this light. Now it is vote of thanks by the Sarkin Maska District Head of Funtua.

ALH. SAMBO IDRIS SAMBO: *Bismillahir Rahmanir Rahim. Assalamu alaikum.* All protocols observed. It is my honour and privilege to express my profound gratitude and appreciation to the Executive Governor of Katsina State. Similarly, it became necessary for me to seize this opportunity to appreciate the efforts of the Committee members and to thank the entire people in this forum for their support, understanding and co-operation. Sharia, as envisaged previously is a complete way of life of Muslims. I therefore declare our total submission towards this objective together with the entire people of Funtua Local Government. I pray and will continuously do for the attainment of this goal. Finally, I wish the Committee members and all other guests safe journey back home. *Wassalamu alaikum.*

(PRAYERS OFFERED): END OF SESSION: 1.20PM.

2. ZONE II: MALUMFASHI: MALUMFASHI, KAFUR, KANKARA AND MUSAWA

9TH NOVEMBER, 1999

(PRAYERS)

After a formal introduction by the Information Officer Malumfashi Local Government, the Local Government Chairman delivered his welcome address.

ALH. USMAN UMAR YABA (CHAIRMAN): *A'uzu billahi minasshaidanir rajim. Bismillahir Rahmanir Rahim. Wasallallahu ala Sayyidina Muhammad wa ala alibi wa sabbibi wa sallam. Assalamu alaikum.* All protocols observed. Praise be to Allah Master of the worlds. It is my honour and privilege to welcome this Committee and other guests to this important event and indeed a remarkable one. I will first of all express my gratitude and appreciation for the efforts of the Executive Governor of Katsina State – Alh. Umaru Musa Yar'adua on the inauguration of this important committee to carry out the exercise of Sharia application in the State. Certainly, Sharia is the supreme guidance and instruction of man's life. It is therefore more important than the life itself because it is a

complete way of life. In this regard therefore, I will like to submit our full support on behalf of the entire people of Malumfashi Local Government Area, for the application of Sharia in Katsina State. I hope people will co-operate and give their advices and contributions for the sake of Allah so as to record a successful conduct of the exercise and to consequently achieve our aim. Let us revert to the Holy Qur'an – Allah (SWT) says “*Izajaa'a nasrullahi...*” So this is the time, let us utilise it and be part of those who will succeed in life. Finally, I pray for Allah's guidance in the right path and a successful deliberation. *Wassalamu alaikum.*

THEREAFTER: (As usual) the Chairman of the Committee introduced members of the Committee and highlighted to the gathering the essence of the exercise and solicited for their co-operation and understanding.

JUSTICE MUSA D. ABUBAKAR: *Assalamu alaikum.* I would like to shed more light on the conduct of this exercise. Each Local Government will be represented by one person and two people representing two religious groups, then private individuals. Now we are starting with Kafur Local Government.

DISTRICT HEAD KAFUR: All protocols observed. Actually the Chairman will be coming here himself, but I am also representing the entire people of Kafur Local Government Area as Dangaladiman Katsina District Head of Kafur. I wish therefore to express our support for the application of Sharia in Katsina State. On the issue of the Constitution review, I would like to advise that a provision should be made in the Constitution with regard to Emirate Councils. If you could remember there was no such provision in the Constitution. So this is all I have to say. *Wassalamu alaikum.*

JUSTICE MUSA D. ABUBAKAR: It has been Dangaladiman Katsina the District Head of Kafur. Now if there are groups who want to contribute on this issue from Kafur Local Government, they can please come forward. Nevertheless therefore, those who prepared a written memo could easily submit to the Committee. Meanwhile, we will now move to Kankara Local Government. (He then handed over to the Information Officer).

ABDULLAHI YUSUF KANKARA: All protocols observed. *Assalamu alaikum.* On behalf of the Chairman Kankara Local Government Council, Sarkin Pauwan Katsina and the entire people of the Local Government, I stand to express our full support on the issue of Sharia application in Katsina State. Also a list of people from various groups in the Local Government is attached to our memo. Finally, we pray for the attainment of this noble goal. We also wish the Committee members good luck and safe journey back home. *Wassalamu alaikum.*

I.O.: *Alhamdu lillab.* Now if there are any representatives from the people they should please come forward.

MAL. ABDULLAHI KANKARA (MASALLACIN S/PAUWA): *Assalamu alaikum.* I stand to express our profound gratitude, appreciation and support on the issue of Sharia in Katsina State. *Bissalam.*

KASIMU LIMAN: *Assalamu alaikum.* I am here on behalf of Izalatil Bidi'a wa'ikamatus Sunnah, Kankara Local Government to voice out our happiness for this development. Just of recent, a District Head has been corrected as having referred their title to traditional rulers, as they were supposed to be. So we are grateful with this achievement and we are fully in support of the Sharia issue. *Assalamu alaikum.*

I.O.: I would like to recognise the arrival of Danejin Katsina to this important forum. You are welcome sir. I will now invite him for his contribution.

ALH. BATURE ABDULKADIR (DANEJIN KATSINA): In the name of Allah, the Beneficent, the Merciful. Praise be to Allah the Lord of the worlds. May the peace and blessings of Allah be upon our Prophet Muhammad (SAW). *Assalamu alaikum*. I would first of all like to apologise for coming late to this event. This is largely due to a working tour I am undertaking in my area. People have said a lot, but still I will add a little contribution on the issue of Sharia application in Katsina State. Certainly Islam exists in Nigeria, but its practice is not forthcoming into reality. This is largely due to non-application of Sharia in the society. I could remember when I was in Saudi Arabia during the month of Ramadan, there was a Nigerian who was delegated to conduct the *tarawih* prayer. So there are many instances that indicate a very good prestige of Nigerian Muslims. We should therefore be consistent in our words. Aisha (R.A) referred to the Holy Qur'an as a whole life. I will advise that this Sharia should be supreme i.e. the final judgment. I mean it should be binding on all Muslims and whether they like it or not. We should not subside any issue or affair in Islam, we should submit to it in totality. Finally, I will stop here by saying *assalamu alaikum warahmatullahi wabarakatuhu*.

I.O.: It has been Danejin Katsina, one of the Islamic leaders. There is somebody to represent the Chairman Kafur Local Government. He should please come forward.

USMAN ADAMU KURINGAFA: *Assalamu alaikum*. I stand on behalf of a committee formed on Sharia issue in Kafur Local Government. This committee comprises all religious groups in Kafur local Government and we are progressing towards this end. I will now express our support on behalf of all the people. I think the chairman might be coming so I will stop here. *Wassalam*.

I.O.: We shall now go back to Kankara Local Government where we have heard a lot but still two more people are left behind. You are welcome, please.

HARUNA SULEIMAN KETARE: *Assalamu alaikum*. An Islamic preacher in Ketare, I will like to express full support of the entire people of Kankara Local Government on the issue of Sharia application in Katsina State. There is need for enlightenment campaign on the Sharia itself, the offences and the judgment so as to have good maintenance of its law and order. I once again express our support for Sharia in Katsina State. *Wassalam alaikum*.

MOH'D RASHEED: *Assalamu alaikum*. I will still emphasise on the firmness on the issue of maintaining this Sharia. The application of Sharia is not the most important, but maintaining it. I therefore advised that this Committee should also recommend to the Government on measures to maintain the Sharia. *Wassalamu alaikum*.

I.O.: We shall now move to Malumfashi Local Government. The representative of Galadiman Katsina – Alhaji Aminu (AIG Rtd) will now deliver his message.

ALH. AMINU (AIG RTD): All praise be to Allah. May the peace and blessings of Allah be upon Prophet Muhammad (SAW). *Assalamu alaikum*. On behalf of Galadiman Katsina, Justice Mamman Nasir, Village Heads and the entire people of Malumfashi Local Government, I stand to express our full support for the application of Sharia in Katsina State. It is the view of most Nigerian Muslims that Sharia should be adopted for the Muslims. I will now give chance to our Islamic teachers to give their contributions

towards this. But the general view of almost 98% of the people of Malumfashi Local Government is on the application of Sharia in Katsina State. *Wassalam alaikum.*

I.O.: This is the views of our leaders. We shall now call on two *ulamas* from Malumfashi. Alhaji Abubakar Abule.

ALH. ABUBAKAR ABULE: All protocols observed. *Assalamu alaikum.* As people talk, the issue of Sharia is a very good plan of man's life. The judgment is also strategically planned so as to prevent the prestige of man. Due to time limit, I will not go deep in this topic, but I will like to say that we are lucky, the composition of this Committee is of people of high sense of understanding and belonging. For those who fear that application of Sharia will bring problems in the society, they should try to understand that this Sharia is a complete way of life of man and its main objective is justice. With this I will now submit my memo to the Committee saying *wassalamu alaikum warahamatullahi ta'ala wabarakatuhu.*

ALH. LADAN AME: *Assalamu alaikum.* We have heard a lot on the issue of Sharia. But my advice here is that since Zamfara State did not wait for the Constitution review before adopting Sharia, Katsina State should also do it immediately, let the latter exercise follow. And as people said they supported this issue 100% I will now say we support it 1000%. *Wassalam.*

MAL. ABDULHADI: *Assalamu alaikum.* There is no need for this Committee to seek any view from people on the issue of Sharia application in Katsina State. And if they are still sorting out this whoever prays in Katsina State is in support of this issue. And on the provisions of the 1999 Constitution, section 38, that provision is not even a right to Muslims to practise the Sharia but a responsibility or an obligation just as it is obligatory for every Muslim to pray. We should forget about those who say Sharia will bring sorrow and grievances. This is our stand and we support this whole-heartedly. *A'uzu kabli haḡa wa astagfirillah li wa lakum. Wassalam alaikum.*

ALH. IBRAHIM SHEHU SHEMA (ATTORNEY GENERAL): *Assalamu alaikum.* I want to shed more light on the objective of this forum as earlier highlighted by the Committee Chairman. We are not here to hear your views on whether you want Sharia or not, but we are here to make consultations and seek out possible ways for this Sharia and get possible solutions to problems that might emanate from it. We are all Muslims and we cannot run away from this Sharia because it is our life. So please take note. *Wassalamu alaikum.*

I.O.: Now there is one more person from Malumfashi. Rev. Dauda Korau.

REV. DAUDA KORAU: All protocols observed. I stand before you as a Christian, an indigene of Katsina State and in the midst of Muslims. I was invited, so I came. Sharia, we think, is a supreme revelation by Allah (SWT) and we agree to its definition as "a complete way of life." We appreciated the kind of approach the Government gave to us on this issue as it has written to the Chairman (CAN) Katsina State sourcing the views and contributions of the Association on the Sharia issue. This we did and replied the Government. I therefore wish to express my support on this issue. But we have one fear that there may be injustice. We, the Christians in this State, may to some extent be isolated from developmental programmes. I was invited late, I would have come with a written memo. Thank you.

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ALH. USMAN UMAR YABA (CHAIRMAN): Assalamu alaikum. Our fathers, brothers and friends have almost said all what is supposed to be said. But I have two things to say. One is on the Sharia application, we have submitted totally to the issue. Secondly, the issue of bias or injustice between our Christian counterparts. This is not so, see for example Zamfara State, all the people there regardless of your religion are living in perfect peace with each other. This is because the Sharia is only applicable to Muslims who go by the religion of Islam and Islam means peace. So I assure our Christian counterparts that we shall live in peace and harmony. On the fear expressed that the Christians may be isolated from developmental programmes, this will not happen as it has never happened. For instance, the ECWA Church Association presented a request for the supply of potable drinking water to the Church which we did and even the State Governor is going by this principle. I finally reaffirm the full support of the entire people of Malumfashi Local Government for Sharia application. *Wassalam alaikum.*

I.O.: We shall now move to Musawa Local Government. Their representative will now take chance to deliver his message. He is the Vice Chairman Musawa Local Government.

ALH. HASSAN BADARU JIKAMSHI: All protocols observed. *Assalamu alaikum.* I am here on behalf of the Chairman and people of Musawa Local Government to express our full support on the issue of Sharia application in Katsina State. I wish the Committee members and all other guests safe journey back home. *Wassalamu alaikum.*

MAL. JABIRU AHMED MARARRABAR MUSAWA: *Bismillahir Rahmanir Rabim. Wasallallahu alan Nabiyyul Karim. Assalamu alaikum.* With regard to what Mr. Rev. said, there is a point of correction. Islamically, Sharia is a complete way of life of man because it guides man on his living, activities, etc. (quoted relevant verses of the Holy Qur'an). However, some contributing factors to the present problems are among others adultery, hoarding, cheating, prostitution, etc. All these are anti-Sharia factors and unless they are checked and improved there would not be peace at all. But I want to express confidence that this goal will be achieved considering the composition of the Committee. I could recall one of the members was a Chairman of Kankia Local Government and during his time, sale of alcohol, prostitution and all other social vices activities were banned in the Local Government. This is a clear indication of seriousness in the issue. Another member (Justice Musa Danladi) has ever prayed and made strong call for this Sharia during a national Qur'anic recitation competition held at Katsina. So with this, I pray and hope that Allah will guide this Committee and the Executive Governor to the right direction. *Wassalamu alaikum.*

YAHUZA MUSAWA: *Assalamu alaikum.* The Rev. who has just spoken here seems to be a pessimist because he tends to look on the dark side of things. Sharia has never been what he thinks, it is a complete way of life. If you look far back to the history of Islam, it has never taught people bad acts. I could recall an event that occurred between one boy who resided in late Abubakar Gumi's residence in Kano for over 12 years but Malam always gave him freedom to do what he wanted. He even exempted him from working on Sundays because he was a Christian. Up to the time he left for Kaduna that boy was a Christian, but later he went and meet Malam at Kaduna and embraced Islam. His reasons were just the manner and kindness of Malam to people. So it is by logic that we

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achieve things and not by violence. I therefore wish the Committee members and all other guests safe journey back home. *Wassalamu alaikum.*

I.O.: We will now listen to the Vice Chairman Kafur Local Government, for his comments.

VICE CHAIRMAN KAFUR: All protocols observed. *Assalamu alaikum.* I will like to first of all apologise for our late arrival due to some inevitable problems. I stand to present our memo that we prepared in consultation with various groups in our Local Government for the support of Sharia application in Katsina State. I will not spend much time, since it is already late. So by this I hope I have fulfilled the promise and responsibility by submitting this memo. I hope and pray for successful conduct of the exercise and attainment of the goal. *Wassalamu alaikum.*

I.O.: Distinguished guests, due to time factor, for those who did not have chance to say something here can submit a written memo to the Committee. I will now call on the Chairman Malumfashi Local Government to give his vote of thanks before we finally close.

ALH. USMAN UMAR YABA: *Assalamu alaikum.* It is my honour and privilege to express my profound gratitude and appreciation for the co-operation and understanding of the people, and to similarly thanked the Executive Governor of Katsina State and the Committee members for the tremendous efforts towards this end. I therefore wish them success and may Allah reward them and all of us that contributed, with Paradise. I wish everybody safe journey back home. Thank you. *Wassalam alaikum.*

(PRAYERS): 1:00PM: END OF SESSION

3. ZONE III: DUTSIN-MA: DUTSIN-MA, DANMUSA, BATSARI, KURFI AND SAFANA

10TH NOVEMBER, 1999-11-25

(PRAYERS)

After an introduction by the Information Officer (I.O.) Dutsin-ma Local Government, the Chairman Dutsin-ma Local Government Council was invited for his welcome address.

ALH. MUSTAPHA NUHU KUKI (CHAIRMAN): All protocols observed. *Assalamu alaikum.* We are aware of the recent inauguration of a Technical Committee on Constitutional Provisions for the Application of Sharia in Katsina State. Sequel to this development, the Committee is now conducting a public hearing and call for memoranda exercise throughout the State. No doubt this is a welcome development and is also a clear indication of a real democracy whereby people are given chance to give advices and contributions on ways and means to address certain issues affecting them. I would therefore like to welcome the Committee members and all other guests to this great event on behalf of the people in this Local Government. I also hope people will cooperate towards a successful conduct of this exercise. Finally, I wish the Committee members good luck and prosperity. I wish everybody safe journey back home. *Wassalamu alaikum.*

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At this juncture, the Chairman of the Committee was invited to apprise the forum on the essence of the exercise. After that appraisal, he introduced other members of the Committee as usual. He then urged people to co-operate and give their contributions so as to record a good conduct of the exercise.

I.O.: Now we are starting with Batsari Local Government.

MUSA MOHAMMED KARARE: *Assalamu alaikum*. I welcome the Committee members and other guests to this great event. On behalf of the entire people of Batsari Local Government I stand to express our full support for the application of Sharia in Katsina State. There is no doubt this will be the solution to all our problems. Most problems are existing and persistently indeed due to our negligence to the Sharia. There are so many instances very clear indeed to prove this assertion. I therefore hope people will give appropriate advices and contributions towards this end. I wish the Committee members a successful conduct of their assignment. *Wassalamu alaikum*.

ALIYU HARUNA: All protocols observed. *Assalamu alaikum*. On behalf of the people of Batsari Local Government, I welcome all of you to this forum. We are in full support of the issue of Sharia in Katsina State. This is in accordance with the continuous prayers we do after every now and then for the better condition of our life. This is the result of our prayers. We therefore advise the Government to immediately implement this Sharia for the betterment of life. Thank you. *Wassalamu alaikum*.

FARUK MOH. SALE: *Assalamu alaikum*. I stand on behalf of the people of Batsari Local Government to express our support for the application of Sharia in Katsina State. Certainly, it is the responsibility of our leaders to guide their subjects accordingly otherwise they will lose respect from people and the worse of it all is that they will not have anything with Allah (SWT) because they did not follow the instructions of Allah. I therefore urge our leaders to fear Allah in all their activities and Allah will surely guide and protect them. I wish the Committee members and all other guests safe journey back home. *Assalamu alaikum*.

MOHAMMED KABIR: *Assalamu alaikum*. I stand to reaffirm our support for the Sharia application in Katsina State. Secondly, I want to say something with regard to the 1999 Constitution. Currently, we have no any constitution in the country, this is because whenever a constitution is drafted, it will be circulated all over the country for people to see and make amendments where necessary before its final adoption. This is not done with this Constitution and even the previous ones. We were living in a very good condition even during the era of Europeans, Sharia was in practice, even though courts like Sharia Court, Federal High Court, etc. were in existence. But when the Europeans were leaving, still Sharia was existing until when they finally left then we leave the Sharia for this useless Constitution. I therefore call on the Committee members and the Hon. Members of the State House of Assembly to do justice in their conducts. They should learn from Umar (R.A) and other Caliphs on their conducts. I wish you good luck. *Assalamu alaikum*.

I.O.: Thank you for the contribution. Now it is Danmusa Local Government.

MAL. ADAMU SALIHU: *Assalamu alaikum*. I stand on behalf of the people of Danmusa Local Government to express our support for the application of Sharia in Katsina State. Surely this is an opportunity for us which our grandfathers could not get.

So we hope this will succeed. Many people tend to ignore the meaning of Sharia thinking that it is only going to kill or victimise people. It is not so, Sharia is a way of life for Muslims because the life of a Muslim itself is Sharia as it is being guided within a circle. So it is the wish of every Muslim to go by Sharia. There is a clear indication of a good start. See Zamfara State as a case in point, the whole system of life has been changed. Unless we abide by the rules and regulations of Islam, we will be in loss. How do we know these rules and regulations, it is by Sharia. I therefore urge our leaders to do justice in their conducts. See for example the kind of treatment made to a woman in distress with her children by Umar (R.A.). He was carrying foodstuffs for the woman and when his people tried to help him, he asked them “could you carry their burden on my behalf in the next world?” Our dear leaders, please be kind and just to your subjects. *Wassalamu alaikum.*

IBRAHIM HUSSEIN MAIDABINO: *Assalamu alaikum.* On behalf of the people of Danmusa Local Government, I would like to advise the Committee to recommend to the Government for immediate implementation of Sharia before looking into the issue of Constitution review. This Sharia is our right and we deserve to have it. See for example the issue of Niger-Delta, they were arguing on the crude oil being extracted in their area and it was consequently resolved that 13% of the generated revenue on crude oil will be due to them. Look at Abuja (the Federal Capital) only 1% of the said revenue is being used for its construction, what more of 13% given to Niger-Delta alone. See again what the leaders of democracy all over the world maintained that everybody should be given freedom to practise his religion freely and apply the type of law he deems fit. How then could Obasanjo oppose our request for Sharia? So please our leaders should be firm in the struggle for Sharia just as those people struggle for their 13% out of our nation’s economy. I pray for Allah’s guidance and assistance, and I wish everybody safe journey back home. *Ma’assalam.*

IBRAHIM BALA: All protocols observed. *Assalamu alaikum.* I welcome the Committee members and all other guests to this important event. I have already submitted my memo to the Committee but will like to present it in brief in order of importance. First of all I support the issue of Sharia application in Katsina State on the following reasons: the Sharia is obligatory on all Muslims; the 1999 Constitution provides for all citizens to practise their religion (if you are following a programme sponsored by Aminu Maigari Esq., he used to quote the relevant sections of the Constitution in this respect) and justice. On this basis therefore, the Muslims are entitled to Sharia not only Katsina State, but anywhere they are in the world. There is explanation in the memo and I hope the Committee will peruse it thoroughly for their necessary action. *Wassalamu alaikum.*

NASIRU USMAN DANMUSA: *Assalamu alaikum.* A lot has been said on the issue of Sharia. I also stand to show our full support to the issue. But I have an advice to the Committee. This advice is to the leaders, they should bear in mind that Allah has given them this leadership to test them and not that they are better than all. See for example, the Prophet Muhammad (SAW) there is none among the creatures like him but imagine the obstacles, problems he faced in life, yet he is the only one with the highest position with Allah (SWT). So in short, this is my advice and I hope it will reach to the ears of those concerned. Sharia is what we want because [it] is our life. *Wassalamu alaikum.*

I.O.: We shall now move to Dutsin-ma Local Government

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LIMAN ZAKARIA: All protocols observed. *Assalamu alaikum warahamatullahi ta'ala wa barakatuhu*. Certainly this is a great forum, in fact it is more or less a seminar. I called it a seminar because we are learning a lot from people. All what I have to say has been said by so many people. But I will like to express the full support of the entire people of Dutsin-ma Local Government for the application of Sharia in Katsina State. Katsina has a great history in terms of Islamic religion and even the Western education. It got its status through two eminent leaders who are still being succeeded by their children who are now our leaders. I hope they also try to leave a great legacy behind and this will be their greatest achievement in life if they try and struggle for this Sharia in our dear State. Allah will definite help those who struggle for the sake of Allah. I therefore pray that Allah with His infinite mercy help us in this noble course. *Wassalamu alaikum*.

MAL. MUKTAR SALISU: *Assalamu alaikum*. All praise be to Allah. People have already said a lot, so I will only seize this opportunity to welcome members of this Committee and other guests and then express my support on the issue of Sharia. I wish you good luck in this struggle. *Wassalamu alaikum*.

SANI BELLO: All protocols observed. *Assalamu alaikum*. I stand to appeal to our Muslim brothers to unite for the sake of our religion. I am referring this impact to an NTA network programme of yesterday (Tuesday) "TUESDAY NIGHT LIVE". Whosoever was able to watch that programme would be convinced beyond any reasonable doubt that unity is power. In the first place people were challenging the issue of Sharia and Islam in general, until later when some eminent Muslim brothers responded to the challenge and the guest and even the programmer were eventually pushed to the wall and could no longer say a single word on that issue. They completely missed direction due to their baseless argument. So brothers this is what we are supposed to do at all times, we always stand firm for our religion. This is going to be a great achievement if we are able to record it. Thank you. *Wassalamu alaikum*.

ALH. GARBA HAYINGADA: All protocols observed. *Assalamu alaikum*. I welcome all the people to this important forum. It is good that we have now got the opportunity to express freely our feelings and advice as contributions to the Government. We have been praying for this kind of leadership and we have now got the type of leaders we wanted. Now we are in an era where our views or rather contributions are sought on the issue of our life. This is an opportunity as I said and we should try to utilise it otherwise they say "opportunity once lost can never be regained." Now on this issue of Sharia application in Katsina State, we support it and I have an advice as part of my contribution. The Government should keep Islamic teachers well equipped for frequent propagation on the Sharia issue; also our traditional rulers should be involved in this course. (Point of correction). I am sorry to have called them traditional rulers, I suppose they are Islamic leaders. This is my contribution on this issue. *Wassalamu alaikum*.

END OF MORNING SESION (PRAYER TIME)

AFTERNOON SESSION 2:45PM.

I.O.: Welcome back, but please we are sorry for the little extension of time. We shall now have an opening prayer before we call on Kurfi Local Government.

(PRAYERS OFFERED)

COMMITTEE CHAIRMAN: *Assalamu alaikum*. I would like to add that those who are yet to give their contributions should do so within the shortest possible time. We should also go straight to the point so as to avoid verbosity. We cannot exhaust our ideas here even if we are to go by spending several days on this forum, people can still say something. So I urge you to please bear with us. *Wassalamu alaikum*.

I.O.: Now representatives from Kurfi Local Government should please come forward.

MUH. SIRAJO LAWAL KURFI: *Assalamu alaikum*. On behalf of Kurfi Local Government and the entire people, I stand to express our full support for the application of Sharia in Katsina State. Sharia as many people said is not even a right to the Muslims but a responsibility or an obligation on them. So we deserve this and we support it. I wish the Committee members and all other guests safe journey back home. *Wassalamu alaikum*.

AHMED MOHAMMED: *Assalamu alaikum*. We have actually supported this issue of Sharia and there is no going back. What I want to advise is that we should make sure we stick to the conditions of the Sharia and our conduct should be justly carried out especially in interaction with our Christian counterparts. We should also adjust our way of life subject to the rules and regulations of Allah (SWT). *Wassalamu alaikum*.

ISA MOHAMMED: All protocols observed. *Assalamu alaikum*. This issue of Sharia is a straightforward issue that need no further comment than applying it because it is an instruction from our Creator. The past speakers on a good standard living condition of people when they live by Sharia regulations cited so many examples. It will just be a repetition but in short we want this Sharia in Katsina State. *Wassalamu alaikum*.

ILYASU BAWA: *Assalamu alaikum*. I stand to express appreciation to the government and in particular the Committee members for their tremendous efforts towards this most important issue. May Allah reward them with His infinitive mercy. Amin. *Wassalamu alaikum*.

I.O.: Thank you. That is all from Kurfi Local Government. Now the last but not the least in Safana Local Government.

HAMZA SULEIMAN SAFANA: *Bismillahir Rabmanir Rabim. Assalamu alaikum*. On behalf of the entire people of Safana Local Government, I have come with our written memo. We are not expressing our views or giving advices but have solely submitted and agreed that Katsina State Government should adopt Sharia throughout the State. This is a great event and indeed a remarkable one in the history of Muslims and Islam in Katsina State. Certainly this government is going according to the teaching of our Prophet (SAW) that whoever makes consultations on any matter shall not fail, but his conduct will be open (this does not matter anyway). It is a clear indication of good governance by the formation of this Committee. Open-door-policy, they say is a good democratic practice. We are grateful with this gesture. I have three advices to offer to this Committee: they should do justice in their conducts; they should also fear Allah and they should tolerate whatever might come in their way. With the maintenance of these three factors, success will surely be with them. *Wassalamu alaikum*.

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MAL. SALE SAFANA: *Assalamu alaikum*. I just want to re-affirm what my partner has just said that we are not here to express our views or give advices, but to show our full support on the issue of Sharia in Katsina State. This is an achievement. I wish the Committee members good luck and safe journey back home. *Wassalamu alaikum*.

AHMED KADO: *Assalamu alaikum*. I share the same view with the past speakers. And as Mal. Hamza highlighted Allah will guide that whoever consults on any issue will never fail and him [sic]. Therefore, we are lucky to have this type of leaders in our State, but we were just about to go astray if not because of this development. We should therefore utilise this golden opportunity so that we succeed in our life. The general advice here is that we should fear Allah in all we do that is significantly the Sharia. *Wassalamu alaikum*.

LIMAN MOHAMMED: *Assalamu alaikum*. Certainly this is a welcome development. On the conduct of this exercise of public hearing, I will advise that the Executive Governor of Katsina State should approve the adoption of Sharia in the State. And with regard to public hearing, the Executive Governor of Zamfara State is sufficient enough at this capacity. My reason is that we are enjoined to accept Islam wholly and Sharia is our life. So I hope we will consider life these days – how we got sudden death without any slight notice. Let us do it now before we are late. And we should copy from the conducts of the four well-guided Caliphs (he explained the translation of Suratul Asr, referring to the Caliphs), then Sharia and its status will be maintained. But I still advise that our Governor is now a partner to Zamfara State Governor, he should therefore consult him frequently in this respect. *Wassalamu alaikum*.

Thereafter, the Committee Chairman made an observation and promised to shed light on the mistake after the contributions from two other persons he gave few minutes to express.

MAL. ABDULKARIM (ISA KAITA COLLEGE OF EDUCATION): All protocols observed. *Assalamu alaikum*. I am here representing the staff of Isa Kaita College of Education Dutsin-ma for our support, advice and contributions on the issue of Sharia application in Katsina State. We first of all appreciated the effort of the Executive Governor of Katsina State. In the first instance, there was Sharia before and even when the Europeans arrived in this country, but later on the Constitution was introduced and that resulted to all these social vices we now experience in our daily life. The Constitution, unlike Sharia, is subject to review and amendments. Thus, in consequence, during the 1999 constitutional drafting, sections 38, 6, etc. were either mistakenly or deliberately provided in the Constitution. May Allah reward those who deliberately inserted these provisions in the Constitution, because it would have not been the situation now. There are so many observations as contained in our memo but due to time limit I will submit this memo to the Committee for necessary action..

MAL. TIJJANI: *Assalamu alaikum*. I am grateful for the little time given to me to express my view in this important forum. What I want to emphasise here is unity. We should try to be one and love each other. They say “Unity is power.” This is time because unless we unite, we cannot achieve what we want easily. This is my appeal. *Wassalamu alaikum*.

At this juncture, the Committee Chairman made the following corrections:

“Wa sallallahu alan Nabiyyul Karim”

Not “Wa sallallahu ala Nabiyyul Karim”.

VOTE OF THANKS BY THE YANDAKAN KATSINA DISTRICT HEAD OF DUTSIN-MA.

ALH. BALAN GOGGO: All praise be to Allah. *Wa sallallahu alan Nabiyyul Karim. Assalamu alaikum.* It is my humble honour and privilege to thank the Committee members and all other guests for the co-operation and understanding. On behalf of all the other District Heads and people from this zone, I wish to express my profound gratitude and appreciation for this development. We fully support the issue of Sharia in Katsina State and I want us to be given the chance to perform our role in this capacity. Finally, I wish the Committee members and all other guests safe journey back home. *Wassalamu alaikum.*

One of the members (Attorney General) requested people to submit their memoranda there or later at Katsina.

END OF SESSION 4.00PM (PRAYERS)

4. ZONE IV: KANKIA: KANKIA, INGAWA, KUSADA AND MATAZU

11TH NOVEMBER, 1999

(PRAYERS)

As usual, the Information Officer (I.O.) of Kankia Local Government after a formal introduction, invited the Chairman Kankia Local Government Council for his welcome address.

ALH. IBRAHIM ABDULLAHI TAFASHIYA (CHAIRMAN): All protocols observed. *Assalamu alaikum.* Certainly this day being 11th day of November 1999 is a remarkable day in the history of Islam most especially the people of this area comprising Kankia, Ingawa, Kusada and Matazu Local Government Areas. I will first of all like to express gratitude and appreciation for the tremendous efforts made by the Executive Governor of Katsina State on the inauguration of a Technical Committee on Constitutional Provisions for the Application of Sharia in Katsina State. This is an achievement. Katsina State should have been the first to adopt Sharia, but Zamfara unexpectedly took over. Nevertheless, it is now our turn. No doubt, the 1999 Constitution provides for every person or group to perform his or her religion freely and on whatever conditions (section 38). Therefore, I welcome this development. On behalf of the entire people of this Local Government, I will now submit our memo for the support of the Sharia, and I pray for the Committee members and the Executive Governor, Allah's guidance and assistance towards attainment of this noble objective. I also hope that people will contribute immensely with necessary advices towards this end. Finally, I pray for a successful deliberations in this forum. Thank you. *Wassalamu alaikum.*

After this, the Chairman of the Committee, as usual, spoke on the objective of this exercise with a formal introduction of other members of the Committee. He reported two of the members as being away on other assignments. They are: the Attorney-General/Commissioner of Justice, Alh. Ibrahim Shehu Shema, and Alh. Ishaq Nuhu Batagarawa who are away to Jos and Potiskum respectively. He finally drew certain criteria for the conduct of the exercise as follows:

- Four (4) people from each Local Government (one representing the Local Government, two from groups and the other one as individual);

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- Every person is given 5 minutes within which to present his contribution;
- Any written memo should be submitted to the Committee immediately or later.

He finally pledged to give a point of correction for the benefit of people at the end of the session.

I.O.: Now I have the honour to call on Ingawa Local Government representative to come forward and take chance on behalf of the Local Government (interruption by the Committee Chairman). Ok now those of you who prepared a written memo and might not be willing to say something here could simply submit their memo to the Committee. It is not necessary that you must express your contribution here, you can also give it in writing that will serve. Thank you. I now call on Liman Sanda for his contribution.

LIMAN SANDA: *Assalamu alaikum*. Praise be to Allah. There is no doubt that this development is a great history in our life because most of us are just experiencing it now. I therefore urge this Hon. Committee, the Executive Governor and all people in Katsina State to be firm on this noble course because whoever died in the cause of Allah has already attained the highest achievement. This is my contribution. I wish all of you good luck and prosperity. *Wassalamu alaikum*.

LIMAN YANDOMA: *Assalamu alaikum*. I stand here on behalf of the entire people of Ingawa Local Government to express our 100% support for the application of Sharia in Katsina State. The reason is that we are all created to worship – that is the purpose of our being. There is nothing we could do to be either benefit or loss to Allah. All we do will be for our own good. There are two supreme factors which if we stand by them, then we have no problem at all. These factors are the Holy Qur’an and the teachings of the Holy Prophet Muhammad (SAW). If we leave these strong weapons, we are nowhere to be found but in loss. Just imagine the present situation we are now in, several attempts were made to address a single problem but instead it went to the extent of total collapsing. So it is obligatory for every Muslim to hold this Holy Book, it is the only answer to our problems. This is our view and advice on this issue. *Wassalamu alaikum*.

MAL. SANUSI INGAWA: *Bismillahir Rahmanir Rahim. Asslamu alaikum*. I only stand to reaffirm our support on this issue of Sharia in Katsina State. I wish this Committee good luck and successful conduct throughout the exercise. *Wassalamu alikum*.

MAL. RABPU ADO INGAWA: *Assalamu alaikum*. I support what my colleagues expressed. *Wassalamu alaikum*.

I.O.: It now Kankia Local Government. The Chairman has already submitted a memo to the Committee as the representative of the people of the Local Government. Next is Liman Mal. Mansur.

LIMAN MAL. MANSUR: In the name of Allah, the Beneficent the Merciful. Praise be to Allah. May the peace and blessings of Allah be upon Muhammad (SAW). *Assalamu alaikum*. On behalf of the entire people of Kankia Local Government, I stand to submit our total support for the application of Sharia in Katsina State. People emphasising the need for this Sharia have said a lot. It will be a repetition only but there may be variation of understanding. Considering the history of Islam and trend of events therein, Sharia is the only answer now because it contains the whole life of mankind. *Wassalamu alaikum*.

MAL. SURAJO: *Assalamu alaikum*. As the past speaker has said, this Sharia is supreme and is the only alternative now because of its justly acts. See for example during the time of Umar (R.A.) there was a judgment he passed between a Muslim and non-Muslim where he gave the non-Muslim his due. He was impressed with the judgment and praised him for being just in his conduct. So Sharia is still existing only its implementation lost. If the implementation or application will be carried out, then all crimes – alcoholism, prostitution, hoarding, etc. will reduce or to some extent vanished. I therefore call on the Government to consider adopting Sharia in this State for the goodness of the people. Thank you.

I.O.: We will now listen to Mal. Ibrahim Sabi’u Jibia (a Magistrate Judge) for his contribution.

MAL. IBRAHIM SABI’U JIBIA: All protocols observed. *Assalamu alaikum*. My message is to the Executive Governor and Hon. Members of the State House of Assembly that Sharia should be enacted in Katsina State. Certainly it is not the subjects that should be blamed for not applying Sharia in their life because it is the responsibility of the authority to give this law. On the Constitution provisions, section 38 provides for this. Therefore I urge the Hon. Members to note that the Oath they had taken to do justice to the people, and this is the desire of the people now, we demand it. They should either do it or will be held responsible in the hereafter. This is my message. I wish the Committee a successful tenure. *Wassalamu alaikum*.

I.O.: It has been a contribution from Mal. Ibrahim Sabi’u Jibia. Now we are proceeding to Kusada Local Government.

ALH. NUHU YASHE (BEBEJIN KATSINA DISTRICT HEAD OF KUSADA): *Assalamu alaikum Warahamatullahi ta’ala wa barakatuhu*. I welcome the members of this Committee and all other guests to this important event. On behalf of the entire people of Kusada Local Government area, I wish to express our warm support and appreciation on the issue of Sharia in our State. Sharia, as a complete way of life of Muslims, is the only solution to the present situation. I therefore pray for the success of this movement. On the issue of Constitution review, I would like to point out that the Constitution did not make any provision for the Emirate Council. In this regard, I wish to give my advice that the Emirate Council should be given a provision in the Constitution for the betterment of the entire people. This is because of our role in the development of the nation in general. I wish the Committee members and other guests safe journey back to their respective homes. Thank you and God bless.

LIMAN MAL. YUSUF ALI: In the name of Allah the Beneficent the Merciful. May the peace and blessings of Allah be upon our Prophet Muhammad (SAW). *Assalamu alaikum*. We have prepared our memo to this Committee. Still I would like to say a little to apprise the Committee on our stand. We are extremely grateful for this development and therefore support the idea of Sharia in Katsina State. There are so many injunctions by Islam for the unity and cooperation among Muslim brothers and it is only by adoption of Sharia that we can unanimously be under one umbrella in terms of love and unity. With this I say *assalamu alaikum*. Thank you.

MAL. ISHAQ A. SANI: All protocols observed. *Assalamu alaikum*. On behalf of the entire people of Kusada Local Government, we re-affirm our support for the application

of Sharia in Katsina State. If we consider the population of Katsina State, you will see that 90% are Muslims and they say “majority always carry the vote.” You as a leader supposed to be a good guide to your subjects because the leadership is vested on you not for your own interest, but for the interest of all people at large. This is my prayer. *Wassalamu alaikum.*

I.O.: We shall now move to Matazu Local Government which is the last but not the least. The Local Government Council Chairman will now take the row.

ALH. HUSSEIN ADAMU KATADUWA (CHAIRMAN): All protocols observed. *Assalamu alaikum warahmatullahi ta'ala wa barakatuhu.* I stand on behalf of the people of Matazu Local Government Area to express our position with regard to Sharia in Katsina State. I want people to realise that when we talk of Sharia, first we should consider the situation and condition of people now. People are really facing a great problem and their lives are always in danger. This is because of our attitudes, take for example now a judge taking bribe and he claims that he is bound by the Holy Qur'an with which he judges. An accused person will also give money for his release, the police (custodian of the criminals) will also take money – all these people are Muslims. How then could our sufferings be alleviated? Again in the civil service, it is the same case, you cannot get your entitlements like leave grant until you do something to the schedule officer. This is our fault because unless we change, the situation will not improve. There are verses in the Holy Qur'an to this effect. So whatever we do and whatever we want, we cannot achieve it well till we resort to the Holy Book of Allah. We have three advices as part of our contributions towards this objective. First, we must resolved to this Sharia and this is not a question of begging, calling or lobbying for its adoption because it is something obligatory for leaders to their subjects (it is in the Holy Qur'an). Nobody would want to be in loss. So by this we felt it is necessary for those who will sit and formulate this law to do it immediately. Would it be that any Local Government could adopt the law it desired, I assure you that Matazu would have been the first to adopt Sharia. Secondly, the judges should be taken care of in terms of welfare. These judges should also be Islamically educated. Then mass education for all, that is a great weapon in the society. Finally, we call on the Government to make sure that justice is maintained when the Sharia is on course. This will reduce the burden on the leaders. I pray for the attainment of this objective. *Wassalamu alaikum.*

MAL. YUSHA'U MOHAMMED: All protocols observed. *Assalamu alaikum.* The Chairman has already voiced out all what we wanted to say on our behalf. But I will like to add that this Committee's members should be grateful to Allah for making them serve in this capacity. But I want those people criticising the issue of Sharia to note that this Sharia application is in order according to the Constitution. They should also remember the several attempts made to address series of crises but the (man-made) law could not solve the problem. So Sharia is the only way out now. *Assalamu alaikum.*

MAL. AHMED FARUK: *Assalamu alaikum.* I am grateful to Allah. I also appreciated the efforts of the State Governor for this kind development. All what I have to say has been said by my Chairman. I therefore wish the Committee members good luck and safe journey back home. Thank you.

REP. OF DISTRICT HEAD OF MATAZU: *Bismillahir Rahmanir Rabim. Assalamu alaikum.* I stand as representative of the District Head of Matazu to express our

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profound gratitude and appreciation for this development. Certainly Sharia is the only way. We therefore support it whole-heartedly. I will stop here with *assalamu alaikum warahamatullahir wabarakatuhu*.

I.O.: Now I will call on the Kankiyan Katsina the District Head of Kankia for vote of thanks on behalf of other District Heads and the entire people of this zone.

ALH. HASSAN SADA (KANKIYAN KATSINA): All protocols observed. *Assalamu alaikum*. Certainly, this day 11th November, 1999 is a remarkable day to the people of this area especially myself as I was born on 11th November, 1925. So on behalf of the entire people of this zone, I wish to express our gratitude and appreciation to the Executive Governor of Katsina State and the Committee members for these efforts on the application of Sharia in Katsina State. But I want to emphasise that they should be firmly and fully ready to absorb any kind of challenge from critics on this issue because there will certainly be those who will always go against it. Finally, I pray for them of the success on this process. I also wish them safe journey back home. *Assalamu alaikum*.

END OF SESSION: (PRAYERS) 12:50PM.

NB: Prior to the vote of thanks, the Committee Chairman made some corrections thus:

‘Alhamdu’ not ‘Alhandu’

‘Wa Sallallahu alan Nabiiyyul Karim’ not ‘Wa Sallallahu ala Nabiiyyul Karim’

‘Subhana Rabbika Rabbil Izzati’ not ‘Subhana Rabbuka Rabbul Izzati’.

5. ZONE V: DAURA:DAURA, BAURE, ZANGO, MAI’ADUA AND SANDAMU DANJA LOCAL GOVERNMENT WAS IN ATTENDANCE HAVING MISSED THEIR TURN AT FUNTUA ZONE

15TH NOVEMBER, 1999

(PRAYERS)

The Information Officer invited the Chairman Daura Local Government Council for a welcome address after an introduction.

ALH. AMINU UMAR DANGIMBA (CHAIRMAN): *A’uzu billabi minasshaidanir rajim. Bismillahir Rahmanir Rabim. Wasallallahu alan Nabiiyyul Karim*. All protocols observed. *Assalamu alaikum*. On behalf of the entire people of this Emirate, all other Chairmen, representatives of His Royal Highness and District Heads, I welcome the Committee members and all other guests to this important event. I also wish to express gratitude and appreciation to His Excellency, the Executive Governor of Katsina State, for the tremendous efforts made towards Sharia adoption in Katsina State. Sharia is significantly a basic guiding principle in the life of Muslims. We therefore unanimously support the application of Sharia in Katsina State. By this, there must be structural adjustment of our activities and conducts in the general spheres of life. Charity, they say, begins at home. We should therefore try to give example for others to copy. If we consider Sharia and its relevance to Muslims, we will see that it is a complete way of life. I therefore hope that people would be cautious of this development and make necessary adjustments appropriately. Finally, I pray for a successful conduct of this exercise. I wish the Committee members and all other protocols safe journey back home. Thank you and God bless. *Waslamu alaikum*.

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The Committee Chairman was invited for a formal introduction of members and an appraisal on the objective of the exercise. He made his address as usual, adding that two of the members were away on other assignments. He further highlighted the people on the usual arrangement of four (4) persons from each Local Government Area will be allowed to express their contributions and each person should spend five minutes within which to express himself.

MC: It is now my honour to invite Alh. Usman Mohammed the (Rtd) Grand Kadi for his remarks on the Sharia issue.

ALH. USMAN MOHAMMED: All protocols observed. *Assalamu alaikum*. This is indeed an important time for Muslims. It should therefore be utilised accordingly. We should also remember that whatever we do in this life will be accounted for in the hereafter. Even our coming and the purpose will be accounted for. I therefore urge people to do good in their conducts and always remember Allah and fear Him. I wish to extend my sincere greeting and thanks to this Committee and the State Government for this attempt. I hope this will be a stressful [sic] situation by its nature. By this I mean it should not be a temporary event that will cover just a certain period of time, but for life. We should bear in mind that this is supposed to be our way of life. With this small remark, I will stop here for others to give their contributions. *Wassalamu alaikum*.

MC: We shall now proceed with the normal business. We are starting with Daura Local Government.

MAL. SA'IDU USMAN: All protocols observed. *Assalamu alaikum*. As people say, "we need Sharia in Katsina State." This is not the most important now. It should be followed step by step because if we look back to history of Islam, it does not come overnight, it started growing gradually. With this, what is more important here is Islamic education. We should know the concept of Sharia itself before it is adopted for its effectiveness and maintenance. I hope people will realise this with sense of maturity. I wish the Committee members good luck in their undertaken. *Wassalamu alaikum*.

SALE ABUBAKAR IDRIS: Protocols observed. *Assalamu alaikum*. I stand on behalf of the entire people of Daura Local Government to express our full support for the application of Sharia in Katsina State. The question of taking things easy does not arise because Sharia we know is a complete way of our life (as Muslims), therefore, we should not expect that until a certain time reached before we conduct our life according to the rules and regulations. We should consider this to be the right time. We want this Sharia now. Pertaining to the constitutional provisions, there are so many sections which are relevant and in conformity with the Sharia adoption. I hope this Committee would deliver our message to the Executive Governor of Katsina State. Thank you. *Assalamu alaikum*.

MOH. DAHURU ESQ. DAURA: All protocols observed. *Assalamu alaikum*. I want to highlight some of our reasons for the support of Sharia in Katsina State. We are aware of the social vices happening in this country, dictatorship in governance, etc. with the Sharia all these would be gone. And on the application of the Sharia, we should not hesitate because even a child starts his education from the lower level (primary school). We should therefore try to learn the Sharia in practice up to its higher degree. On the constitutional provisions, I want to point out some sections relevant to this issue.

Section 5, 278, 286, 13, 14,15, 4 and 5, are all sections that relate to the issue of Sharia. I therefore hope this Committee with the vast experience of its members in this discipline, will advise the Governor appropriately. *Wassalamu alaikum.*

LAWAL ABDULLAHI: All protocol observed. *Assalamu alaikum.* This is a welcome development and we really welcome it. You see, some people were thinking that Sharia will only be possible if we shed blood. That proves negative because it is coming in a peaceful manner. We only need to fight our heart. I will at this juncture like to give an advice that government should organise a workshop for the judges just as it is the usual practice with political officeholders like Local Government Chairmen, Councillors, etc. These kind of people do undertake an induction course before swearing in to office. Similarly, judges should also undertake such course before the commencement of the Sharia. I wish you good luck in all your undertaking. *Wassalamu alaikum.*

M.C.: I will now call on the Chairman Baure Local Government to present his memo on behalf of the people of Baure Local Government.

CHAIRMAN BAURE LOCAL GOVERNMENT COUNCIL: All protocols observed. *Assalamu alaikum.* I will like to seize this opportunity and welcome all the members of this Committee and other guests. On behalf of the entire people of Baure Local Government, I hereby express our full support for the application of Sharia. We have made consultations and held series of meetings with various people in order to seek out a unanimous decision on Sharia issue. Some people think of the way of living or interaction with our counterparts. Let me give you an example here. Saudi Arabia is a wealthy nation and it is governed by Sharia, but the Europeans are now their best friends, why? That is politics. Therefore, the system of our living will not be a problem at all. I therefore pray for Allah's guidance and protection in this attempt. *Wassalamu alaikum.*

ALH. MALAM HAMZA: All protocols observed. *Assalamu alaikum.* The issue of Sharia to the Muslims in this country was long overdue. We are not supposed to live the way we live now, there is therefore the need for adjustment. With this, I re-affirm our support for the application of Sharia in Katsina State. *Wassalamu alaikum.*

UMAR DAIYABU: *Assalamu alaikum.* As our Chairman explained, we give a hundred percent support for the application of Sharia in Katsina State. It is only this Sharia that could adjust the current situation of instability. *Assalamu alaikum.*

LIMAN YANDUNA: All protocols observed. *Asslamu alaikum.* After expressing our full support on this issue, I will like to call on our Islamic leaders and teachers to give good guidance and counselling for people to copy. This is the important role they should play towards this end. Thank you.

AHMED TIJJANI BABBAN MUTUM: Protocols observed. *Assalamu alaikum.* Certainly this is a very good move and development. We were being neglected or denied our right of religion before, but this is our fault because we ought to have followed a straightforward direction which will make us unite, but we did not, instead we made divisions that rendered us loss. I therefore hope we will now take corrective measures to address this problem. *Wassalamu alaikum.*

M.C.: We shall now call on the Chairman Mai'adua Local Government for his memo.

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ALH. YA'U UMAR GWAJOGWAJO (CHAIRMAN): All protocols observed. *Assalamu alaikum*. I hereby welcome the Committee members and all other guests to this important forum. On behalf of the entire people of Mai'adua Local Government I wish to express our full support for the application of Sharia in Katsina State. At this point in question, I will like to appeal to all people to adjust our way of life to conform with the Sharia as it was supposed to be. If we do this even the judges, leaders and other authorities will have to adjust accordingly. It is we that give room for whatever we see in and around us. We have prepared our memo and there is a delegation who will add something to our submission in this regard. I wish the Committee members and all other guests safe journey back to their respective homes. *Assalamu alaikum*.

MUSTAPHA SHU'AIBU: *Assalamu alaikum*. I stand on behalf of the people of Mai'adua Local Government to express our support for the application of Sharia in Katsina State. There is no doubt that this is the time for the Sharia because we were living in darkness before, do we then want to remain in this condition for unpredicted time? It is our wish to be successful in both life i.e. in this world and the next. We should therefore resort to Sharia. It is the only way. Even the Constitution provides for this in so many sections. And considering the democratic process that "majority carry the vote." We are the majority and we want Sharia. *Wassalamu alaikum*.

ASHIRU IBRAHIM: *Assalamu alaikum*. I want to call on those people who claimed that Sharia is not possible. This is not true because there is no basis on what they said. You cannot separate man (a Muslim) with Sharia because it is his life, without which man will be in darkness and he will be spending his life up-head thereby losing the cause of his being. See for example, if a machine is manufactured, there will be a manual for its operation and unless it is operated according to that manual, it is bound to damage. Likewise our life, Allah has created us and He puts Sharia to be our way of life. Unless we follow it, our life has no meaning at all. I therefore hope that these people will desist from such aspirations. *Wassalamu alaikum*.

AUWAL SHU'AIBU: Protocols observed. *Assalamu alaikum*. The issue of Sharia has long been overdue. It is therefore now or never. I congratulate the members of this Committee on their appointment to serve at this capacity. Certainly, if they do well, Allah will reward them. I also pray for the success of the exercise and the attainment of the desired goal. *Wassalamu alaikum*.

MAL. YUSUF MANZO: Protocols observed. *Assalamu alaikum*. I will also emphasise on what people before me said. In addition, I will like to make a call on people especially those who are doubting the Sharia issue to desist from that. Certainly, Sharia will be the only solution to our problems. We have some advices which are written in our memo and due to time limit that will be submitted to the Committee for necessary action. I wish everybody good luck and safe journey back home. *Wassalamu alaikum*.

M.C.: I will now call on the Chairman Sandamu Local Government to present his memo.

CHAIRMAN SANDAMU LOCAL GOVERNMENT: All protocols observed. *Assalamu alaikum*. On behalf of the entire people of Sandamu Local Government, I wish to express our gratitude, appreciation and support for the application of Sharia in Katsina State. We have got our independence. The Sharia is for Muslims only and not for non-Muslims. Those who care for the development of our dear State will also like it.

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There is the need to change our judgments from penal courts to Sharia courts. We have a written memo which is submitted to the Committee for perusal and further action. And all our advices (about 14) are as contained in the memo. I wish the Committee members good luck in their future undertaking. Thank you. *Wassalamu alaikum.*

MAL. BELLO RIJIYAR TSAMIYA: *Assalamu alaikum.* We, the people of Rijiyar Tsamiya, do hereby unanimously agree and support the issue of Sharia in Katsina State. Good luck. *Wassalamu alaikum.*

MAL. LAWAL SALE SANDAMU: *Assalamu alaikum.* I am also here to re-affirm our full support on this issue. I wish everybody safe journey back home. *Wassalamu alaikum.*

AUWAL IBRAHIM FAGO: *Assalamu alaikum.* I concur with the past speakers' expressions.

MOH. ALIYU: *Assalamu alaikum.* My contribution on this issue is that I want people (Muslims) to note that we are never friends with the non-Muslims especially Europeans. Whenever you find yourself in good term with those type of people, then no doubt you are like them. We should therefore try to be firm on our life because Sharia is life. I will stop here due to time limit. *Wassalamu alaikum.*

CHAIRMAN ZANGO LOCAL GOVERNMENT: All protocols observed. *Assalamu alaikum.* A lot has been said of the issue of Sharia. It is time now. So on behalf of the entire people of Zango Local Government we give our full support on the issue. We have also prepared a written memo for submission to the Committee in addition to a delegation that will voice out our contributions towards this end. I wish the Committee members and all other guests safe journey back home. *Wasslamu alaikum.*

M. HABIBU HUSSEIN ZANGO: All protocols observed. *Assalamu alaikum.* Our Chairman has said something in a nutshell. The issue of Sharia is unanimous in Zango Local Government. Most of our problems persist due to our negligence of the Sharia. There are so many examples and instances, very clear indeed to prove this. I hope people will give more advices towards this end. *Assalamu alaikum.*

MANNIR USMAN ZANGO: *Assalamu alaikum.* I will like to express support for the application of Sharia in Katsina State. Certainly, Sharia is a way of our life. We should therefore apply it if we want to maintain a very good standard of living. I wish the Committee members good luck and safe journey back home. *Wassalamu alaikum.*

LIMAN M. AMADU: *Assalamu alaikum.* We are happy to witness this historic time in our life. I wish to grace the struggle and with continuous prayers for success. *Wassalamu alaikum.*

SADE MUSA 'YARDAJE: In the name of Allah, the Beneficent the Merciful. Praise be to Allah the Lord of the worlds. *Assalamu alaikum.* I stand here to offer prayers for the success in this process and I also wish the Committee members a successful conduct of this exercise. Finally, I pray for the wellbeing of the Muslim Ummah as whole. *Wassalamu alaikum.*

M.C.: We shall now give chance to the delegates from Danja Local Government.

BELLO HASSAN: All protocols observed. *Assalamu alaikum.* We are delegated to express the unanimous support of the entire people of Danja Local Government. By the

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time this Committee visited Funtua Zone, we were busy contacting people from various areas of the Local Government with regard to the Sharia issue. It was in consequence, therefore, that we feel it very important to present our contributions to this Committee at all cost and by all means. Thus, we came to Daura for this purpose. If we look back to the Islamic history, we will find that this is the duty being undertaken by Sheikh Usman Bin Fodio till his death. We are now lucky to be the *mujahiddins*. So we welcome this development and we should be firm in the matter. This is the message from the Chairman and people of Danja Local Government. *Assalamu alaikum*.

SA'ID IDRIS: *Assalamu alaikum*. The issue of Sharia is not something that we should neglect. This is because Sharia is our way of life. Unfortunately, however, we let loose of it for another useless act. I therefore hope we will stay awake for this great struggle. I wish the Committee members good luck and prosperity. I also wish everybody safe journey back home. *Wassalamu alaikum*.

M.C.: Now before we finally close, I will like to call on the Chairman Daura Local Government to formally present his memo on behalf of his people.

ALH. AMINU UMAR DANGIMBA (CHAIRMAN): *Assalamu alaikum*. On behalf of the entire people of Daura Local Government I hereby express our profound appreciation and support for the application of Sharia in Katsina State. A written memo to this regard has already been submitted to the Committee. *Wassalamu alaikum*.

M.C.: Now we shall finally invite the Galadiman Daura – District Head of Mai'adua for vote of thanks on behalf of His Royal Highness the Emir of Daura.

GALADIMAN DAURA: All protocols observed. *Assalamu alaikum*. I am here on behalf of His Royal Highness the Emir of Daura who has been away for England. The Emir was aware of this exercise before he left, he therefore extends greetings to all of you that are here now. On the issue of Sharia, the Emirate Council has prepared a memo and already sent it to the Committee. In short, the Emir himself and all other staff in the Emirate Council are in support of the Sharia issue in Katsina State. In fact it is your support that the Emir solicits for the application of Sharia in the State because according to him, it is their responsibility. I therefore wish to express my gratitude and appreciation for your support, co-operation and understanding. I wish the Committee members and all other guests safe journey back home. *Wassalamu alaikum*.

M.C.: With this we come to the end of this exercise. We will call for a closing prayer. Thank you and God bless.

END OF SESSION: (PRAYERS): 2.00PM.

6. ZONE VI: MANI: MANI, MASHI, DUTSI AND BINDAWA

16TH NOVEMBER, 1999

(PRAYERS)

As usual, after brief introduction by the Information Officer, Mani Local Government, the Chairperson Mani Local Government Council was invited for a welcome address.

HAJIYA YAHA MANI (CHAIRPERSON): All protocols observed. *Assalamu alaikum*. All praise be to Allah for given us the ability to witness this great event. You are aware that only Islam enjoin man to practise goodness. I seize this opportunity on behalf of all

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people in this zone, to welcome members of the Committee for the application of Sharia in Katsina State, and all other guests to this old Local Government for the purpose of Islamic Sharia. Certainly, things will be more easier and better than the present situation if Sharia is adopted in this State. This is because Sharia provides freedom to people and prevents them from the social vices, sharing of resources in the country will be a history in terms of misunderstanding. I therefore wish to express the support of the entire people of Mani Local Government for the application of Sharia in Katsina State. Finally, I will like to seize this opportunity to call representatives to come and express our humble support and possible advices to the Committee. I wish this forum a successful deliberation. I also pray for the attainment of this noble goal. Thank you. *Wassalamu alaikum.*

The Chairman of the Committee at this juncture delivered his address similar to that of Daura zone with stipulated time limit of 5 minutes for each of representatives. He added that Local Government Chairmen could express their views as it was learnt that they are having another function at Katsina.

I will now seize this opportunity to call on the Chairman Bindawa Local Government Council.

ALH. ISA LAWAL DORO (CHAIRMAN): All protocols observed. *Assalamu alaikum.* It is my honour and privilege to welcome the Committee to this zone. In my Local Government we made several consultations and meetings and we were able to come out with a unanimous decision by the whole Local Government. I will now like to express our support for the application of Sharia in Katsina State, on behalf of my people in Bindawa Local Government. Without taking much of time, I will stop here as our representatives will present our submission here insha Allah. *Wassalamu alaikum.*

ALH. SALISU MAJIGIRI (CHAIRMAN): All protocols observed. *Assalamu alaikum.* On behalf of the entire people of Mashi Local Government, I wish to express our support for the application of Sharia in Katsina State. We have made our submission through several hands and ideas within the Local Government Area. We have also given advices as contained in the memo. But one most important among them is the need for Government to organise an orientation or rather induction course for the judges of Sharia Courts. We hope this Committee will look into this with a view to passing same to the Government for necessary action. I will stop at this juncture, I wish the Committee members good luck, *assalamu alaikum.*

ALH. ABBA SANI (CHAIRMAN): All protocols observed. *Assalamu alaikum.* On behalf of all staff and the entire people of Dutsi Local Government, I hereby express our support on the issue of Sharia in Katsina State. The Sharia's relevance to the life of all Muslims cannot be over-emphasised. This is due to the fact that it is a complete way of life. Now considering the current situation, Sharia is the only answer. I will leave this to our delegates who will present our contributions on the issue. *Wassalamu alaikum.*

I.O.: We shall now proceed to the day's business. I now call on the people of Mashi Local Government.

MAL. IDRIS MURNAI KARAU: Protocols observed. *Assalamu alaikum.* I stand here to express our humble support for the application of Sharia in Katsina State. It is high time for Muslims to regain a moral status of religion freedom. We are not saying that Muslims

are not allowed to perform their religion but the right to live under the Sharia has been denied, even though that may be due to our negligence and heedless of the religion. But yet, let us have this right of religion now, it is then left to us to decide our way out. If we look at section 14 of the 1999 Constitution, it states “people are power” and again there is freedom of religion in section 17 of the same Constitution. If Zamfara State could exercise this right, why not Katsina State, is there any difference between the two? We therefore want this Sharia to be adopted in Katsina State and with immediate effect. *Wassalamu alaikum.*

MAL. SHU'AIBU RABU: *Assalamu alaikum.* Even if I did not say anything, our able Chairman has already said everything on our behalf. Those who criticised Sharia did so because they did not want it to be adopted in our State. Let them realise that this Sharia will only be applied to Muslims and their faith will even be protected. Look at the saying of a Nestorian Bishop in Christian document (p. XCVI). “These Tayits (i.e. Arabs) to whom God has accorded domination in our days, have also become our masters: Yet they do not combat at all the Christian religion. On contrary, they even protect our faith, respect our priests and our saints, and make donations to our churches and our convents.” This is a clear example and lesson for us to learn. I therefore call on the Committee members to fear Allah and deliver our message to the Executive Governor of Katsina State appropriately. *Wassalamu alaikum.*

MAL. TIJJANI LAWAL: *Assalamu alaikum.* We have unanimously given our advices and contributions on the issue, through our Chairman. I wish all of us good luck. *Wassalamu alaikum.*

I.O.: It is now Dutsi Local Government.

ALH. LIMAN BELLO: *Assalamu alaikum.* On behalf of the entire people of Dutsi Local Government, I hereby express our support for the application of Sharia in Katsina State. In the past, the non-Muslims were being protected and even with presence of Europeans. Still this will be maintained. The non-Muslim should therefore entertain no fear in this course. They will not be denied their human right. The Government should please take note on this. *Wassalamu alaikum.*

MAL. MOH. BASHAR SIRIKA: *Assalamu alaikum.* All I have to say is written in my memo which I now submit to the Committee. Thank you. *Wassalamu alaikum.*

I.O.: Bindawa Local Government is the next followed by Mani. Malam Jabiru Kallah.

MAL. JABIRU KALLAH: All protocols observed. *Assalamu alaikum.* The Chairman of Bindawa Local Government has made a good plans in this respect. He was able to have a unanimous decision from his people. In consequence, therefore, we have prepared our memo just like booklet and the Vice Chairman is currently at Katsina for its binding, but we hope sooner or later (before closing) he will be able to come with them for submission to the Committee. Meanwhile, I would like to present the memo categorically. The memo is divided into two parts 1 and 2, Part 1 contains the basic facts and reasons, part 2 contain advices. In this presentation, I will try as much as possible to avoid verbosity due to time limit. Outrightly, this is clear indication of a real democracy. Democracy is defined as a system of leadership where all the adult citizens share the supreme power of running the affairs of the state either directly or through their representatives. It seems here that we are running the affairs of this State directly and to

some extent through our representatives. This is a welcome development. The provisions of the Constitution do not prevent State from adopting Sharia. (sections 259 & 261 of 1979, 275 & 277 of 1999 – “There shall be for any State that requires it a Sharia Court of Appeal for the State”. 261 of 1999, 277(2) i & ii, 37 of 1979 and 38 of 1999). Leadership also qualifies good governance. Example, I quote “Leaders must fulfil three functions.” Leader must provide well being of the led; the leader or would-be leader must provide a social organisation in which people feel relatively secure; that this leader must provide his people with one set of beliefs. “Perhaps, the greatest leader of all times was Muhammad (SAW) who combined all the three functions (and) to a lesser degree Moses did the same”. Chicago University Jules Masserman. Again “Muhammad is the most successful of all religious personalities.” Encyclopaedia. With this little, I will stop here due to time limit, but we have also given some advices which are contained in our memo. Some of these advices are: orientation courses for the judges, wide publicity through media, formation of a Committee of Shura to be under State House of Assembly, creation of Ministry for Islamic Affairs in the State, etc. Finally, we, the people of Bindawa do express appreciation to the Executive Governor of Katsina State, his Deputy and other companions for this gesture. *Wassalamu alaikum.*

I.O.: Now it remains Mani Local Government.

ALH. SANI MAIGORO: *Assalamu alaikum.* A lot has been said, but I only have a little to say. Sections 6 and 38(i) are provisions for Muslims’ freedom of religion, but the controversial section (section 10) that some people misunderstood, is not in conflict with the Sharia application. We have also given our advices which are contained in our memo. We therefore hope this Sharia will be adopted with immediate effect. *Wassalamu alaikum.*

MAL. RABPU SABITU: All protocols observed. *Assalamu alaikum.* I have come with a lot of things, but Mal. Jabiru has exhausted all in his presentation. Nevertheless, I will like to express the support of the entire people of Mani Local Government for the application of Sharia in Katsina State. Sharia is the Islamic legal system as ordained by Allah (SWT) and it covers and regulates the whole aspects of life of a Muslim. We are therefore appealing to the State Government to adopt Sharia in our State. *Wassalamu alaikum.*

MALAM NA-MANI: *Assalamu alaikum.* We, the entire people of Mani Local Government support the issue of Sharia in Katsina State. Our Christian counterparts are not to blame, but our Muslim brothers who are heedless of the religion. My advice therefore goes to the Committee, Hon. Members of the State House of Assembly and the Executive Governor that competent judges should be appointed to manage our courts and Sharia for effective conducts. People will account for whatever they do in the hereafter. We wish the Committee and all other guests good luck and safe journey back home. *Wassalamu alaikum.*

At this juncture, the Committee Chairman made some corrections as follows:

‘Alhamdu’ not ‘Alhandu’

‘Wa sallallahu alan Nabiiyyul Karim’ not ‘Wa sallallahu ala Nabiiyyul Karim’

‘Wakina’ not “Wakinna’

‘Agfirlahu’ not ‘Agfirhu’

‘Warahamhu’ not ‘Warahamlahu’

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Thereafter, somebody from Bindawa was given a little time for his contribution.

BINDAWA: *Assalamu alaikum*. I have a written memo which I hope will be among the submissions of Bindawa. My advice on this issue is that let this Sharia be adopted carefully with plan, there is no need for hurry. I am happy to learn that all the judges are presently called at the A.B.U. Zaria for an induction course. This is a welcome development. There are some instances whereby a person will not be convicted for stealing, that is if you leave your property carelessly and somebody took it, that will be termed as a negligence by the owner. I hope this will be looked into and studied carefully. Thank you. *Wassalamu alaikum*.

I.O.: Now, finally, the Durbin Katsina District Head of Mani will give his vote of thank on behalf of other District Heads in this zone.

ALH. SANUSI ISA MANI (DISTRICT HEAD): All protocols observed. *Assalamu alaikum*. Certainly, as the Chairman of the Committee said, we have come to school, this is true but I will rather call it a seminar forum. I wonder what somebody from Bindawa has said, he has gone beyond our capacity up to the extent of quoting a statement in the Encyclopaedia about our Holy Prophet Muhammad (SAW). Well, is also an achievement because the moment we missed such people in the community, that community will not be effective and beneficial in any aspect of life. "Knowledge is light" and unless you see, you may not know where to go while in darkness. At this juncture, let me, on behalf of myself, other District Heads, Village Heads and the entire people of this zone, express our full support for the application of Sharia in Katsina State. The 1999 Constitution has guaranteed freedom of religion as provided for under section 38(i) thus "Every person shall be entitled to freedom of thought, conscience and religion including freedom to change his religion and belief and freedom (either alone or in community with others, and in public or private) to manifest or propagate his religion or belief in worship, teaching, practice or observance." This is a clear case for our Sharia to be adopted in this State. So I hope we shall succeed in this. Finally, I am grateful for the cooperation and understanding of the people in this conduct. I wish the Committee members and all other guests safe journey back to their respective homes. Thank you. *Wassalamu alaikum*.

END OF SESSION: (PRAYERS): 12:50PM.

7. ZONE VII: KATSINA: KATSINA, KAITA, RIMI, JIBIA, CHARANCHI AND BATAGARAWA

17TH NOVEMBER, 1999

(PRAYERS)

As usual, a formal introduction was made by the Information Officer, after which the Chairman Katsina Local Government Council was invited for a welcome address.

ALH. BASHIR GAMBO SAULAWA (CHAIRMAN): All protocols observed. In the name of Allah, most beneficent most merciful. May the peace and blessings of Allah be upon our Prophet Muhammad (SAW). *Assalamu alaikum*. I would like to first and foremost welcome the Committee members and all other guests to this important gathering. Even though we have a representative who will express on our behalf our contributions towards this noble course. But still I would like to seize this opportunity to express the gratitude, appreciation and support of the entire people of Katsina Local

Government. What people do not seem to realise is that Islam is to be practised in full and not partially. You cannot practise only a part of it. You are committing sin if you do that, and this sin we were forced to commit by not allowing us to practise Islam in full. Sharia is Islam because it is a complete way of life of every Muslim. We are therefore supporting its establishment. Allah is certainly sufficient to those who depend on Him. A specific reference is myself. For those who are doubting and/or criticising the adoption of Sharia, they are hereby informed that it is constitutional and lawful. It does not in any way conflict with 1999 Constitution of Nigeria. In fact it conforms with the provisions of the Constitution. Moreover, the non-Muslims in the State will continue to enjoy their religious freedom as usual. Finally, I will at this juncture stop here to give others chance for their contributions. *Wassalamu alaikum.*

The Committee Chairman, at this juncture, was invited for an appraisal on the conduct of the exercise. He made his address as usual, even though there was no formal introduction of other members of the Committee, but urged people to adhere to the stipulated time limit.

M.C.: We shall now proceed to the business of the day. Batagarawa Local Government should come forward. We have Ibrahim Abubakar, Ilu Kayauki and Mal. Usman.

ILU KAYAUKI: *Assalamu alaikum.* I welcome all protocols. We have prepared our memo in conjunction with the Local Government and in consultation with various groups in the Local Government. It is therefore our unanimous decision on the support of Sharia application in Katsina State. But Mal. Usman is the representative of our Local Government who will present the memo on behalf of the Chairman and the entire people of the Local Government. I wish the Committee good luck and success. *Wassalamu alaikum.*

MAL. USMAN: In the name of Allah, the Beneficent the Merciful. *Assalamu alaikum.* The Batagarawa Local Government with reference to the request for memo in respect of Sharia issue, invited people from all corners of the Local Government and sought their contributions through a committee formed by the Chairman in that regard. It was realised that we Muslims have been suppressed for too long by deliberately being denied our birthright which is religious freedom. Despite the fact that all the previous constitutions claimed that there is religious freedom in Nigeria, but this freedom has never been given to Muslims in full. Now that we have liberal leaders and a forward-looking Constitution which guarantees religious freedom, we are hereby asking for the Sharia. There are so many verses of the Holy Qur'an where Allah (SWT) enjoins man (Muslims) to do this. We have considerably advised as follows:

- a) Appoint kadis to the High Courts.
- b) The Government and members of the State House of Assembly should immediately pass a bill in this respect.
- c) Adopt Islamic penal law in its entirety as a separate part of our Penal Code applicable to only Muslims.
- d) Organise workshops for the kadis.
- e) Establish more Islamiyya schools, etc.

These and many others are contained in our memo which will be submitted to the Committee. *Wassalamu alaikum.*

M.C.: We are now moving to Charanchi Local Government. The Chairman will first represent his people and then three other people will come for their contributions.

CHAIRMAN CHARANCHI LOCAL GOVERNMENT: All protocols observed. *Assalamu alaikum*. Though I have a written memo, still I will like to present it here, please. In the name of Allah the Beneficent the Merciful. Praise be to Allah the Lord of the worlds. May the peace and blessings of Allah be upon Muhammad (SAW). I am happy to write this memo as part of our contribution towards the issue of Sharia. Sharia means the way. The way which leads you to success. From this message the word Sharia means a whole message from Allah (SWT) through Prophet Muhammad (SAW) to guide the life of mankind. Sharia is the set of rules and regulations from Allah (SWT) to mankind on how to conduct himself in a good way of life so that he attain the highest achievement in the hereafter. (He was asked to cut short his presentation due to time factor). In a nutshell, we the entire people of Charanchi Local Government are Muslims, we therefore unanimously support the application of Sharia in Katsina State. We wish the Committee success.

IMAM ALIYU MOHAMMED CHARANCHI: *Assalamu alaikum*. The entire people of Charanchi Local Government are in support of the application of Sharia in Katsina State. We want this Sharia for peace and progress, we want it for economic development and social stability in our dear State and the nation at large. Sharia will also solve the problem of social vices in the country. I therefore wish the Committee success and safe journey back home. *Wassalamu alaikum*.

MAL. MOH. ASHIRU KURAYE: *Assalamu alaikum*. Let us praise the Lord. Praise be to Allah. On behalf of my colleagues the *ulama* at Karaye and the entire people of that community, I wish to express our full support on the issue of Sharia in Katsina State. Who ever obeys Allah and His Apostle has already attained the highest achievement. There are so many related verses of the Holy Qur'an and Sunnah, but due to time limit, I will stop here for others to say something. *Wassalamu alaikum*.

ALH. LAWAL ABUBAKAR CHARANCHI: *Assalamu alaikum*. On behalf of myself, family and the entire people of Charanchi Local Government, I wish to express our support for the application of Sharia in Katsina State. Certainly, Sharia is obligatory on all Muslims because it is a complete way of life. There are so many injunctions in the Holy Qur'an that warn man not to disobey the rules and regulations of Islam. We are all Muslims and therefore our only answer is Sharia. I wish us success in this endeavour. I also pray for the day we shall gather to launch this Sharia in our State. *Wassalamu alaikum*.

M.C.: I will now call on Mal. Idris Abubakar who will represent the people of Jibia Local Government to come and give his contributions. I learnt that Mal. Ibrahim Sabi'u Jibia will represent the Local Government.

MAL. IBRHAIM SABI'U JIBIA: *Assalamu alaikum*. This paper is a brief summary of our contributions on the issue of Sharia in Katsina State. The Chairman intended to come himself but due to some inevitable commitments, he delegated us to represent him. We first of all express our gratitude and appreciation to this important and well-deserved Committee for this tremendous effort. Our first message is that the State Governor and members of the State House of Assembly are aware that the entire people of Jibia Local Government are Muslims, we therefore support their efforts for the application of Sharia

in Katsina State. Secondly, on section 10 of the 1999 Constitution. Many people feel that the adoption of Sharia by any State will mean the violation of that section. The section reads: “The Government of the Federation or of a State shall not adopt any religion as State Religion”. In adoption of Sharia by Katsina State will not mean that the State has adopted Islam as a State religion or it has become an Islamic State. This is because there will be Christians and their churches as well as followers of other religions living side-by-side with the Muslim in the State. In fact we should not be selfish in our conduct. If we do this, it is not only unwise but dangerous for us to forsake it for any worldly gain, be it economic, social or political. Quote: “You prefer the life of this world but hereafter is ever and more lasting” is a well known Qur’anic verse to all Muslims. Again “And whosoever does not judge by what Allah has revealed such are the *kaafirun* (unbelievers) of a lesser degree as they do not act on Allah’s laws.” So we should not trust them (the Europeans) for they are the enemies of Islam and Muslims. Otherwise we will go about doing useless things in our life. May Allah protect us. I wish this Committee good luck and I also hoped this message from Jibia Local Government will reach the Executive Governor and members of the State House of Assembly. Thank you. *Wassalamu alaikum*.

ALH. MUSA DANSORO JIBIA: *Bismillahir Rahmanir Rahim. Wa sallallahu alan Nabiiyyul Karim. Allahu Akbar!* (repeatedly). *Assalamu alaikum*. I have nothing much to say as Mal. Ibrahim has already said all. I will only wish us success. *Wassalamu alaikum*.

M.C.: I will now invite the Chairman Kaita Local Government Council for his presentation.

ALH. YUNUSA ABDULLAHI DANKAMA: All protocols observed. *Assalamu alaikum*. We have prepared our memo and a delegation of people who will represent the Local Government, but I have a little to say. I wish to congratulate the members of this Technical Committee. This is a singular honour bestowed upon you by the Government and people of Katsina State. It is my firm belief that you will not let us down in this heavy assignment and will prove equal to the task. May Allah guide and protect you all in the task ahead. One thing I want you to note is that the Government will only work on your report. You should therefore report people correctly. This is my word of advice. *Wassalamu alaikum*.

ALH. IBRAHIM ABUBAKAR: *Assalamu alaikum Allahu Akbar!* (repeatedly). This is indeed a great and historic event to all Muslims. On behalf of the entire people of Kaita Local Government, I wish to express our support for the application of Sharia in Katsina State. This is in conformity with the relevant sections of the 1999 Constitution. I therefore call on the Committee members to kindly deliver our message to the Government for necessary action. I wish the Committee members and all other guests safe journey back to their homes. *Wassalamu alaikum*.

MAIKUDI A. TAMA: *Assalamu alaikum*. All has been said, but I will like to add that whoever struggles for the sake of Allah, He will surely help him. I hope therefore, we will be firm on this process. *Wassalamu alaikum*.

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ALH. IBRAHIM DANKAMA: *Assalamu alaikum*. I will like to express our support on the issue of Sharia in Katsina State. This is our unanimous decision. It is an achievement. I wish everybody good luck and safe journey back home. *Wassalamu alaikum*.

M.C.: This is all from Kaita Local Government. Now we have Mal. Badamasi Abbas who will represent Katsina Local Government.

MAL. BADAMASI ABBAS: In the name of Allah, the Beneficent the Merciful. All praise be to Allah the Lord of the worlds. May the peace and blessings of Allah be upon Muhammad (SAW). *Assalamu alaikum warahmatullahi ta'ala wa barakatuhu*. On behalf of the entire people of Katsina Local Government, I would like to express our gratitude and appreciation for this effort. It is a long awaited time and it has now come. Certainly this Committee comprises learned people. We therefore wish them good luck in this endeavour. Some people were criticising this Sharia issue, maybe due to their selfish interest or ignorance. Quote: "Do they then seek the judgment of (the day of) ignorance?" Q5:50 (*wal iyaẓū billah*). But Allah (SWT) in His Book (Holy Qur'an) says: "And whosoever does not judge by what Allah has revealed such are the unbelievers." Sharia is a divine command by Allah (SWT) and it covers the whole life of a Muslim from the spiritual to the intellectual. And finally, since the population of Muslims of Katsina State weigh up to 99%, the Governor of Katsina State is hereby called upon to launch Sharia law in the State immediately. *Wassalamu alaikum*.

ALH. USMAN ALIYU K/BAI: (He has submitted a written memo on: Part 'A' Sharia; and Part 'B' Observations and suggestions on the Constitution review). He also presented same.

ALH. HAMZA YANKYAURE: *Assalamu alaikum*. I hereby stand to express support on the issue of application of Sharia in Katsina State. Certainly, the current effort being made will help Muslims in this State to live their full life by practising their religion without hindrance. Since there is a constitutional provision in support of Sharia under a certain section of the 1999 Constitution, there is no need for the Government to hesitate the adoption of Sharia in this State. It is our desire and right too. We therefore hope this Committee will pass our request to the Government. We are not requesting for anything but Sharia. I wish the Committee members good luck. *Wassalamu alikum*.

ALH. AMINU MAIGARI: In the name of Allah, the Beneficent the Merciful. Praise be to Allah the Lord of the worlds. *Allahu Akbar!* (repeatedly). Certainly, this is a great day in the history of Muslim in Katsina State. I would like to see all other members of our Committee here, please. (They all appeared). We initiated this struggle for Sharia in a long period of time with these people. We were hidden before we eventually came various groups and communities within Katsina State. This Sharia we are talking is actually guaranteed in the Constitution. See section 14 for example, provides for democracy in governance; governance according to the will of the majority. To Muslims democracy or freedom can only be attained through the realisation of the *Kalimatussahada*, the creed of confession in Islam, the effect of which is to establish freedom and equality of human beings and neglect servitude to any deity in form of human dictator (like Paroa) making laws for the governance of humanity. Allah said: "We made for you a law, so follow it and not the fancies of those who have no knowledge." Q.65:18. Section 15(2) and 277 are also relevant to the Sharia issue. It is also manifest from the provisions of section 4(6) and (7) a, b, c, that the only limits to

the legislative power of the State House of Assembly is in matters listed in the exclusive legislative list for the legislature of the Federation. Therefore, the State House of Assembly can make laws on commercial transactions between individuals. Penal law on all those the State House of Assembly can enact law the provisions of Sharia to give effect to the provision of section 38 granting right to religion on Muslims. Take another example: basically Fundamental Rights are rights given to or for the protection or in the interest of the individual, usually a natural person. There are few rights which may be for corporate bodies etc. e.g. right to fair hearing, right to own properties. For our purpose the right which is relevant is that of freedom of thought, conscience and religion. It seems here that the right guaranteed here is for “every person”. It is clear that Sharia Courts distinct and independent from the existing ones may be established with criminal and civil jurisdiction on matters not listed in its exclusive legislative list to which the State House of Assembly is competent to make law. We have so many things to point out to the Government pertaining to the right of the Muslims to go by Sharia, but most important thing is that this Sharia application is quite in order anyway and I can prepare a bill in this respect within the shortest possible time. In fact it is not something that needs much time. We therefore hope the Committee will immediately pass this contribution to the Government for necessary action. (He introduced members of their Committee to the forum). *Wassalamu alaikum.*

M.C.: It is now Rimi Local Government. We have Suleiman B. Abubakar who will represent the Local Government.

SULEIMAN B. ABUBAKAR: *Assalamu alaikum.* On behalf of the entire people of Rimi Local Government, I stand to express our firm support on the issue of Sharia in Katsina State. I think it will just be a repetition because people said a lot pertaining to the reasons for this Sharia, so with this I will now stop here for other to come in. *Wassalamu alaikum.*

M.C.: Now please it is considered that time is getting late. I am now asked to invite our royal father, His Royal Highness the Emir of Katsina, for his remarks, after which (may be) we shall continue.

ALH. (DR) MUHAMMADU KABIR USMAN: *Bismillahir Rahmanir Rabim. Wa sallallahu alan Nabiyyul Karim. Assalamu alaikum.* All protocols observed. I am indeed delighted to be here with you on this great event. I hear somebody calling or addressing us as “traditional rulers”, this is an insult and I am not among them, I am not a traditional ruler but Islamic leader. Again there was a call on myself and the Emir of Daura that we should cooperate for the application of Sharia in Katsina State. (*Wal iyazu billah*). What kind of cooperation? It is we that need your cooperation because it is our responsibility. Let me inform you that I hold the flag of Sheikh Usman Danfodio in my room right now. How then will you people solicit for our cooperation? We were in a missing direction up till this time with the development. This is an answer to the call of Allah. I therefore like to express my profound gratitude and thanks to Almighty Allah my Creator for this achievement. Allah (SWT) in the Holy Qur’an says: “*Izaja’a Nasrullahi walfath, wara’aitannass yadkebuluna fidinillabi afwajaa.*” So this is an achievement. Sharia is the Islamic legal system as ordained by Allah in the Qur’an and as practised through the Sunnah of the Holy Prophet Muhammad (SAW). On a wider perspective Sharia covers and regulates the whole aspects of life of a Muslim. Allah has clearly stated in the Holy Qur’an: “And whosoever does not judge by what Allah has revealed, then such people

are unbelievers.” Nobody will like to fall in this category of people, but how do we escape? If we give judgment, people will appeal to the High Courts thereby denying our status and position. I am now happy that this status is regained and I will be proud to die on this process since I have undertaken the responsibilities He vested on me, well and rightly. However, I will like to call on people to unite, cooperate and love each other and to abide by the rules and regulations governing our life. That is Sharia specifically. We were at fault, because we let things to mix with our Islamic culture thereby denying our legal way of living. Unless we adjust, the problems we are now in will not improve. I will at this juncture like to inform the Committee members and the Executive Governor of Katsina State that Sharia is the only answer to our problems and we are all out for it. It is therefore necessary for its adoption. I wish us all good luck and prosperity in this endeavour. As time for prayer approaches, I will stop here saying *wassalamu alaikum* and God bless. (He departs).

M.C.: We shall now continue with the business. We still have few people behind, please bear with us. Now Mannir Lawal from Rimi will say something.

MANNIR LAWAL: *Assalamu alaikum*. I will like to express our firm support for the application of Sharia in Katsina State. We have heard a lot of our leaders and teachers in Islam. *Wassalamu alaikum*.

M.C.: Aminu Danbaba will talk on this issue on behalf of their organisation (Council of Ulama) specifically Ambassador Moh. Lawal R/dadi.

AMINU DANBABA: In the name of Allah the Beneficent the Merciful. Praise be to Allah the Lord of the worlds. May the peace and blessings of Allah be upon Prophet Muhammad (SAW). *Assalamu alaikum*. On behalf of the entire people of Katsina State most especially members of our organisation, we express our full support for the application of Sharia in Katsina State. I did not have much to say as the previous speakers had already said it. But we have some advices on this issue. The Committee should inform the Executive Governor of Katsina State of the views of people; there should be Sharia courses for the judges to facilitate its effectiveness; and many others. We have submitted this in form of memo to the Committee. *Wassalamu alaikum*.

M.C.: I will now call on Sheikh Yakubu Musa Hassan for his contribution.

SHEIKH YAKUBU MUSA HASSAN: In the name of Allah the Beneficent the Merciful. Praise be to Allah the Lord of the worlds. May the peace and blessings of Allah be upon Prophet Muhammad (SAW). All protocols observed. *Assalamu alaikum wa rahamatullahi wabarakatuhu*. I stand here to make very lengthy remarks but due to time limit this will not be possible. But I will try as much as possible to say a little out of it, even though there is no much problem because this paper will be submitted to the Committee. In a nutshell, we do call and hope the Executive Governor and members of the State House of Assembly will as a matter of urgency adopt Sharia in the State. We shall meet another time. *Assalamu alaikum*.

M.C.: Now please bear with us, we are considering the time but there is somebody who wishes to say something and it may be important to all of us. Therefore let us hear from him. He is Abdullahi Aliyu Yar’adua (Judicial correspondent - State Radio).

ABDULLAHI ALIYU YAR’ADUA: *Bismillahir Rahmanir Rabim. Wa sallallahu alan Nabiyyul Karim. Assalamu alaikum*. Certainly, almost all what is supposed to be said has

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been said. But I have an emphasis on the issue of Sharia. Sharia, as we know is a complete way of life of every Muslim. But unfortunately, we neglect this system and prefer the man-made law which is subject to changes and amendments. Judgments were being passed on people without them (the people) knowing what actually resulted to such judgments. In most cases they interpreted the judgment and there was no room for any remarks rather than accepting what was passed on them. With this development therefore, I have some advices to offer to the Government through the Committee. Various sub-committees should be formed to investigate into numerous aspects of Muslims way of life; a committee on how a harmonised existence could be achieved between the Muslims and non-Muslims in the State; to avoid misinterpretation of the Constitution, learned Malams should work tirelessly to achieve Islamic system and living; a campaign committee should be formed; Islamic Law enforcement agency; moral discipline should be inculcated in the mind of citizens; honesty and sincerity should be the guiding principles of running the State affairs; female education should be given special attention with regard to Islamic law – as the Government is currently recruiting science teachers from India who will teach our children in Secondary Schools, similar personnel, should also be recruited from Saudia and other Arab nations to undertake their training so that even in our hospitals there will be separation of duties – men for men and women for women. With this little advice, I hope the Committee will look into this and pass to the Government as appropriate. *Wassalamu alaikum.*

END OF SESSION: (PRAYERS): 1:15PM

This brings the end of the whole exercise and it was indeed successful.

OFFICIAL REPORT PREPARED BY:

YAHAYA N. MAHUTA

OFFICIAL REPORTER

KATSINA STATE HOUSE OF ASSEMBLY.

REPORT OF THE COMMITTEE ON THE IMPLEMENTATION OF SHARIA IN KEBBI STATE

Submitted to His Excellency The Executive Governor of Kebbi State,
Alh. Muhammad Adamu Aliero

[Early 2000]

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REPORT OF THE COMMITTEE ON THE IMPLEMENTATION OF SHARIA IN KEBBI STATE

[COVER LETTER]

Your Excellency, the Executive Governor,
Your Excellency, the Deputy Governor,
Honourable Speaker, State House of Assembly,
Your Lordship, Chief Judge,
Honourable Commissioners,
Secretary to the State Government
Head of the Civil Service.

Assalamu alaikum.

Praise be to Allah *Subhanahu Wata'alah* for His mercies, guidance and for giving us the strength and courage to advance towards defending our faith and religion. Praise be to Allah for inspiring and preparing the mind of our able leader, the Executive Governor of Kebbi State, Alhaji Muhammad Adamu Aliero, towards the idea of adopting the Sharia as the legal system for the people of Kebbi State which has been the struggle and steadfastness of our entire *ummah*. I therefore wish to congratulate His Excellency on this noble objective which for decades had appeared or was rather made to appear a task almost impossible. We heartily pray that the Almighty Allah would make it easy the accomplishment of this noble assignment.

We also pray that, His Excellency the Executive Governor of Kebbi State, His Executive Council Members, Honourable Members of the State House of Assembly, Members of the Committee on Sharia and all the concerned citizens who contributed in any way to this noble cause be rewarded by Allah the Almighty with the best of His paradise.

I wish to express my sincere appreciation for the tireless effort and concern exhibited by the members of this Committee day and night during our deliberations to produce this report. Your Excellency may wish to acknowledge this contribution of the members of this Committee.

During the State tour embarked upon by the Committee, we were warmly received in all the Emirate Council Headquarters. Our Royal Fathers the Emirs of Gwandu, Argungu, Yauri and Zuru, their traditional title holders, and all the chairmen and their council members had contributed in no small measure to the Committee. We are grateful for their fatherly support, encouragement, understanding, co-operation as well as recommendations extended towards achieving the successful implementation of Sharia in the State. His Excellency should rest assured that a cross section of our State-wide tour revealed that majority of the people of Kebbi State are not only happy, but eager to have Islamic law applied to the regulation of their day-to-day affairs. In other words, it is the hope and aspiration of the majority of our citizens. It is in fact mandatory on all Muslims to agitate for the establishment of our fundamental right i.e. Sharia as an instrument of law to govern our lives. A Muslim's faith is not complete if he is not governed under the Islamic legal system. According to the Holy Qur'an Chapter 5 v. 47, "And whosoever does not judge by what Allah has revealed, then such people are (not better than) disbelievers". This verse is clear both to the Muslim leaders and Muslim led that they are only allowed to have Sharia as their leading law.

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During the State tour the Committee received more than 70,000 letters of goodwill messages and support for the Sharia. People experienced in different disciplines also contributed with pieces of advice and suggestions orally and in the form of memoranda to the Committee. The report we present today to His Excellency, apart from being the orthodox and universally accepted Islamic legal system, is also a representation of the people's views on how they desire the social and administrative structure of the State to look like. The Committee also appreciate the efforts of our religious organisations, individual *ulamas* and State media houses for embarking on a general enlightenment campaign on Sharia in order to educate those who criticise Sharia on the ground of ignorance and wrong interpretation.

The grassroots-level enlightenment campaign for the Sharia has been greatly recommended by all our Emirs, eminent scholars and other concerned individuals. The Committee in its report particularly emphasised very much on this. This should be the first stage of Sharia implementation before the actual legal implementation of Sharia.

The Committee also appreciate His Excellency's gesture in his effort to complement the Committee's assignment by enacting the laws prohibiting street hawking by girls and children, sale and consumption of alcohol, and prostitution. In this regard the Committee recommends strict measure of enforcing any law enacted, to ensure absolute compliance from the public.

Once more we pray that the Almighty Allah *Subhanahu Wata'alah* will guide and assist us to successfully accomplish this noble cause.

I wish to seize this opportunity to express the sincere gratitude of the entire members of this Committee for allowing us to serve in this noble assignment.

Finally, on behalf of the Committee members, I submit to His Excellency the Report of the Committee on Sharia Implementation for Kebbi State. I wish to thank His Excellency Alhaji Muhammad Adamu Aliero for supporting this Committee morally and financially throughout the period of its deliberation. May Almighty Allah continue to guide and protect the leadership of the Executive Governor and those charged with authority. May Allah also guide and protect our Royal Fathers and their *ulama* and *al'ummah*. And may Allah also bring peace, stability and prosperity as a result of our effort to embrace Sharia in its totality. Amin.

Wassalam.

INTRODUCTION

Sharia, the Islamic law, is a body of sacred injunctions enforced as divine law to govern the lives of all Muslims. Once you are a Muslim, the Sharia becomes binding on you. For Muslims therefore the Sharia is not only law but also a way of life. A Muslim, to be so, must live by the sacred precepts of the Sharia. A Muslim shall not opt out of it for if he does so he is in breach of Allah's law and ceases to be a Muslim. In a purely Islamic society positive man-made laws will necessarily have to be consistent with the injunctions of Sharia to be valid.

Therefore the clamour for the entrenchment of Sharia in the legal system in some states all over the Federation is not a surprise.

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Muslims in Nigeria have always resisted the imposition of English Common Law on them even at the risk of losing their lives as an alternative. Sultan Attahiru in 1903, was the first to resist vehemently the replacement of Sharia with the Western secular law. There were also several attempts by concerned Muslim leaders to revert to Sharia, although little success was recorded. The introduction of Penal Code by the Northern Regional Administration, the numerous efforts to amend the relevant sections of the Nigerian Constitution to elevate Sharia to an appropriate rightful status were all geared towards the full application of the Sharia on the Muslims in Nigeria.

All the constitutions so far designed, from Macpherson's Constitution to that of the 1999 which is presently operational, relegated Sharia to a mere Islamic Personal Law and accorded superior status to the Common Law which is Roman and Christian in origin.

Despite the tremendous efforts exerted by various Muslim individuals and organisations to explain the inseparability of Sharia from Islam the few Sharia antagonists still continue to oppose its entrenchment into the Nigerian Constitution.

In view of the foregoing and in response to the above demand of the entire Muslim population in Kebbi State, His Excellency, Alhaji Muhammad Adamu Aliero, the Executive Governor of Kebbi State, appointed a 14-man committee to deliberate and advise the Government on how best to accomplish this objective.

This Committee consisted of eminent jurists, learned in Islamic and Common Law, and of experienced administrators from both the Muslim and non-Muslim areas of the State. The Committee was inaugurated with the following membership:

1. Alh. Muhammad Zaria Musa (Hon. Grand Kadi)	Chairman
2. Alh. Ibrahim Mai'ahu (Attorney-General & Comm. For Justice)	Member
3. Barrister Ibrahim Kangiwa (Hon. Comm. of Information)	Member
4. Justice Isma'ila Haruna Rasheed	Member
5. Kadi Tukur Argungu	Member
6. Kadi Mukhtar Imam Jega	Member
7. Alh. Idris Koko (Madawakin Gwandu)	Member
8. Prof. A.A. Gwandu	Member
9. Barrister Abubakar Abdullahi	Member
10. Khalifah Usman Mukhtar	Member
11. Mallam Abbas Jega	Member
12. Alh. Yusuf Jibril Zuru	Member
13. Alh. Ahmadu Sarkin Fada	Member
14. Alh. Yusuf Muhammad Argungu	Member
15. Alh. Aliyu Ahmad Bandi	Secretary
16. Yahaya M.H. Jega (co-opted)	Asst. Sec.

The Committee has the following terms of reference:

- a) To advise the Government on how best to entrench Sharia in the State legal system.

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- b) To identify and review relevant State laws, so as to bring them in conformity with the Sharia legal system.
- c) To do any other thing necessary or incidental to the discharge of its responsibilities.
- d) To call for oral and written memoranda from the members of the public on the ways and means of entrenching the Sharia in the State legal system.

The Committee was given six weeks to complete its assignment, from the date of inauguration. During the 1st meeting of the Committee held on the 18th October, 1999, the following strategies were drawn to guide it in carrying out this assignment:

- i) To obtain copies of all existing laws and edicts not conforming to, or are in conflict with the principles of Sharia and make necessary recommendations.
- ii) To undertake a working tour of the four Emirate Headquarters to meet the people at the grassroots to enable them contribute their quota by oral representations and written memoranda, to sensitise them about what Sharia stands for and allay the fears of the non-Muslims about the Sharia.
- iii) To examine the submissions and adopt those found useful and relevant to the Committee's terms of reference.
- iv) To identify laws that require amendment and those to be scrapped out or abolished; and,
- v) To make any other appropriate recommendation to the State Government.

Having drawn this framework, the Committee then appointed three sub-committees to facilitate its assignment. The sub-committees are:

1. Judicial Committee,
2. Social Order Committee, and
3. Public Enlightenment Campaign Committee.

WORKING TOUR OF THE EMIRATE HEADQUARTERS

The members of the Committee undertook working tour of the four Emirate Headquarters of Birnin Kebbi, Argungu, Yauri and Zuru. In all those places it met with the Emirs and people. The Committee recorded total support for the implementation of the Sharia from their Royal Highness, the Emirs of Gwandu, Argungu, Yauri and Zuru. There was also overwhelming support by the people of these Emirates. There was, however, a small opposition registered from the Christian population in Zuru town. In this regard the Committee met with Christian leaders in a church in Zuru where the Christians were assured that they were not going to be subjected to the provisions of the Sharia. The meeting ended up with the fears of Christians being allayed. The Committee also observed that no follower of the traditional religion in Zuru Emirate registered any opposition to the Sharia.

[DELIBERATIONS]

After the working tour, the Committee sat and deliberated as follows:

[1.0 CONSTITUTIONAL CONSIDERATIONS]

- i) SECTION 38 RIGHT TO FREEDOM OF THOUGHT CONSCIENCE AND RELIGION. Sharia is part and parcel of Islam, in fact the two are inseparable. For a Muslim to practice his religion, therefore, he must allow Sharia to govern his whole life. By the same token the Constitution allows non-Muslims to practice theirs freely. Islam also teaches that there is no compulsion in religion.
- ii) THE CONSTITUTION – 1999. The Committee studied the 1999 Constitution and came to the conclusion, after extensive deliberations, that it does not impede the implementation of Sharia code for the Muslims. This conclusion was reached after studying all the important provisions, which guarantee and protect freedom of religion. The Committee also took into cognizance section 10, which prohibits any State or Federal Government from adopting any religion. Our conclusion is that that section contemplates a situation where a particular religion will be recognised and the rights of its practitioners only protected as against other religious faiths by the State. Sharia, as is well-known, recognises and protects other religions.
- iii) Under section 6(4)(a) of the 1999 Constitution the House of Assembly has powers to establish courts other than those mentioned in the Constitution. The framers of the Constitution no doubt had at the back of their minds the need to make both legal and judicial systems in the country flexible enough to meet the cultural, ethical and religious demands of the people.
- iv) APPLICATION OF SHARIA ON NON-MUSLIMS. On the whole, unbelievers have enjoyed under Islamic law a measure of tolerance the like of which is not to be found in Europe. The Sharia, as is well-known, has always frowned against forcible conversion as is clearly demonstrated where the Holy Qur'an states: "Let there be no compulsion in religion." (Qur'an 11:217). Therefore, Islamic law is restricted to Muslims only unless a non-Muslim wishes to be tried by the Sharia Court on his own volition.

2.0 SHARIA COURT OF APPEAL

2.1 One of the existing judicial structures for the implementation of the Sharia recognised by the 1999 Constitution is the Sharia Court of Appeal. The constitution has limited the jurisdiction of the Sharia Court of Appeal to the Islamic Personal Law with a proviso, that the State House of Assembly may confer it with additional jurisdiction. Section 277 of the 1999 constitution refers.

3.0 EXISTING LAWS AND EDICTS IN KEBBI STATE

3.1 The present operational laws in Kebbi State are 152 in number. Most of them are of regulatory and administrative nature. Some of these laws may not apply to matters that are governed by Islamic law e.g. will law, trustee, law of property etc. The following laws need some modifications and/or amendments:

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1. Auctioneer's Law – This law is in order but it should be expanded so that a prospective buyer or bidder shall be given a chance to inspect the property or article to be auctioned.
2. Cinematography Licence and Censorship Law – The two should be amended to reflect the Committee's recommendations.
3. Kebbi State Trunk Roads – Necessary signs should be fixed on the State trunk roads. Inflicting damage to the road should be made an offence and therefore punishable e.g. digging, making holes as well as leaving dangerous obstacles on the road.
4. Kebbi State Transport Law – There should be a demarcation between men and women in buses. This should be extended to other commercial vehicles.
5. Audit Law and Audit (Local Government) Law – Enforcing an efficient auditing system should reduce corruption and embezzlement.
6. Road Traffic Law – Operators of kabu-kabu should be particularly more cautious while riding.
7. Boys Scout Law – This law should be extended to aid groups, Red Cross, vigilante groups and other recognised organisations.
8. The Beast of Burden Law – Donkey dealers should be prohibited from slaughtering and selling donkey meat for human consumption in the State.
9. Bush-burning Law – This Law should be strictly enforced in Kebbi State.
10. Meat Law – All slaughter houses and slabs should be prohibited from slaughtering animals the consumption of whose flesh is not allowed by Sharia like pigs, dead animals, etc. This is without prejudice to non-Muslims having provision for such animals to be provided by the Government.

All the remaining laws were considered and recommended by the Committee to remain operative while the under-listed in particular shall not apply to Muslims:

- | | |
|---|------------------------------|
| i) Administration (Real Estate) | x) Limitation |
| ii) Applicable Laws
(Miscellaneous Provisions) | xi) Pawn Brokers |
| iii) Burials | xii) Money lenders |
| iv) Civil liability (Miscellaneous
Provisions) | xiii) Married women property |
| v) Contracts | xiv) Oath and affirmation |
| vi) Defamation | xv) Prescription |
| vii) Fatal Accidents | xvi) Property |
| viii) Infants | xvii) Torts |
| ix) Legitimacy | xviii) Trustees |
| | xix) Will |

The Committee has observed that most of the offences provided for by the Sharia are covered under the Kebbi State Penal Code, the only exceptions being that most of the punishments are not in accordance with the Sharia. The Committee recommends that the Penal Code be amended by the State House of Assembly to bring about such punishments for the offences therein as are recognised by the Sharia.

4.0 JURISDICTION OF SHARIA COURT OF APPEAL SECTION 275

“There shall be for any State that requires it, a Sharia Court of Appeal for the State.”

The above section empowers any state of the federation that requires it to establish Sharia Court of Appeal. Implementation of Sharia is therefore in conformity with the above section of the Constitution.

Section 277 restricts the jurisdiction and power of the Sharia Court of Appeal to:

- 1) Civil jurisdiction;
- 2) Specific matter and causes.

The same section above empowers the House of Assembly of a State to confer additional jurisdiction to the Sharia Court of Appeal.

[5.0 ADDITIONAL JURISDICTION FOR SHARIA COURT OF APPEAL]

5.1 The Committee recommends that questions involving Islamic law whether civil or criminal be conferred upon Sharia Court of Appeal.

This does agree with the decision reached during the Committee’s deliberations, where it was agreed that all Area Courts in Kebbi State be substituted with new courts to be known as District Courts, and the new courts shall be conferred with necessary jurisdiction to hear and determine cases with the jurisdiction of the scrapped Area Courts.

6.0 ESTABLISHMENT OF NEW SHARIA COURTS

6.1 The Committee recommends that the following Courts be established namely:

- i) The Sharia Court;
- ii) The Upper Sharia Court.

The Committee further recommends that a Sharia Court be established in each district of the State and if possible in other villages which deserve it. Similarly an Upper Sharia Court should be established in Local Government Headquarters.

The Judicial Service Commission is the body empowered to make the appointment to the posts of president and members of the Upper Sharia Court as well as alkali for the Sharia Court respectively.

7.0 COMPOSITION OF MEMBERSHIP OF UPPER SHARIA AND SHARIA COURTS

7.1 The Upper Sharia Court shall be composed of a president and one member, while a Sharia Court shall have a single alkali.

8.0 QUALIFICATIONS FOR THE APPOINTMENT OF PRESIDENT AND MEMBERS OF UPPER SHARIA COURT

8.1 A person to be appointed as a president or member of an Upper Sharia Court shall be:

- i) A serving judge; or

- ii) A legal practitioner in Nigeria who has been so qualified for a period of not less than seven years and has obtained a recognised qualification in Islamic law from an institution recognised by the Judicial Service Commission;
- iii) Shall be an alkali of the Lower Sharia Court who has been serving in that capacity for a period of not less than five years.

9.1 QUALIFICATION FOR THE APPOINTMENT OF AN ALKALI FOR THE SHARIA COURT.

A person to be appointed as an alkali of a Sharia Court shall be:

- i) A serving Area Court Judge; or
- ii) Legal practitioner in Nigeria with bias in Islamic law who has been so qualified and has recognised qualification acceptable to the Judicial Service Commission;
- iii) Any other qualification acceptable to the Judicial Service Commission.

10.1 CONTROL AND ADMINISTRATION OF SHARIA COURTS

The Committee recommends that administrative control and supervision of the new Sharia Court be under the office of the Honourable Grand Kadi.

11.1 APPOINTMENT OF WALI OF THE SHARIA COURT

The Judicial Service Commission on the recommendation of the Honourable Grand Kadi shall appoint the Wali of the Sharia Courts.

The Wali shall be vested with customary responsibility of advising the Grand Kadi on appointments and discipline of the presidents and members of the Upper Sharia Courts and the alkalis of the Sharia Courts, as well as their performance and complaints relating to them. The Wali is to further advise the Grand Kadi on the applicable laws of practice and procedure and their changes thereof.

12 QUALIFICATION FOR THE APPOINTMENT OF WALI

A person shall not be appointed to the post of Wali of the Sharia Court unless:

- i) He is a retired Upper Area Court judge or a retired kadi from the Sharia Court of Appeal;
- ii) He is qualified to be appointed as an Upper Sharia Court judge, a president or a member of the Upper Sharia Court.

13 STAFF OF THE SHARIA COURT

To avoid redundancy and abuse of office in the Sharia Court the number of staff to man it shall be restricted to the following:

- i) Registrar (*Al-Mufti*)
- ii) Court Clerk (*Al-Katib*)
- iii) Estate Distributor (*Al-Qasim*)
- iv) Valuer (*Al-Muqawwim*)
- v) Interpreter (*Al-Tarjuman*)
- vi) Messenger (*Al-Kadim*)
- vii) Bailiff (*Al-Awn*)

13.1 The alkali and staff of the Sharia Court mentioned above shall be public officers and shall be appointed by the Judicial Service Commission. The Judicial Service

Commission shall determine salaries and allowances of the president, members, alkali and the staff of the Sharia Court.

14 The Committee however recommends that the salaries and allowances of the above be sufficient enough to make them reasonably comfortable. On the other hand Code of Conduct for the judicial officers should be adhered to strictly.

15.1 JURISDICTION AND LAW OF THE SHARIA COURTS

The Sharia Court shall be competent to hear and determine all civil matters and causes where all the parties are Muslims including any proceeding involving:

- a) Marriage under Islamic Law (*An-Nikah*)
- b) Guardianship and maintenance (*Al-Kafala*) and (*Al-Nafaqa*)
- c) Succession (*Al-Mirath*), Will (*Al-Wasiyya*), gift (*Al-Hiba*) endowment (*Al-Wada*)
- d) Pre-emption (*Al-Shum's*) and trust (*Al-Amana*).
- e) Land Law (*Hokum Niamey Arid*)
- f) Contract (*Al-Ad*)
- g) Tort (*Al-Jinee*)
- h) Commercial Law (*Haul Buy*)
- i) Company law (*Haul Sharked*) and (*Al-Maharajah*)

15.2 The Sharia Court shall, in addition to the above, hear and decide all criminal cases in which suspects or accused person(s) is/are Muslims including:

- | | |
|--|---|
| a) Homicide (<i>Qatlu-Nafis</i>) | l) Offering and receiving gratification (<i>Al-Rishwa</i>) |
| b) Robbery (<i>Al-Hiraba</i>) | m) Criminal breach of trust (<i>Al-Khayanah</i>) |
| c) Theft (<i>Al-Sariqa</i>) | n) Cheating (<i>Al-Gishsh</i>) |
| d) Defamation (<i>Al-Qazaf</i>) | o) Mischief (<i>Al-Fasad</i>) |
| e) Drunkenness (<i>Shurbul Khamr</i>) | p) Receiving stolen property (<i>Shara'a Mata'il Sariqah</i>) |
| f) Causing grievous hurt (<i>Al-Qisas</i>) | q) Giving false evidence (<i>Shahadatul-Zur</i>) |
| g) Homosexuality (<i>Al-Lumat</i>) | r) Apostasy (<i>Al-Ridda</i>) |
| h) Adultery (<i>Al-Zina</i>) | |
| i) Lesbianism (<i>As-Sihaq</i>) | |
| j) Bestiality (<i>Watul Dabba</i>) | |
| k) Perjury (<i>Al-Taẓẓir</i>) | |

15.3 All capital offences shall be triable by the Upper Sharia Court.

16.1 The applicable law in both civil and criminal proceedings shall include:

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|--|--|
| a) The Holy Qur'an | g) <i>Al-Istishab</i> |
| b) <i>As-Sunnah</i> and <i>Al-Hadith</i> | h) <i>Al-Urf Wal-Adat</i> |
| c) <i>Al-Ijma</i> | i) <i>Mazhabul Sababi</i> |
| d) <i>Al-Qiyas</i> | j) Other subsidiary sources as interpreted by the following reference books: |
| e) <i>Al-Masalib Al-Mursala</i> | |
| f) <i>Al-Istihsan</i> | |

16.2 REFERENCE BOOKS

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|----------------------|------------------------|
| a) <i>Al-Risalah</i> | b) <i>Al-Mukhtasar</i> |
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|-------------------------------|--------------------------------|
| c) <i>Al-Tuhfa</i> | l) <i>Jawahirul Ikilili</i> |
| d) <i>Al-Adawi</i> | m) <i>Al-Dasuqi</i> |
| e) <i>Al-Fawakibul Dawani</i> | n) <i>Al-Khirshi</i> |
| f) <i>Ibn Ashbir</i> | o) <i>Bulgatul Salik</i> |
| g) <i>Bidayat Al-Mujtahid</i> | p) <i>Mawahibul Hallaq</i> |
| h) <i>Al-Mudammwana</i> | q) Other reference books |
| i) <i>Muwatta Malik</i> | recognised by Maliki School of |
| j) <i>Al-Mayyara</i> | Law |
| k) <i>Al-Bahjah</i> | |

17 PRACTICE AND PROCEDURE

The practice and procedure to be applied by a Sharia Court shall include:

- i) The Islamic Law and procedure as contained in the sources and texts listed above.
- ii) The Grand Kadi (*Qadi*) shall issue rules of practice and procedure to include fees payable and execution etc.

18 POSTING AND TRANSFER OF SHARIA COURT JUDGES AND STAFF

Posting and transfer of Sharia Court judges and staff shall be made by a committee consisting of:

- i) One kadi (*qadi*) to be nominated by the Grand Kadi (*Qadi*) who should be the Chairman.
- ii) The Chief Registrar of the Sharia Court of Appeal who shall be the Secretary of the Committee.

Posting shall be subject to the approval of the Grand Kadi (*Qadi*).

19 OBSERVATIONS

The Committee after listening to oral advice and suggestions and having discussed the written memoranda received, observed (and recommends) as follows:

- i) That the background to the call for the revival and full implementation of the Sharia in Kebbi State was the dissatisfaction of both the Government and the people with poor administration of justice as well as the collapse of the social and political institutions of our society which is manifested in the prevalence of social vices such as corruption, nepotism, tribalism, abuse of public office and position, drunkenness, cheating, fornication, armed robbery, gross violation of human rights among others which are taking their toll on the national psyche on a daily basis under the very nose of the existing judicial system which is largely Western in its orientation and origin and which is so far removed from our cultural heritage that, not surprisingly, it has failed to provide adequate remedy to all these evils.
- ii) That for the Muslims and non-Muslims alike it is now time to look back to the good old days when Sharia was in full operation in some parts of this country. In those days, historical documents testify, there was security of life and property in all the territories where Sharia was being practiced and people lived in harmony, peace and tranquillity.

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- iii) That the social decay and moral decadence we observe today is similar to what obtained during the *jahiliyyah* period in Saudi Arabia, and that almost as soon as the Sharia was implemented these vices evaporated into thin air.
- iv) That in Saudi Arabia today serious crimes and anti-social behaviour have been reduced to a minimum due to the implementation of the Sharia.
- v) That seeing the effect of the implementation of the Sharia in this part of the country before the arrival of the British colonialists and the miracle it performed in Arabia during the early days of Islam as well as its effect in modern Saudi Arabia, the Muslims in Kebbi State call loudly for its entrenchment into our legal system once again as a remedy to our predicaments.
- vi) That Sharia is part and parcel of Islam and cannot be separated from it. Its application is as binding on the Muslims as is the observance of prayer, fasting, pilgrimage, etc.
- vii) That under Sharia all are equal before the law, the rich and the poor, the ruler and the ruled, and equality before the law is absolute. There is no privileged class and no one has immunity to protect him if he falls foul of the Sharia.
- viii) That Sharia is not new in this country; it was in existence from 1804 to 1903 when the British administration conquered the Sokoto Caliphate and suspended or modified certain provisions of it to suit their administrative system. They excluded some important provisions of the Sharia like those relating to *hadd* punishment for homicide and theft and allowed Muslims to implement only the civil aspects of the Islamic law which is referred to in our Constitution as Muslim Personal Law.

RECOMMENDATIONS

In view of the above, the Committee recommends that:

1. Begging, praise-singing and all forms of immoral gatherings and activities during marriage and naming ceremonies (such as luncheons, picnics, cocktail parties and disco) be banned and made illegal and punishable in Kebbi State.
2. The bridal gift given by the suitors to brides (customarily known as *lefe*) should be abolished and be made a punishable offence in Kebbi State. In place of it only dowry (*al-sadaq*) shall be payable.
3. All forms of music such as *wenrage*, *wai-waya baya*, *wasigidi* etc. during marriage, naming ceremonies, any other occasion should be banned throughout Kebbi State.
4. Extravagance in marriage should be prohibited. During marriage contract the suitor shall pay only *sadaq* (dowry) to the bride in accordance with the *Sunnah*. Payment of all forms of levies and other traditional gifts such as *kudin mai unguwa*, *kudin yan banga*, *kudin tobassai* etc. should be made illegal and punishable under the law. This prohibition also applies to circumcision and naming ceremonies. District, village and hamlet heads and elders (i.e. community leaders) should be required to bring to the notice of the law enforcement

agencies, names of all those who contravene this order in their areas of jurisdiction.

5. Imams of mosques as well as religious preachers should be involved in enlightening the public of the need to observe these laws in the interest of the society.
6. UNMARRIED WOMEN. All unmarried women should be encouraged to marry, and their relations and the general public should be encouraged to help them before they find husbands.
7. PROSTITUTES. Prostitution in whatever form shall be prohibited and all prostitutes engaged in this un-Islamic and social vice shall be required either to give it up or face the full weight of the law. If they reform, however, their relations and the general public should also be encouraged to assist them pending the time they find husbands or an honourable means of livelihood.
8. WEIGHTS AND MEASURES. One of the serious concerns in this country is the failure of the Federal, State and Local Governments to enforce law on weights and measures. The Committee, therefore, recommends enforcement of strict adherence of standard weights and measures in our markets throughout the State. Commodities like tuber, vegetables, meat, fish, fruits etc. should all be sold by standard weights and measures.
9. KHUL'. This is a divorce granted to a woman by her husband or by a judicial authority in consideration for an agreed sum of money or any other valuable payable to the husband by the wife. This type of divorce is normally resorted to where a wife seeks divorce from a husband but has no valid legal justification to obtain it, her husband not being willing to grant the request *gratis*.

Since no fixed amount of money or property is charged for *khul'* by the law, some husbands/judicial officers often demand unreasonably high amounts for it, thereby making it impossible for the wife to pay – a situation which leads to women remaining outside their matrimonial homes while looking for means to pay the required compensation.

In order to provide a solution to this problem, the Committee recommends that the judicial officer/alkali concerned in deciding the amount should use his discretion and effect a divorce by letting the wife refund to the husband the amount he paid as her *sadaq*. This is in line with a *hadith* (tradition) narrated by Thabit.

10. MODE OF DRESSING. People, both male and female, should generally dress decently. Muslim women in particular should dress in accordance with the Islamic injunction. Indecent dressing in any form should be prohibited. Non-Muslim women who opt not to dress in accordance with the Islamic injunction should nevertheless dress decently as provided for in the Bible and should not expose their bodies in a manner capable of tempting members of the public.
11. GAMBLING, POOLS, KALO-KALO, RAFFLES ETC. Gambling and all other games of chance involving money or property, such as pools, raffle and kalo-kalo should be prohibited.

- 12.1 GIRLS SCHOOL AND EDUCATION. The Ministry of Education should ensure that only responsible principals, teachers and other staff should be posted to girls' institutions. Persons known to be morally corrupt should under no circumstance be posted to girls' schools.

During visiting days only girls' parents or those authorised by the parents should be allowed to visit the girl students. Principals and duty masters should check staff involved in immoral relationships with the female students and report immediately to the Ministry for necessary disciplinary action. Roll calls should be observed to check students sneaking out of the school at night or during the day time.

- 12.2 At the secondary school level coeducation system should be phased out because of the Islamic prohibition of mingling of matured males and females in one place.
- 13 HAWKING ON STREETS BY GIRLS. Girls hawking law should be enforced strictly.
- 14 LIQUOR LAW. The State Liquor Law should be strictly adhered to. Traditional leaders and the law enforcement agencies should assist to enforce the law and also expose drug traffickers and pushers wherever they may be found in the State.
- 15 UNISLAMIC LITERATURE. All immoral literature should be banned from circulation to ensure conformity with Islamic ethics and practices.
- 16 ABUSE OF NATURE/ANIMALS. In view of the cruelty to the animals concerned and danger to the public, the use of animals such as hyenas, monkeys, snakes etc. to entertain people should immediately be banned. It is observed that there is abuse, exploitation, danger and cruelty in these practices.
17. FEMALE ARABIC AND ISLAMIC SCHOOLS/HIGHER ISLAMIC STUDIES SCHOOLS. Considering the urgent necessity for improving the moral standard of our youths, more girls' Arabic and Islamic institutions should be established in the State in addition to the only existing one in Kangiwa. In the alternative and in order to reduce cost some of the existing girls' institutions could be converted to such schools. This is imperative as most of the kadis (*qadis*) and other renowned Islamic scholars in the State in particular and the country in general are products of such schools as Arabic secondary and teachers' training schools as well as high Islamic colleges. More of these types of schools should be established to maintain and improve on the number of these Islamic oriented personnel. This will also improve Islamic awareness within the society.
18. PROVISION OF EMPLOYMENT FOR THE YOUTH. The Committee observed the alarming rate of youth unemployment in the State. It therefore recommends that our wealthy state indigenes residing both within and outside the State be encouraged to invest in the State by establishing factories, industries and other small scale commercial enterprises. The State Government should,

therefore, create a favourable and conducive environment to facilitate this by providing land, access roads, electricity, pipe-borne water, etc.

More of technical and vocational schools should also be established and should be provided with adequate, qualified and motivated instructors. This is to ensure that more boys and girls are trained as artisans. The spirit of apprenticeship should be inculcated in these students to prepare them adequately for the open labour market. The spirit of dignity of labour should also be inculcated in these artisans.

19. CODE OF CONDUCT FOR JUDICIAL STAFF, GOVERNMENT OFFICIALS AND POLITICAL OFFICE HOLDERS. A Code of Conduct should be drawn up for the judicial staff, government officials and political office holders. The Islamic law has a comprehensive written Code of Judicial Ethics for judges. The office of the Grand Kadi (*Qadi*) should see that those Codes are observed and maintained accordingly. This should be borne in mind in the process of selecting or employing any of these categories of people and must be observed by them while on the job. Failure to follow the Code of Conduct should attract disciplinary action. Council of Ulama or *Majlis Al-Shura* may be assigned the responsibility of monitoring adherence to this Code and reporting their findings to the appropriate authorities. In this regard the Committee recommends setting up of this Council.
20. TRADITIONAL RULERS AND ELDERS AS ARBITRATORS. Traditional rulers at all levels should be encouraged to ensure peaceful settlement of family disputes. This will hopefully reduce congestion of cases in the Sharia Courts and maintain mutual ties within the family in particular and the community in general.
21. ESTABLISHMENT OF ZAKAT OR FATWA COMMITTEE/MAJLIS AL-SHURA. A strong committee made up of people of proven integrity should be established in the State to collect appropriate *zakat* in accordance with the teaching of Islam. This Committee should also be charged with the responsibility of organising the necessary enlightenment training aimed at both securing the confidence of the public and getting them to understand the necessity of giving out *zakat* by those qualified to do so.

A Fatwa Committee/*Majlis As-Shura*, comprising very learned Islamic scholars should be established to examine new issues brought about by changing times and circumstances – issues which have not been treated in the existing Maliki School books – and come up with their findings.

Government should create a department to harmonise activities of such Islamic institutions as Preaching Board, Zakat Institute, Fatwa Committee, Pilgrims Board, etc.

22. HOARDING. Government should look into the possibility of establishing a committee to check hoarding and regulate storage of commodities. Middlemen should be identified and certified by the relevant authorities.

23. LOST PROPERTY. An office for the safe keeping of lost property should be established in all Local Government Headquarters.
24. CUMBERSOME CRIMINAL PROCEDURE. If the Islamic criminal law is to be applied properly, some of the cumbersome procedures of the existing criminal procedure code have to be discarded. Adequate arrangements should, therefore, be made to make it possible for all those who commit offences to be brought to justice in good time. It is also important that those prosecuting in Sharia Courts should be well versed in Islamic procedures. The possibility of obtaining the services of hamlet and village heads, vigilante groups and aid workers in reporting the commission of crimes should be considered. It is also suggested that bail of criminal suspects should depend on the gravity of the offence committed.

The Committee further recommends that junior staff of the Federal institutions in the State should be employed locally, especially the police cadre who can assist in enforcing the Sharia system being introduced now in the execution of *hadd* offence. Governor's consent must finally be obtained before execution.

25. In line with the teaching of Islam, whosoever is found guilty of any offence should be punished accordingly no matter his rank or position in the society.
26. STRENGTHENING THE SCHOOL OF LEGAL STUDIES IN YAURI. The School of Legal Studies in Yauri should be provided with all the necessary facilities and staff to adequately prepare it to cope with the additional teaching and research which will necessarily result from the envisaged revival of the implementation of the Sharia in the State.
27. PAYMENT OF DIYYA. Payment of *diyyah* should be made to victims or their heirs on demand where the Sharia provides for such payments. The extent of *ta'azir* penalties on minor offences should be spelt out to avoid discretionary tendencies of judges and no fine should be imposed as *ta'azir* except where necessary.
28. COMMENSURATE SALARY FOR PUBLIC OFFICERS. The Civil Service Rules and Regulations which are in line with the demands of the Sharia, particularly issues bordering on public integrity, justice, punctuality to work, fairness in official dealings and working for the progress and development of the State should be strictly adhered to.

On the state of the Government it is necessary that it should pay workers adequate wages sufficient to cater for their needs and the needs of their families. This will likely reduce corruption to the nearest minimum as happened in this country during early sixties and seventies.

29. INFLATIONARY TENDENCIES OF CONTRACTS. The tendency of inflating contracts should be stopped. Officially approved profit margin due to contractors should be strictly adhered to or reviewed. It is expected that where a public officer knows that a contractor is making only a little profit, he is not likely to demand gratification from him.

30. PUBLIC ENLIGHTENMENT CAMPAIGN. Judging from the memoranda received and oral submissions made to it, the Committee has been convinced that it is absolutely necessary to organise public enlightenment campaigns all over the State in order to enlighten all sections of the populace on the meaning of the Sharia and how it will affect them.

Consequently the Committee recommends that appropriate lectures, symposia and workshops be organised for organisations and individuals in order to give them the necessary information they need to fully understand and appreciate the meaning of the Sharia and the implication to them of its adoption and implementation.

It is also recommended that the special programme created by our media houses in order to enlighten the general public on issues relating the Sharia and its enforcement should continue as long as the need for them remains.

31. The Committee also recommends that some members learned in Sharia, Common Law and administration to visit Muslim countries like Saudi Arabia, Sudan etc. to observe these countries' court systems and procedures, as well as their administrative arrangements as they affect Islam, the general religious structures which are involved in the administration of justice, governance, propagation (*da'awa*) and guidance (*irshad*).

COMMITTEE MEMBERS [listed again as in the Introduction, with signatures]

**REPORT OF THE COMMITTEE
ON APPLICATION OF SHARIA IN BORNO STATE**

Submitted to the Executive Governor of Borno State

April 2000

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MAIN REPORT

[1.0 PRELIMINARY MATTERS]

1.1 APPOINTMENT OF THE COMMITTEE

The Committee was constituted by the Executive Governor of Borno State, His Excellency, Alhaji Mala Kachallah, vide letter No. GO/S/BSG/MIS/T.3 of 17th January, 2000.

1.2 MEMBERSHIP OF THE COMMITTEE

The Committee has Honourable Kadi Mustapha Ibrahim, the Acting Grand Kadi, Sharia Court of Appeal, as Chairman and the following as members:

- (i) Imam Ibrahim Ahmed, Chief Imam of Borno
- (ii) Alkali Kaka Malam, Retired Upper Area Court Judge
- (iii) Ustaz Muhammad Sa'ad Ngamdu, Murshid/State Secretary, Jama'atul Nasril Islam
- (iv) Alhaji Abubakar Adamu Biu, Permanent Commissioner, Borno State Civil Service Commission
- (v) Honourable Buba Audu Gwoza, Borno State House of Assembly
- (vi) Honourable Bukar Maina Gajiram, Borno State House of Assembly
- (vii) Barrister Yakubu Bukar, Solicitor-General and Permanent Secretary, Ministry of Justice
- (viii) Alhaji Umara Mustapha, Provost, Mohammed Goni College of Legal and Islamic Studies, Maiduguri
- (ix) Barrister Mohammed Tahir Monguno, Private Legal Practitioner
- (x) Baba Goni Mustapha, Secretary, Cabinet and Special Services, Governor's Office (Secretary)

1.3 TERMS OF REFERENCE

The Committee has the following terms of reference:

- (i) To organise public hearing(s) on the general request for the implementation of all aspects of Sharia in Borno State.
- (ii) To consider all constitutional and legal provisions related to the application of Sharia in Borno State.
- (iii) To look into the legal implication(s) of applying Sharia in Borno State
- (iv) To give all necessary advice to the Government upon carrying out its terms of reference stated above.

1.4 MODE OF OPERATION

The Committee met immediately after the inauguration and resolved in the following as its mode of operation:

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

- (i) To organise public hearing(s) in the headquarters of the three Senatorial Districts of Borno State viz:
 - (a) Borno North Senatorial District at Monguno
 - (b) Borno South Senatorial District at Biu
 - (c) Borno Central Senatorial District at Maiduguri
- (ii) Letters of invitation calling for memoranda to Government organisations, religious bodies, clubs and associations and the general public.
- (iii) Visitation to *ulama*, former Kadis and Grand Kadis
- (iv) Meeting with officials of Christian Association of Nigeria, Borno State.

1.5 WORKING DOCUMENTS

The Committee relied on the following documents as guide for its assignment:

- (i) The Holy Qur'an
- (ii) Hadith
- (iii) The Constitution of the Federal Republic of Nigeria
- (iv) Evidence Act
- (v) Borno State High Court Laws
- (vi) Borno State Civil Procedure Laws
- (vii) Criminal Procedure Code
- (viii) Penal Code
- (ix) Area Court Edict
- (x) Area Court Civil Procedure Rules
- (xi) Sharia Court of Appeal Rules of Procedure and Practice
- (xii) Other Borno State Laws
- (xiii) Papers from Seminars on Sharia
- (xiv) Sharia Law of Zamfara State.

1.6 The Committee also co-opted Aji Yusuf Ngamdu and Barrister Abdullahi Hussaini Izge to assist the Committee.

2.0 TERM OF REFERENCE 'A'

“To organise public hearing(s) on the general request for the implementation of all aspects of Sharia in Borno State”.

2.1 The Committee organised public hearing(s) at the headquarters of the three Senatorial Districts. At the public hearing all the Muslims welcomed and gave their total support for the implementation of Sharia in Borno State. Although numerous memoranda were received from Christians in the State opposing the implementation of Sharia in the State, not a single Christian has come out at the public hearing(s) to shed light on their position. (Details of the views expressed at the public hearing(s) are at [Appendix A](#)).

2.2 The Committee received over one hundred (100) memoranda. After going through all the memoranda submitted, the Committee considered eighteen (18) of the memoranda as relevant to the terms of reference. (The selected memoranda are in

Volume II of the report.¹⁾ All the memoranda received from the Muslims supported the application of Sharia in the State, while those received from the Christians were in opposition.

2.3 The Committee also visited some *ulama*, former Kadis and Grand Kadis, to get their views and advice on the application of Sharia in the State. Those visited are:

- (i) Retired Honourable Grand Kadi, Alhaji Baba Kura Imam
- (ii) Retired Honourable Grand Kadi, Alhaji Shettima Abani
- (iii) Retired Honourable Grand Kadi, Alhaji Musa Kida
- (iv) Retired Honourable Kadi, Kaka Shehu Imam
- (v) Sheikh Abul Fathi.
- (vi) Sheikh Sheriff Ibrahim Saleh El-Hussaini
- (vii) Sheikh Abubakar El-Miskin
- (viii) Alhaji Modu Goni Kolo
- (ix) Sheikh Mohammed Cham
- (x) Alhaji Bukar Gonimi
- (xi) Muhammad Fuqura El-Barnawy

All the former Grand Kadis, Kadis and *ulama* supported the application of Sharia in the State. However, they expressed the view that taking into consideration the level of ignorance, poverty and moral decadence, Sharia should be implemented gradually. They also supported the integration of the informal Sangaya Qur'anic Education and Islamiyya schools to the formal system and be funded by Government under the UBE programme.

Most of them supported the interpretation of Sharia to be based on Maliki School of Law. They called upon Government to reform the existing Area Court System to be in conformity with Sharia by reviewing the qualifications of judges and ensuring their competence. Qualified and good ones be retained while those unqualified, incompetent and bad eggs among them be retired. (Details of their views are at [Appendix B](#)).

2.4 Although the Christian Association of Nigeria, Borno State submitted memorandum, the Committee invited its officials for discussions, because it was observed that the Christians did not come out to express their views at the public hearings in any of the Senatorial Districts. The CAN officials honoured the invitation but declined to contribute on the subject matter, because they contended that they wrote a letter to Government challenging the composition of the Committee, that has no Christian as member(s). However, the Committee noted that the CAN Borno State, in their memorandum, opposed the application of Sharia in Borno State for fear of discrimination (memo of CAN is in Volume II of the Report).

2.5 OBSERVATIONS. The Committee observed the following:

- (i) All Muslims supported the implementation of all aspects of Sharia in Borno State.
- (ii) The Christians opposed the implementation of Sharia in Borno State.

¹ Ed. note: Vol. II of the Report was not made available to us.

2.6 RECOMMENDATIONS. In view of the above observations, the Committee recommends:

- (i) The application of all aspects of Sharia to Muslims in Borno State.
- (ii) Government to establish the Customary Legal System to cater for the interest of followers of other religions in the State.

3.0 TERM OF REFERENCE 'B'

“To consider all constitutional and legal provisions related to the application of Sharia in Borno State”.

3.1 CONSTITUTIONAL PROVISIONS THAT ALLOW FOR THE IMPLEMENTATION OF SHARIA. After careful study of the memoranda submitted to the Committee and having made particular references to all the constitutional provisions referred to in the memoranda, the Committee is of the view that there are enough Constitutional provisions that allow for the implementation of not only Sharia legal system, but any other legal system in Borno State. The sections in the Constitution that allow for Sharia are as follows:

- (i) SECTION 38 OF 1999 CONSTITUTION: Section 38 provided for freedom of thought, conscience and religion and to manifest and propagate one's religion or belief in worship, teaching, practice and observance.
- (ii) SECTION 4 SUB-SECTION (7) OF 1999 CONSTITUTION: Section 4 sub-section (7) empowers the State House of Assembly of any State to make laws in respect of any matter not included in the exclusive legislative list or any matter that is included in the concurrent legislative list or any other matter with respect to which it is empowered to make laws in accordance with the provisions of the Constitution.
- (iii) SECTION 5 SUB-SECTION (2): Section 5 sub-section (2) empowers the executive arm of a State Government to execute and maintain the Constitution of the Federal Republic of Nigeria, 1999, all laws made by the State House of Assembly and all matters with respect to which the House of Assembly of a State has powers to make laws.
- (iv) SECTION 6 SUB-SECTIONS (4) AND (5) PARAGRAPH (k) OF 1999 CONSTITUTION: These provisions empower the State Legislature to create new courts with subordinate jurisdiction to that of High Court of a State or confer the existing subordinate courts with new or additional jurisdiction(s). By virtue of these constitutional provisions, the Borno State House of Assembly and the executive arm shall be acting within the constitutional framework by passing a bill or law to herald the implementation of all aspects of Sharia.
- (v) SECTION 14 SUB-SECTION (2) OF 1999 CONSTITUTION: This section provided that sovereignty belongs to the people of Nigeria from whom Government through the Constitution derives all powers and authorities. The section went further to state that the security and welfare of the people and their participation in Government shall be the primary purpose of Government. The need to implement Sharia in Borno State is therefore

imperative because it is the responsibility of Government to respect the yearnings and aspirations of the people. Since the Muslim *ummah* in the State have expressed their desire to be governed by Sharia, and sovereignty according to this section belongs to the people, Government shall be acting within the constitutional provision to implement Sharia in the State.

- (vi) SECTION 23 OF 1999 CONSTITUTION: This section provided for the national ethics to be discipline, integrity, dignity of labour, social justice, religious tolerance etc. From the provision of this section, opposition by non-Muslims to implementation of Sharia in the State is unfounded and baseless.
- (vii) SECTION 24 OF 1999 CONSTITUTION: Section 24 provided for the respect of the dignity of other citizens' rights and their legitimate interest and live in unity and harmony etc. This provision emphasises that the dignity of Muslim could only be ensured if their lives are governed by Sharia.
- (viii) SECTION 315 SUB-SECTION (1) B AND SUB-SECTION (2) OF 1999 CONSTITUTION: These provisions recognise all existing laws in the State immediately before the coming into force of this Constitution as deemed to be laws of the State House of Assembly. Power has also been given to the Governor of any State to (through the State House of Assembly) modify the existing laws to bring them into conformity with Sharia.
- (ix) SECTION 13 OF 1999 CONSTITUTION: This section has made it mandatory to all organs of Government to observe and apply the provisions of this Constitution. Therefore, by the provision of this section, it will be wrong for persons from certain quarters to assume that the police will not enforce judgments from Sharia Courts.

3.2 QUR'ANIC PROVISIONS THAT MADE IT MANDATORY FOR MUSLIMS TO BE GOVERNED BY SHARIA. The following verses of the Holy Qur'an and others, made it mandatory for Muslims to be governed by Sharia:

- (i) SURA (5) VERSES (44), (45) AND (47): "Those who do not govern (judge) by that which Allah has sent down (revealed) such are":
 - (a) rejecters of truth (verse 44)
 - (b) oppressors (verse 45)
 - (c) evil doers (verse 47)
- (ii) SURA (45) VERSE (18): "Then, we set you on a plain way of our commandment (Sharia), so follow you that, and follow not the desire of those who know not. For they can in no way protect you from the wrath of Allah".
- (iii) SURATUL IMRAN VERSE EIGHTY FIVE (85): "And whoever seek religion other than Islam, it will not be accepted from him and he will be a loser in the hereafter".

3.3 OBSERVATIONS.

- (i) The constitutional provisions highlighted above, guaranteed implementation of all aspects of Sharia in the State.
- (ii) The verses of the Holy Qur'an quoted above, made it mandatory for all Muslims to be governed by Sharia.

3.4 RECOMMENDATIONS. In view of the observations mentioned above, the Committee therefore recommends that:

- (i) Implementation of all aspects of Sharia in Borno State is a constitutional right of the Muslims.
- (ii) The Holy Qur'an made it compulsory for Muslims to be governed by Sharia.

4.0 TERM OF REFERENCE 'C'

“To look into legal implications of applying Sharia in Borno State”

4.1 The following Constitutional provisions tend to limit the application of Sharia:

- (i) SECTION 10 OF 1999 CONSTITUTION: Section 10 of the 1999 Constitution prohibits the adoption of any religion as a State Religion.

Some groups of people have interpreted this section to mean that Nigeria is a secular state and that Government should not concern itself with religion. This misconception will not be accepted in view of the wordings of the preamble of the Constitution that clearly stated that Nigeria is one indivisible, indissoluble, sovereign Nation under God....” Also Sections 140, 149, 152, 185 and 194 require political appointees or public office holders to take oath of office and allegiance on the strength of Qur'an for the Muslims, Bible for the Christians and any fetish belief for Traditionalists. The Nigeria legal system is also patterned along these three major religious creeds (sections 255 – 269). Therefore, contrary to the view held by some groups in Nigeria, that it is a secular state, Nigeria is a godly and a multi-religious state. The application of Sharia in Borno State therefore does not mean that it is adopting Islam as a State Religion but rather granting constitutional rights to the Muslims to be governed by the tenets of their religion.

- (ii) SECTION 36 (12): Section 36(12) provides that “a person should not be convicted of a criminal offence unless that offence is defined and the penalty therefore is prescribed in a written law.” The sub-section went ahead to define written law as an Act of the National Assembly or a Law of a State, any subsidiary legislation or instrument under the provisions of a Law”.

The English Common Law was introduced into Nigeria legal system by statute of general application which was made to be applicable all over Nigeria. Section 2 of the Interpretation Act of this statute relegated Islamic Law to be unwritten law and referred to same as native law and custom. This Act was incorporated in the Northern Nigeria High Court Laws of 1963 (sections 29-34) and Borno State High Court Laws of 1994 (Sections 30-34) and is still in operation till date. The same Act introduced the repugnancy doctrine. Since therefore, the laws above recognised Islamic law as native law, customary and unwritten, the penal aspect of Sharia law will only be implemented, if the State House of Assembly passes a law for the implementation of all aspects of Sharia.

4.2 THE PENAL CODE Cap 102 BOSLN 1994. Although some of the provisions of the Penal Code have taken care of some offences such as the ones relating to theft,

adultery, homicide, etc. but the punishments were not made totally in line with Sharia. The power to amend this law lies in the State House of Assembly. Therefore, the State House of Assembly would be called upon to amend the Penal Code to bring it into total conformity with Sharia and allow for smooth implementation of same in the State.

4.3 PROCEDURE CODE Cap 42 BOSLN 1994. This is also a rule of procedure made to regulate proceedings and practice in criminal cases in our courts. But the Criminal Procedure Code should be repealed because it is not in consonance with Sharia.

4.4 HIGH COURT LAW Cap 63 BOSLN 1994. Some of the provisions of these laws run counter to Sharia. Some other provisions i.e. sections 30-34 still retain the English doctrine of repugnancy test and also inconsistency rules. This English doctrine is foreign to even our indigenous laws today. Not only that, the said laws relegated Islamic law to be a native law and custom. Therefore, since it is one of the State laws, amendment or review of same law will allow for smooth implementation of Sharia.

4.5 HIGH COURT CIVIL PROCEDURE RULES Cap 64 BOSLN 1994. This rule, like the High Court Law, has some of its provisions running counter to Sharia, as it relates to burden of proof, number of witnesses etc. Since it is a State rule, review or amendment of same is necessary to bring it into conformity with Sharia.

4.6 AREA COURT (EDICT) LAW Cap 9 BOSLN 1994. The provisions of the Area Court (Edict) Law do not favour the application of Sharia. Since it is a State law, it should be replaced with Alkali Courts Law.

4.7 AREA COURT CIVIL PROCEDURE RULES (1971). Most of the rules of procedure like what obtains in the Area Court procedural rules, favour the application of Sharia, while some others need to be reviewed, to bring them into total conformity with Sharia law. Since it is a State procedural law, it is within the competence of the State House of Assembly to review same.

4.8 OTHER LAWS Cap (1-144) BOSLN 1994. There are some other laws existing in the State apart from the ones considered above that favour the implementation of Sharia while some others are forbidden by Sharia. These other laws are within the competence of the State House of Assembly to amend or repeal them as contained in Borno State Laws of 1994 Volumes I – III.

4.9 OBSERVATIONS.

- (i) Nigeria is not a secular State but a multi religious Nation and recognises God. It also allows for freedom of religion.
- (ii) English law principles and doctrines that form part of our legal system have impediments on the application of Sharia.
- (iii) Some of the provisions of the State laws run counter to Sharia.

4.10 RECOMMENDATIONS.

- (i) Section 10 of the 1999 Constitution be amended to make it more explicit as leaving it the way it is, is deceptive and vague. Therefore, adopting Sharia Legal System is not tantamount to making it a State religion.
- (ii) To amend some of the provisions of the State laws and repeal some that are not in conformity with Sharia.

5. TERM OF REFERENCE 'D'

“To give all necessary advice to Government upon carrying out its terms of reference above”

5.1 The Committee based on the findings and observations elaborated in the previous terms of reference proffered the following general advice for Government consideration and implementation:

- (i) The implementation of Sharia Legal System or any other legal system is a constitutional right of the citizens of Borno State. Government is therefore advised to declare the implementation of Sharia Legal System to the Muslims in Borno State;
- (ii) The Committee, however, considered that because of the following under-mentioned reasons, the implementation of the penal aspect is not feasible for now:
 - (a) Ignorance of the Islamic criminal law makes it mandatory to educate and enlighten the people to appreciate the importance of Sharia.
 - (b) Considering the wide-spread of all forms of social vices in the society, there is the need for moral re-orientation of the people;
 - (c) Taking into cognisance the level of poverty in the society, there is the need for Government to embark upon poverty alleviation programme in line with the Federal Government Policy on the same.
- (iii) Government is advised to call upon the State House of Assembly to review all State laws contained in Volumes I – III of the Borno State Laws of 1994 to bring them into total conformity with Sharia.
- (iv) For successful implementation of Sharia Legal System, Government should establish Ministry of Religious Affairs to oversee religious matters of Muslims and non-Muslims in the State. The Ministry shall be concerned with the following responsibilities:
 - (a) Enlightenment of the people on all aspects of Sharia;
 - (b) To co-ordinate the activities of Islamic Preaching Board that has the responsibilities of propagating Islam, controlling and monitoring of preachers;
 - (c) Establish Council of Ulama which shall be concerned with Qur’anic recitation and its memorization, uniformity in Friday and *Eid* sermons and also to offer general advice to the Ministry on religious matters;
 - (d) Establish Zakat Board to cater for the welfare of the destitute and the needy in the society
 - (e) To co-ordinate the activities of the Pilgrims Welfare Board
 - (f) To monitor the activities of all non-Governmental religious organisations in the State;
 - (g) Control of Ramadan and other preaching programmes in the media;
 - (h) Control of non-Muslim preaching

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- (i) Control of Friday *kebutbah* in mosques and Sunday sermons in churches.
- (v) The Committee advises that in fulfilment of United Nations Declaration of Rights of Children and Universal Basic Education Policy of the Federal Government, the “Sangaya” Qur’anic education and the Islamiyya schools shall be made formal and funded by the Government, with a common syllabus which shall include craft, arts and English.

In the same vein, all the Sangayas can be registered in all the Local Governments by establishing Qur’anic Education Centres. The communities and parents can assist with the provision of food and other needs of the Centres in order to control begging and roaming in the streets by the almajiris.

Also Mohammed Goni College of Legal and Islamic Studies and the University of Maiduguri shall be encouraged to offer special Islamic Course for those who have memorized the Holy Qur’an to make them employable.

- (vi) The Committee advises Government that in implementing Sharia in the State, it shall make it in two phases:
 - (a) PHASE I: Implementation of the following laws:
 - (a) Islamic civil law
 - (b) Islamic administrative law
 - (c) Islamic personal law
 - (d) Islamic law of procedure.
 - (b) PHASE II: In view of the observations of paragraph 5.1(ii), the Committee recommended that the implementation of the penal aspects should be gradual within a period of at least three years. The penal aspects include:
 - (1) *Hudud*: offences mentioned by the Holy Qur’an with fixed punishment;
 - (2) *Ta’azir*: offences mentioned in the Holy Qur’an with no fixed punishment but left to the discretion of Government or Courts to award punishment according to circumstances of the case.
 - (3) *Qisas*: law of equitable retaliation.
- (vii) The Committee advises Government to call upon the State House of Assembly to legislate on all aspects of Sharia within the stipulated interval period of three years stated in paragraph (vi)(b) above.
- (viii) The Sharia be based on the interpretation of Maliki School of Law because it has been governing the lives of Muslims since coming of Islam into West Africa.
- (ix) Government is advised to substitute the existing Area Court system with the following court structure:

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- (a) Alkali Court
- (b) Chief Alkali Court
- (c) Sharia Court of Appeal
- (x) The Committee recommends the following as limits of jurisdiction of the Alkali Courts.

PART I – SHARIA CRIMINAL CAUSES:

Chief Alkali's Court	Appeal	Alkali's Court
Unlimited jurisdiction in all criminal causes: <i>Hudud</i> ; <i>Qisas</i> ; <i>Ta'azir</i>	All appeals shall go to Sharia Court of Appeal	No jurisdiction in Sharia criminal causes

Chief Alkali Court has power subject to the provisions of Section 3 of Penal Code and Federal Provisions Act 1960 to award a sentence of canning of symbolic or *haddi* sentence of lashing in accordance with the provision of the Penal Code and Sharia Law.

PART II – SHARIA CIVIL CAUSES

Types of Causes	Chief Alkali	Alkali Court
1. Islamic personal law	Unlimited	Unlimited
2. All civil Islamic causes	Unlimited	
3. Civil cases in land matters	Unlimited	Limited to N500,000.00
4. Civil action in which the debt demand or damage do not exceed...	Unlimited	Limited to N100,000.00
5. Civil cases relating to the succession of property and administration of estate under Sharia law the value of the property does not exceed the value of...	Unlimited	Limited to N1,000,000.00

NOTES:

- (1) All appeals from Alkali Court shall go to Chief Alkali Court where a panel of two judges or more are to be appointed by the Hon. Grand Kadi to hear appeals from the Alkali Courts.
- (2) Appeal from Chief Alkali's Court shall go to the State Sharia Court of Appeal.
- (xi) Sharia Court of Appeal should maintain the constitutional provisions under Section 277(1)(2).

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- (xii) The Committee recommends that qualifications for appointment as alkalis shall be the same as qualifications applicable for appointment of magistrates. For the Chief Alkali, at least LL.B. in Sharia and shall have been called to the Bar for a period of about five years and any additional qualification in Islamic knowledge will be an added advantage. In respect of the Sharia Court of Appeal, the Committee recommends the adoption of the constitutional requirement contained in section 276(3).
- (xiii) The Alkali Courts and Chief Alkali Courts shall be directly under the supervision of the Sharia Court of Appeal.
- (xiv) Government is advised to establish Sharia Judicial Council in the State as an autonomous body to cater for the appointments, promotions, discipline and welfare of Sharia judges.
- (xv) The Committee considered the present arrangement of supervision of Alkali Courts as inadequate because the role of the inspectors over Area Courts is unproductive. The excesses of some bad eggs among the Area Court judges are not controlled. The accusation of corruption and delay of cases are not averted. Therefore, under the new dispensation of Sharia Law legal system, inspectors have no role to play except that qualified and good people among them can be appointed as alkalis. The present qualification of the inspectors is so low that they cannot effectively supervise the Alkalis. Therefore, the Committee recommends that the Inspectorate Division of the Area Courts be abolished and be substituted with the Registry of Alkali Courts. A Sharia legal practitioner, who shall be a graduate and called to the Bar with at least 10 years experience be appointed as the Chief Registrar. Under him all the registrars of the lower courts receive directives as to the registration of cases, collection of revenue and all other judicial and administrative duties. The Chief Registrar is answerable to the Hon. Grand Kadi, whose court (SCA) hears all the appeals from the lower courts.
- (xvi) Government is advised to establish Customary Court System to cater for the interest of followers of other religions in the State and appoint President of Customary Court of Appeal.
- (xvii) The Committee advises Government to call upon the National Assembly to review or amend the following Constitutional provisions:
 - (a) Section 10 of the 1999 Constitution be amended to make it more explicit as leaving it the way it is, is deceptive and vague;
 - (b) Expansion of Section 36(12) to include in its definition Islamic law as written law.
 - (c) To call for the substitution of the words “Islamic personal law” with “Sharia law” wherever it appears in the Constitution.
- (xviii) Section 244 of the 1999 Constitution be amended to make Sharia Court of Appeal in the State to be the final appellate court in respect of all Sharia cases.

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- (xix) A committee be set up composed of Sharia experts, lawyers and Islamic scholars to codify Sharia laws for legislation by the State House of Assembly.

SIGNATURE OF MEMBERS OF THE COMMITTEE

We wish to express our appreciation and gratitude to the Executive Governor of Borno State, His Excellency Alhaji Mala Kachallah for giving us the opportunity and privilege to carry out this significant and enormous assignment.

It is our sincere hope that Government will find the observations and recommendations made in this report very useful guide for the implementation of Sharia in the State.

The Committee is once again very grateful for all the necessary assistance accorded to it by the State Government and all the people of Borno State in accomplishing its assignment.

[Then follow the names and spaces for the signatures of the members of the sub-committee, omitted here.]

APPENDIX A: PUBLIC HEARINGS

A1: VIEWS EXPRESSED BY CROSS-SECTION OF THE PEOPLE OF BORNO NORTH SENATORIAL DISTRICT DURING PUBLIC HEARING CONDUCTED BY THE COMMITTEE ON SHARIA AT MONGUNO CENTRE ON 31ST JANUARY, 2000.

1. Imam Goni Modu, Imam Idaini of Monguno. The Imam stated that, prior to the establishment of this Committee, the issue of Sharia law was a subject of discussion among themselves. Now that a Committee has been constituted to sound their views on how to implement Sharia law in Borno State, the conflict in the following aspect of our religion must be reconciled in order to pave way for smooth take-off of Sharia law in Borno.

- (a) Fasting: The Imam observed that, for many years now, there is no unanimity in fasting during the month of Ramadan. This issue if left unchecked, will not bring about the desired unity of purpose among Muslim *ummah*. He therefore appealed to the Committee to find a lasting solution to this longstanding issue.
- (b) Intra-Religious Conflict: The Imam also observed that intra-religious conflict is gaining ground in Borno. This is manifested by the nonchalant attitude of *ulama* who are close to corridors of power. That the Chief Imam of Borno is a custodian of our religion in Borno State. They argued that if the Chief Imam and Government of the day are up to the task, the crises mentioned above could not have evolved in Borno. He concluded that if these issues are addressed properly, Borno will be a leading example in the application of Sharia law in Nigeria.

2. Mustapha Lawan Mandalama, Principal, Ibn Fartuwa Islamic Science Secondary School, Monguno. The Principal traced the lapses in the implementation of Sharia to the distortions brought about by colonialists. That when whitemen came, they

dismantled the *majilas* and replaced it with the Council to suit their interests and aspirations. The idea for the re-emergence of the Sharia is timely.

He suggested that as an interim measure, all “Councils” in whatever form they manifest themselves must consist of at least three (3) *ulama* to guide the Council in the decision-making process. He lamented on the composition of our present “Councils” made up of people with Western education only.

The Principal stressed that a case under Sharia Law will not suffer because it will dig to the genesis before decision is taken.

3. The District Head of Monguno. The District Head asked question on the contradiction in the provision of the Constitution of the Federal Republic of Nigeria which allows for freedom of religion. A member of the Committee, Barrister M.T. Monguno informed the District Head that the Federal Government has set up a Constitution Review Committee to look into the issue of contradiction and other lapses identified in the provisions of the Constitution.

4. Alhaji Usman Gambo, Upper Area Court Judge. The Judge expressed his views by announcing that he was speaking in his capacity as Alhaji Usman Gambo and not as the Judge, Upper Area Court. The Judge expressed his view on the two major cases in adjudication: viz: civil case and criminal case. According to him, when a civil case is brought for hearing, penalty or punishment is decided on Sharia law but when a criminal case is presented to the court, provisions of the Common Law are applied for the penalty. The Judge therefore, suggested that Sharia law should be interpreted and applied for both civil and criminal cases.

5. Malam Abubakar, Magistrate Court, Monguno. Malam Abubakar informed the Committee that he read Sharia and Common Law, but he was appointed a Magistrate. That he is in a better position to explain the relevance and irrelevance of the application of Common Law in Islamic society. That the technicalities in Common Law are enormous that they give room for one to swear without the Holy Qur’an. That although he has no jurisdiction to enforce the swearing by Qur’an on cases presented to his court, he makes that to frighten and test the integrity of some people. This action, according to him, records positive results as most of them decline to swear by the Holy Qur’an.

Malam Abubakar requested the Committee to look into the following issues:

- (i) The position of Magistrates under Sharia;
- (ii) The position of lawyers and the right to have lawyers to present cases under Sharia;
- (iii) The provision of the Constitution which guarantees the right to engage lawyers

6. Malam Ali Goni Ibrahim, Imam, G.D.S.S. Monguno. The Imam opened by reading some verses of the Holy Qur’an. “That we should all embrace Islam.” Islam is the only religion that guarantees good standard of living, security, peace and stability. The Imam indicated his full support for the implementation of Sharia Law in all its ramification for good governance and peaceful co-existence.

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7. Baba Goni Shehu, Islamic Preacher. Baba Goni Shehu informed the Committee that he is an advocate of the practice of Sharia Law in our society. That he has been preaching the importance of Sharia for many years for people to understand and appreciate its application. He is extremely delighted that a Committee is constituted to sound the views of the people on the application of Sharia Law. He concluded by indicating his full support for the implementation of Sharia Law in Borno.

8. Area Court Judge, Monguno. The Judge expressed his full support for the implementation of Sharia Law in Borno. But he advised that Sharia Law should be applied to all, irrespective of class difference, i.e. the rulers and the ruled, the haves and have-nots in our society. The Judge cautioned that if distinction is made in the application of Sharia Law in our society, the good intention will suffer. He suggested to the Committee to consider his views as a strong pillar in laying the foundation of Sharia Law in Borno. He cited many verses of the Holy Qur'an to justify the importance of Sharia Law and the predicament we found ourselves in for neglecting Sharia Law in our society.

9. Alhaji Bunu – Teacher. Alhaji Bunu stated that this was the most important committee ever constituted by Government in Borno State. Previous committees, according to him, were constituted to achieve worldly results. He advised the Committee to look into two of the following issues before thinking of implementation of Sharia in our society:

- (i) The Constitution of the Federal Republic of Nigeria.
- (ii) Structure and composition of our legislative houses.

That the Constitution is assumed to be supreme. Any law that contradicts the Constitution is said to be void. This means that even the Holy Qur'an and the Hadith will not prevail. He added that the supremacy of the Constitution should be amended if Sharia be adopted as a legal system.

The structure and composition of our legislative houses require total overhauling. The present set-up is not only unIslamic but comprised people who have no sound knowledge of Islam. He suggested that the Constitution should be reviewed in making laws.

10. Malam Abdurahman – Arabic Supervisor. Malam Abdurahman thanked the Executive Governor of Borno State, His Excellency Alhaji Mala Kachallah for constituting this Committee. He informed the Committee that the large turn-out by the people of Borno North is a clear testimony and demonstration of their desire for the implementation of Sharia Law.

11. Imam Modu Girgiri, Imam of Friday Mosque. The Imam who speaks on behalf of *ulama* under his domain, stated that since majority of the people have demonstrated their willingness to implement Sharia Law, they have given their full support and prayed for the successful implementation in Borno State.

12. Malam Modu Borsor. Malam Modu requested the Committee to make laws under Sharia on the following burning issues:

- (i) Armed robbery

- (ii) Alcohol
- (iii) Stealing
- (iv) Bribery and corruption
- (v) Unanimity in the commencement and ending of fasting during the month of Ramadan.

A2: PUBLIC HEARING BY THE COMMITTEE ON SHARIA CONDUCTED AT MOHAMMED GONI COLLEGE OF LEGAL AND ISLAMIC STUDIES FOR BORNO CENTRAL SENATORIAL ZONE

1. Alhaji Garba Shani, Representative of Borno/Yobe Sharia Sensitisation Forum. The Forum submitted a written memorandum to the Committee. Highlighting the contents of the memorandum, Alhaji Garba stated that, after the Zamfara initiatives, there was a popular request from peoples of various States for their Government to implement Sharia. This, according to the presenter, informed the idea of constituting a sensitisation forum for the adoption and application of Sharia Law in Borno and Yobe States. The Sensitisation Forum has conducted lectures, seminars throughout the two States for the purpose of awakening the consciousness of the people on the importance of Sharia.

Highlights of the memo:

- (a) Constitutional Provisions Allowing for the Implementation of Sharia. The presenter stated that there are enough constitutional provisions allowing for the adoption and application of Sharia Law. Key sections of the Constitution are: section 14 sub-section (a), section 21(a), section 23, Sections 24 and 38. He recommended and submitted that these constitutional provisions are enough to cover Borno State Government to implement Sharia.
- (b) Legislative Powers in the Constitution. Section 4 sub-sections 6, 7, 8, section 6 sub-section 4(a) and 4(b). That section 6, sub-section 4 (a) & (b), empower the House of Assembly to abolish existing courts and replace them with new ones.
- (c) Executive Powers. Sections 375, 277, 278, 279, empower any State to establish Sharia Law.
- (d) Constitutional Provisions confer Jurisdiction to the Courts. Section 4 sub-section 8, empowers House of Assembly to confer power of jurisdiction to courts. That is, the existing courts i.e. Area Courts, their appellate should be amended.
- (e) Secularism: Section 10: Explanation. That Nigeria is not a secular state as claimed by Section 10 of the Constitution. Preamble of the Constitution, where God is mentioned justifies this statement. Therefore, Nigeria is a religious state. The presenter stated that our administrative, legislative and judicial structures are all features of the Common Law. The Common Law has its roots in England. The English use church laws i.e. the English family is built upon Christian laws. The Common Law, therefore, is a Christian law. By virtue of this revelation, therefore, every facet of our life is governed by

Christian law. That is an advantage cannot be conferred to one religion to the detriment of other religion.

The presenter further stated that contrary to section 38 of the Constitution, Muslims are subjected to accept the norms and values of other religion. That it is high time now for Muslims to allow the laws of their religion to govern them.

Suggestions:

- (i) Council of Ulama be constituted to screen the alkalis;
- (ii) Bill be passed by the House of Assembly for the amendment of the existing judicial structure;
- (iii) Establishment of Ministry of Religious Affairs with all the structures applicable to other ministries. The functions of the Ministry shall include:
 - religious
 - planning and research
 - Qur'anic *tajweed* and science
 - Oversee the operations of the Zakat Board, Islamic Preaching Board, Pilgrims Board, Islamic Research Centres, Council of Ulama.
- (iv) House of Assembly to formulate law for the take-off of Sharia. Pass laws on the issue of fasting, welfare of the people, mode of dressing and unlawful activities practiced by Muslims.

2. Umar Gajiram, Principal, Higher Islamic College (BOCOLIS) Maiduguri. Ustaz Umar Gajiram stated that it is compulsory upon Muslims to accept Sharia Law. That all other laws in operation will be reviewed by Allah in the day hereafter. Therefore, it is necessary to establish leadership and Sharia Law to govern us. In order to actualise this objective, he stated that Muslims must stand up and compel our elected representatives to accept the implementation of Sharia.

3. Alhaji Bulama Mali Gubio, Secretary, Scholarships Board. Alhaji Bulama stated that, he is a teacher, therefore, his views are confined to education. In a philosophical statement, he said that Borno State is endowed with vast and fertile land, ambitious farmers and varieties of hybrid seeds, but yet the output is not proportionate. He suggested the following points for full and smooth implementation of Sharia:

- (a) That all the Islamic sects should bury their differences and unite, to allow for the implementation of Sharia;
- (b) That the various Islamic sects in the urban areas should give due recognition and respect to our conventional malams and gonis in the rural areas. He reminded the gathering that the conventional malams were the bandwagon in the spread of Islam not only in Borno but the whole of Nigeria and the neighbouring countries. He cautioned that if they are not carried along with the urban *ulama*, the implementation of Sharia will not succeed in Borno. His reasons were that the conventional scholars have large followers and enjoy a high degree of respect and loyalty.

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- (c) Another critical area is the issue of poverty and ignorance. That unlawful activities like robbery, prostitution, hooliganism are as a result of poverty. Therefore, Government should first of all address this issue before law is passed to prohibit these unlawful activities. He raised a question to support his argument. "That if you close beer parlours, prostitution houses, etc. what is the fate of the victims?"
- (d) Media (print & electronic) should be established to propagate Islam.
- (e) Education: Our people frown at teaching profession. Those that are currently teaching our children are non-Muslims. They use school property to teach their children at home. Government should introduce welfare packages for the teaching profession.

Alhaji Bulama concluded by prayers to Allah for successful implementation of Sharia.

4. Malam Bukar Goni Ali, Arabic Supervisor, L.E.A. MMC. Malam Bukar conveyed the message of support for the implementation of Sharia, of all Arabic teachers working in the Local Education Authority of Maiduguri Metropolitan Council.

5. Malam Abubakar Umar, Lecturer, BOCOLIS. Malam Abubakar thanked Government for constituting this Committee. That the previous speakers dwelt on punishment under Sharia Law. He expressed his views on the way of thinking as Muslim. He said the burden of the implementation of Sharia lies not only on the Government but rather on all Muslims. The Muslims should be loyal and law abiding.

Suggestions:

- (a) Government should draw a programme for implementation of Sharia;
- (b) The present Sharia institutions should be overhauled.
- (c) The orientation in our schools should be properly looked into with a view to make them look more Islamic.
- (d) Various committees should be constituted to look into the technical aspect of Sharia. That Sharia does not allow conflict in its implementation. For instance, the issue of fasting, divorce, etc. requires re-orientation of the Muslim *ummah*.
- (e) Implementation of Sharia requires foundation, e.g. you cannot amputate the hand of the thief if he is battling with poverty, or a public officer who uses State money under the present dispensation.

6. Malam Ibrahim Mustapha Konduga. Malam Ibrahim lamented on the low turnout of Muslims for the public hearing.

Suggestions:

- (a) Government should look into the welfare of civil servants;
- (b) That before Sharia takes off, we should change our attitude towards our family, children, commercial activities, etc.
- (c) In future elections, only those that will consolidate Sharia be elected.

A3: VIEWS EXPRESSED BY THE PEOPLE AT BIU CENTRE

1. BIU LOCAL GOVERNMENT AREA

- (a) Mohammed Baba Usman Biu. Mohammed Baba welcome members of the Committee to Biu. That this committee is unique. There was no such committee constituted by Government in the past. Therefore, he expressed his happiness to this positive development. He informed the committee that the idea of Sharia should have emanated from Borno.

He stated that under Sharia Law, there will be equal right hence the orphan will enjoy, the ordinary people will enjoy. That truth will only prevail under Sharia Law. If we were governed by the tenets of Sharia Law, there will be no exploitation, suppression or intimidation. That the people of Borno, particularly Biu Emirate are in total agreement and support for the implementation of Sharia. He prayed for the smooth take-off of Sharia in the State.

- (b) Malam Hussaini Biu, Staff, University of Maiduguri. Malam Hussain stated that the demand for the practice of Sharia Law is a right guaranteed by the Constitution of the Federal Republic of Nigeria. That Sharia Law is only applicable to Muslims. Reasons for demand for Sharia: That our society is engulfed by evil. Unlawful activities are order of the day. Armed robbery, prostitution, bribery and corruption in our lives are increasing at alarming rate. He suggested that the only solution to these problems is the practice of Sharia Law.

2. DAMBOA LOCAL GOVERNMENT

- (a) M. Aliyu Ahmed. Malam Aliyu started by reading some verses of the Holy Qur'an. He stated that if it were not because of sheer ignorance by some of our people, our gathering here to discuss the issue of implementing Sharia Law in Borno, could not have taken place. This is because Borno is known in history as the centre for Islamic learning. He highlighted the history of the introduction of Islam to Borno and the zeal and enthusiasm exhibited by the leaders and people of the then Borno Empire towards the strict adherence and compliance to the tenets of Sharia Law.

However, with the coming of the Europeans, the system was distorted and Common Law was introduced and gradually, Sharia Law was reduced to handle only civil cases like dispute on marriage, inheritance, etc. The criminal aspect of Sharia was relegated and considered as "barbaric".

He stated that, with Sharia in practice, all the evildoings like armed robbery, prostitution, corruption, etc. in our society will be eradicated.

He concluded by asking the crowd that "*Kuna son Sharian Musulunci?*" (Do you accept Sharia Law?). The crowd responded positively "*Muna son Sharia!*" (We want Sharia!). "*Mun shirya.*" (We are ready).

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- (b) Malam Ahmed, Judge, Area Court, Damboa. M. Ahmed submitted a written memorandum to the Committee. He highlighted the content of his memo as follows:
- That the memo is covering the interest of the people of Damboa;
 - That the whole issue of Sharia is simple.

If you accept Islam, you accept it in the totality. Sharia is one aspect in Islam. That as a Muslim, we are not supposed to accept certain portion of Sharia and reject some. He finally urged non-Muslims to feel comfortable provided they respect Islam, and prayed for the establishment of Sharia.

3. SHANI LOCAL GOVERNMENT AREA

- (a) Alhaji Mohammodu Madaki, The Chief Imam of Shani. The Chief Imam thanked the Executive Governor of Borno State, His Excellency, Alhaji Mala Kachallah for the interest he exhibited in the implementation of Sharia Law in the State.
- (b) Alhaji Mohammed Miyum. Alhaji Mohammed stated that on announcement of the constitution of this Committee, they embarked upon visits to nooks and crannies of Shani Local Government Area for the purpose of enlightening the people on the issue of Sharia Law, and to sound their views on the need to implement Sharia in the State.

He informed the Committee that the final analysis of the views expressed by the people of Shani Local Government revealed that the people are one hundred percent (100%) in agreement and support for the implementation of Sharia.

4. HAWUL LOCAL GOVERNMENT AREA

- (a) Mohammed Yusuf Kida. Mohammed Yusuf stated that people didn't fully comprehend the content of the Sharia Law. That Sharia means "straight forwardness". Sharia Law has provision for non-Muslims. It is not only for the purpose of Muslims. That Sharia Law has some provisions which cater for the wellbeing of non-Muslims. Thus, the non-Muslims are given the right and privilege to exercise their religious obligation without interference of the Muslims.

He stated that the people of Hawul Local Government Area are supportive and ready for the implementation of Sharia in Borno State.

- (b) Malam Saidu Mohammed. He stated that the people of Hawul Local Government Area are solidly behind the implementation of Sharia Law. He lamented that our present predicament is due to absence of the practice of Sharia Law in the society.

5. KWAYA KUKA LOCAL GOVERNMENT AREA

- (a) Malam Adamu. Malam Adamu stated that Wednesday, 2nd February, 2000 the people of Biu Emirate [decided?] to include the visit of this Committee in their

records of events. He prayed for the successful implementation of Sharia in Borno.

- (b) Malam Ahmed Abdullahi. He started by reading some verses of the Holy Qur'an and the Hadith – that the present situation in our society is due to lack of total submission to the teachings of the Holy Qur'an and the Hadith. That the current economic hardship and social vices in our society are bound to happen because we failed to follow the tenets of Sharia Law. He advised Government to give top priority to Islamic education. He argued that Islamic education will instil the fear of Allah in the minds of people.

6. GWOZA LOCAL GOVERNMENT

- (a) Yakubu Hamma Dikko. Malam Yakubu stated that the issue of whether we accept the implementation of Sharia Law or otherwise, does not even arise, as far as one is a Muslim. That the Christians have no cause to quarrel over the implementation of Sharia because the Muslims have exercised patience over the enormous privileges they enjoy above the Muslims. He cited public holidays as one example which the Muslims are deprived to enjoy. Malam Yakubu appealed to elites both in public and private sectors to endeavour to support the implementation of Sharia Law in the State.
- (b) Malam Mohammed Tada. Malam Mohammed said he has so much to say but all that he wanted to say had been adequately elaborated by the previous speakers. He however stated that there will be no peace and stability in the country until Sharia Law is implemented.

A4: QUESTIONS AND ANSWERS

1. BIU LOCAL GOVERNMENT

- (a) Sa'idu Inuwa Hena. “What is the position of alkalis that are not qualified under Sharia and the courts that operate other laws?” Response by Chairman of the Committee: We have in the present dispensation three (3) types of courts viz:
1. The European type – for Common Law
 2. The Muslim type – Sharia
 3. The Customary type – which is neither Muslim nor Christian i.e. for Traditional Religious followers.

When Muslims say they want Sharia Law then all the courts that operate other laws will not be applicable to them except Sharia Courts.

2. GWOZA LOCAL GOVERNMENT

- (a) Mohammed Munka'il. (i) “What is the role of “*malamain allò*” – our conventional malams? Response: The malams have a great role to play. For example, they will assist the alkalis in teaching the Sharia Law. (ii) The position of *almajiris*? Response: Government may establish Islamic schools to accommodate the *almajiris*. There is a provision for them if the Sharia Law is implemented. For instance, *zakat* collected from the rich will be used to cater for the welfare of the *almajiris*.

CLOSING REMARK: In his closing remark, the Chairman of Hawul Local Government Area, Alhaji Abba Habib Adamu, stated that as Muslims we have no choice but Sharia. That we have to appreciate that Sharia Law is command from Allah.

He finally thanked the Executive Governor of Borno State, His Excellency Alhaji Mala Kachallah for constituting this Committee. May Allah guide the Committee and give His Excellency, the zeal and courage to implement Sharia Law in Borno State

Closing prayers were offered by the Chief Imam of Borno State.

APPENDIX B: VIEWS OF CERTAIN PERSONS

B1: VIEWS OF FORMER GRAND KADI, ALHAJI BABA KURA IMAM

He said it is compulsory for all Muslims to be governed by Sharia and that Sharia Law had been in place in Borno until the colonial conquest that distorted it.

He supported the application of all aspects of Sharia in Borno State indicating that it would have been the first State to adopt such because Islam came to Nigeria through Borno.

He said the expression by some groups that Sharia punishment is harsh and barbaric, is just mischief. He said why didn't people comment on summary execution of thieves by firing squad, which is more harsh than cutting of hands.

For smooth implementation of Sharia he advised that there must be thorough examination of the present Area Court judges to ensure reappointment of only knowledgeable and honest ones as Sharia judges. He said Sharia judges must have full knowledge of Arabic and Islamic jurisprudence.

He lamented over the lack of confidence of the people in the present Area Courts, as a result of corruption, incompetence and unnecessary delay of judgments. He observed that judges stay in their chambers to listen to cases instead of the courts. He said such practice attracted dismissal in the past. He further observed that Western law gave powers to the judge to use his discretion in passing judgments, while Sharia is based on evidence and *hujjah*. He listed the three types of judges identified in Islam as follows:

- (i) knowledgeable but not just.
- (ii) ignorant and not just.
- (iii) knowledgeable and just – which is the one recommended by Islam.

He also advised on the necessary amendments to the Constitution in order not to block application of Sharia by the National Assembly.

He supported the appointment of knowledgeable judges in Sharia to serve on the benches of Federal Court of Appeal and Supreme Courts, to hear Sharia appeal cases from the States. He said this is provided in the Constitution but lacked implementation.

B2: VIEWS OF ALHAJI SHETTIMA ABANI, FORMER GRAND KADI

He said Sharia is already in existence in Borno except that it required reform to implement the aspects that were abolished by colonialists. Such aspects include punishments on stealing, fornication and adultery.

He decried the present abuses on appointment of Area Court judges. He said only knowledgeable and honest persons should be appointed as Sharia judges.

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He advised that a Panel headed by the Grand Kadi must be established to screen candidates for appointment as judges before passing to the Judicial Service Commission for appointment.

Looking at the present inspectors of Area Courts, he said most of them lack knowledge of Sharia and thus there is the need for appointment of only knowledgeable persons.

He said mufti as legal adviser to the judge existed in Borno but had little influence on the judge. He said mufti as found in Sudan is not attached to any court, but consulted on legal matters by the judges.

He supported the adoption of interpretation of Maliki School of Law in the application of Sharia. This has been guiding Sharia in Borno since coming of Islam.

B3: VIEWS OF RETIRED KADI KAKA SHEHU IMAM

He said Sharia was governing the lives of Muslims in Borno State before the colonial conquest. He therefore supported its application in Borno now, but cautioned against the kind of undue publicity given to it at Zamfara State, that had attracted controversies from non-Muslims in the country and the international community.

He then advised that if Sharia is to be implemented in the State, there is the need for re-assessment of our present Area Court judges, because most of them are incompetent. He then narrated that judges in those days were not appointed among fresh school leavers. One has to undergo a period of training spanning at least ten years learning clerical, financial and all aspects relating to judgments. After all the necessary training a candidate is appointed as mufti, which means one is qualified to be an acting judge, whenever a judge proceeds on leave. Then if any vacancy exists for the post of a judge, appointment was made among the muftis. He said as a result of this arrangement, judges in the past were competent and well trained.

He further advised that after selecting good judges who are highly knowledgeable in Islamic jurisprudence, their working conditions must be improved in terms of court facilities as well as their welfare and security. He lamented over the poor pay of judges in the country as compared to even some of the poorest nations around us. He said judges must be provided with wardrobe allowances and all other necessary inducements in order to discourage them from corruption.

He said enough Sharia books must be provided to Sharia Courts and that judgments be based on the interpretation of Maliki School of Law which is governing the lives.

He also advised that police as prosecutors is unIslamic. He said the present situation whereby the complainant is just a witness while only the police can make appeal is not approved of in Sharia.

He finally advised that if Sharia is to be implemented, appeal cases be heard by at least three (3) judges, thus decrying the present Area Court system in which one judge of an Upper Area Court hears appeals from Area Courts.

B4: VIEWS OF SHEIKH ABUL FATHI

He welcomed and supported the application of all aspects of Sharia in Borno State. But he said Sharia is not a new thing to Borno because it has been governing our lives

until the coming of colonialists and that even now Sharia is guiding our lives except that it is not applied in the penal aspects that has to do with caning for drinking beer as well as punishments associated with fornication, adultery and murder.

He advised that full implementation of all aspects of Sharia should be gradual because of the present ignorance, moral decadence as well as lack of understanding of Sharia by non-Muslims and even some Muslims.

He also advised that Sharia should be based on the interpretation of Maliki School of Law because this is the school of law that has been guiding Muslims in West Africa (not only Borno) since the coming of Islam into the region. He further advised that other Islamic schools of law are not well known to scholars in this region.

He said as a start, all beer parlours and prostitution should be banned. He also said that our rulers should endeavour to bring learned scholars close to them to be guiding them on religious affairs.

He concluded by saying assault and *alashariya aqida* should be well emphasised in order to sustain Sharia.

B5: VIEWS OF SHEIKH IBRAHIM SALEH AL-HUSSAIN

He welcomed the application of Sharia in the State but indicated that for all aspects of Sharia to be implemented, the nation must be an Islamic country fully prepared to work with all the rules of Islam.

He said Sharia refers to all aspects of Muslim life. He further said the Almighty Allah decreed that the faith of Muslims cannot be real except if they believe in the rule of God. He said Sharia is at our homes, schools, work places, markets, streets, etc. He then identified Sharia into six (6) categories as follows:

- (i) *Aqidab-Tawbeed* i.e. the belief in the six articles of faith.
- (ii) *Ibadab* – that covers the five pillars of Islam and *aladab* that becomes *ibadab* – such as eating habits, clothing, etc.
- (iii) *Muamalah* – all transactions between people including all acts such as marriages, trade, etc.
- (iv) Keeping what is good and shunning away from what is bad.
- (v) Law enforcement – Sharia does not give right to an individual to enforce law, but this must be done by an agency of government.
- (vi) Islamic upbringing – Muslims should be brought up in Islamic way of life. This distinguishes Muslims from Christians.

He said for all aspects of Sharia Law to be implemented, there should be necessary amendments of the Constitution gradually. Reform of existing courts is also absolutely necessary. That Sharia judges must be knowledgeable in the [rules?] of other schools is necessary in a situation whereby one of the *madhabs* does not provide satisfactory interpretation or solution to a problem.

He said a body of *ulama* for regulating the condition of appointment and discipline of judges must be put in place. He further said for legislation of Sharia laws, the House of Assembly must be composed of people with sound knowledge of Islam.

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He also advised that there is the need to set up Council of Ulama to codify the Sharia law after visitations to some Islamic countries to examine their Sharia practice.

He also said that schools must be well catered for and that all preachings must be controlled and that sermons should be well checked before delivering them at mosques.

B6: VIEWS OF SHEIKH ABUBAKAR EL-MISKIN

He supported the application of all aspects of Sharia in Borno State but said this should be gradual considering the high level of ignorance of Islam among even the Muslims. He said judges to be appointed must be knowledgeable and should meet the qualities of judges specified by Islam.

He further said Sharia should be based on Qur'an and Hadith and that using Maliki School of Law alone for interpretation of Sharia might not be acceptable to some of the Muslims who prefer the interpretation of other *madhabs*. He said a well learned judge who is conversant with all the *madhabs* can pass judgment without difficulties.

B7: VIEWS OF ALHAJI MODU GONI KOLO

He said Sharia is compulsory upon all Muslims, supporting by some verses of the Holy Qur'an and some Prophetic traditions. He further said lives of Muslims must be governed by the Holy Qur'an which is a divine guidance. The Prophet Muhammad (SAW) was directed by the Almighty Allah to guide and judge people with the Holy Qur'an.

He said the foundation of Islamic judgment is based on *iman, aqida* – based on *al-ash'ariyya, fiqh* – Islamic jurisprudence, *ihsan – tassawuf* – moral cleansing and observance of all religious duties.

He also supported that interpretation of Sharia based on Maliki School of Law should be adopted as this is the only school of law well known in Borno and the entire Northern Nigeria.

He supported the control of begging by almajiris, if Government can build places for them and provide food.

B8: VIEWS OF SHEIKH MOHAMMED CHAM

He supported the application of all aspects of Sharia. He said only the establishment of Sharia would bring peace and that everybody would be given his due in the society, as Sharia does not allow for begging. He said even the rights of non-Muslims are clearly stipulated and that they can get their *haqqi*.

He said Sharia judges must be knowledgeable and just. Corrupt judges must be dropped. He further advised that judges should be supervised by assessors.

He also supported the interpretation of Maliki School of Law being the most well known *madhab* to be used in the application of Sharia.

He also supported the re-organisation of the Sangaya education with funding by Government, as this is what is obtainable in other Islamic countries. He further advised that destitutes and handicapped people should be well catered for.

He further advised that Muslim prisoners should be visited in prisons for re-trial if Sharia is established. Welfare of prisoners as provided in Sharia should be observed.

He also advised that *tassawuf* should be well emphasised in order to sustain Sharia.

B9: VIEWS OF SHEIKH ABUBAKAR GONIMI

He said all people whether Muslims or non-Muslims believe in God. He said they believe that God Almighty Allah is the creator of the heavens and the earth. Thus he said Sharia must be respected because it consisted of the words of God who knows what is good for those He created.

He further said since the time of Prophet's companions up to colonial conquest, Sharia was governing the lives of Muslims. He added that if non-Muslims know the benefits of Sharia, they will give their support, because Sharia would bring peace and improvement in the living conditions of people.

He said Islam must be practised in totality and that is why Sharia which is compulsory in Islam must govern the lives of Muslims. He said any Muslim who does not believe in Sharia is an unbeliever.

He further added that Sharia will purify Muslims and put them on the right path and shun away from evil deeds. Sharia will make Muslims more faithful and will stop them from committing offences, thus avoiding the punishments which people consider as harsh.

He advised appointment of knowledgeable and honest judges for proper dispensation of Sharia.

B10: VIEWS OF MUHAMMAD FUGURA EL-BARNAWY (GONI FURA)

He said our society is already Islamic but only that some of our judgments are not based on Islamic principles. He further emphasised that Islam, *ibadat* and *khubbah* are existing already with us.

He said he has fully supported the implementation of all aspects of Sharia, if our leaders can be just enough to sustain it. He said all his preaching is on establishment of full Islamic judgments.

He further said since a Muslim cannot be condemned except if there is evidence for wrong-doing, he didn't support total replacement of the present alqalis if Sharia is established fully. He said existing ones can be retrained and must be ensured to imbibe justice. He said the *ulama* in Borno have adequate knowledge to guide the judges.

He also advised that if Sharia is established there must be justice in the running of Government. He said corruption should be removed.

He also suggested that if Sharia is fully established, all Muslims must adhere to tenets of Islam and all illegal gains be confiscated and that full implementation of Sharia should be done gradually.

NIGER STATE ADVISORY COUNCIL ON RELIGIOUS AFFAIRS (NISACORA)

Visits to Niger State Local Government Areas and to Zamfara State
re Sharia Implementation, June, July and August 2000

I. MINUTES OF NISACORA MEETINGS WITH LOCAL GOVERNMENT REPRESENTATIVES OF NIGER STATE, 7 June to 7 July 2000

Kontagora, Rijau, Magama and Mariga LGAs

Shiroro and Munya LGAs

Edati LGA

Lavun LGA

Bida LGA

Agaie and Katcha LGAs

Lapai LGA

Rafi LGA

Gurara LGA

Suleja LGA

Tafa LGA

Wushishi, Gbako and Mashegu LGAs

Bosso and Paikoro LGAs

Borgu and Agwara LGAs

Mokwa LGA

II. REPORT ON NISACORA VISIT TO ZAMFARA STATE, 31 July to 2 August 2000

Preamble

NISACORA in Zamfara State Ministry of Justice

NISACORA in Zamfara State Ministry for Religious Affairs

NISACORA in Zamfara State Anti-Corruption Commission

III. NISACORA RESOLUTIONS ON TOUR TO ZAMFARA STATE

I.

**MINUTES OF NISACORA MEETINGS WITH LOCAL GOVERNMENT
REPRESENTATIVES OF NIGER STATE
FROM 7TH JUNE 2000 TO 7TH JULY 2000**

MINUTES OF THE MEETING OF NISACORA
AND THE REPRESENTATIVES OF THE ULAMA OF KONTAGORA, RIJAU,
MAGAMA AND MARIGA LOCAL GOVERNMENT AREAS,
HELD ON 6TH RABPUL-AWWAL 1421 (8TH JUNE 2000)

Attendance:

1. Malam Shehu Na Rimaye	-	Representative
2. Alhaji Ahmad Yusuf Limamin Rijau	-	Representative
3. Malam Abubakar Gambo	-	Representative
4. Malam Buhari Zakari	-	Representative
5. Malam Muhammad Salisu	-	Representative
6. Malam Muhammad Ibn Imam	-	Representative
7. Malam Abdul-Kadir Na'uzo	-	Member
8. Malam Musa Isa Lapai	-	Member
9. Malam Muhammad Sambo	-	Chairman
10. Malam Abubakar Abu-Sumayyah	-	Member
11. Malam Abubakar Kawu Hassan	-	Secretary

The opening prayer was said by Malam Ahmadu at 1:25 p.m.

The Chairman started by explaining the purpose of the meeting, re-emphasizing the salient points discussed in the meeting of the *ulama* with His Excellency the Governor of Niger State Engineer Abdul-Kadir A. Kure. He requested that efforts should be intensified to awaken the populace about al-Islam and how it affects their lives

Alhaji Abdul-Kadir Na'uzo drew the attention of the *ulama* to the significance of the meeting seeing the height of the position the Governor attaches to *ulama*, which no Governor has done the like of in the history of Niger State.

Alhaji Musa Isa called for unity amongst the *ulama* pointing out the need to unify their goals and speak with one voice.

Both Alhaji Abdul-Kadir Na'uzo and Malam Muhammad Sambo emphasized the importance of getting rid of unlawful behaviours in transactions, and imbibing the true Islamic way of doing all things.

Malam Narimaye welcomed the message from the Governor and prayed that Allah reward him and the members of the Advisory Committee with paradise. He also declared his acceptance to be a *wakil* in his Local Government Area. He then advised that learning centres should be established, where public enlightenment can be carried out even if it is held for one hour daily. Teachers in these centres may not necessarily introduce specific books, but must encourage the students to ask questions on any issue.

The Imam of the Federal College of Education (FCOE) Kontagora, Malam Muhammad Ibn Imam, after praying for the Governor admonished the *ulama* to purify their minds and struggle to be pious Muslims. He also called for unity. He advised that the Emirs and Chairmen should be contacted. The aid groups should be informed of what is happening and they should be encouraged to act upon the changing trend. Judges must not be left out. They should be admonished. He also requested the Governor to declare his assets now even if he had done so before. He called for the imams to include speeches about the Sharia in their Friday sermons, and for enlightenment seminars to be mounted more especially in the State capital, which should serve as a model to other towns.

The Chairman said that all suggestions and observations have been noted, adding that already such special seminars have been arranged for Emirs.

Malam Buhari Zakari explained that since the inception of the Sharia issue, the *ulama* in Kontagora Emirate have been enlightening individuals, and that this exercise has reached such a stage that when the Sharia is finally fully implemented there will be no problems.

Malam Muhammad Salihu Abubakar suggested that contractors should also be enlightened on the Sharia question. He pointed out also that misappropriation of public funds is more severe than clear-cut theft, and that any public servant caught in the act should be dismissed, and the property he misappropriated confiscated. He added that judges must be warned to exercise justice in their jobs without discrimination of any sort. He did not leave out motorists in the enlightenment programme.

Alhaji Yusuf, the Imam of Rijau, requested that scales and mudus be introduced by the State Government.

Alhaji Abubakar Gambo requested that people should be enlightened on the correct Islamic way of slaughtering animals.

Alhaji Musa Isa, responding to the request by the Imam of FCOE, said that already the aid group has been enlightened, pointing out that a seminar was already delivered in Kontagora Emirate.

Alhaji Abdul-Kadir Na'uzo re-emphasized that wherever a Muslims is, he should be regarded as such. Unity should be the key word amongst Muslims.

Malam Buhari Zakari requested to know if the alcohol law is still in place. The Chairman affirmed this, and added that in fact new measures are being taken to ensure sanity in our courts of law.

The Imam of the FCOE asked for the *nisab* for theft, and he was told that it is currently ₦20, 000.00. He was informed that a review of this law has been proposed to His Excellency.

The meeting was closed with a prayer by Malam Narimaye at about 2.52 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF THE MEETING OF NISACORA
WITH THE REPRESENTATIVES OF THE ULAMA OF SHIRORO AND MUNYA
LOCAL GOVERNMENT AREAS
HELD ON 10TH RABIUL-AWWAL 1421 (12TH JUNE 2000)

Attendance:

Malam Baba Kafanchan	-	Representative
Malam Umar Ahmad	-	Representative
Malam Jibrin Adamu Kuta	-	Representative
Malam Muhammad Sambo	-	Chairman
Malam Abdul-Kadir Na'uzo	-	Member
Malam Musa Isa Lapai	-	Member
Malam Abubakar Abu-Sumayyah	-	Member
Malam Abubakar Kawu Hassan	-	Secretary

The meeting commenced with an opening prayer said by Sheikh Abdul-Kadir Na'uzo at 11.50 a.m.

The Chairman ordered that two other *ulama* be invited since two of the designated could not wait for the arrival of the committee. These two were Malam Ibrahim Adamu Kuta and Malam Umar Ahmad Erena.

The Chairman explained the mission of the Committee, which is to mobilize the *ulama* to ensure that Sharia is implanted into the minds of individuals, such that they conduct their day-to-day activities, interactions and transactions according to the Sharia. He expressed the need for the *ulama* to meet various interest groups amongst Muslims and enlighten them about their responsibilities towards Allah. He told members about the first meeting with the Governor over the issues he explained, pointing out that today's meeting signals the coming of the major meeting with the *ulama* at Minna which will feature various intellectual topical issues. Alhaji Na'uzo emphasised that people who will be doing the enlightenment exercise are expected to lay emphasis on using accurate scales, to sell goods sold by weight and giving full measures for things that are sold by measures and on the right attitude to look for contracts and execute them. He also talked on the need for Muslims to unite.

Malam Kawu informed that many letters were written against the person of the Governor and Muslims by Christians opposed to the move to institute Sharia in Niger State.

Malam Abu-Sumayyah explained that it is not Government alone that should deal with the Sharia issue, the *ulama* have to wake up tighten up and marry the Sharia matter for the sake of Allah. He therefore emphasised grass-roots mobilization.

Alhaji Musa Isa advised that in their explanation to the general public, the *ulama* should not implicate the Government. They should instead state what Allah and His Messenger said.

The Chairman re-iterated that all interest groups should be put into consideration i.e. elders, leaders, judges, chairmen, traders etc.

Malam Baba Kafanchan suggested that the Chairman of the Local Government Area should be invited to the Minna meeting.

The meeting was closed with a prayer by Abu-Sumayyah at 12.53 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF THE MEETING OF THE NISACORA
AND REPRESENTATIVES OF EDATI LOCAL GOVERNMENT AREA ULAMA,
HELD ON 13TH RABIUL-AWWAL 1421 (15TH JUNE 2000).

Attendance:

- | | | |
|--------------------------------|---|----------------|
| 1. Malam Ahmad Uthman | - | Representative |
| 2. Malam Ahmad Abdulkadir | - | Representative |
| 3. Malam Yahya Sidi Aliyu | - | Representative |
| 4. Malam Abdulkadir Na'uzo | - | Member |
| 5. Malam Musa Isa Lapai | - | Member |
| 6. Malam Muhammad Sambo | - | Chairman |
| 7. Malam Abubakar Abu-Sumayyah | - | Member |
| 8. Malam Abubakar Kawu Hassan | - | Secretary |

Ustaz Abubakar Abu-Sumayyah opened the meeting with a prayer at 11:36 a.m.

The Chairman, Muhammad Sambo, explained to the hosts about the Governor's good intention to concretise Islamic development after introducing Sharia law in Niger State. He told them the need for Muslims to pay more attention to areas of interactions such as buying and selling, renting and hiring and execution of contracts, pointing out that the rights of individuals in their interactions must be protected just as offences that call for capital punishment must be avoided. He said that it is in the light of this that the committee was mandated to select a few individuals in each Local Government Area to partake in this struggle. These selected few are expected to meet various interest groups and enlighten them over what affects their lives as Muslims

Malam Abu-Sumayyah pointed out that a meaningful existence, where life and property are guaranteed safe, could only be obtained through the full implementation of the Sharia. The Governor, he added, has relieved himself of the burden by his handing over of the task of enlightenment to the *ulama*. He enjoined the *ulama* to encourage people to fear Allah and embrace the Sharia struggle, without saying anything about the Governor's support for the enlightenment.

Alhaji Abdul-Kadir Na'uzo re-emphasized the idea of keeping the name of the Governor out of this exercise, and advised them to learn the *fiqh* of trade and general interactions. He also informed the *ulama* of Enagi that they are fortunate to be included in the *da'awah* exercise, and requested them to come to Minna with a report of their activities when they are called to Minna for the State meeting.

Alhaji Musa Isa called for unity amongst Muslims. He also requested that the representatives should call a meeting of the *ulama* of Edati Local Government Area and get competent Muslim *du'at* to participate actively in enlightening people.

Alhaji Kawu encouraged that they should call the various interest groups – traders, butchers, and contractors – and admonish them, and that they should be prepared to face any test or calamity which may befall them.

Malam Ahmad Abdul-Kadir expressed happiness on behalf of all others over the Committee's visit, that at least their fears that the Sharia issue has been shelved have been allayed.

Malam Yahya A. Salihu said that there are stakeholders who should be contacted to ensure progress on Islamic practices in Enagi and its environs. He requested, particularly, that Bima Abdul-Rahman must be admonished, and pointed out that Christians living in Enagi and unfortunately, some Muslims, do not like the Sharia to be instituted.

Malam Musa Isa promised to get some elders including Sheikh Ahmad Lemu to talk to Bima Abdul-Rahman.

The meeting came to the end at 12:35 p.m. with an closing prayer said by Sheikh Abdul-Kadir Na'uzo.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF THE MEETING OF NISACORA
WITH REPRESENTATIVES OF THE ULAMA OF LAVUN
LOCAL GOVERNMENT AREA,
HELD AT KUTIGI ON 13TH RABIUL-AWWAL 1421 (15TH JUNE 2000).

Attendance:

Alhaji Abubakar Tifin The Imam Of Kutigi	-	Representative
Alhaji Muhammad Makiniki	-	Representative
Malam Muhammad Emichezo	-	Representative
Malam Kadi Muhammad Sambo	-	Chairman
Sheikh Abdulkadir Na'uzo	-	Member
Malam Abubakar Abu-Sumayyah	-	Member
Alhaji Musa Isa Lapai	-	Member
Malam Abubakar Kawu Hassan	-	Secretary

Sheikh Abdul-Kadir Na'uzo led the opening prayer at 1.30 p.m.

He then explained the purpose of the meeting positing that the Committee had come to deliver a special message from the Governor on the Sharia issue, which is expected to take off soon. He stated that the Governor's fear on this issue is the unenlightened Muslims rather than the non-Muslims. He therefore wants the ignorant and the sceptical to be informed. He said the Governor's wish is to get the Muslims enlightened about transactions and interactions by the *ulama* through the Committee, using the most effective way possible. He added that the Governor gave this Committee

the mandate to select *ulama* from all over Niger State to carry out the enlightenment exercise, which Allah commanded through His Messenger. The three representatives should recruit others to help them accomplish the task, which he said rests on the shoulders of all knowledgeable Muslims.

The duty of the *ulama*, Na'uzo continued, is to inform verbally or in writing, the task of physical enforcement rests on the constituted authority. He also called on Muslims to unite; this concept is indicated in the constitution of the membership of NISACORA; comprising individuals from all Islamic groups. He also requested the three representatives to keep a progress report of all their activities, as this will be demanded for during the State meeting.

The Chief Imam of Kutigi asked if he could call people in other towns of Lavun Local Government Area such as Doko He was told he could do so if it would be practicable and problem-free to him.

Malam Isa Makiniki suggested that the Governor should listen to the advice of the *ulama* before he decides on crucial issues. He also requested for a vehicle for the *du'at*.

The Chief Imam of Kutigi terminated the meeting with a closing prayer at 2:13 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES FROM BIDA LOCAL GOVERNMENT AREA
HELD AT GALADIMA'S COMPOUND ON 17TH RAB'UL AWWAL 1421 (19TH
JUNE 2000)

Attendance:

Alhaji Usman Toma Galadima Nupe	-	Representative
Sheikh Sa'id Enagi	-	Representative
Malam Idris Khalifa	-	Representative
Malam Abdullahi Mujahid	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting started with an opening prayer led by Alhaji Abdul-Qadir Na'uzo at about 11.50 a.m.

The Chairman, Malam Muhammad Sambo, transferred the chairmanship of the meeting to Alhaji Abdul-Qadir Na'uzo because of the former's ill-health.

The presiding Chairman explained that the meeting has been initiated by the Governor's good intention to institute the Islamic law in Niger State. The Governor in an earlier meeting stressed the need for the *ulama* to educate and mobilise Muslims towards this end, because Sharia, according to the governor has been with Muslims from

the beginning. What the *ulama* should do is to draw the attention of the people to observe Islamic rules and regulations. The presiding Chairman informed the meeting that Bida Local Government Area was not the first the Committee was visiting.

He told the representative *ulama* that their duty is to do everything to foster unity amongst Muslims in addition to undertaking vigorous enlightenment campaigns covering people of various occupations and position in the society. The presiding Chairman then paused to allow other members of the NISACORA to make their contributions.

Malam Abubakar Abu-Sumayyah stressed that when the Sharia finally gets instituted, it will take care of people's welfare, the faith of the citizens notwithstanding. He pointed out that the Governor, by constituting the Committee has played his part. It is now the duty of the *ulama* to propagate his intention. Every Muslim must therefore play his role, with the hope of getting rewarded by Allah in the hereafter. He stressed that the *ulama* has been particularly assigned this duty by Allah – the Exalted. The *ulama* should therefore try to enlighten individuals on their religious obligations.

Alhaji Musa Isa Lapai stressed that it is the duty of the *ulama* to enlighten the community. This is the right of the community on the *ulama*. He then called for intra-religious groups' cooperation in Bida Local Government Area. He also enjoined the leadership of the religious groups to practise the technique of delegation of duties. "One person should not do everything," he stressed.

Malam Muhammad Sambo drew attention of the meeting to some historical aspects, which led to the abolishing of the *budud* aspect of the Sharia in the then Northern Nigeria and the retention of the *mu'amalat*.

He explained that the Niger State Governor called on the *ulama* to sensitise the *ummah* on the need to re-entrench the *budud* and consequently gain back the lost glory.

Malam Abubakar Kawu stressed that the Governor has decided to act on what will ensure the realization of the Islamic law instead of making verbose pronouncements on the radio and television.

Malam Idris Abdullahi of the "Muslim Ummah" Bida, suggested that there is need to advise the Governor to concentrate on providing people's needs according to the Islamic injunctions instead of bothering about what the corrupt members of the *ummah* say or do. Government must intensify efforts to ward off evil deeds. All offenders must be punished. He made these pronouncements because according to him, both alcoholism and prostitution are still being promoted in Bida.

Alhaji Musa Isa Lapai, responding to Idris's position, advised that such points should be brought to the State meeting to be held later in Minna.

Alhaji Toma requested for more information on the Committee, and Malam Muhammad Sambo explained that it is an enlightenment forum and committee for the *ummah* and an advisory committee to the leaders. Alhaji Toma went on to say that they have already prepared and presented to the Governor, a package, that if it is utilised can help to mould the society. He therefore suggested that all official activities in the State, henceforth, should exemplify the Sharia so that everybody will know that the Government is not jesting.

Malam Mujahid said that there is the need for the Governor to invite the Local Government Chairmen and address them over the Sharia issue. He also called for the State to assist the various Muslim groups to help them enhance their *da'awah* activities in rural areas.

The Chairman stressed the need to enforce the proper conduct of transactions especially by Muslims.

Malam Idris informed NISACORA members that some people were caught drinking alcohol, but instead of meting out the Islamic punishment on them that is eight strokes of the cane, they were each fined ₦500.00 (five hundred naira only) and released.

Malam Sa'id Enagi declared that the Government of Niger State has not placed the *ulama* in a position they are supposed to be. He expressed fear that the politicians simply want to deceive the *ulama* so that they can maintain their status quo at the expense of that of the *ulama*. He therefore called for real Government financial support to the *ulama* and they will *insba* Allah show him (the Governor) how the Sharia can be implemented fully and properly. He also suggested that a Sharia Defence Council should be set up in addition to the Council of Ulama comprising of militant Muslim youths.

Alhaji Toma promised to give their meaningful suggestions, in writing, to NISACORA. The Muslim *ulama* also suggested that a seminar on the Sharia be organised for civil servants.

Alhaji Toma then thanked NISACORA members for sparing time to come. The Chairman promised to convey their messages to the Governor.

The meeting was terminated with a closing prayer led by Sheikh Sa'id Enagi at 1:20 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVE OF THE ULAMA OF AGAIE AND KATCHA
LOCAL GOVERNMENT AREAS
HELD AT AGAIE ON 17TH RAB'UL AWWAL 1421 (19TH JUNE 2000)

Attendance:

Malam Ahmed Ndanusa	-	Agaie	-	Representative
Malam Idris Nami	-	Agaie	-	Representative
Malam Mambagi	-	Agaie	-	Representative
Malam Muhammad Madiu	-	Katcha	-	Representative
Malam Abdullahi Katcha	-	Katcha	-	Representative
Kadi Muhammad Sambo	-		-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-		-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-		-	Member, NISACORA
Alhaji Isa Lapai	-		-	Member, NISACORA
Malam Abubakar Kawu Hassan	-		-	Secretary, NISACORA

The meeting was opened with a prayer led by Sheikh Abdul-Qadir Na'uzo, who was also mandated by the Chairman to explain to the representatives the mission of NISACORA. He did this saying, among others, that the Governor appointed the members of NISACORA and charged them with the responsibility of going round the State and enlightening people about the Sharia law, with particular reference to the aspects covering transactions in a typical Muslim community. He pointed out that Sharia has in effect been instituted in Niger State. What remains according to him, is the re-trenchment of all aspects of the Sharia. He also informed that in the very near future all representative *ulama* would be invited to Minna to give a report of their enlightenment activities.

Sheikh Abubakar Abu-Sumayyah explained the responsibility of the *ulama* to enjoin people to do good and avoid evil. It is the work of the *ulama* to educate and warn, while the task of the Government is to adjudicate and enforce compliance. He added that every sector should know its duties and stand by them.

Malam Musa Isa Lapai expressed the need for the representatives to establish sub-committees so as to simplify the enlightenment job, stressing that preaching must be focussed on what Allah the Exalted commanded and the teachings of his Honoured Prophet. He also informed that the Niger State Government has started renovating courts of law, and has decided to overhaul the State judicial system by pushing out bad eggs in the system.

Malam Muhammad Sambo praised the State Government's foresight in employing the *ulama* to research and expose to the *ulama* what Sharia Law is all about. He therefore advised that the *ulama* should concentrate on the transactions aspect of Islam so that, people, by acting according to Islamic injunctions, will leave happy lives and sanitise the society. He stressed that the *ulama* should preach to the people how Sharia affects every aspect of their livelihood. He enjoined the representatives to talk to various interest groups on this.

Alhaji Ahmad Ndanusa expressed gratitude to the members of the NISACORA.

Malam Abubakar Kawu stressed the need for unity among the *ulama* and the need for them to support the Governor's stride to legislate according to the Law of Allah the Exalted, in Niger State.

Malam Muhammad Madiu called on the *ulama* not to keep their knowledge to themselves, while the rest of the *ummah* should expose their ignorance and try to learn. He also called on the Government to help the *ulama* both financially and morally.

Malam Abdullahi Katcha suggested that the *mu'azins* be called for a course that will enable them discharge their duties properly.

Malam Mambagi expressed his happiness over the visit of the NISACORA to Agaie and then prayed that the Government come to the aid of the *ulama* in any possible way.

Malam Abdullahi Katcha also expressed the need for NISACORA to censor all Qur'anic schools in the State and also assist in running them.

Alhaji Ahmadu Ndanusa at 3:37 p.m. said the closing prayer.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF LAPAI
LOCAL GOVERNMENT AREA
HELD IN LAPAI ON 17TH RABI'UL AWWAL 1421 (19TH JUNE 2000)

Attendance:

Malam Muhammad Ndanusa Abdur-Rahman	-	Representative
Malam Muhammad Bello Jangede	-	Representative
Malam Abubakar Magaji	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting began at about 4.38 p.m. with an opening prayer led by Malam Abu-Sumayyah. The Chairman explained the purpose of the visit, which he said was to explain the intention of Niger State Government to continue in its stride to institute the Sharia in the State. He said NISACORA was in Lapai to concretise this struggle and actualise the Governor's plan. He then craved the indulgence of *ulama* of various Local Government Areas to concentrate on the teaching of the modes of Islamic transactions in the different endeavours of human livelihood so that everyone will know and actually interact with other Muslims and non-Muslims according to the Sharia. He advised the *ulama* to get to the grassroots and intensify the campaign for the institutionalisation of Islamic law in the State. They should do this, he added by mobilising other *ulama*, clearly explaining to them about this development.

In this enlightenment exercise, the Chairman added, the *ulama* should talk to various interest groups such as traders, contractors, etc., pointing out to them their responsibility to Allah and His Messenger – may the peace and blessings of Allah be upon him; and the role they can play to ease out the job of Islamising transactions in Niger State.

Alhaji Na'uzo stressed that the representatives should embrace this important call by the Governor. He reminded them that the Prophet (SAW) said that “the world started with righteous people and will end with righteous people” and deduced from this that perhaps the struggle to reinstate the Sharia is a signal that the world is ending and said further, that perhaps Allah wants to include the members amongst righteous people that is why He brought this matter during our time.

Abu-Sumayyah emphasised the need to take up this enlightenment programme diligently and with a sense of decorum. “Preachers must not be involved in committing shameful and sinful acts,” he said.

Malam Musa Isa added that whatever a caller wants to call to, must be based on Allah's injunctions and the teachings of His Messenger (SAW). He also called for unity

amongst the *ulama*. He also informed the representatives that they would be required to submit a report of their enlightenment activities during the State meeting, in Minna.

Sheikh Abdul-Qadir Na'uzo explained that the invited *ulama* should serve as true representatives of the entire Muslim community of Lapai Local Government Area.

Malam Abubakar Magaji expressed his happiness on behalf of the representatives over NISACORA's missions, pointing out that he felt highly honoured. He pointed out to NISACORA that there is the need for the very strong committee formed by the Emir of Lapai to be informed that NISACORA has selected some *ulama* to be their representatives on the Sharia enlightenment programme, who will help to enlighten other *ulama* on the intention of Government to re-entrench the full Islamic law and how it has set out to accomplish this.

Alhaji Muhammad Ndanusa praised Allah for getting him chosen to be a member of the committee affirming that *da'awah* has finally got a base in Niger State, as from today.

Malam Muhammad Jangebe explained that the *ulama* in Lapai can be categorised into two: a group that insists that it must be obeyed by their students even when they go wrong, and the other who observe the fitness of individuals who come before them, before they allow them to operate.

Alhaji Musa Isa promised to undertake the duty of making things right in Lapai Local Government Area.

Malam Abubakar Kawu stressed the need for unity amongst the *ulama* for its sake and for uniformity of purpose.

The closing prayer was led by Malam Muhammad Jangebe at about 5:37 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF RAFI
LOCAL GOVERNMENT AREA,
HELD AT KAGARA ON 20TH RABI'UL-AWWAL 1421 (22TH JUNE 2000)

Attendance:

Alhaji Yahaya Balarabe Abdullahi, the Chief Imam of Kagara	-	Representative
Malam Muhammad Bagobiri	-	Representative
Malam Idris Kakuri	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting commenced with an opening prayer led by Imam Yahaya Balarabe at about 10.35 a.m.

The purpose of the meeting was then explained by the Chairman, stating that the sole reason was the good intention of the State Governor to institute the Sharia law in toto in Niger State. He stated that the main concern of the Governor is to see that people are enlightened on the Islamic law of transactions, and therefore enjoins the *ulama* to emphasise this aspect in their meetings and public enlightenment programmes. He informed further that the Governor wants the five members of NISACORA to go round the entire Local Government Areas of Niger State to mobilise and seek the co-operation of the *ulama* towards accomplishing his desire to serve al-Islam and the Muslims for the progress of all.

The Chairman then requested the representatives to offer their pieces of advice or suggestions after all members of the NISACORA have contributed.

Alhaji Abdul-Qadir Na'uzo urged the representatives to enlighten various interest groups, such as traders, contractors, butchers, judges and road transport workers on the Islamic regulations governing their occupations. He warned the participants that even though the Governor is fully involved in this matter but neither the invited representatives nor the *du'at* should mention that.

Malam Abubakar Abu-Sumayyah explained the glories associated with the introduction of the Sharia in Niger State in particular and Nigeria at large. He therefore cautioned all about the danger associated with neglecting the duty of enlightening the ignorant about the Sharia.

Alhaji Musa Isa Lapai highlighted the need for the representatives to contact other *ulama* and seek their co-operation and participation in the struggle to enshrine the Sharia in the State's legal system. He advised the representatives to select a chairman and a secretary from amongst themselves. He also informed the representatives [sic], as a report of these will be required when the statewide meeting is called.

Malam Kawu stressed the need for unity amongst Muslims, and the necessity for them to purify their intentions, correct their actions and remain steadfast no matter the type of difficulty or insult they may encounter in the struggle.

The Imam, Malam Balarabe, expressed his happiness over the NISACORA visit, and advised that Niger State should take a leaf from Zamfara State especially in matters concerning transactions and appointment of judges.

Kadi Muhammad Sambo expressed that indeed a general overhauling of courts is already in progress in Niger State. Judges, he added, will be subjected to a special training.

Malam Muhammad Bagobiri, before anything else, demanded to know the names of the members of the NISACORA. The chairman said that it was an oversight not to have introduced the members at the beginning of the meeting, and went ahead to introduce them.

Malam Yahaya Balarabe called the attention of the NISACORA to the financial implication of this struggle, more especially that the intention of the Governor was

required to be propagated State-wide. To this, the Chairman assured that as the struggle continues the Governor will be approached for assistance.

Malam Idris Kakuri suggested that the Niger State Government should purchase scales for weighing what is to be sold by its weight, and “mudus” for measuring what is sold by the measure and distribute them to some concerned individuals on soft loan basis before the people become enlightened enough to buy them themselves. He also advised that the State Government should establish a Ministry for Religious Affairs. He additionally craved the Government’s support for grassroots *da’awah* activities in view of the effort he observes the Christians are putting in propagating their religion in rural areas. The Christians have tactfully left the urban areas and moved to the villages. He also advised that during the State meeting the *ulama* should be told to make use of their occasions, such as *walima*, to chip in something on the Sharia. He also pointed out the need for *ulama* to re-direct their disciples towards unity amongst all Muslims irrespective of the group they belong.

Kadi Sambo hinted on the plan to use the radio and the television by buying some air time for Islamic *da’awah*. This, he said, will be done without mentioning that NISACORA is undertaking it.

The meeting was closed with a prayer led by Malam Abubakar Abu-Sumayyah at about 11.52 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF GURARA
LOCAL GOVERNMENT AREA
HELD ON 24TH RABPUL AWWAL 1421 (26TH JUNE 2000)

Attendance:

Malam Sadiu Rajab	-	Representative
Malam Isa Muhammad	-	Representative
Malam Abdulkadir Garba Gambari	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na’uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting commenced with an opening prayer led by Sheikh Abdul-Qadir Na’uzo at about 9.55 a.m.

The Chairman explained the purpose of the meeting as, the Executive Governor requested to get the *ulama* to enlighten Muslims about the transactions aspect of the Sharia which he noticed was not well grasped by them. The Governor informed

members of NISACORA that the Sharia has been enshrined into the judicial system of Niger State, he added.

He also enjoined that the *ulama* should be admonished on aspects such as family relations, the right way to execute contracts and engage in trading etc. These he suggested, should constitute part of the *juma'ah* sermons, points to be stressed in public preaching sessions, teaching periods and dialogues. He therefore enjoined the representatives to invite and talk to various interest groups, such as butchers, traders, contractors, community leaders, etc. on the transactions aspects of the Sharia, pointing out how al-Islam moulds their practices in their various trades. He pointed out that the inclusion of the *ulama* in Gurara Local Government in this programme was on brief of the Governor. The representatives are therefore expected to submit a report of their activities when they are called to the State meeting to be held at Minna.

Sheikh Na'uzo stressed the need for Muslims to unite, drawing the attention of the representatives to the composition of the membership of NISACORA, which he said is made up of various Muslim groups but held under the umbrella of al-Islam. The formation of the NISACORA, he pointed out will check the diabolical plans of Christians against our State Governor and the Muslim *ulama* in general. He urged the representatives to be grateful to Allah for getting this opportunity from the Governor to serve al-Islam and the Muslims.

Malam Abu-Sumayyah reiterated that al-Islam is a complete code of conduct. He stressed that it is the responsibility of the *ulama* to explain the religious duties to the ignorant, while the duty of the Government is to enforce the law and devise punitive measures against defaulters, which the Governor has promised to carry out.

Alhaji Musa Isa Lapai called on the *ulama* to put emphasis on what Allah has decreed and the Messenger explained instead of implicating the Government. He also urged them to work hand-in-hand with other *ulamas* for accomplishing the purpose of this onerous duty.

Malam Sadisu expressed happiness for being a member of the campaign team, but was quick to express his worry on how they were going to contact the various groups easily. To this, the Chairman said there is a good underground plan for the modalities, but said that the NISACORA wants to see the efforts of the representatives before the State meeting in Minna.

Malam Abubakar Garba expressed happiness for the meeting. He was at last happy that the Government has now come out to assist in concretising what is in fact its duty. He said they would do their best to contact the various interest groups.

Malam Isa Muhammad thanked NISACORA members and promised to pursue its call as much as possible.

The Chairman promised that the NISACORA will advise the Governor on the need to meet Local Government Chairmen and encourage them to enact the Sharia.

Malam Gambari called for enforcement of the alcohol sale and consumption law, strict expression and decisive measures on defaulters. The Chairman promised that the

NISACORA would relate with the members of the Liquor Prohibition Law Enforcement and Surveillance Team.

The closing prayer was said at 11.00 a.m. by Malam Abubakar Abu-Sumayyah.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF SULEJA
LOCAL GOVERNMENT AREA
HELD ON 24TH RAB'UL AWWAL 1421 (26TH JUNE 2000)

Attendance:

Malam Yusuf Maikanti Yunus	-	Representative
Malam Muhammad Suru	-	Representative
Malam Muhammad Falalu	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting commenced with an opening prayer led by Sheikh Abdul-Qadir Na'uzo at about 12.30 p.m. The Chairman explained the purpose of the meeting, stating that the Executive Governor has consolidated his stand to implement the Sharia full wide in Niger State. He therefore wants the *ulama* to enlighten the Muslim *ummah* on, particularly, social and economic responsibilities of Muslims. This, he opined, could be achieved by putting emphasis on the transactions aspect of al-Islam at every opportunity available to preach to people. The Chairman enjoined the representatives to work with other *ulama*, especially the imams of *jami* mosques, to enlighten various interest groups, such as butchers, traders, milk sellers, Local Government Chairmen, etc. on the transactions segment of the Sharia. The Chairman also informed that the Governor has promised to reform all the courts of law in the State, and other sectors of the social and economic life of its citizens.

Alhaji Abdul-Qadir Na'uzo explained that the intention of the Government is to ensure that everybody in the State is aware of the meaning and workings of the Sharia including its inherent powerful potential to bring positive change in public social and economic life. He also informed that a general meeting will be called in Minna where every Local Government will be required to submit a report of its enlightenment mission.

Malam Abubakar Abu-Sumayyah posited that as far as the human being is concerned, there are two ways of living --the good and the bad. The Sharia provides the good way, and that is why the *ulama* insist that the Sharia should be implemented completely. He then said that this will be impossible without three things -- enlightenment of the system to be implemented, enforcement of the law governing the

system, and the interest of the believers to respect the law and retain the system. He therefore implored the representatives to always quote what Allah decreed and explained by His Messenger, rather than implicating the Governor.

Malam Muhammad Suru requested to be allowed to say what he had to say so that he could be allowed to proceed to Jere where he was expected to preach to a group of Muslims who have been waiting for him.

He was allowed. He, among other things, expressed his happiness over this visit and accepted the duty vested on them by the Governor. He also enjoined members of the NISACORA to pray to Allah to reform their lives so that others could be reformed through them.

Alhaji Musa Isa Lapai drew the attention of the representatives to the composition of the members of the NISACORA, enjoining them, in effect, to co-operate, come together as Muslims and not as sects to work for the common good of al-Islam and Muslims. Brotherhood and unity are two powerful tools for healthy living, he opined.

Malam Kawu informed the representatives that they will be required to submit a report of their enlightenment activities, stating therein successes, problems, failures and prospects, at a meeting to be called in Minna *insha* Allah.

Malam Muhammad Falalu expressed his happiness over this visit, and called for unity amongst Muslims and co-operation in their day-to-day activities. He said that as soon as he got the letter from NISACORA, he met his community and they all resolved that their local chapter will embark on the production of a fortnightly magazine aimed at enlightening Muslims; and in fact the maiden issue was produced last week. He pointed out that the stimulus to get the *ulama* enlighten the *ummah* on the Sharia issue should have come from the *ummah* itself and not from the Government.

Malam Sambo explained that the *ummah* is also doing its best to see to the implementation of the Sharia and also called on the representatives to do what is possible for them to do to see an enlightenment team is formed on the Sharia.

Malam Yusuf Maikanti Yunus called on the Governor to, himself, effect changes in his life style in conformity with Islamic injunctions. He suggested that the Governor should be sat, admonished and enlightened about the welfare of Muslims under him. He must imbibe the culture of looking at his people with compassionate eyes. He advised NISACORA to take a leaf from Zamfara State Government, and suggested that members of NISACORA should, with the support of the Governor, visit Zamfara to see and hear things as they are there. He went further to suggest that the NISACORA should be the eyes of the Government, ascertaining to it what conforms to the Sharia and what contradicts it. He also called for the establishment of a Religious Affairs Ministry, or, at least, a Department of Religious Affairs under the Governor's Office. Members of NISACORA, he added should be permanent members of that department or ministry. He also foresees that the next election will be between Muslims and Christians, and therefore called for the need for Muslims to penetrate the nooks and corners of this State enlightening Muslims about this. He also requested that the Governor should put up a vote of charge for the day-to-day running of the NISACORA.

The Chairman on behalf of all members of the NISACORA thanked the representatives for attending the meeting and offering useful suggestions.

The meeting was closed at 1.47 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF Tafa
LOCAL GOVERNMENT AREA
HELD ON 24TH RAB'UL AWWAL 1421 (26TH JUNE 2000)

Attendance:

Malam Umar S. Sarki Sarkin Ija Gwari	-	Representative
Malam Imam Shafi'i	-	Representative
Malam Idris Adamu	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting commenced with an opening prayer led by Sheikh Abdul-Qadir Na'uzo at about 3.05 p.m., after which those in attendance introduced themselves on the request of the Chairman.

The Chairman then explained the purpose of the meeting, which he said had to do with the institution of the Sharia in the judicial system of Niger State. He said members of the NISACORA were called by the Governor and charged with the responsibility of mass enlightenment of the people of Niger State especially in the transactions aspect of the Sharia. He urged the representatives to work with other *ulama* in their localities and to include topics on the Sharia in their usual preaching and public address sessions. He enjoined them to invite various interest groups such as butchers, traders, contractors, teachers etc, and talk to them on the Sharia.

The Chairman warned that in the process of enlightening people, the *ulama* must confine themselves to the words of Allah and Muhammad (SAW) guidance. He informed them that they will be required to submit a report of their enlightenment activities at the State's general meeting which will be called in Minna.

Sheikh Abdul-Qadir Na'uzo emphasised that it is by the grace of Allah that the three representatives were selected to lead the enlightenment job in their Local Government Area. He gave the representatives some hints on how to go about doing this important work, and at the end prayed Allah to make this task exclusively for gaining His favour.

Malam Abu-Bakr Abu Sumayyah stated that the formation of the NISACORA is a sign of success in the drive to implement the full Sharia in Niger State. He then urged

the representatives to do all they can towards accomplishing the wish of the Governor and the Committee members.

Malam Musa Isa Lapai noticed that Tafa Local Government Area has a large Christian population and therefore enjoined the representatives to do all they can to unite the various Muslim groups so that they can, collectively, face the great task ahead of them. He urged them to use the knowledge they have of their environment to pursue the enlightenment job.

Malam Umar S. Sarki, Sarki Ija Gwari, informed NISACORA members about their meeting with the Secretary to the State Government (SSG) and pointed out that he briefed the SSG about the worries of Gwari Muslims over the Sharia; and said that they promised the SSG that they will revive their various preaching groups in a meeting to be held on Thursday with all Gwari leaders. He pointed out that he will introduce the transactions aspect of the Sharia in the meeting, and the need for *da'awab* in Gwariland.

The Chairman welcomed the idea and suggested that emphasis should be placed on the Sharia at all preaching sessions.

Malam Idris Adamu pointed out that they, in Tafa, are holding fast to Allah's injunction "And hold fast all together to the rope of Allah, and do not be divided," adding that their Muslim *ummah* is cooperating in this regard. He therefore prayed to Allah for success.

Malam Muhammad Sambo emphasized that all groups, Jama'atu Nasril Islam, Fityanul Islam and the Izalat al-Bid'a wa Iqamat as-Sunnah should be incorporated in this *da'awab* mission.

Malam Ndaliman explained that when he saw his appointment letter, he thought that what the letter was calling for was a repetition of what is already happening in Tafa, because according to him already a preaching exchange programme between the Tariqah and the Izala *ulama* has started in the Local Government.

The meeting was closed with a prayer led by Malam Idris Adamu at 4.03 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF WUSHISHI, GBAKO AND
MASHEGU LOCAL GOVERNMENT AREAS
HELD ON 27TH RABI'UL AWWAL 1421 (29TH JUNE 2000)

Attendance:

A. GBAKO:

Malam Ahmadu Saganuwa	-	Representative
Alhaji Muhammad Lawal Kashi	-	Representative
Alhaji Muhammad Liman Gbangba	-	Representative

B. MASHEGU

Malam Ahmad Isa Doko	-	Representative
Malam Muhammad Sani Abubakar Mashegu	-	Representative

C. WUSHISHI

Malam Dauda Alhaji Ibrahim	-	Representative
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D. NISACORA

Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting started with a prayer offered by Sheikh Abdul-Qadir Na'uzo at about 12.00 noon.

The Chairman, Kadi Muhammad Sambo, explained the purpose of the meeting which he said was as a result of the Governor's appointment of the five-member committee and summoning it to map out strategies for the enlightenment of the *ummah* on the interactions and transactions aspects of the Sharia which he observed many people do not know much about. The Chairman said that there are many injustices perpetrated by various interest groups in their transactions. These groups include traders, workers, leaders, scholars etc. The Governor therefore charged the NISACORA to invite *ulama* from various Local Governments in the State, so that groups of enlightenment teams could be formed to educate people about the *mu'amalat* segment of the Sharia. The Chairman enjoined the representatives to use all available fora; Friday sermons, occasional preachings, and teaching sessions to propagate the Sharia. He also urged them to organise special preaching for the various interest groups. In doing their duty, however, the representatives should not say "the Governor said we should do..." But instead state only what Allah and His Messenger said about the Sharia.

Sheikh Abdul-Qadir Na'uzo encouraged the representatives to go back to their respective destinations and choose well-respected *ulama* and incorporate them in this important duty. He warned them not to hide the knowledge Allah has given to them, but instead come out courageously and preach what they know. He also called for mutual love among Muslims.

Sheikh Abubakar Abu-Sumayyah explained that the life of each Muslim should be in accordance with al-Islam, and that Muslim scholars should express gratitude to Allah for giving them a Governor who wants to institute the Sharia and who is also interested in the plight of the protagonists of the Sharia. He added that Muslims should understand that Allah has blessed them with the Sharia through politics. He enjoined the representatives to always make reference to Allah and His Prophet (SAW) while they preach.

Alhaji Musa Isa Lapai contended that the representatives should thank Allah for choosing them as members of the body to represent their various Local Government Areas in the onerous task. He therefore called on the representatives to go back home and enlighten their people. He said that each representative is supposed to give a report

of his successes and problems while he was engaged in the enlightenment work. He called them to be upright and discourage disunity among them.

Malam Abubakar Kawu admonished the representatives to obey their leaders and people vested with responsibility over them in what they hate or agree upon so as to ensure unity and solidarity.

Kadi Muhammad Sambo re-emphasised the need for unity and fraternity among Muslims.

Malam Ahmad Isa Adoko asked NISACORA members to introduce themselves. This was done. He then showed his worry over the financial problems that may be faced in discharging this duty, and requested that NISACORA should assist financially. He then emphasised the need for the *ulama* to re-mould their characters.

Malam Dauda promised that Wushishi *ulama* would do their best to enlighten the public.

Malam Muhammad Sambo declared that there is the need for much enlightenment among the *ulama*.

The closing prayer, at about 1.28 p.m., led by Sheikh Abubakar Abu-Sumayyah, signalled the end of the meeting.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF BOSSO AND PAIKORO
LOCAL GOVERNMENT AREAS
HELD ON 2ND RABPUL AKHAQ 1421 (3RD JULY 2000)

Attendance:

Sheikh Isa Tijani Peta of Peta Village	-	Representative
Sheikh Lawal Hikima, Minna	-	Representative
Sheikh Ibrahim Hussam A., Imam Dutsen-Kura Gwari, Minna	-	Representative
Malam Umar Abdullahi Dada Paiko	-	Representative
Alhaji Muhammad Badamasi Paiko	-	Representative
Alhaji Muhammad Hassan Lukpan	-	Representative
Malam Abubakar Siddiq Chanchaga	-	Representative
Alhaji Yusufu Feleme	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Musa Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting was started with a prayer led by Sheikh Abubakar Abu-Sumayyah at about 12.00 noon.

The purpose of the meeting was told by the Chairman Kadi Muhammad Sambo, which was the institution of the Sharia in the State's judicial system. The purpose of the Governor's charge on the five-member committee was explained. The Governor wants the Committee to get to all the Local Government Areas to inform, and involve other *ulama* and canvassing their co-operation to get the meaning of the Sharia understood in all its ramifications: matters concerning worship, interactions and transactions. The Chairman said that the Governor wants more emphasis to be placed on the transactions facet of the Sharia, being the part that is ill-understood; and to inform the populace that he has lifted the suspension order he announced on the Sharia in Niger State.

The Chairman then stated that it is the duty of the representatives to implant the covered Islamic moral conduct into the hearts of Muslims of various shades of occupations. The *ulama* should, he said, talk to those various groups through their leaders about their religious responsibilities as Muslims. He also informed the representatives that they were selected on merit by a collective decision of the NISACORA members – a committee made up of Muslims drawn from different Islamic religious groups in the State.

Sheikh Abubakar Abu-Sumayyah explained that members of NISACORA were contacted singly by the Governor; none of them knew the other; until they were collectively invited by the Governor for the inaugural meeting. It was then that they were told that their Committee was to be called Niger State Advisory Committee on Religious Affairs (NISACORA). The Sheikh went further to state that Allah the Exalted has glorified the Muslim community with two responsibilities: calling to what is good and forbidding evil. He therefore called upon the representatives to be upright in discharging their responsibilities.

Alhaji Musa Isa Lapai emphasised the significance of unity amongst the representatives. He craved their indulgence to work with wisdom Allah has bestowed on them to make sure that the assignment assigned to NISACORA by the Governor is carried to the grassroots through the involvement and co-operation of other malams each of whom is aware of the peculiarities of his society.

Malam Kawu drew the attention of the representatives to the antagonistic drives of Christians and ill-informed Muslims against the Sharia, and tasked the representatives to measure up to expectations in responding to this call by the Governor.

Malam Lawal Hikima expressed gratitude to Allah for making the meeting possible. He observed that the Government has a greater role to play in the implementation process, pointing out that various injustices are being perpetrated in the Minna central market and the menace of the black-market and kabu-kabu boys.

The Chairman, Kadi Sambo responded by assuring the representatives that whatever is discussed in the meeting will be conveyed to the Governor for appropriate action.

Malam Husam suggested that NISACORA should extend its invitation to other important *ulamas* and imams so that they could be intimated first-hand, instead of getting this information from secondary sources. He also requested that a blueprint be produced

by NISACORA for Islamic organisations, so that the march towards the implementation of full Sharia will be eased. He called on NISACORA to evolve strategies and assist in the dissemination of al-Islam on rural areas seeing that Christians have penetrated the hinterlands and are now working arduously towards stripping Muslims of their faith. He then promised to give the CIO papers to members of NISACORA.

Malam Umar Paiko saw the need for imams to adjust their mode of delivering sermons, so that they now make some pronouncements indicating that Government has ordered imams to include the Sharia issue in their sermons, for easy acceptance by people and implementation by Government. But the Chairman responded that although Government was fully behind the campaign, preachers should not mention this to their audience.

Malam Muhammad Badamasi requested that a letter should be issued to strengthen their stride. He also requested for Government's support to Islamiyyah and Qur'anic schools.

Malam Sadiq Yahaya requested the representatives not to abuse or insult non-Muslims in their enlightenment process, but instead intensify efforts in the propagation of the religion, devoid of all sentiments.

Malam Muhammad Hassan Lukpan requested for financial backing over this issue.

Kadi Sambo informed the meeting that NISACORA will request and commit government to sponsor radio and television programmes aimed at the smooth implementation of the Sharia where topics such as trade in al-Islam, interactions among Muslims, interactions between Muslims and non-Muslims, etc. will be treated.

Malam Isa Tijani expressed gratitude for having been chosen as one of the representatives working towards the implementation of the Sharia. He pointed that this work needs a good and workable plan on the enlightenment process. He pointed out that NISACORA has made the right choice of representatives and therefore suggested that the membership should be retained.

Malam Lawal Hikima stressed that all activities engaged in by NISACORA must be done on the platform of al-Islam, and not under the banner of any other association.

Malam Umar Paiko re-emphasised the need for co-operation between the representatives, and enjoined them to stick to what is common between them concerning the Islamic faith, and not what is peculiar to the groups.

Alhaji Yusuf Fulani showed that the meeting has to him signaled the success of the Sharia implementation by Christians to dissuade ignorant Muslims from the Sharia, by pointing out to them that al-Islam was spread by the sword. Establishing Islamic nursery and primary schools, he said was one of the ways of countering the falsehood sprayed by Christians against al-Islam.

Kadi Muhammad Sambo expressed gratitude to the representatives, and also reminded them of a general meeting, which will be called in Minna on a date to be fixed later.

The meeting was terminated at about 2.10 p.m. with a prayer led by Malam Muhammad Hassan Lukpan.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF BORGU AND AGWARA
LOCAL GOVERNMENT AREAS
HELD AT EMIR'S PALACE NEW-BUSSA ON 5TH RABI'UL AKHAQ 1421 (6TH
JULY 2000)

Attendance:

Alhaji Aliyu Jega	-	Representative
Sheikh Saiqullahi Abubakar	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The opening prayer was said by Sheikh Abdul-Qadir Na'uzo at about 6.06 p.m.

The Chairman, Malam Muhammad Sambo, tendered an apology to the representatives, on behalf of NISACORA, for their inability to arrive on time. He also requested the representatives in attendance to communicate issues discussed in the meeting to the Agwara representatives who could not wait for Committee's arrival.

He (the Chairman) explained that the meeting was aimed at intimating the representatives with the message of the Governor of Niger State over his willingness to implement the full Sharia legal system in the State. He went on to mention that the Governor is ready to implement the Sharia but he wants the Muslim *ummah* in the State to be enlightened on, especially, the Islamic laws of contracts and transactions. He said that it is the wish of the Governor that people in all Local Governments of the State to be enlightened, and that is what precipitated the move to select representatives in the various Local Government Areas through whom NISACORA will work to deliver the Governor's message to the grassroots. He said also that representatives from Borgu and Agwara were selected through consultations. He therefore urged the representatives to utilise this rare opportunity to enlighten Muslims over their religious obligations on a day-to-day basis. The affiliation the *ulama* have for their different groups or philosophies notwithstanding, they should all variously and collectively work towards awakening Muslims to see that the Sharia is understood and longed to be implemented.

Alhaji Abdul-Qadir Na'uzo confirmed the Chairman's opening speech, and added that the representatives should express gratitude to Allah for raising a person in our State who has declared his intention to give us back what we have long missed and now cherish and hope to retrieve – that is the Sharia. He said that NISACORA has come only

to remind the representatives of their religious responsibilities, and will be waiting for a written document of their enlightenment exercise, to be submitted in Minna when the State-wide meeting is summoned. This report is expected to include successes, failures, problems and prospects.

Malam Abubakar Abu-Sumayyah explained that it will be a big success on the part of the representatives if anybody gets remoulded or guided through them; and therefore encouraged them to seek for Allah's reward through this means. He reminded them of the trust reposed on them by the Governor in the Sharia issue.

Malam Kawu reminded the representatives of the importance of unity among Muslims and advised that whatever they deliver to people should be hinged on what Allah and His prophet said on the Sharia, and not try to link it to the Governor.

Alhaji Ali Jega expressed gratitude to Allah for the members of NISACORA, explaining that they have long been hoping that the Sharia be established, and by the grace of Allah, their wishes are being met today. He expected that the people of Borgu Emirate are well known for performing *da'awah* exercise, but pointed out they have the problem of travelling to villages.

Malam Saifullahi told the meeting that alcohol is no longer sold anywhere in Borgu and that incidences of theft have reduced drastically. He then requested NISACORA to seek the Governor's help to buy them vehicles for *da'awah* activities. He finally thanked members of the NISACORA.

The meeting was closed with a prayer said by Sheikh Abubakar Abu-Sumayyah, at about 6.49 p.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

MINUTES OF NISACORA MEETING
WITH REPRESENTATIVES OF THE ULAMA OF MOKWA
LOCAL GOVERNMENT AREA
HELD AT THE CHIEF IMAM'S RESIDENCE, MOKWA ON 6TH RAB'UL
AKHAQ 1421 (7TH JULY 2000)

Attendance:

Alhaji Aliyu (Chief Imam Mokwa)	-	Representative
Malam Muhammad Naibi (Naibi Imam)	-	Representative
Muhammad Sani Alh. Isa	-	Representative
Alhaji Danmusa	-	Representative
Alhaji Mohammed Liman Nnasunna	-	Representative
Kadi Muhammad Sambo	-	Chairman, NISACORA
Alhaji Abdul-Qadir Na'uzo	-	Member, NISACORA
Malam Abubakar Abu-Sumayyah	-	Member, NISACORA
Alhaji Isa Lapai	-	Member, NISACORA
Malam Abubakar Kawu Hassan	-	Secretary, NISACORA

The meeting started with an opening prayer led by Sheikh Abdul-Qadir Na'uzo at about 8.58 a.m.

The Chairman, Malam Muhammad Sambo, explained the purpose of the meeting which he attributed to the Governor's intention to concretise the move to institute Sharia in Niger State. He pointed out that the Governor observed that the beliefs and worship aspects of the Sharia are known and practised by the *ummah* but their grasp on the interactions and transactions segments is very poor. The Governor, therefore, wants members of NISACORA to work through Local Government representatives to mount enlightenment activities aimed at, specifically, educating Muslims about the interactions and transactions aspects of the Sharia. The Chairman therefore urged the representatives to recruit other *ulama* to help in achieving this objective right back to the grassroots level. He enjoined that all preaching and sermons should be focussed on Allah's decree and teachings of His Messenger – may the peace and blessing of Allah be upon him; with the sole aim of remoulding the general character of the community

Sheikh Abdul-Qadir Na'uzo observed that the Governor has indeed reminded the *ulama* their responsibilities in spite of the fact that he has a strong and long-standing affiliation with Western education and orientation. He therefore urged the representatives to rise up to this onerous task, which is to get out of Mokwa township and go into villages and hamlets, and enlighten people over this important message. He prayed for the success of this operation.

Malam Abubakar Abu-Sumayyah observed that the life of every Muslim should be Islamic. He also said that the Government has come to help al-Islam and the Muslim in Niger state.

Malam Kawu explained to the representatives that they are required to submit a progress report of activities they embark upon after this meeting. He also stressed the need for unity among them for progressive future.

Malam Sambo hinted about some changes currently being effected in the State's judiciary service and promised to offer an explanation at the State's meetings in Minna.

Malam Kawu also told the representatives that similar reforms are also planned for the schools system pointing out that the Governor has to introduce Arabic at both primary and secondary school levels by September this year as a core subject to the Muslims.

Alhaji Muhammad Liman Nnasunna expressed gratitude to Allah for this development and commended NISACORA members.

Kadi Sambo explained the importance of unity among them and the danger of creating divisions among the *ulama*, and warned them not to be divided.

The Chief Imam Alhaji Aliyu led the closing prayer at about 10.00 a.m.

KADI MUHAMMAD SAMBO
Chairman

MALAM ABUBAKAR KAWU HASSAN
Secretary

II.

**REPORT ON NISACORA'S VISIT TO ZAMFARA STATE
ON 31ST JULY 2000**

Preamble:

In the name of Allah, the Gracious and the Merciful. Praise be to Allah, the Lord of the worlds. May Allah's bountiful peace be upon Prophet Muhammad (SAW), his household, his companions and all that follow his foot-prints up to the day of judgment.

The five NISACORA members witnessed a safe journey throughout their assignment. *Alhamdu lillab*. The members arrived Gusau which is the headquarters of Zamfara State on Monday 31st of July 2000. The members were received by the Director Personnel of the Secretary to the Zamfara State Government's Office in the absence of the SSG. The members later saw the SSG and presented an introductory letter to him from the Niger State Office of the Secretary to the State Government. The members were led to various ministries and departments in Zamfara State by the Deputy Director General Services of the SSG's Office, Malam Sahabi Sani Kagara. Members paid visits to Zamfara State Ministry of Justice, Zamfara State Ministry of Religious Affairs, Sharia Court of Appeal and Zamfara State Anti-corruption Commission. Members also took time to go round Gusau town to see how Sharia is being practised. It is based on this tour that an eyewitness account is being compiled.

1. NISACORA in Zamfara State Ministry of Justice

The NISACORA members visited Zamfara State Ministry of Justice and met with the State Attorney-General and Commissioner of Justice, Alhaji Ahmed Bello Mahmud. He received the members in an Islamic manner and explained to the members the way Sharia is being practised in Zamfara State, taking into consideration the Nigerian Constitution. He emphasised the importance of enabling law, which according to him, should be the first to be drafted and should be in accordance with Islam. He explained that the enabling law gives chance for a State to amend, repeal and change laws to suit the aspirations of Muslims (i.e. Sharia). He posited that at the time of the introduction of Sharia in Zamfara State, all criminal jurisdictions were introduced along with it except apostasy (*riddab*) and punishment of sodomy. He explained that punishment for sodomy (*li'wat*) was reduced to punishment for *zina* in the new law (see pages 14 and 15 of Sharia Penal Code Law of Zamfara State). The Attorney-General explained that judges are warned not to exceed forty (40) lashes while giving a discretionary punishment for offences whose punishment is not specified (*ta'azir*).

- I. **Sharia Court of Appeal:** The Attorney-General, Alhaji Ahmed Bello Mahmud related to NISACORA members that all Sharia Courts in Zamfara State are now under the supervision and control of the Grand Kadi. He explained that this was brought about because of the developments after the introduction of the Sharia Law, which necessitated this change. He emphasised that the Nigerian Constitution did not object to this. He explained also that a law was enacted to repeal Area Courts Establishment Law in favour of Sharia Courts Establishment Law. The Law

also gives mandate to the State Government to implement Sharia. He also contended that the Sharia Court of Appeal is given criminal jurisdiction.

- II. **Introduction of new laws and commission:** The Attorney-General and Commissioner of Justice explained that new laws are being introduced apart from the already existing common Sharia laws. Laws such as Zakat and Endowment law and Marriage Expenses Law are introduced. He said that a tribunal to compel whoever refuses to pay *zakat* to give what is due for onward distribution to the less-privileged, is set up. He also explained that Marriage Expenses Law checks the excesses during marriage ceremonies. The Attorney-General also informed the members about the creation of Anti-Corruption Commission which investigates the problems of mistrust and recommends to the appropriate ministry or department or court the appropriate action to be taken by the authority.
- III. **Working with the Aid Group Members:** The Attorney-General explained that the Aid Groups members have proved their worth since the introduction of Sharia law in the State. According to him, they have contributed a lot in preventing crime in the State. He therefore explained that some of them will be trained on methods of prosecution. After the training, according to him, they will be permitted by his office to prosecute.
- IV. **Social reforms:** The Attorney-General explained that as part of Zamfara State Government's effort to sensitise people to Sharia changes and to promote its establishment, many social changes are introduced. Uniform scales, and standard measures are introduced. Muslim scholars, imams, deputy imams and preachers are placed on the salary roll of the State. Islamic scholars are united under one umbrella by the government. Friday sermons are co-ordinated and reflect the happenings in the society. Both *al-majirai* and prostitutes are rehabilitated. Ministry of Religious Affairs and Anti-Corruption Commission are established. Various committees, boards and councils are established. He said that Ministry of Religious Affairs distributes *hijab* to less privileged women especially the Fulani women free of charge. He contended that the government also gives interest-free loan to its workers and pays dowry and marriage materials to the less privileged especially the rehabilitated prostitute who wants to marry. He observed that since the introduction of Sharia law in Zamfara State there has been a high rate of conversion from Christianity to Islam. He also explained that there is drastic reduction on litigation in courts since Sharia law is being implemented. He pointed out that Local Government Councils are empowered to enact bye-laws to prevent Muslim women from riding on commercial motorcycles (*kabu-kabu*) with men who are not their blood relations. He however explained to the members that the Local Government executives were advised to introduce mild punishments in this respect. He explained that already Gusau Local Government Area has introduced its bye-laws on commercial motorcyclists, which takes effect on 1st August 2000.
- V. **Zamfara State contractors:** The contractors who enjoy Zamfara State Government contracts according to the Attorney-General are encouraged to come to the aid of the citizens through introducing transport system in the State. The contractors purchase commercial buses to tour every Local Government Area of the State including the State capital.

- VI. **Christians in Zamfara State:** The Attorney-General informed the members of NISACORA that Christians are living peacefully in Zamfara State. He explained that the government has no problem with the Christians in the State. He emphasised that it is only the Christians outside Zamfara State that formulate lies against the State and Sharia.
- VII. **Need for Uniform Law:** The Attorney-General expressed the need for uniform Sharia Law in the States that adopted it. He explained that already plans are underway to call for a meeting of Attorneys-General of Sharia States together with their Councils of Ulama to get a uniform Sharia Law for the States. The Attorney-General gave the members copies of Zamfara State Sharia Penal Code Law, the enabling law and other relevant documents.

2. NISACORA in Zamfara State Ministry for Religious Affairs

NISACORA members visited Zamfara State Ministry for Religious Affairs. The Permanent Secretary of the Ministry, Malam Muhammad Tukur Jangebe, received the members. The Ministry has a Commissioner and a Permanent Secretary. It has six departments. These departments are Religious Department, Da'awah Department, Sharia Department, Finance Department, Department of Administration and Planning, and Research and Statistics Department. According to Malam Tukur, a director heads each department. He also explained that there are deputy directors and assistant directors in each department with supporting staff.

- I. **Religious Department:** This department takes care of anything or any matter concerning religion. According to the Permanent Secretary, the department treats cases of revert to Islam, marriage contracts, illness, mental problems etc.
- II. **Da'awah Department:** Da'awah Department organises public enlightenment, seminars and workshops for the Muslim scholars such as imams and malams. Some are organised for the general public. The Ministry employed two hundred (200) Muslim scholars for the department and these scholars are posted to the fourteen Local Government Areas of the State. Among the scholars employed, there are volunteers and there are those who receive five thousand naira monthly as their salary. The department therefore spends one million naira (₦1,000,000) to pay its field workers every month. Malam Tukur also explained that various Islamic organisations in the State are invited from time to time to attend seminars and workshops. He also contended that the department also polices the affairs of the *ulama*. It is based on this that any Muslim preacher who misinterprets the Holy Qur'an or the Hadith of the Holy Prophet Muhammad (SAW) is invited for interrogation and appropriate correction by the department. He pointed out that there is absolute peace and unity among the *ulama* in Zamfara State and among the various religious groups in the State. He said that the department recorded a huge success when it held a joint national inter-religious preaching session whereby all the commissioners, emirs and district heads attended.
- III. **Sharia Department:** The Sharia Department according to Malam Tukur listens to the reports of the public against corrupt practices of the judges. The department investigates such cases and reports to the Ministry for onward transmission to the Grand Kadi. They also look into issues that affect Sharia.

- IV. **Finance Department:** According to Malam Tukur Jangebe, the Finance Department deals with any case that is capital oriented and affects finance such as extending assistance to individuals and organizations. All the Ministry's financial matters are being handled by this department.
- V. **Department of Administration:** This department deals with any administrative matter, according to Jangebe. He said that Ministry of Religious Affairs meets every month to give progress reports and to find solutions to the problem areas.
- VI. **Planning, Research and Statistics Department:** The department collects, collates and analyses data and statistics on the number of Islamiyyah schools and Qur'anic schools in the State. The department also supports publications, and songs composed in favour of Sharia through giving financial assistance after scrutiny. It also organises a fact-finding tour to various Local Government Areas in the State.

The Permanent Secretary, Malam Tukur Jangebe, also explained that several committees are created under the supervision of the Ministry for Religious Affairs. These committees include Sharia Implementation Committee headed by His Excellency, the Zamfara State Governor, Alhaji Ahmed Sani Yariman Bakura; State Ulama Consultative Committee, a twenty-two member committee headed by Malam Muhammad Isah Talata Mafara; Joint Aid Monitoring Committee comprising all the Aid Groups in the State such as JNI, Fityanul Islam, Izalatul Bid'a Aid Groups; Committee of Elders headed by Malam Yahaya Gusau; and Committee for the Improvement of Jum'at Mosques. He also pointed out that in Zamfara State, the Islamic youths organisations such as Muslim Students Society, Muslim Corpers Association, Muslim Sisters Forum, etc., are joined together to form a joint youth organisation. They complement government's effort on public enlightenment. He also pointed out that the doors to see His Excellency are wide open all the time to him and his commissioners. He stated that the Ministry, in a bid to institute Sharia in Nigeria, supports any state that wants to implement Sharia through hiring vehicles and mobilising the public to travel to such states to support their move.

The Permanent Secretary informed the members about two parastatals under the Ministry of Religious Affairs: The Zakat and Endowment Board, which has four directors and a part-time chairman and part-time members, and the Islamic Religious Preaching Board which has twenty-one members. The Religious Preaching Board examines the suitability of a preacher. The Islamic Religious Committee at the Local Government level recommends the suitability of establishing a Jum'at Mosque and the Ministry looks into the recommendation. He stated that the Ministry assists from time to time the Quranic schools with grains for the feeding of pupils.

The Permanent Secretary also suggested ways that could lead to the success of Sharia in Niger State based on their experience. These ways include intensive *du'a* (prayers) which should involve sending *ulama* to the sacred lands of Makka and Madina to pray for the success of Sharia, establishment of inter-religious committee comprising both Muslims and Christians for the cross-fertilisation of ideas, and encouraging imams to present Friday *khutbah* in a modest manner. He also advised that the *ulama* should be encouraged to fear Allah, work with purity of mind and not be greedy.

He also suggested that Muslim writers should be encouraged to write and those who are Muslims among the SSS and police should be assisted to support Government move

on Sharia. He explained that Government should hold consultations with Christian Association of Nigeria (CAN) and assistance be extended to them where necessary. Those who support Sharia implementation among them should be closely monitored and encouraged in that vein. He stressed that there should be radio and television programmes by renowned Muslim scholars in support of Sharia and explaining Sharia to the Nigerlites [sic].

While speaking to NISACORA members on what will be the position of the Niger State Chief Executive, he stressed that he should support Sharia whole-heartedly and commit much of the finance to it. He said that His Excellency should allow NISACORA members to see him at anytime and without any delay when the need arises. He stated that His Excellency should compel his commissioners to support Sharia movement. The Permanent Secretary contended that since the issue of Sharia implementation is capital intensive, His Excellency should be ever ready to give financial assistance whenever the need arises. He also emphasised that the government should seek Nigeria Union of Road Transport Workers (NURTW) members' co-operation through giving them vehicle loans.

When asked about the relationship of his Ministry with the Pilgrims Welfare Board, he said that the Ministry liaises with the Pilgrims Welfare Board to give pertinent advice. He also stressed that members of Zakat Board should comprise the keen Muslims who are rich.

He also advised that the Ministry refers women with problems to Women Commission.

3. NISACORA in Zamfara State Anti-Corruption Commission

The NISACORA members visited Zamfara State Anti-Corruption Commission where the Commission's Chairman, Malam Aliyu Muhammad Sani Jangebe, received them. The Chairman contended that there are fifteen (15) members in the Commission who work for the meantime without supporting staff. He explained that the idea to established Anti-Corruption Commission was mooted to his Excellency, the Executive Governor of Zamfara State, before the Federal Government sets in motion his anti-corruption bill to the National Assembly. Malam Aliyu stated that the Commission members were chosen taking into consideration their previous experience of proven honesty and loyalty in the civil service and their contribution towards the establishment of Sharia. He stressed that the Chief Executive of Zamfara State together with State officials from grade level 10 and above including the permanent secretaries and commissioners were compelled by the Commission to declare their assets. He emphasised that the Commission investigates cases of corrupt practices by the civil servants, judges and community leaders and recommends appropriate action. According to him, judges are invited by the Commission through the judiciary for interrogation over allegations labelled against them. He contended that since the Commission's main task is to fight against corruption, it embarks upon table payments to the Zamfara State civil servants in order to discover ghost workers. He stated that the Commission resolves conflicts between two parties especially between Fulani cattle rearers and the peasant farmers. According to him, the Commission also distributes grains and food materials when the need arises. He said that the Commission at its inception had minor problems with corrupt politicians, judges and

leaders. He said that the State members of the House of Assembly signed the edict establishing the Commission into law after four months of hot debate.

Malam Aliyu Jangebe stressed that the Commission is directly under the office of the Governor, and it is answerable to the Governor. The Chairman commended the effort of His Excellency the Governor of Zamfara State for his support to the Commission and for choosing influential and non-corrupt individuals as members of the Committee. The Chairman posited that His Excellency is always ready to support any move in favour of Sharia.

The Chairman of the Commission advised NISACORA to intensify efforts to enlighten the general public whenever the Niger State Government intends to establish a similar commission. He also urged the members to encourage the Niger State Governor to enact an edict establishing such commission and to make sure that such edict is signed into law. He advised that such edict should give adequate power to the commission to monitor, investigate and sue cases involving a wide range of corrupt action such as contract awards and execution, employment of workers and salary payments, use or misuse of public properties, assets declaration and auditing of government spending, checking corrupt practices such as giving and taking of bribery, nepotism, favouritism, instilling the virtues of discipline and respect for law and leadership, listening to public complaints etc.

All the officers visited in Zamfara State promised to make available relevant documents to NISACORA apart from the ones given. The Chairman of NISACORA Kadi Muhammad Sambo thanked them on behalf of the Niger State Government. He promised to send the NISACORA Secretary Malam Abubakar Kawu Hassan back to Zamfara State capital to get the promised documents when they are made available.

The atmosphere in Gusau, the Zamfara State capital was calm and favourable. People go about their normal business without any molestation. Both Muslims and Christians live together peacefully with high degree of decorum. The hospitality of the people living in the Sharia State cannot be over emphasised. They have high regards to strangers and they are very ready to assist them whenever the need arises. Their commercial activities are associated with high degree of prudence and honesty.

Kadi Muhammad Sambo
Chairman

Sheikh Abdulkadir Na Uzo
Member

Malam Abubakar Abu-Sumayyah
Member

Alhaji Musa Isah Lapai
Member

Malam Abubakar Kawu Hassan
Secretary

III.

**NISACORA RESOLUTIONS ON ITS TOUR TO ZAMFARA STATE
ON 31ST JULY TO 2ND AUGUST 2000**

In the name of Allah, the Beneficent, the Merciful, may peace and benediction be upon the Holy Prophet Muhammad (SAW).

The Niger State Advisory Council on Religious Affairs was mandated to take a fact-finding tour to Zamfara State by the Government of Niger State. The Committee toured some Ministries in Zamfara State and observed how Sharia law is being practised. It is based on this tour, NISACORA members resolved as follows:

1. The Government of Niger State under the able leadership of His Excellency, Engr. Abdulkadir A. Kure, should take NISACORA's report on its tour to Zamfara State with absolute seriousness by studying it and implementing the report in toto.
2. The Ministry of Justice should put more effort with regard to Sharia reforms.
3. NISACORA hereby advises His Excellency to immediately put all machinery in motion for the continuation of Sharia legal system in the State.
4. All Sharia law reforms should only apply to Muslims and to non-Muslims who consented.
5. Zamfara State Sharia law reforms should be adopted for Niger State Area Courts, while Northern Nigeria Penal Code should be left for Magistrate Courts.
6. All Area Courts should come under the supervision and control of the Sharia Court of Appeal and the Grand Kadi.
7. The Sharia Court of Appeal should be given criminal jurisdiction to hear criminal appeal cases from the lower courts.
8. NISACORA noted with great concern the corrupt practices of some of the judges in Niger State. It therefore opined and advised that all the Sharia court judges proposed to be appointed should be learned and pious.
9. All traditional rulers in Niger State should be informed and intimated about Sharia reforms in Niger state by NISACORA through the Commissioner and Permanent Secretary of Niger State Ministry for Local Government.
10. NISACORA viewed with great concern that the Sharia reform is capital intensive. It therefore urged His Excellency to commit much resources to this important drive that will *insha* Allah sanitize the State.
11. The Committee observed the significance of Anti-Corruption Squad to deal with corrupt practices. It is in recognition of this that it advises the Niger State Government to establish with immediate effect Anti-Corruption Commission.
12. The Committee hereby hopes that the Niger State government should fully implement this resolution.

Kadi Muhammad Sambo
Chairman

Sheikh Abdulkadir Na Uzo
Member

NIGER STATE ADVISORY COUNCIL: VISITS TO LOCAL GOVERNMENTS AND TO ZAMFARA STATE

Malam Abubakar Abu-Sumayyah
Member

Alhaji Musa Isah Lapai
Member

Malam Abubakar Kawu Hassan
Secretary

GOVERNMENT WHITE PAPER OF NOVEMBER, 2000 ON THE REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

from Volume IV of the Report of the Task Force on Sharia Implementation,
Bauchi State of Nigeria, submitted to the Executive Governor of Bauchi State,
14th August, 2001

Contents:

1. [Letter Submitting Draft White Paper, dated 11 November, 2000](#)
2. [Draft White Paper](#)

[Editor's note:

1. The Report of the Bauchi State Sharia Implementation Committee was submitted to the Governor on 29 September, 2000. It is reproduced in its entirety in Chapter 2 (Vol. II) of P. Ostien, ed., *Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook*.
2. On 11 October, 2000, the Governor of Bauchi State appointed a White Paper Committee, headed by Hon. Justice Bala Umar of the Bauchi State High Court, to deliberate on the Sharia Implementation Committee Report and to prepare a White Paper stating the Government's position on it. Our materials do not disclose who else, besides Justice Umar, served on this White Paper Committee. The White Paper Committee completed its work within one month, submitting its Draft White Paper on 11 November 2000.
3. Both the Committee's letter of submittal, and the Draft White Paper, are included in Volume IV of the Report of the Bauchi State Task Force on Sharia Implementation, submitted to the Governor on 14th August 2001, from which source they are reproduced here.
4. The White Paper Committee's procedure was to go through the Main Report of the Sharia Implementation Committee, merely noting some parts, but taking definite positions as to most of the recommendations. The results appear in the Draft White Paper that follows.
5. We are informed that the Draft White Paper was deliberated upon by the Executive Council of the Bauchi State Government, and accepted. Certainly it was subsequently acted upon. All of the recommendations of the Sharia Implementation Committee accepted in the Draft White Paper were subsequently implemented. As to the main recommendation not accepted (that a Ministry of Religious Affairs be established), the alternative suggested in the Draft White Paper (that a Sharia Commission be established instead), has subsequently been implemented. But no White Paper has ever been officially published by the Bauchi State Government, nor do we have documentary evidence of acceptance by the Executive Council of the Draft White Paper.]

BAUCHI STATE WHITE PAPER ON SHARIA IMPLEMENTATION

1. Letter Submitting Draft White Paper

Ref. No. WP/SH/CMT/ADM/VOL.1/5
White Paper Committee on Bauchi State
Sharia Implementation Committee
c/o Women Development Centre
(Former NRC Secretariat)
Federal Lowcost, Bauchi.

11th November, 2000

His Excellency,
The Executive Governor
Bauchi State
Government House
Bauchi.

**SUBMISSION OF A DRAFT WHITE PAPER ON THE REPORT OF
BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE**

Further to your letter No. GO/SS/POL/S/83/T.1/56 of 11th October 2000 in which you appointed us to prepare a **WHITE PAPER** on the report of Bauchi State Sharia Implementation Committee.

2. The Committee commenced its assignment immediately and has painstakingly and meticulously studied the Main Report and the proposed legislations (i.e. the Sharia Penal Code, Sharia Courts – (Administration of justice certain consequential changes) Law, Sharia Court of Appeal (Amendment) law and the Area Courts (Repeal) law.

3. It is our pleasure to inform His Excellency that the assignment entrusted to us has been completed. I hereby wish to submit the **GOVERNMENT'S WHITE PAPER** on behalf of the Committee.

4. The Committee has taken great care to ensure that the Constitutional rights and interests of every segment of the society have not been negatively affected and hope that the Bauchi State Government will find the **WHITE PAPER** very useful.

5. Members of the Committee wish to place their appreciation on record for the opportunity given to them to serve the Government and the good people of Bauchi State. May Almighty Allah guide us towards the successful implementation of the Sharia legal system in our dear state.

Thank you.

Hon. Justice Bala Umar
(CHAIRMAN)

2. Draft White Paper

Ref. SH/CMT/GO/VOL/1/2

[29 September, 2000]

The Secretary to the State Government,
Governor's Office, Bauchi
Bauchi State

Dear Sir,

SUBMISSION OF REPORT

1. Reference to your letter No. GO/SS/REL/S/1 of 26th June, 2000 in which you appointed us as members of the above mentioned committee, we have the honour and privilege to inform you that we have completed the assignment given to us. We hereby present to you our report containing the modalities for adoption and implementation of Sharia by the state.
2. We wish to register our profound gratitude to the State Government for granting us the opportunity to serve as members of this Committee. We sincerely hope that our findings, observations and recommendations would help the Government in its avowed bid to restore Sharia in the State.
3. The State Government may therefore wish to receive the report of this Committee for its guidance and further action.

Government Position

Government notes the letter of Submission.

We remain

Yours faithfully,

- | | | | | |
|-----|---|---|----------|-------|
| 1. | Kadi Abdullahi Y. Marafa
(<i>Marafan Bauchi</i>) | - | Chairman | |
| 2. | Alhaji Muhammadu Danmadami
(<i>Sa'in Katagum</i>) | - | Member | |
| 3. | Justice Adamu Abdulhamid | - | Member | ..... |
| 4. | Mal. Dan'azumi Musa T/Balewa | - | Member | ..... |
| 5. | Alh. Umaru Dahiru
(<i>Baraden Bauchi</i>) | - | Member | |
| 6. | Alh. Mahmoud Bello
(<i>Sarkin Malaman Katagum</i>) | - | Member | |
| 7. | Amb. Adamu Yusuf | - | Member | ..... |
| 8. | Alh. Abdulhamid Muhammad | - | Member | ..... |
| 9. | Alh. Muh'd Daudu Abubakar
(<i>Zannan Katagum</i>) | - | Member | |
| 10. | Alh. Usman Nananu
(<i>Magajin Malan Jama'are</i>) | - | Member | |
| 11. | Alh. Ibrahim Yaro Yaro | - | Member | ..... |

BAUCHI STATE WHITE PAPER ON SHARIA IMPLEMENTATION

12.	Hon. Hamza Muh'd Lanzai	-	Member	.....
13.	Alh. Baba Ma'aji Abubakar (<i>Sarkin Malaman Bauchi</i>)	-	Member	.....
14.	Alh. Muhammadu Mijinyawa Ibrahim (<i>Danmadamin Katagum</i>)	-	Member	.....
15.	Mal. Salihu Suleiman Ningi	-	Member	.....
16.	Hon. Sani Muhammad Gololo	-	Member	.....
17.	Dr. Hadi Sheikh Tahir U. Bauchi	-	Member	.....
18.	Alh. Turaki Aliyu Misau	-	Member	.....
19.	Dr. Aliyu U. Tilde	-	Member	.....
20.	Mal. Mukhtar Abubakar T/Balewa	-	Member	.....
21.	Ustaz Muh'd Barra'u Abdullahi	-	Member	.....
22.	Ustaz Aliyu M. Sa'id Gamawa	-	Member	.....
23.	Dr. (Mrs) Habiba Muda Lawal	-	Member	.....
24.	Hajiya Aisha Awak Ja'afar	-	Member	.....
25.	Sheikh Ibrahim Idris	-	Member	.....
26.	Dr. Muh'd Sani Abdu	-	Member	.....
27.	Mal. Zubairu Yakubu (<i>Ardon Zaranda</i>)	-	Member	.....
28.	Habibu Idris Shall Esq.	-	Secretary	.....
29.	Mal. Ahmad Makama	-	Deputy Secretary	.....

Government Position

Government notes the membership of the Committee.

ACKNOWLEDGEMENT

In the name of Allah, the Beneficent, the Merciful. All praise is due to Allah. May the peace and blessings of Allah be upon our leader, Prophet Muhammad. Our profound gratitude and appreciation go to His Excellency, our Executive Governor, Alhaji Ahmadu Mu'azu (*Mutavallen Bauchi*) for granting us this historic opportunity.

The committee wishes to express its appreciation for the cooperation of the Secretary to the Government, Alh. Muhammad Nadada Umar and many other staff of the Government House. Our thanks also go to Hajiya Tasoro Haladi, the Deputy Coordinator of the Women Development Centre, Bauchi.

The Committee wishes to express its appreciation for the support and cooperation received from various governments that assisted it in its assignment. They include the Secretary to Zamfara State Government, its Attorney General and Commissioner for Justice, Hon. Commissioner and Permanent Secretary, Ministry of Religious Affairs, the Executive Secretary and staff of the Zakat and Endowment Board and the Hon. State Grand Kadi; the Secretary to Katsina State Government and its Solicitor General; His Excellency, the Executive Governor of Niger State, Engr. A.A. Kure, his Attorney General and Solicitor General/Permanent Secretary, Ministry of Justice; and the Solicitors General and Permanent Secretaries of their Sharia Implementation Committees.

BAUCHI STATE WHITE PAPER ON SHARIA IMPLEMENTATION

The Committee also wishes to extend its appreciation to the Executive Chairmen, Vice Chairmen, Hon. Council Members, Secretaries and the entire staff of the twenty Local Government Councils of the State for their assistance in enlightenment, mobilization and participation in the various activities organized by the Committee. In the same vein, the Committee appreciates the various suggestions, advices and assistance offered by their Royal Highnesses, the Emirs of Bauchi, Katagum, Misau, Jama'are, Ningi and Dass. The co-operation and assistance offered by the Managing Directors of the State Television (BATV) and Radio Corporation (BRC) and NTA in enlightening the general public on the activities of the Committee deserve commendation.

The active participation of the entire members of the committee in the collection and processing of memoranda, suggestions and other inputs as well as compilation and production of this report is highly recognized and appreciated. We wish to place on record the proper coordination we enjoyed from our secretariat. The selfless services rendered by the following auxiliary staff are highly appreciated. They are Mohammed Ibrahim Gangai and Ali Babayo Gamawa; Muhammad Yusuf Wunti, Saleh Muhammad Bara, Danlami Muhammad Baban Takko, Abdulwahab Muhammad and Hamisu Muhammad Dass of the Computer and Information Unit; Shehu Mudi, Sani Ahmadu and the entire drivers attached to the committee.

Finally, we wish to thank the entire Muslim community for the various assistance rendered to the committee. We pray that may Allah the Exalted reward, bless and continue to guide all of us on the straight path. Amen.

Government Position

Government notes the acknowledgement.

PREAMBLE

The Sharia Legal System in Bauchi State was a popular demand. To that effect, the State Government under the able leadership of His Excellency the Executive Governor Alhaji Adamu Mu'azu, on 29th June 2000, inaugurated a 29-man committee comprising Islamic Scholars, members of the learned profession and respected community leaders vide letter No. GO/SS/REL/S/1 dated 26th June 2000.

TERMS OF REFERENCE OF THE COMMITTEE

The Terms of Reference of the committee were:

- a. To advise the State Government on the structure, materials, personnel, and training required for the implementation of the Sharia legal system.
- b. To suggest amendments to the Penal Code within the framework of the constitution.
- c. To organize seminars, discussions, drama presentations and working visits with a view to enlightening the public, particularly the non-Muslims, on their rights and duties under the Sharia legal system. Accordingly, the enlightenment subcommittee shall co-opt the Chairman of CAN, Bauchi State.
- d. To submit recommendations to the government by 29th September 2000 and to accordingly propose a takeoff date for the Sharia legal system in the state, taking into account all pre-requisites and procedures that would be involved.

Government Position:

Government notes the Committee's Terms of Reference.

MEMBERSHIP

The membership of the committee was as follows: [As per letter submitting the report, above.]

Government Position:

Government notes the membership.

1.0 CONSTITUTIONALITY OF SHARIA

Before discussing the Terms of Reference of the Committee, members found it necessary to examine all constitutional provisions contained in the 1999 Constitution of the Federal Republic of Nigeria to see whether there is any legal impediment to the implementation of Sharia in Bauchi State. Some of the constitutional provisions which the Committee found relevant to the subject matter are as follows:

- (i) Section 4(6) and (7): The section confers all legislative powers of a state on the House of Assembly of that state and empowers the House of Assembly the exclusive power to make laws for the peace, order and good government of the state or *any part thereof* (italics ours) in respect of any matter not included in the exclusive legislative list or any matter included in the concurrent legislative list or any matter to which it is empowered to make laws in accordance with the provisions of the constitution.
- (ii) Section 5(2): This section empowers the executive arm to execute and maintain all laws made by the House of Assembly of a State and all matters with respect to which the House of Assembly of a state has powers to make laws.
- (iii) Section 6(4)(a) & (b) & (5): This provision confers on a House of Assembly of a state the power to create new or additional courts with subordinate jurisdiction to that of a High Court. The section also empowers the House of Assembly of a state to abolish any court that it so desires. By virtue of this provision, the Bauchi State House of Assembly would indeed be competent to:
 - (a) Pass a bill for the implementation of Sharia and
 - (b) To abolish any court which it has power to establish.
- (iv) Section 38(1): This section falls under Chapter 4 (i.e. Fundamental Rights provisions) of the 1999 Constitution. The section entitles every person to his freedom of thought, conscience and religion, this freedom includes freedom to "manifest and propagate his religion or belief in worship, teaching, *practice and observance*" (italics ours).

It is submitted that it will be a denial of the fundamental rights of all Muslims, if they are not allowed to "practice and observe" their religion unfettered, that is by fully being governed by Sharia law.
- (v) Section 215(4): This section authorises the Governor of a state or such Commissioner of the Government of the state as he may authorise in that behalf, to give lawful directives to the State Police Commissioner with respect to the maintenance and securing of public peace and security and the Police

Commissioner *shall* (italics ours) comply with those directions. Also by the provisions of the Police Act, the police of a given state have a constitutional responsibility to enforce all laws made by the National Assembly, State Assembly, Local Government councils, including any subsidiary legislation or instrument made under the provisions of the law.

By virtue of the above provisions of law, the police are duty-bound to enforce any law duly enacted by the House of Assembly of a state.

- (vi) Section 10: The section provides that “the Government of the Federation or of a state shall not adopt any religion as state religion”.

It is the committee’s view, that state religion should be distinguished from state law. Whereas Bauchi State government has not adopted Islam as its religion, it has adopted Sharia as its law. The two are definitely different, more so when the said Sharia law is to operate side by side with the Common Law in the state.

- (vi) Section 277 (1): This section empowers the House of Assembly of a State to confer additional jurisdiction to the Sharia Court of Appeal of a state.

It is the view of the Committee therefore that by this section the House of Assembly of Bauchi State is competent to confer criminal appellate jurisdiction to the Sharia Court of Appeal of the State.

Having critically examined the above constitutional provisions the committee is of the opinion that there are no legal impediments to the full implementation of Sharia in Bauchi State. Having arrived at the above conclusion, the committee proceeded to discuss the *modus operandi* of its assignment.

Government Position

Government accepts the interpretation of the Constitutional provisions.

2.0 MODUS OPERANDI AND ACTIVITIES

For the successful execution of its assignment, the Committee decided to form three subcommittees. They were:

- a) Documentation & Codification subcommittee
- b) Judicial Structure & Personnel subcommittee
- c) Public Enlightenment subcommittee

A summary of the terms of reference, membership and activities of each subcommittee is given below.

Government Position

Government notes the modus operandi and activities.

2.1 Documentation And Codification Subcommittee

Government Position

Government notes the Sub-Committee.

2.1.1 Terms of Reference. This subcommittee had the following terms of reference:

- (a) To study Sharia legislation enacted by other states in order to develop a suitable one for Bauchi State

- (b) Codify all offences under Sharia
- (c) Suggest areas of amendment to Sharia Court of Appeal Laws, Area Courts Edict and other relevant laws in order to make them conform with the provisions of Sharia.

Government Position

Government notes the Terms of Reference.

2.1.2 Membership. The members of this subcommittee were:

- | | | |
|-----|------------------------------------|-------------|
| (1) | Hon. Justice Adamu Abdulhamid | Chairman |
| (2) | Hon. Sani M. Gololo | Member |
| (3) | Dr. Aliyu U. Tilde | Member |
| (4) | Ustaz Aliyu M. Said Gamawa | Member |
| (5) | Dr. Hadi Sheikh Tahir Usman Bauchi | Member |
| (6) | Mal. Mukhtar Abubakar T/Balewa | Sec./Member |

Government Position

Government notes the membership.

2.1.3 Literature studied. To ease its assignment, the subcommittee obtained and studied the following documents:

- (1) The Constitution of the Federal Republic of Nigeria, 1999
- (2) The Laws of Bauchi State of Nigeria (Revised Edition, 1991; Volumes 1-3)
- (3) Zamfara State Sharia Penal Code
- (4) Zamfara State Sharia Courts (Administration of Justice and Certain Consequential Changes) Law, 2000
- (5) N.S.N.L. No. 4 of 2000: The Liquor Law Cap. 81, Liquor (Licensing) Regulations, 2000
- (6) N.S.L.N. No. 5 of 2000: A Law to make provision for the amendment of the District Courts Law Cap. 37 to review the jurisdiction of District Courts and for connected purposes
- (7) N.S.L.N. No. 6 of 2000: A Law to make provision for the Amendment of Sharia Court of Appeal Law Cap. 122
- (8) Bauchi State House of Assembly Draft Bill for the establishment of Sharia Penal Code
- (9) Bauchi State House of Assembly Draft Bill on establishment constitution and composition of Sharia court
- (10) Report of the Technical Committee on constitutional provisions for the application of Sharia in Katsina State
- (11) Proposal on the mode of operation of Sharia Commission in Katsina State Government
- (12) Bill for a law to establish Katsina State Sharia Commission
- (13) Kano State Sharia and Islamic Administration of Justice Reform Law, 2000.

In addition, the committee has received several memoranda from the general public on the implementation of Sharia in the state. (See Appendix I).

Government Position

Government notes literature studied.

2.1.4 Visits. In order to obtain further information regarding the aspect of its assignment, the subcommittee found it necessary to visit Zamfara, Kano, Katsina and Niger States where important documents were obtained. Discussions were held with their Sharia implementation committees and scholars.

The report of the subcommittee is given in Appendix II.

Government Position

Government notes areas visited by the sub-committee.

2.2 **Judicial Structure And Personnel Subcommittee**

Government Position

Government notes the Sub-Committee.

2.2.1 Terms of Reference. This Subcommittee was given the task to offer suggestions on structure of courts under the Sharia.

The Subcommittee was to define, within Constitutional framework, the relationship between Sharia Court of Appeal and

- (a) High Court
- (b) Court of Appeal and
- (c) Supreme Court

Government Position

Government notes the Terms of Reference.

2.2.2 Membership. The subcommittee are made up of the following members:

- | | | |
|-----|----------------------|------------------|
| (1) | Hon. Hamza M. Lanzai | Chairman |
| (2) | Alh. Muhammad Bello | Member |
| (3) | Mal. Usman Nananu | Member |
| (4) | Amb. Adamu Yusuf | Member |
| (5) | Alh. Zubairu Yakubu | Member |
| (6) | Alh. M.M. Ibrahim | Secretary/Member |

Government Position

Government notes the membership.

2.2.3 Visits. To evaluate the information gathered, this Subcommittee undertook working visits to all the Area and Upper Area Courts in the State. During the visits, it inspected the structure, materials and personnel strength of each court.

The committee held discussions with court inspectors, Area Court judges and registrars who offered suggestions and necessary amendments that should be for the success of the program.

The Subcommittee also undertook a visit to Zamfara, Kano, Katsina and Niger States to compare notes and obtain relevant documents for its work.

Details of the Subcommittee's activities and its recommendations are given in **Appendix III**.

Government Position

Government notes the visitations.

2.3 Public Enlightenment Subcommittee

Government Position

Government notes the Sub-Committee.

2.3.1 Terms of Reference:

- (a) To organize seminars and workshops on essence of Sharia to the public
- (b) To organize live discussions on Sharia
- (c) To organize drama presentation to the public on the rights and obligations of the citizens under the Sharia legal system
- (d) To arrange working visits to various local governments in the state with a view to educating the public on the significance of Sharia
- (e) Any other assignment that may be given to the subcommittee by the main committee.

Government Position

Government notes the Terms of Reference.

2.3.2 Membership. The member of this subcommittee were:

- | | | |
|------|--------------------------------|------------------|
| (1) | Alh. Muhammadu Danmadami | Chairman |
| (2) | Alh. Umaru Dahiru | Member |
| (3) | Imam Ibrahim Idris | Member |
| (4) | Alh. Ibrahim Yaro-Yaro | Member |
| (5) | Alh. Daudu Abubakar | Member |
| (6) | Mal. Muh'd Barra'u Abdullahi | Member |
| (7) | Mal. Salihu Suleiman Ningi | Member |
| (8) | Mal. Abdulhamid Muh'd | Member |
| (9) | Alh. Baba Ma'aji Abubakar | Member |
| (10) | Hajiya Aisha Awak Ja'afar | Member |
| (11) | Dr. (Mrs.) Habiba M. Lawal | Member |
| (12) | Sheikh Dan'Azumi Musa T/Balewa | Member/Secretary |
| (13) | Ustaz Turaki Aliyu Misau | Member/Dep. Sec. |

Government Position

Government notes the membership.

2.3.3 Activities. This Subcommittee was tasked with creating, awareness among the people of the State on Sharia, its application and importance to the Muslim Ummah. It organized the following activities:

- (i) **Live Discussion:** This was one of the channels used to enlighten the general public on Sharia. The program, which took place at Bauchi, was attended by

hundreds of people including Kadis, Area Court Judges, Imams and Islamic Scholars.

- (ii) Seminars: Seminars were organized featuring various Islamic Scholars who delivered lectures on the concept, history, sources and application of Sharia.
- (iii) Propagation: During the Subcommittee's propagation visits to Local Government areas, members of the public were briefed on the activities of the Committee. During the sessions, the meaning, aim and sources of Sharia were discussed.
- (iv) Drama Presentation: Drama presentations on radio, television and video-cassettes were organized by the subcommittee. They were aimed at portraying the life of Muslim under Sharia.
- (v) Hausa Written Songs: The Subcommittee employed the services of two Hausa poets for the purpose of informing and educating the public on Sharia.
- (vi) Panel Discussion and Radio Link: The radio panel discussion was organized to purposely highlight all aspects Sharia. The program was recorded and aired on B.R.C. During the discussion, Islamic scholars were invited to deliberate on various topics of Sharia. A radio link program was also conducted in BRC. It provided an avenue for the public to seek clarifications on the activities of the subcommittee and Sharia generally.
- (vii) Posters and Stickers: The Subcommittee employed the use of posters and stickers to educate, enlighten and inform the public on Sharia.
- (viii) Radio and Television Jingles: Radio and television jingles were aired by R.B.C. and BATV on the rights and privileges of both Muslims and non-Muslims under Sharia.

Recordings of live programs were made on audio and video tapes. They are hereby submitted as Appendix IV. Detail activities of the subcommittee are given in Appendix V.

Government Position

Government notes the activities.

3.0 SPECIFIC RECOMMENDATIONS

A number of measures need to be taken for a successful implementation of Sharia in the State. In this regard, the committee wishes to forward the following recommend-ations. They have been presented according to its term of reference.

Government Position

Government notes the specific recommendations.

3.1 Recommendations on Structure and Personnel of Sharia Courts

3.1.1 Court buildings. The committee observed that most of the courts in the state operate in rented buildings and even where the buildings are government-owned, they look extremely dilapidated. Accordingly, the Committee recommends *the renovation of existing courts and the building of additional ones where necessary, with provisions that will include a library in each.*

Government Position

Government accepts this recommendation and will ensure that no area designated as Sharia court shall be denied one or grounds of lack of facilities alone.

3.1.2 In-service training. Considering the fact that some area court judges require additional training particularly in Islamic Law, the Committee recommends that *judges be sent for further training in recognized institutions of learning to enable them meet the personnel requirements of the Sharia project, Furthermore, seminars, workshops and refresher courses should be organized occasionally for Sharia Court Judges from time to time.*

For training of personnel required in the successful implementation of Sharia, the committee strongly suggests that A.D. Rufai College for Legal and Islamic Studies, Misau, should be rehabilitated and equipped with all the necessary facilities and manpower. Its graduates should be encouraged and supported to go for further training at the University level.

Government Position

Government accepts this recommendation and will take all necessary steps to ensure that any member of the existing personnel who is not suitable is set aside and appropriate steps will be taken through the Bauchi State Scholarship Board to ensure proper training of personnel.

3.1.3 Supervision of Sharia Courts. For a successful operation of Sharia Courts in the state under Sharia and with a view to creating an enduringly harmonious working relationship in the judiciary, the committee recommends that *Sharia Courts should be directly under the control and supervision of the state Grand Kadi.*

Government Position

Government accepts this recommendation, but without prejudice to the powers of the Judicial Service Commission provided for in the 1999 Constitution.

3.1.4 Establishment of additional courts. For speedy dispensation of justice, the committee recommends the *establishment of at least one (1) Sharia Court in each district area and one (1) Upper Sharia Court in each Local Government Area of the State.*

Government Position

Government accepts this recommendation with the amendment of “establishment of at least one (1) Sharia Court in each administrative district area...”

3.1.5 Provision of literature. In the course of its assignment, the committee observed that reference material, court forms and other vital legal documents are lacking in almost all the courts in the state. Sometimes litigants are made to pay for them. The committee believes that this is not a healthy development. The committee therefore recommends that *such literature should be adequately provided for quick reference and smooth running of the courts.*

Government Position

Government accepts this recommendation.

3.1.6 Ulema Consultative Council. For proper selection of Sharia court judges and harnessing their productivity, the Committee recommends the *establishment of Ulema Consultative Council which shall be responsible for screening and recommending appointments of judges to the State Judicial Service Commission. The establishment of the Council should be backed by legislation.*

Government Position

Government accepts the recommendation, however the word “ULEMA” should be replaced with “SHARIA” i.e. Sharia Consultative Council. Furthermore, it modifies the recommendation to “Sharia Consultative Council which shall be responsible for screening and recommending appointment of Judges and Inspectors of Sharia Court”.

3.1.7 Inspectorate Division/Office. For proper co-ordination and monitoring of the activities of courts in the state, the Committee observed that there is the need to equip the Inspectorate Division of the judiciary with its basic requirements. Consequently, the committee recommends *the provision of good vehicles and other operational materials. Furthermore, it is the committee’s view that the inspectors of Sharia courts must be learned in Islamic Law.*

Government Position

Government accepts this recommendation.

3.1.8 Provision of car package to judges. The Committee further observed that majority of judges have no vehicles. Consequently the Committee recommends that *a car loan be provided to each of the judges so as to ease their transportation difficulties and enhance their productivity.*

Government Position

Government accepts this recommendation, to provide vehicle loans (but not necessarily car loans) to those who may wish but not as pre-condition for the appointment.

3.1.9 Salaries and fringe benefits. In the course of its assignment, the committee observed that there is a need to improve the salaries and benefits of judicial officers. The committee believes that this will discourage corruption in the judiciary. The committee therefore recommends that *a salary and benefits of judges and judicial officers in the state be reviewed upward to enhance their productivity.*

Government Position

Government accepts this recommendation.

3.2 Recommendations on Amendments to the Penal Code

3.2.1 The Penal Code. The Penal Code was recommended by a Committee set up by the government of the former Northern Region in order to evolve a system of criminal law that will gain international acceptance and at the same time apply uniformly to the

various peoples of the region. It was fashioned after the Penal Code of the Sudan, a country that has the same ethnic and religious characteristics as Northern Nigeria.

However, with the passage of time, Muslims who according to official census are in the majority felt that the Penal Code has not satisfied their yearnings and that some of its provisions are in conflict with the teachings of Islam. Therefore, the agitation for the full implementation of the Sharia legal system began gaining ground.

The recent resurgence of demand for Sharia is thus born out of the deep conviction of the Muslim population in its efficacy. In addition, the 1999 constitution was liberal enough to allow the new democratic leadership to address this popular demand. Though the Penal Code currently in operation in Bauchi State is short of the expectation of Muslims, *the Committee is of the view that it should be substantially left intact to cater for non-Muslims offenders and litigants in the State, if they so choose.*

Government Position

Government accepts this recommendation but the Penal Code shall be amended to equal punishment where necessary (Non-Hadd offences) in both Sharia Penal Code and the Penal Code.

3.2.2 Sharia Penal Code. Since by the combined provisions of section 4(6) & (7) and section 6(4)(a), a House of Assembly of the state has powers to make laws for the peace, order and good governance of the State or any part thereof and establish courts with subordinate jurisdiction to that of the High Court of the State, the Committee is of the opinion that *there is need to establish a new Penal Code to be known as the Sharia Penal Code of Bauchi State which will be applicable to all Muslims within the territorial jurisdiction of Bauchi State. To this end, the Committee has therefore made a draft of the proposed Sharia Penal Code to this report.* (see **Appendix VI** [omitted here]).

Government Position

Government accepts this recommendation and has adopted the draft of the Sharia Penal Code as amended by the White Paper Committee. The State House of Assembly is expected to pass the necessary legislation into law.

3.2.3 Amendment of state laws. The Committee also observed that under the present dispensation, the Sharia Courts of Appeal have no jurisdiction to entertain any criminal proceeding. With the full implementation of the Sharia legal system in Bauchi State, the Committee felt that the Sharia Court of Appeal Laws CAP 145 laws of Bauchi State, 1991 need to be amended to bring them in conformity with the Sharia legal system. The Committee therefore recommends *the amendment of the same law to confer the Sharia Court of Appeal with appellate jurisdiction in both civil and criminal proceedings. This amendment is in line with Section 277(1) of the 1999 Constitution which vests on the House of Assembly the power to confer additional jurisdiction to Sharia Court of Appeal.*

Government Position

Government accepts this recommendation and appropriate legislation to conform to this decision will be sent to the State House of Assembly for necessary action.

3.2.4 Nomenclature. In addition to the above amendment, the Committee further observed that there are still some laws in the state that refer to Islamic laws as “customary law”. It is recommended that *these laws should be amended to refer to Islamic Law as Sharia law*.

Government Position

Government accepts the recommendation with the amendment that “these laws” be amended to refer to ‘Moslem’ law/Sharia law as “Islamic Law”.

3.2.5 Abolishing Area Courts. The Committee noted that since new Sharia Courts are to be established to govern civil and criminal proceedings involving Muslims only, there is no need for the existence of Area and Upper Area Courts. The Committee therefore recommends the *abolishing of all Area and Upper Area Courts and the consequent repealing of Area Court Edict* and all other laws related to it.

The Committee also observed that Section 12(1) and (2) of the Criminal Procedure Code made provisions for some offences to be tried by Area Courts. It is recommended that *since the Area and the Upper Area Courts are to be abolished, if the recommendation of the committee regarding them is accepted, the sections need to be amended to confer jurisdiction to Magistrate Courts to try such offences*.

With the abolishment of Area and Upper Area Courts, the Committee noted that there is a lacuna regarding where non-Muslims will lodge their cases. The Committee therefore recommends *that all such cases be taken to the Magistrate Courts*. The Committee is of the view that section 13 of the Criminal Procedure Code CAP. 13 Laws of Bauchi State be amended to extend or confer the Magistrate Courts with wide jurisdiction to try those cases that were being tried by the Area and Upper Area Courts. Consequently, Section 15(1) of the same law also needs to be amended.

Government Position

Government accepts this recommendation and will take immediate steps to effect necessary amendments to the Magistrate/District Courts Law to cater for the rights and interests of non-Muslims.

3.2.6 Sharia Criminal Procedure Code. In furtherance of the above, section 396 of the Criminal Procedure Code needs to be amended to reflect the changes being engendered by the introduction of Sharia Penal Code.

The Committee observed that these are not the only laws that need to be amended or repealed. There are many such laws, which the Committee felt, should equally be reviewed. The Committee therefore strongly recommends that, upon the implementation of Sharia in Bauchi State, all existing legislations in volumes 1, 2 & 3 of Laws of Bauchi State 1991 be reviewed to make them conform with the principles of Sharia.

Government Position

Government accepts this recommendation and direct that immediate steps be taken to effect the recommended amendments and also to produce the Sharia Civil Procedure Rule.

3.2.7 New Laws. The Committee further recommends the following laws to be enacted so as to sustain the focus and purpose of Sharia implementation in the State:

- (i) A law to establish the Sharia Courts (Administration of Justice and Certain Consequential Changes) Law 2000 (**Appendix VII**)
- (ii) A law to amend the Sharia Court of Appeal Law CAP 145 Laws of Bauchi State (to vest the court with appellate criminal jurisdiction)(See **Appendix VIII**)
- (iii) A law to establish a Zakat Board that shall be charged with the collection and disbursement of Zakat
- (iv) A law to provide for Sharia Criminal Procedure Code.
- (v) A law to repeal the Area Courts Edict (See **Appendix IX**)
- (vi) A law to establish the *Ulema* Consultative Council.

Government Position

Government notes the recommendation. However, item (iii) will be transferred to the proposed Sharia Commission as a department while item (vi) “ULEMA” should be replaced with the word “SHARIA”.

3.3 Recommendations on Public Enlightenment

For the sustenance of Sharia legal system in the state, the following recommend-ations were made for consideration by government:

3.3.1 Ministry of Religious Affairs. That Government establishes a Ministry of Religious Affairs. The responsibilities of the Ministry shall, among others, include:

- a. Continuous public enlightenment on Sharia law
- b. Monitoring the takeoff and smooth running of Sharia in the state
- c. Zakat collection and distribution
- d. Organisation of Hajj and visits to other holy places
- e. Advise government on religious matters
- f. Representation of religious matters at the executive council
- g. Improve the moral consciousness of the society
- h. Establishment and regulation of places of worship and maintenance of cemeteries.

Government Position

Government does not accept the establishment of a Ministry for Religious Affairs. In its place, a SHARIA COMMISSION is to be established. Members of the Commission shall include the following:

- (i) **A full time Chairman who must be a Muslim and experienced administrator with good knowledge of Islamic law.**
- (ii) **The Grand Kadi or his representative.**
- (iii) **The Attorney General or his representative.**
- (iv) **Two (2) representatives from the Emirate Council who shall be versed in Islamic Law.**
- (v) **Two (2) persons nominated by the Governor;**
- (vi) **One (1) member of the Sharia Consultative Council.**

- (vii) Two (2) legal practitioners who are Muslims and qualified to practice in Nigeria for not less than ten (10) years, at least one of them shall have a background in Islamic Law.
- (viii) A representative of the Governor's office who shall be a Muslim of sound moral character.
- (ix) A Secretary who shall be an experienced administrator, a Muslim, and possesses a good knowledge of Islamic law.

The functions of the Commission shall include:

- (a) Sustained education and enlightenment of the Community on the full implications of the Sharia legal system.
- (b) Creation and maintenance of awareness of the obligations of the citizen to the Community under the Sharia legal system including the Social and Moral obligations of Sharia Court judges and other key personnel associated with the operation of Sharia legal system.
- (c) The promotion and sustenance of the overall integration of society including such matters as mediation and resolution of inter-community and neighbourhood disputes and conflicts;
- (d) The regeneration and re-orientation of moral climate of society through sustained mass education and advice to government on the appropriate steps to take.
- (e) Advice on possible laws towards the control and sanitation of street hawking by minors especially girls and other social vices.
- (f) Watchdog and reportage duties in relation to the resurgence or disguised form of illegal activities including the keeping of dishonourable premises such as brothels etc.
- (g) Collection and distribution of Zakat.
- (h) Protection of society against inflammatory and irregular forms of preaching including advice to government for appropriate action.
- (i) All other relevant forms of action and advice not specified in the preceding paragraphs but including "fatwah", guidance and counselling, and such other matters as may be assigned to it.

3.3.2 Islamic University. That Government should also consider the establishment of an Islamic University to address the imbalance between material and spiritual education.

Government Position

Government notes the recommendation.

3.3.3 Model Quranic Schools. Government should consider the establishment of Model Quranic schools to complement the traditional Quranic school system of education in the state. The model schools should have a complete welfare package for staff and students. Furthermore, uniform, curricula, syllabus, calendar as well as provision and maintenance of classrooms and learning materials should be made available.

Government Position

Government accepts this recommendation and will in addition, establish Nursery/Kindergarten classes in all primary schools in the State. With emphasis on Arabic and Islamic Studies, and the medium of instruction shall be the vernacular.

3.3.4 Arabic and Islamic Studies. Government should also review the contents of primary and secondary schools curriculum to emphasise the teachings of Arabic and Islamic Studies for Muslim pupils, side by side with western education.

Arabic language should be made compulsory for Muslim pupils in all primary and post-primary schools in the state. The subject should be optional on non-Muslim pupils. Its periods should also be separated from those of religious studies.

Pursuant to the objectives of the recommendation made above, a Board for Arabic and Islamic Studies should be established by legislation under the Ministry of Education.

Government Position

Government accepts this recommendation. In addition, Government will take positive steps in response to widespread complaints on the very unsuitable nature of both male and female modes of dressing both in public and private, primary and post-primary institutions in the State. A new dress code will consequently be evolved and enforced.

4.0 GENERAL RECOMMENDATIONS

The recommendations made in the previous chapter were specific to the terms of reference of the committee. However, the committee feels that to strengthen the Sharia legal system, it is necessary for it to put forward the following general recommendations:

- (i) Constitution of *Ulema* Consultative Council. It will be charged with the responsibility of screening, advising and recommending suitable candidates to the State Judicial Service Commission for appointment as Sharia Court Alkalis. The council also is to issue *fatwa* and assist in formulating policies that will infuse Sharia principles in the operations of government. It will be composed of *Ulema* and jurists.

Government Position

Government accepts this recommendation, but the word “Ulema” is replaced with “Sharia”.

- (ii) Amendment of the Penal Code to prohibit the consumption and dealing with alcohol in Bauchi State.

Government Position

Government accepts this recommendation, and in addition the liquor law will be amended to prohibit the consumption and dealing in liquor in predominantly Muslim towns and villages in Bauchi State.

- (iii) Translation of all legislation on Sharia in Arabic and Hausa language and be given wider coverage in all media houses in the state.

Government Position

Government notes the recommendation.

- (iv) Establishment of Zakat and Endowment Board to cater for the welfare of the destitute and the needy in the society.

Government Position

Government accepts this recommendation but will be referred to the Sharia Commission when it comes into existence

- (v) Introduction of separate transportation for men and women. Government should also direct the Local Governments and private sector to contribute to the success of the program.

Government Position

Government accepts the recommendation, but will be referred to the Sharia Commission when it comes into existence.

- (vi) The appointment of Muslim traditional rulers should be based on fair knowledge of Islam. Consequently, the Chiefs Appointment and Deposition Law should be amended accordingly.

Government Position

Government notes this recommendation.

- (vii) Regulation of street hawking particularly by girls in order to safeguard public morality.

Government Position

Government takes serious note of this recommendation and will refer it for further action to the commission.

- (viii) Before the implementation of Sharia a reasonable period of transition should be allowed so that there would be sufficient time to accomplish the following:
 - (a) Enlightening the public on the nature and scope of the Sharia legal system particularly through *tafsir* and preaching during the month of Ramadan.
 - (b) Launching of Sharia by the fourth week of October. The interim period after the presentation of the report can be used to prepare and pass the necessary legislation.
 - (c) Granting a three-month moratorium for repentance and to prepare the judiciary for the implementation of the Sharia code. This will include the rehabilitation of existing courts and construction of new ones where necessary, provision of literature, personnel training, etc.

BAUCHI STATE WHITE PAPER ON SHARIA IMPLEMENTATION

- (d) Allowing each ministry, department and parastatal of the state to become Sharia compliant.
- (e) Muslim traditional rulers in the state should be given a code of ethics based on principles of Sharia specifying their roles and guiding their conducts in order to enable them play a more relevant and active role in the implementation and sustainability of the Sharia legal system.
- (f) Appointment of a taskforce that will coordinate the takeoff of the Sharia legal system in the state.
- (g) Selection and appointment of judicial officers to man the Sharia Courts in the state.

Government Position

Government accepts the recommendation. However, the priorities and activities will be re-ordered and executed in accordance with the following table:

TIME-TABLE

1. Government lays Proposed Legislation before the State's House of Assembly for promulgation of Sharia legal system.
2. State House of Assembly completes legislation on Sharia.
3. Governor signs bill into law in public ceremony to inaugurate Sharia legal system in Bauchi.
4. Governor appoints task force to co-ordinate take-off of the Sharia legal system. Its duties shall include liaison between Government, the Judicial Service Commission and the Grand Kadi on:
 - (a) Establishment of Sharia Commission and Sharia Consultative Council;
 - (b) Appointment of new judges and inspectors of Sharia Courts;
 - (c) Renovation and/or construction of court premises, residential quarters for judges, and provision of working materials;
 - (d) Amendment of Laws of Bauchi State to conform to Sharia dispensation.
 - (e) Phasing out of Area Courts system within six months from the date of inauguration of the Sharia system.
 - (f) Completion of first phase of take-off of Sharia system by 1st Muharram, 1422 AH/____ March 2001 AD
 - (g) Other matters as may arise from the White Paper and the new legislation on the Sharia legal system.

INTERIM REPORT OF THE SHARIA IMPLEMENTATION COMMITTEE [BORNO STATE]

Submitted to His Excellency the Executive Governor of Borno State,
Alhaji Mala Kachalla

[early March 2001 (?)]

The Sharia Implementation Committee was inaugurated on Saturday 3rd February, 2001 by His Excellency, the Executive Governor of Borno State, Alhaji Mala Kachalla with the primary assignment of providing the modality of implementing the Sharia in the State. It is also mandated to liaise with the various governmental and non-governmental agencies with the view to creating the conducive social and economic environment for the full implementation of the Sharia in the State.

The Committee held its first meeting on Tuesday 13th February, 2001, during which a number of decisions were taken to lay a foundation for the successful accomplishment of its assignments. Thereafter, series of meetings were held both by the main Committee and its sub-committees, which led to the following resolutions, among others:

1. The Committee recognised the need for the procurement of a functional secretariat and a take-off grant from the Government. Consequently, the Secretary was mandated to submit a request to the Government. A copy of the request letter is attached as Appendix 1 [no such attachment found].
2. For the Sharia implementation to succeed in the State and for the Committee to carry out its responsibility successfully, the Committee recommends that the four laws on Sharia and the law on the Sharia Administration of Justice in Borno State be reviewed and amended. After thorough deliberations which involved the setting up of a sub-committee, the Committee finally came up with a proposal for amendment to the Law. A copy of the proposed law as amended is attached as [Appendix II](#).
3. After due consultation with the Council of Ulama and other Islamic organisations, the Committee agreed on a gradual and multi-dimensional approach to the implementation exercise. This is in recognition of various activities needed for the successful take-off and implementation of Sharia in the State. These include:

- a. **Massive Awareness and Enlightenment Campaign**

The Committee recognised that despite the wide popularity of the Sharia programme, there is a gross misunderstanding of the Sharia. There is therefore the need to embark on a massive awareness and enlightenment campaign to cover all the Local Government Areas in the State with the view to creating awareness and enlightenment among the populace.

The campaign, which will be a continuous programme, will be done by the Sharia Implementation Committee.

- b. **Contact with Scholars, Islamic Institutions and Organisations**

The Committee proposes that there is the need to constantly liaise with scholars, Islamic institutions, organisations and the various agencies

concerned with the Sharia. Through contact and dialogue, the Sharia implementation programme can be enriched and government will be brought closer to the people. This will help greatly in maintaining peace, law and order. It can also assist in reducing crime rate and neutralise and positively redirect the excesses and enthusiasm of a segment of the youth who may use the popular Sharia advocacy for their selfish and misguided motives.

c. Setting up of Sharia Courts

The committee proposes to Government through the agencies concerned, to immediately set up the Sharia Courts and Upper Sharia Courts so that the implementation of Sharia can start in earnest.

d. Immediate Enforcement of some Sharia Laws

Government is advised to consider and work towards the taking-off of the Sharia on 1st June 2001. The laws to be enforced are those of *qazf*, adultery, fornication, homosexuality, lesbianism, prostitution, alcohol production, sale and consumption, gambling and separation of sexes in public places.

The enforcement of these laws which have already been codified without delay will vindicate the good intentions of Government and will reduce the tension among the populace who are eagerly waiting for the take-off of the Sharia.

e. Screening/Employment and Training of Sharia Judges

For the Sharia laws to be administered properly, the Committee suggested that there is the need for the selection and screening of some of the current Area Court judges, while new judges who meet the requirements can be considered for employment.

Continuous training and refresher courses are to be organised for both categories by the Implementation Committee in conjunction with the Council of Ulama and other relevant government agencies.

f. Satisfactory Conditions of Services for Sharia Administration

For the proper administration of justice in the Sharia Courts, the Committee advises Government to draw up attractive and satisfactory conditions of service for all personnel involved in the administration of Sharia. This is considered necessary to give them job security and to safeguard abuse of office.

g. Complete Codification of the Sharia Penal Code

To meet with the requirements of the 1999 Constitution of the Federal Republic of Nigeria, there is the need to codify the Sharia penal system. This can be done by reviewing and making amendments to the existing legal systems and incorporating all other penal systems of Islam.

The exercise which will start immediately can be handled by the Sharia Implementation Committee in liaison with the Council of Ulama and other government agencies.

h. Poverty Alleviation Programmes

The Committee has recognised the fact that most crimes and offences can be averted if Government can eradicate poverty and unemployment. It has also observed that the objective of the Sharia is not to punish and humiliate people but to create a society where crimes are reduced to the barest minimum.

If Government can de-politicise and strengthen its current poverty alleviation programmes, it is not only the Sharia implementation programme that will succeed, but Borno State will not only be the Home of Peace and Hospitality but also Home of SECURITY AND STABILITY.

The Implementation Committee can assist and contribute to the efforts of the various agencies concerned so that the desired results can be achieved.

i. Review of Educational Policy

The current educational curriculum in Borno State is not reflective of the culture and way of life of the majority of our populace. The Committee therefore recognises the need for its review and humbly advises Government to make it conform to the philosophy and way of life of our people.

By making our educational curriculum Sharia-compliant, there is every chance for improving school enrolment and addressing the problem of educational backwardness.

j. Creation of a Ministry for Awqaf and Religious Affairs

To guarantee the successful implementation of the Sharia, the Committee suggests the creation of a Ministry of Endowment and Religious Affairs.

This Ministry can as well supervise the Zakat Board, Pilgrims Welfare Board, Preaching Board, State Emergency Relief Agency (SERA), etc. and continuously monitor and ensure the compliance to the Sharia throughout the State.

Inauguration of the Zakat Board

The Committee commends the efforts of the Government in putting in place a law establishing the Zakat Board and hopes that it will be constituted and inaugurated as suggested in the attached time-table.

Advice, however, is given to the Government that its membership should be limited to trustworthy and transparent people.

A copy of the time-table as proposed by the Committee and based on the above activities and signifying the bodies concerned is attached as [Appendix III](#).

k. Timing

The Committee wishes the Government to note that the people of the State are eagerly waiting for the immediate implementation of Sharia in all its ramifications in the State. Based on this therefore, the Committee urges

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

Government to expedite action on this Interim Report and other things as may be presented to it by this and the Council of Ulama on the issue of Sharia.

1. Funding

Since the inception of the Committee, no funding has been given to the Committee. However, due to the zeal and commitment of the members to the implementation of Sharia, the Committee hereby produces this Interim Report before Government's approval reaches us.

However, we assure Government that we will not relent in our efforts towards the implementation of Sharia in Borno State as we earlier on promised on the day of our inauguration. We will brief Government of developments towards implementation as regularly as possible.

Prof. Ambulacra Mustapha
(Chairman)

BUT. Yerima
(Secretary)

APPENDIX I

[no Appendix I found]

APPENDIX II

**PROPOSED AMENDMENTS TO THE LAW ON SHARIA
ADMINISTRATION OF JUSTICE IN BORNO STATE**

**A BILL TO PROVIDE FOR A LAW ON SHARIA ADMINISTRATION OF
JUSTICE IN BORNO STATE**

BE IT ENACTED BY THE BORNO STATE HOUSE OF ASSEMBLY AS FOLLOWS:

- | | |
|---------------------------|---|
| Citation and commencement | 1. This Law may be cited as the Borno State Administration of Justice Law and shall come into effect on the.....day of.....2001 |
| Interpretation | 2. In this Law unless the context otherwise requires:
"Committee" means the Sharia Implementation Committee established under Section 14
"Constitution" means the Constitution of the Federal Republic of Nigeria 1999
"courts" means courts established under this Law for the administration of Sharia in the State
"Council" means the State Council of Ulama established under session 22
"Government" means the State Government
"Governor" means the Governor of the State
"Judicial Service Commission" means the Commission established under section 197(I) of the Constitution
"non-Muslim" means a person of another religious belief other than |

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

Islam

“qualification” means and includes a degree, diploma or certificate in Sharia/Civil Law [or] Arabic and Islamic Studies from an institution recognised by the Government.

“Sharia Court of Appeal” means the Court established under section 275 of the Constitution

“Sharia” means Islamic law and practice as prescribed by the Holy Qur’an, Hadith and Islamic jurisprudence

“State” means Borno State of Nigeria.

- | | | |
|--|----|--|
| Establishment of Sharia Courts | 3. | (1) There are hereby established for the purpose of the administration of Sharia in the State the following courts:
<ul style="list-style-type: none">(a) Sharia Courts(b) Upper Sharia Courts |
| Appointment of presiding and other judges of the Sharia Courts | 4. | (1) Subject to the provisions of section 5, the Judicial Service Commission of the State may on the recommendation of the Grand Kadi of the State appoint judges for the Sharia Courts.
<p style="margin-left: 40px;"><i>Provided that</i> the persons recommended shall be screened by the State Council of Ulama.</p> |
| Qualification of presiding and other judges of the Sharia Courts | 5. | (1) A person shall be qualified to hold the office of a judge of the Upper Sharia Court if:
<ul style="list-style-type: none">(i) He is a Muslim; and(ii) He is a serving Upper Area Court judge;(iii) He has an impeccable record of Islamic piety;(iv) He has obtained qualification in Sharia and or Civil/ Sharia Law, Arabic and Islamic Studies from a recognised institution; or(v) Notwithstanding paragraph (ii) of this subsection a person qualified under section (2) of this section can be appointed to the office of a judge of Upper Sharia Court whether he has previously served as a judge of the Upper Area Court or not. |
| | | (2) A person shall be qualified for appointment as a judge of the Sharia Court if: |

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- (i) He is a Muslim;
 - (ii) He is serving Area Court judge;
 - (iii) He has an impeccable record of Islamic piety; or
 - (iv) He has obtained qualification in Civil/Sharia Law or Arabic and Islamic Studies from a recognised Institution.
- Jurisdiction 6. (1) The courts established under this Law shall have, in addition to any other jurisdiction conferred by other enactment, original jurisdiction in civil and criminal matters where the parties are Muslims.
- (2) In any civil or criminal matter before the courts where any of the parties or one of the accused is a non-Muslim, and such party or accused consents to jurisdiction, such consent shall be given to the court in writing.
- (3) In any civil or criminal matter where one of the parties or an accused is a non-Muslim and refuses, or objects to jurisdiction, the court shall not have jurisdiction and the objection or refusal shall constitute a stay in the proceeding. Provided that the courts established under this Law shall have the power to refer the matter to any other court of competent jurisdiction set up by other enactment. Provided further that a non-Muslim accused person shall be informed in writing of his right to elect the court of trial.
- Applicable laws 7. The laws applicable in the courts established under this Law shall be the laws stipulated by the Holy Qur'an, Hadith, Islamic jurisprudence and interpretations adopted by the Maliki School of Law and legislation on Sharia as may be enacted from time to time by the State House of Assembly.
- Appeals 8. (1) Appeals in all matters from the decisions of the Sharia Courts established under section 3(1)(a) shall be filed within 30 days of the decision at the Upper Sharia Court.
- (2) Appeals in all matters from the decisions of the Upper Sharia Court established under section 3(1)(b) hereto shall lie within 30 days of the decision to the State Sharia Court of Appeal established under section 275 of the Constitution.
- (3) The time allowed for the filing of appeal under subsections (1) and (2) hereto may be extended upon oral application or by motion on notice.
- (4) In addition to the powers conferred by section 277 of the constitution, the Sharia Court of Appeal shall have the jurisdiction to hear and determine appeals in criminal matters from the decisions of the Upper Sharia Courts.
- Practice and procedure 9. The practice and procedure of the Courts established under this law shall be in accordance with:
- (1) The principles of the Maliki School of Law; and

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

- (2) Any other procedure under instrument made by the Grand Kadi of the State.
- Representation 10. (1) Any person charged with an offence before any of the courts established under this law shall be entitled to defend himself in person or by a legal practitioner of his own choice.
- (2) In civil matters before the courts established under this Law parties may present or defend their case in person or by a legal practitioner of their choice.
- Supervision 11. The courts established under this Law shall be under the supervision of the Judicial Service Commission through the Grand Kadi of the State.
- Inspectors 12. (1) There shall be appointed by the Judicial Service Commission, inspectors of the courts established under this Law as may be recommended by the State Grand Kadi.
- (2) The inspectors appointed pursuant to subsection (1) hereto shall:
- (i) Report quarterly to the Grand Kadi on the performance of the courts;
- (ii) Perform such other functions as may be prescribed by the State Judicial Service Commission through State Grand Kadi.
- (3) The State Grand Kadi shall on the receipt of the report under subsection (1) hereto forward the report with any recommendation to the State Judicial Service Commission.
- Qualification of inspectors 13. A person shall be qualified for appointment as an inspector if he has obtained a degree, diploma or certificate in Civil or Sharia Law, Arabic and Islamic Studies from a recognised institution.
- The Sharia Implementation Committee 14. There is hereby established for the State the Sharia Implementation Committee
- Committee Composition 15. The Committee shall comprise of the following:
- (1) A Chairman;
- (2) The Director, Law Reform Commission of the State.
- (3) The Secretary, Judicial Service Commission of the State
- (4) Not more than ten other persons recommended by the State Council of Ulama,
- (5) Two representative of the State Attorney-General;
- (6) Nine other persons nominated by the Governor; and
- (7) A Secretary, who shall be a legal practitioner of not less than five years standing.
- Provided that the ex-officio members are Muslims.
- Appointment 16. The Chairman, Secretary and members of the Committee established under Section 14 hereto shall be appointed by the

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

Governor.

- | | | |
|------------------------|-----|---|
| Qualification | 17. | (1) A person shall be qualified for appointment as Chairman of the Committee if:
(i) He is a Muslim;
(ii) He is an Islamic scholar of repute;
(iii) He is a person of Islamic piety with impeccable record.
(2) A person other than an ex-officio member shall be qualified for appointment as a member of the Committee if:
(i) He is a Muslim; and
(ii) He is person of Islamic Piety with impeccable record. |
| Power and functions | 18. | The Committee established under section 14 hereto shall have and exercise the following powers and functions:
(1) To advise Government on the enactment and codification of Sharia laws or review of existing State laws referred to it by the Governor to conform with all the relevant rules, principles and practice of Islamic law;
(2) To advise Government on the training of personnel for the Courts established under section 3 of this Law;
(3) To advise Government on the creation of a conducive socio-economic environment for the implementation of Sharia in the State;
(4) To advise Government on the mode of implementation of the Sharia;
(5) With the approval of Government plan and execute any activity that may be necessary for the smooth implementation of Sharia in the State;
(6) To monitor, collate suggestions from the public, assess and advise Government on the implementation of Sharia in the State;
(7) To make rules for its sittings; and
(8) To from time to time as may be necessary consult with the State Council of Ulama;
(9) Such other powers and functions as may be conferred by the Governor. |
| Meetings | 19. | The Committee may meet at least five times every month. |
| Quorum | 20. | The Committee shall constitute a quorum where 2/3 of its members are present at any meeting. |
| Decisions | 21. | The decision of the Committee shall be by simple majority. |
| State Council of Ulama | 22. | There is hereby established a body to be called the State Council of Ulama. |
| Composition | 23. | (1) The Council established under this section shall consist of a Chairman and not more than nineteen members who shall be |

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

- learned Islamic scholars and or jurists.
- (2) The Council shall have a Secretary who shall be a Muslim and of impeccable record of Islamic piety.
- Appointment 24. The Chairman, Secretary and members of the Council established under section 22 shall be appointed by the Governor.
- Powers and functions 25. The Council established under section 22 hereto shall have the following powers and functions:
- (1) Screening of persons for appointment as Sharia and Upper Sharia Court judges;
 - (2) To make rules for its sittings.
 - (3) To advise Government on the establishment, functions, powers and composition of the Zakat and Endowment Board to cushion the effect of poverty in the State with a view to creating a conducive socio-economic environment for the implementation of Sharia in the State.
 - (4) To advise any authority or person on Islamic matters referred to it.
 - (5) To advise the Sharia Implementation Committee on the monitoring and assessment of the progress in the implementation of Sharia in the State.
 - (6) To advise any authority or person on Islamic law in relation to technological developments and other matters.
 - (7) To advise Government on the need to provide literature in audio, video and other forms for the purpose of enlightenment and education of the people of the State on the principles and practice of Sharia.
 - (8) To advise Government on the legislation relating to the prohibition of prostitution, brothels, sale and consumption of alcohol, gambling, betting and other vices in conflict with Sharia; and
 - (9) To advise Government on any other function as may be necessary or incidental for the implementation of Sharia in the State.
- Remuneration 26. Subject to the approval of the State House of Assembly, the remuneration of the chairmen, secretaries, members and other staff of the Committee and Council established under this Law shall be as determined by the Governor.
- Doctrine of repugnancy 27. The doctrine of repugnancy shall not apply in the courts established under this Law.
- Repeal 28. This Law repeals the Sharia Administration of Justice Law 2000.

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

APPENDIX III

PROPOSED TIME-TABLE FOR THE IMPLEMENTATION OF SHARIA LAW IN BORNO STATE

STAGE I: MARCH – MAY, 2001

S/N	ACTIVITY	BODIES CONCERNED	REMARKS/ DATELINE
1.	Review and amendment of law on Sharia Administration of Justice in Borno State and the 4 bills passed into law	Sharia Implementation Committee Council of Ulama, Ministry of Justice Borno State House of Assembly	31 st May
2.	Legislation on the separation of sexes in all public activities and a law on weight and measures	Sharia Implementation Committee Council of Ulama, Ministry of Justice Borno State House of Assembly	31 st May
3.	Data collection on centres of gambling, prostitution, production, marketing and consumption of alcohol	Ministries concerned, Police, SSS Sharia Implementation Committee	31 st May
4.	Massive enlightenment campaign on Sharia including tours to all Local Government Areas in the State	Sharia Implementation Committee, Islamic organisations, scholars, Min. of Information, voluntary organisations	Continuous
5.	Setting up of Sharia Courts with all that it entails	Ministry of Justice Judicial Service Commission	31 st May
6.	Employment and/or screening and training of Sharia Court judges	Council of Ulama Judicial Service Commission	31 st May
7.	Putting in place a satisfactory condition of service for Sharia administrators	Judicial Service Commission, Min. of Justice, Sharia Court of Appeal	31 st May
8.	Issuance of notice to centres that violate the Sharia	Sharia Implementation Committee, Min. of Information, Min. of Commerce, Police, SSS	31 st May

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

9.	Enforcement/taking off of the laws on alcohol production, marketing and consumption, gambling, prostitution, adultery, fornication, homosexuality, <i>qazaf</i> , weights and measures and separation of males/females from commercial means of transportation	1 ST JUNE, 2001 SHARIA IMPLEMENTATION STARTS	
10.	Commencement of the codification of the Sharia Penal Code and its passing into law	Sharia Implementation Committee, Council of Ulama, Ministry of Justice, Borno State House of Assembly	31 st March – 31 st August, 2001

STAGE 2: JUNE - AUGUST, 2001

S/N	ACTIVITY	BODIES CONCERNED	REMARKS/ DATELINE
1.	Massive public enlightenment campaign on Sharia	Sharia Implementation Committee Islamic Organisations, Scholars, Min. of Information, Voluntary organisations	Continuous
2.	Contact with unions professional bodies	Sharia Implementation Committee	Continuous
3.	Contacts with government agencies to make them assist in creating a conducive environment for the Sharia	Sharia Implementation Committee	Continuous
4.	Review of educational curriculum to conform with the new dispensation	Ministry of Education, Islamic scholars and organisations	Continuous
5.	Formation of <i>hisbabs</i> to assist in monitoring the violation of the Sharia and reporting to the concerned government agencies	Sharia Implementation Committee	30 th June

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

6.	Creation of job opportunities to the unemployed and a better condition of life for the populace	Zakat Board, Poverty Alleviation Programmes Agencies, Min. Co-op and Rural Development, SERA, Dept. of Social Welfare, NACCIMA, Borno State and Local Government Councils	Continuous
7.	Creation of AWQAF and Ministry of Religious Affairs	Governor's Office	31 st August

STAGE 3: SEPTEMBER - NOVEMBER, 2001

S/N	ACTIVITY	BODIES CONCERNED	REMARKS/ DATELINE
1.	Massive enlightenment campaign on the Sharia law	Sharia Implementation Committee, Islamic Organisations, Scholars, Min. of Information, Voluntary Organisations	Continuous
2.	Monitoring of the implementation of Sharia law	Sharia Implementation Committee, Council of Ulama	Continuous
3.	Inauguration of Zakat Board	Governor's Office; Council of Ulama	30 th September
4.	Conclusion of all uncompleted tasks preparatory to the take-off of the Sharia Penal Code	Sharia Implementation Committee, Council of Ulama, Ministry of Justice, Judicial Service Commissioner, Governor's Office	(29 th Sha'ban)
5.	TAKING OFF OF THE FULL IMPLEMENTATION OF THE SHARIA PENAL CODE		1 st Ramadan

REPORT OF THE TASK FORCE ON SHARIA IMPLEMENTATION BAUCHI STATE OF NIGERIA

Submitted to the Executive Governor of Bauchi State
His Excellency Alhaji (Dr.) Ahmadu Adamu Mu'azu (Mutawallen Bauchi)
14th August, 2001

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1.0 LETTER SUBMITTING REPORT

TASK FORCE ON SHARIA IMPLEMENTATION
BAUCHI STATE OF NIGERIA
ADMINISTRATIVE SECRETARIAT
Gombe Road (Adjacent Local Government Audit) Bauchi Phone: 077-542295

Our Ref: _____ *Your Ref:* _____ *Date:* _____

TFSI/BS/ADM/VOL.1/130

14th August, 2001

His Excellency,
Alhaji (Dr.) Ahmad Adamu Mu'azu
(Mutawallen Bauchi),
The Executive Governor,
Bauchi State

Your Excellency,

SUBMISSION OF REPORT

In order to fulfil the pledge made to the overwhelming Muslim population of the State, Your Excellency constituted the Task Force on Sharia Implementation on the 27th of February, 2001. The Task Force was essentially mandated to carry out all necessary ground-work for the take off of the Sharia judicial system in the State.

Consequent upon the constitution of the Bauchi State Sharia Consultative Council and the Sharia Commission, I have the honour on behalf of the entire members of the Task Force, to present this Report to Your Excellency, along with the other volumes of the Report for information and record.

The volumes of our Report are as follows:

- Volume I:** Main Report.
- Volume II:**
1. Bauchi State Sharia Penal Code Law 2001
 2. Sharia Courts Commencement (Administration of Justice and Certain Consequential Changes) Law 2001.
 3. Sharia Court of Appeal (Amendment) Law 2001
 4. Sharia Commission Law.
- Volume III:**
1. Magistrate Court Law
 2. District Courts Law
 3. Penal Code 1999 (Amendment) Law 2001
- Volume IV:** Government White Paper of November, 2000 on the Report of the Bauchi State Sharia Implementation Committee
- Volume V:** Major Activities of the Task Force.

On behalf of the members of the Task Force, I hereby express our sincere thanks and appreciation to Your Excellency, for offering us the opportunity to serve our dear State in the capacity that we did.

Yours sincerely,

Alh. Muhammad Danmadami CFR, NPM, mni (DIG Rtd.)

(Sa'in Katagum)

Chairman

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3.0 ACKNOWLEDGEMENT

In the name of Allah, Most Gracious, Most Compassionate and Merciful.

With gratitude to Almighty Allah and salutations to the noble Prophet, Muhammad (SAW), members of the Task Force on Sharia Implementation wish to register our profound thanks and appreciation to His Excellency, Alhaji (Dr.) Ahmadu Adamu Mu'azu (Mutawallen Bauchi), the Executive Governor of Bauchi State, for granting us the opportunity to take part in this historic assignment of practicalising the Sharia judicial system in Bauchi State.

The Task Force also wishes to express its appreciation for the support and co-operation it received from the Deputy Governor Alhaji Abdulmalik Mahmoud (Baraden Katagum), the Secretary to the Government Alhaji Muhammad Nadada Umar (Zannan Misau), the Head of Civil Service (Alh. Adamu Gumba), all Honourable Commissioners and Heads of Extra-Ministerial Departments, all Permanent Secretaries particularly the Permanent Secretary for Security Matters (Alhaji Bello Umar Gamawa) and other staff of the Government House and staff of the judiciary too numerous to mention.

For the legislative arm, the Task Force can not forget the support and cooperation given to it by the Honourable Speaker (Alh. Bappah Haruna Disina) and members of the Bauchi State House of Assembly. The contribution of the Clerk (Alh. Ya'u Mohammad Gital) and other staff of the Honourable House are also recognised and appreciated especially the direct involvement of Ali Babayo Gamawa (Principal Legislative Officer of the Honourable House) who served as Assistant Secretary to the Task Force.

The Task Force wishes to also express its appreciation for the support and co-operation received from the State Commissioner of Police and Director State Security Services. The co-operation and assistance offered by members of the *bisbah* organisation and the press in enlightening the general public on the activities of the Task Force deserve special commendation.

The active participation of the four members co-opted by the Committee in screening of judges, inspectors and other court personnel as well as in the discharge of the general assignment of the Task Force is recognised and appreciated. They are Imam Ibrahim Idris, Sheikh Mahmoud Shira, Barrister Hudu Yunusa Ari and Alh. Muhammad Bello (Sarkin Malaman Katagum).

The contributions of the auxiliary staff attached to the Task Force secretariat are highly recognised and appreciated. They are Mohammed Yusuf Wunti, Saleh Mohammed Bara, Shehu Mudi, Sani Ahmadu, Ibrahim Umar, Dahiru Mohammed and Hamza Umar.

Finally, we wish to thank the entire Muslim community for the various assistance rendered to the Task Force. We pray that may the Almighty Allah keep us on the path of Sharia for ever and ever.

4.0 PREAMBLE

Some time in December, 1999, thirteen Islamic associations led by Alhaji Muhammad Danmadami CFR, NPM, mni (DIG Rtd.) (Sa'in Katagum) paid a courtesy visit to the Bauchi State House of Assembly and presented, on behalf of the entire Muslims of Bauchi State, a written memorandum requesting the Honourable House to consider the possibility of reintroducing full Sharia judicial system in the State in keeping with the happenings in other States.

The Honourable Speaker (Alhaji Bappah Haruna Disina) and a sizeable number of some Honourable Members of the House received the delegation in the House Chambers where the request was formally presented. In his response to the speech of the leader of the delegation, the Honourable Speaker, after receiving the report on behalf of the House, informed the delegation that the House had already formed an ad hoc committee on Sharia on 20th October, 1999 to consider the need to implement full Sharia in the State. He therefore thanked the delegation for strengthening their position.

The ad hoc committee of the House on Sharia, under the Chairmanship of Hon. Hamza Muhammad Lanzai (the Minority Leader of the House), effected all necessary preliminary ground-work for adoption and implementation of Sharia by the State. The committee invited for memoranda from individuals and groups within the State, and even visited some Local Governments and sampled their opinions. It also collected samples of legislations on Sharia from Zamfara State and organised a live discussion forum between the Muslim *ummah* representatives and those of the Christian Association of Nigeria led by Rev. Dauda Marafa which was held in the House Chambers. The occasion was very successful as it provided for clear understanding among the followers of the two faiths. The House committee further succeeded in unifying the various Islamic aid groups and adherents of other Muslim organisations within the State. It also presented draft legislations on Sharia which greatly helped in documentation and codification of the State laws. The committee had Ali Babayo Gamawa (Principal Legislative Officer of the House) as its Secretary.

From the Executive side, His Excellency, Alhaji Ahmad Adamu Mu'azu, the Executive Governor, observed that the teeming Muslim population of the State were agitating for Sharia judicial system. To satisfy their yearnings and aspirations, the Governor appointed a 29-member Sharia Implementation Committee under the Chairmanship of Kadi Abdullahi Y. Marafa (Marafan Bauchi) on 26th June, 2000 and inaugurated the Committee on 29th June, 2000.

The Sharia Implementation Committee was essentially mandated to advise the State Government on the structure, materials, personnel and training required for the implementation of the Sharia legal system. It was also to suggest amendments to the Penal Code within the framework of the Constitution and to organise seminars, discussions, drama presentations and working visits with a view to enlightening the public, particularly the non-Muslims, on their rights and duties under the Sharia legal system. The Committee was finally charged with the responsibility of proposing a take-

MAIN REPORT OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION

off date for the Sharia legal system in the State, taking into account all pre-requisites and procedures that would be involved. The Committee was given three months to submit its report to the government by 29th September, 2000.

The Committee worked round the clock and dedicated itself fully in the discharge of the duties assigned to it. It operated with three sub-committees and each sub-committee was assigned to a particular area. The sub-committees were Documentation and Codification Sub-Committee headed by Hon. Justice Adamu Abdulhamid, the Judicial Structure and Personnel Sub-Committee headed by Hon. Hamza Muhammad Lanzai and the Public Enlightenment Sub-Committee headed by Alh. Muhammadu Danmadami (Sa'in Katagum). Each of these sub-committees submitted its report to the main Committee, and the main Committee submitted its report to the government on the 29th of September, 2000 as scheduled. The report of the Committee contained specific and general recommendations as well as draft legislations comprising of new laws, amendments to some existing laws and repeal of others, etcetera.

Consequent upon the receipt of the report of the Sharia Implementation Committee, the State Government appointed a White Paper Drafting Committee in October 2000 under the Chairmanship of Hon. Justice Bala Umar to study the said report and prepare a White Paper on it (i.e. a draft of Government position). The Committee was given only one month to submit its report and the report was accordingly submitted to the Government in November, 2000.

On the 27th February 2001, His Excellency the Executive Governor **Alhaji Ahmadu Adamu Mu'azu** signed into law Sharia Courts Commencement (Administration of Justice and Certain Consequential Changes) Bill and the Sharia Penal Code Bill 2001, and inaugurated the Task Force on the take-off of the Sharia legal system vide letter NO. GO/SS/REL/1/1.S.1/T/24 dated 27th February, 2001 (copy of the letter can be seen in volume V of this report).

The Bauchi State House of Assembly which was the initiator of the Sharia legal system in Bauchi State did not waste time when it received the Executive proposal in the White Paper. The House unanimously accepted and adopted the proposal and passed the Bill into law without further waste of time.

5.0 INTRODUCTION

The Task Force was inaugurated on 27th February, 2001.

5.1 Composition: It has the following members:

- | | | | |
|----|---|---|----------|
| 1. | Alh. Muhammad Danmadami, CFR, NPM,
mni (DIG Rtd) (Sa'in Katagum) | - | Chairman |
| 2. | Dr. Hadi Sheikh Dahiru Bauchi | - | Member |
| 3. | Dr. Ibrahim Tahir (Talban Bauchi) | - | Member |
| 4. | Barrister Lawal H. Ibrahim | - | Member |
| 5. | Barrister Al-Mustapha Sulaiman Hassan | - | Member |
| 6. | Hon. Justice Bala Umar (rep of the Hon.
Chief Judge) | - | Member |
| 7. | Hon. Kadi Hamidu Gambo Bununu (rep. of
the Hon. Grand Kadi) | - | Member |

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- | | | | |
|-----|--|---|-----------|
| 8. | Ambassador Adamu Yusuf (rep. of Bauchi Emirate Council) | - | Member |
| 9. | Alhaji Muhammadu Mijinyawa Ibrahim (representative of Katagum Emirate Council) | - | Member |
| 10. | Habibu Idris Shall Esq (Hon. Solicitor General/Permsec, Bauchi State MOJ) | - | Secretary |

5.2 The main terms of reference: The main terms of reference of the Task Force contained in its letter of appointment were as follows:

1. To co-ordinate the take-off of the Sharia legal system.
2. To liaise with the State Government, the Judicial Service Commission and the office of the State Grand Kadi on the:
 - (a) Establishment of the State Sharia Commission.
 - (b) Establishment of the Sharia Consultative Council.
 - (c) Appointment of new judges and inspectors of the Sharia Courts.
3. To ensure that all necessary groundwork for the take-off of the Sharia legal system in the State is put in place before 31st March, 2001 (which was later extended to 14th August, 2001).
4. To co-opt any other person(s) it deems appropriate to facilitate its onerous work.

5.3 Other terms of reference: Other Terms of Reference of the Task Force contained in the Government White Paper on Sharia Implementation were as follows:

1. Renovation and/or construction of court premises, residential quarters for judges and provision of working materials;
2. Amendment of laws of Bauchi State to conform to Sharia dispensation.
3. Phasing out of Area Courts system within six months from the date of inauguration of the Sharia system.
4. Completion of first phase of the take-off of Sharia system by 1st Muharram, 1422 AH/ _____ March 2001.
5. Other matters as may arise from the White Paper and the new legislation on the Sharia legal system.

6.0 METHODOLOGY

In order to accomplish its onerous task, the Task Force swung into action immediately after its formation and inauguration by His Excellency on the 27th of February, 2001. In executing its assignment, the under-listed methods/procedures were adopted as follows:

6.1 The Task Force started by holding an inaugural meeting on 27th February, 2001 in the Council Chambers of the Government House, Bauchi during which the Chairman congratulated all members on their appointments into the Task Force and urged them to be just and fair in performing the assignment.

Thereafter, the meeting deliberated on the following:

- (i) Administrative secretariat

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- (ii) Take-off grant
- (iii) Operational vehicles
- (iv) Co-option of other members
- (v) Working materials, computer and photocopier

During the meeting, the Chairman Alh. Muhammad Danmadami (Sa'in Katagum) suggested the use of the Council of Destitute secretariat located along Gombe Road, Bauchi to serve as administrative secretariat of the Task Force. Consequently, members inspected the building and agreed to utilise same as the secretariat. The Secretary was then directed to request the Office of the Secretary to the State Government to effect necessary plumbing and electrical repairs.

In the inaugural meeting also, the Task Force resolved to apply for ₦1 million take-off grant, two station wagons, computer and photocopier as well as the need to co-opt some Islamic scholars in order to tap from their wealth of experience. To that effect, the following were co-opted:

- (i) Alhaji Muh'd Bello (Sarkin Malaman Katagum)
- (ii) Imam Ibrahim Idris (Chief Imam of Gwallaga Juma'at Mosque)
- (iii) Sheikh Mahmoud Ibraheem Shira
- (iv) Barrister Hudu Yunusa Ari (Deputy Director J.S.C.)

6.2 The Task Force split itself into sub-committees in order to accomplish the task within the stipulated time. Prominent among these sub-committees were the following:

- (i) Legal Sub-Committee (for amendment, repeal or draft of laws)
- (ii) Examination Sub-Committee (for preparation of guideline for screening of judges and inspectors of Sharia Courts)
- (iii) Contact Sub-Committee (for court and residential accommodations for judges)
- (iv) Report-Writing Sub-Committee (for the draft of final report).

6.3 The Task Force analyzed its terms of reference very carefully and digested all the contents of the Government White Paper on Sharia Implementation. Through its Legal Sub-Committee, it also studied the constitution of the Federal Republic of Nigeria 1999 and almost all the Bauchi State laws especially the legislations passed in respect of the Sharia judicial system. In addition to the drafting of amendments, repeal and new laws, the Task Force further drafted instrument for the transfer of the Sharia judges from the office of the Hon. Chief Judge to the office of the Hon. Grand Kadi.

6.4 The Task Force, through the media organisation, kept the public informed and enlightened on its activities through BATV Programme *Da Bazarku a ke Rawa* and series of press releases as well as press conference.

6.5 The Task Force also viewed it necessary to invite leaders of various Islamic groups and imams within the State to explain to them the rationale for the extension of time. The meeting took place at Abubakar T/Balewa Tomb.

6.6 As part of its assignment, the Task Force found it necessary to invite all the serving Area and Upper Area Court judges and inspectors of Sharia Courts for screening. To

that effect, letters were written to the Chief Judge requesting him to inform the judges and subsequently the inspectors. The screening exercise was conducted in Bauchi and Azare accordingly.

6.7 In addition to the serving judges, new applicants were also invited and screened through written examinations and oral interviews. Similarly new applicants were also screened through oral interviews for the post of inspectors of Sharia Courts.

6.8 The other court personnel (registrars, clerks, messengers/bailiffs, cleaners and watchmen) were also screened in the Headquarters of the two zones, and suitable ones were recommended to JSC for postings.

6.9 To ensure a hitch-free take-off of the Sharia, the Task Force undertook tour to some court premises and residential quarters for judges and assessed their conditions in conjunction with team of experts from the State Ministry of Works.

6.10 To provide an alternative, pending the construction and/or renovations of existing courts by the Government, Local Government Councils were requested to provide courtrooms and quarters to judges as an interim measure.

6.11 Series of meetings were held with various Islamic aid groups on the unification of the groups to produce an effective *bisbab* which is the backbone of the Sharia itself. The Task Force subsequently continued its public enlightenment through the voluntary *bisbab* organisation in a peaceful and orderly manner.

6.12 Visits were made to their Royal Highnesses, the Emirs of Bauchi and Katagum and also to the Hon. Chief Judge, Hon. Grand Kadi, Commissioner of Police and Director State Security Services.

7.0 ACCOMPLISHED TASKS

The Task Force commenced its assignment from the date it was formed and inaugurated. It painstakingly and meticulously studied its terms of reference and the Government White Paper on Sharia and, within the period of its exercise, it has achieved/accomplished the following:

7.1 Establishment of State Sharia Commission. One of the terms of reference of the Task Force was to liaise with the State Government on the establishment of the State Sharia Commission. The establishment of the Commission was in line with the provision of the Government White Paper.

On this particular task, the Task Force proposed the draft of Sharia Commission Bill to the Government, which was later passed into law by the State House of Assembly and assented to by the Governor. It thus became a Sharia Commission Law and a copy can be seen in Volume II of this Report.

Guided by the law, the Task Force vide a letter NO. TFSI/BAS/ADM/S/SCM/V.1 /2 dated 29th March, 2001 proposed to the Governor membership of the Commission and requested him to nominate a representative of his office, two other members and a secretary to the Commission. The State Government studied our submission carefully and accordingly appointed the Commission with the following membership:

BAUCHI STATE SHARIA COMMISSION

- | | | |
|--|---|-------------------|
| 1. Malam Mukhtar Ahmed | - | Chairman |
| 2. Malam Hassan Dikko | - | Permanent Member |
| 3. Malam Muh'd Babangida Muhammad | - | Permanent Member |
| 4. Malam Tata Alkaleri | - | Permanent Member |
| 5. Malam Yakubu Muhammad (Sharia Consultative Council) | - | Part-Time Member |
| 6. Malam Jibril Muhammad | - | Part-Time Member |
| 7. Ambassador Adamu Yusuf | - | Part-Time Member |
| 8. Barrister Gurama Muhammad | - | Part-Time Member |
| 9. Barrister Aliyu Sange | - | Part-Time Member |
| 10. Representative of Governor's Office | - | Part-Time Member |
| 11. Representative of Hon. Grand Kadi | - | Part-Time Member |
| 12. Representative of Hon. Attorney-General | - | Part-Time Member |
| 13. 2 Representatives of the State Councils of Emirs | - | Part-Time Members |
| 14. Malam Abdulhamid Mu'Allayidi | - | Secretary |

7.2 Establishment of the Sharia Consultative Council. The Task Force was also tasked with the responsibility of recommending to the Government the membership of the Sharia Consultative Council. The Council is a body created by Section 9 of the Sharia Courts Commencement (Administration of Justice and Certain Consequential Changes) Law 2001. By Section 10 of the law, the membership of the Council is restricted to fifteen Islamic scholars, two of whom shall be legal practitioners qualified to practice in Nigeria for not less than ten years.

In exercise of the powers conferred on it by the Government, the Task Force on 26th March, 2001 wrote to the Government its proposal for some membership of the Council and requested the Governor to appoint a Secretary, one other member and also to appoint a Chairman to head the Council out of the fifteen members.

Pursuant to the Government's desire to ensure the successful implementation of the Sharia judicial system in the State, His Excellency, the Executive Governor, approved the constitution of the Council with the following membership:

BAUCHI STATE SHARIA CONSULTATIVE COUNCIL

- | | | |
|---|---|--------------------------------------|
| 1. Sheikh Dahiru Usman Bauchi | - | Part-Time Chairman |
| 2. Alh. Muhammad Dan Madami (Sa'in Katagum) | - | Part-Time Member/
Deputy Chairman |
| 3. Alh. Ado Musa Tafawa Balewa | - | Part-Time Member |
| 4. Sheikh Salisu Suleiman Ningi | - | Part-Time Member |
| 5. Sheikh Ja'afar M. Adam | - | Part-Time Member |
| 6. Malam Muhammadu Gidado Umar | - | Part-Time Member |
| 7. Dr. Ibrahim Tahir (Talban Bauchi) | - | Part-Time Member |
| 8. Dr. Yahaya Yero | - | Part-Time Member |
| 9. Malam Ibrahim Idris | - | Part-Time Member |
| 10. Barrister Abdul-Aziz Sabo | - | Part-Time Member |
| 11. Sheikh Mahmoud Shira | - | Part-Time Member |

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12. Malam Yelwa Azare	-	Part-Time Member
13. Malam Yakubu Muhammad	-	Part-Time Member
14. Ustadz Turaki Aliyu Misau	-	Part-Time Member
15. Malam Abdulhamid Mu'Allayidi	-	Secretary

7.3 Appointment of judges and inspectors of Sharia Courts. As spelt out in its terms of reference, the Task Force was tasked to liaise with the State Government, the Judicial Service Commission and the office of the Hon. Grand Kadi in respect of the appointment of Sharia Court judges and inspectors. The Task Force accordingly dealt with the appointment of Sharia Court judges and forwarded its recommendations to the Judicial Service Commission vide letter NO. TFSI/BS/ADM/VOL.1/75 dated 15th May, 2001. Similarly, it has also dealt with the appointment of inspectors of Sharia Courts and forwarded its recommendations to the Judicial Service Commission vide letter NO. TFSI/BS/ADM/VOL.1/90 dated 30th May, 2001. Please refer to Volume V for details.

In the case of the Sharia judges, 89 serving Area Court judges have been interviewed from whom 20 have been appointed by the JSC and posted as Upper Sharia Court judges one per each Local Government with the exception of Bauchi Local Government which has 2 and Bogoro Local Government which has none. Similarly, 43 out of the 89 serving Area judges have been appointed by the JSC and posted as Sharia Court judges one per each administrative district as approved by the Government White Paper on Sharia Implementation. 39 new Sharia Court judges have also been appointed for posting to major villages throughout the State.

In the case of the inspectors of Sharia Courts, eight serving inspectors of Area Courts have been interviewed and only one of them was found suitable for service under the Sharia judicial system. Similarly, seven out of the new applicants interviewed were found suitable and accordingly recommended to JSC for appointment.

7.4 Rationalisation of supporting staff of Sharia Courts. Consequent upon the interview and staff audit carried out by the Task Force on court registrars, clerks, messengers/bailiffs, cleaners and watchmen, it was observed that some of these categories of staff were unfit for service under the Sharia dispensation either because of low qualification or are otherwise not found suitable for the job.

On completion of selection and postings of qualified staff to areas designated as Sharia Courts or Inspectorate Offices, the Task Force submitted its recommendations to the Judicial Service Commission vide letter NO. TFSI/BS/ADM/VOL.1/112 dated 9th August, 2001 in line with the requirements of the Sharia Courts judicial system. Please refer to Volume V for details.

7.5 Office and residential accommodation for Sharia judges. In line with the provision of the Government White Paper on Sharia Implementation, the Task Force was to co-ordinate and oversee the general renovation and/or construction of court premises, residential quarters for judges and provision of working materials to the Sharia judges.

From the beginning of the exercise up to the time we compiled this report, with the exception of very few Government-owned court buildings, most of the courts in rural

areas were operating in dilapidated rooms without structural provision of dock, witness box and offices for the staff of the court.

To provide necessary input in respect of the above, the Task Force forwarded to the Government vide letter NO. TFSI/BS/ADM/VOL.1/89 of 16th May, 2001 a comprehensive submission indicating locations and bill of quantities for renovating/building the courts/residential quarters for the judges which were prepared and presented to the Task Force by the State Ministry of Works. See copy in Volume V for ease of reference.

In addition to the above, as a temporary measure, most of the Local Government Councils in the State have assisted by providing (where there are none) temporary courtrooms and residential quarters to Sharia judges and renovated the courts and residential quarters (where they exist) for the take-off of the system.

7.6 Welfare package for Sharia judges. In order to boost the morale of Sharia judges and raise their standard in the society, the Task Force recommended to Government the need to improve their remuneration through the payments of special allowances and other fringe benefits such as Government advances for purchase of personal vehicles and building of personal houses, etc. The recommendation is contained in the letter for appointment of the judges and can be seen in Annex.....of volume.....

7.7 Formation of *hisbah* organisation. The main term of reference of the Task Force was to co-ordinate activities pertaining to the take off of the Sharia judicial system in the State. Formation of *hisbah* organisation was one of these activities.

In its letter NO. TFSI/BS/ADM/VOL.1/85 dated 16th May, 2001 (see Volume V), the Task Force informed the Government on the necessity to form the *hisbah* organisation to aid in the effective enforcement of the Sharia.

The letter contains the definition, source and functions of the *hisbah* and the pre-requisites of making the *hisbah* effective in its operations in order to assist the Nigeria police in the discharge of their statutory functions under the Sharia judicial system adopted by the State.

7.8 Amendment/repeal of existing laws and drafting of new ones. In our letters Nos. TFSI/BAS/ADM/VOL.1/80 dated 23rd May, 2001 and TFSI/BAS/ADM/GO/VOL.1/10 dated 30th April, 2001, we forwarded to the Government draft bills in respect of the above for perusal and further necessary action as follows:

- (i) Bill for a law to establish the Sharia Commission
- (ii) Bill for a law to repeal the Liquor Law, Cap.85 Laws of Bauchi State.
- (iii) Bill for a law to amend the Bauchi State Penal Code Law Cap 108 laws of Bauchi State 1991.
- (iv) Bill for a law to amend the Bauchi State Sharia Penal Code 2001.
- (v) Bill for a law to amend the Sharia Courts Commencement (Administration of Justice and certain Consequential Changes) Law 2001
- (vi) A Bill for a law to amend the District Courts Law
- (vii) Bill for a law to amend the Rent Control and Recovery of Premises Law Cap 134 laws of Bauchi State 1991.

The rationale for the amendment/repeal of some laws and/or the draft of new ones were as follows:

A. AMENDMENTS

1. **Sharia Courts Commencement (Administration of Justice and Certain Consequential Changes) Law 2001.**

This law was amended to restrict the functions of the Sharia Consultative Council to only issuance of fatwa and any other matter as may be referred to it by Government or the Sharia Commission.

Previously, the Sharia Consultative Council was saddled with the responsibility of screening and recommending for appointment to Judicial Service Commission names of judges, in addition to their power of recommending disciplinary measures against either of the Sharia judges. The powers to screen, recommend persons for appointment to JSC as judges and to exercise disciplinary measures against them have now been transferred to the Sharia Commission.

2. **Sharia Penal Code 2000.**

(i) Section 148. This law amended to delete subsection (2) of section 148 of the Code, which allows the manufacturing, brewing, consumption or dealing in any way with alcohol in

- (i) Three-star hotels and above
- (ii) National and international touring and sporting centres
- (iii) Premises of Federal establishments such as military and paramilitary barracks;
- (iv) Local Government Areas dominated by non-Muslims.

The Task Force observe that by section 3 of the Sharia Penal Code Laws 2001 and section 5(iii)(a) of the Sharia Courts Commencement (Administration of Justice and Certain Consequential Changes) Law 2001, the Sharia Penal Code is applicable to **only Muslims**, who are prohibited in dealing with alcohol or alcoholic drinks in any way. Subsection (2) of section 148 however tends to allow even Muslims to deal with alcohol in the above-stated places.

A critical look at the subsection (i.e.) 148 (2) shows that it is in conflict with subsection (1) (i.e. 148(1)).

It was further observed that it was morally wrong to allow persons to come to the stadium or sporting centres with alcoholic drinks. Apart from corrupting the youth, it will encourage hooliganism in sports. Even in developed countries the idea of taking alcoholic drinks and drugs into sporting centres is prohibited.

(ii) Section 375. The section is amended to prohibit some social vices, which are becoming embarrassing and nuisances these days. It further prohibits playing with dangerous animals and/or implements.

3. **Penal Code Laws Cap 108 Laws of Bauchi State.**

- (i) Section 403. The section deals with the consumption of alcohol by Muslims. With the coming of the Sharia Penal Code, the section is no longer necessary. It is however now substituted with a provision prohibiting dealing with alcoholic drinks in predominantly Muslim towns and villages by non-Muslims.

4. **Rent Control and Recovery of Premises Law Cap 134 Laws of Bauchi State.**

By this law all rent cases are to be handled by the Rent Tribunal, which are only two in the State, one in Bauchi and one in Azare. Ultimately a lot of cases are presently pending before them without being disposed of.

Since under the present dispensation every Local Government Area is to have a District Court, it was felt that the above law be amended to confer on all District Courts the jurisdiction to try rent cases. This will decongest the cases which have piled up and will afford those in Local Government Areas easy access to courts.

Section 4 which created the Tribunal, is now deleted while the definition of court is now restricted to include High Court and District Courts. The definition of the term "Chairman" is now amended to read District Court judge.

B. NEW LAWS

1. **District Courts Law 2001.**

Formerly the Magistrate Courts adjudicated on criminal cases brought before them by the police. Most of the time, the police prefer to take their cases to Area Courts because they dispense justice quickly. However, the jurisdiction of the Magistrate and District Courts are limited. They cannot impose fines above ₦10,000.00.

Under the present dispensation Magistrate/District Court have **exclusive** jurisdiction to try non-Muslims. They are also to adjudicate in cases between Muslims and non-Muslims, responsibilities of trying Rent cases. This therefore calls for the review of the whole law to accommodate all the above considerations. Presently their jurisdiction have been increased to a maximum of ₦200,000. The District Courts Law Cap 42 of Bauchi State 1991 is therefore repealed and a new District Court 2001 Law is drafted in its place.

2. **Sharia Commission Law.**

This Commission was established when Government rejected the idea of a Ministry of Religious Affairs. The composition and functions of the Commission could be seen on pages 1, 2 and 3 of the draft. The powers to screen and nominate names of judges to the JSC as well as advice on discipline, suspension, termination etc. of a Sharia Court judge and

inspector of Sharia Court has now been transferred from the Sharia Consultative Council to the Sharia Commission. (See page 4 of the law). The Commission is to comprise of the Chairman and twelve (12) other members, with an executive secretary who is also to serve as the secretary of the Sharia Consultative Council.

C. REPEAL

1. **Liquor Law Cap 85 Laws of Bauchi State 1991.**

By the above law, the Governor of the State is given powers to grant licenses for the sale of alcohol in designated areas of the State. For this purpose, the State is divided into 3 areas viz: (i) Prohibited Areas, (ii) Licensed Areas and (iii) Restricted Areas (see section 4 of the law).

With the enactment of the Sharia Penal Code and the amendment to section 403 of the Penal Code, it is our opinion that the law was no longer useful. That informed the recommendation for its repeal and it was so repealed.

7.9 Control and supervision of Sharia Courts. By section 30 (1) of the Sharia Courts Commencement (Administration of Justice and Certain Consequential Changes) Law 2001, the general supervision and control of the Sharia and Upper Sharia Courts in the State have to be transferred from the Hon. Chief Judge to the office of the Hon. Grand Kadi.

On 28th June, 2001, the Task Force vide letter NO. TFSI/BS/ADM/VOL.1/99 dated 28th June, 2001 forwarded an instrument of transfer to that effect to His Excellency, the Executive Governor of Bauchi State, for approval because section 6(c) Part II of the third schedule of the 1999 Constitution of the Federal Republic of Nigeria vests such powers to the Judicial Service Commission and with the approval of the Governor, such powers could be transferred by the JSC to any officer or authority as provided by section 12(i) and (ii) of the Bauchi State Judicial Service Committee Law Cap 75 laws of Bauchi State 1991.

In exercise of the powers conferred on him by the above section of our State laws, the Executive Governor approved such transfers on 28th June, 2001 and the approval was forwarded the Hon. Chief Judge and Chairman, Judicial Service Commission on 2nd July, 2001 vide letter NO. TFSI/BS/ADM/VOL.1/100.

With the approval of the Governor, the Hon. Chief Judge, after discussing with the members of the State Judicial Service Commission, signed the legal instrument prepared and sent to him by the Task Force to that effect, and the process of the formal transfer was completed with the conveyance of such instrument to the Hon. Grand Kadi. The Sharia and the Upper Sharia Court of Bauchi State are now under the control and supervision of the State Grand Kadi.

7.10 Production and distribution of relevant laws. Following the successful passing into law of our various draft bills by the Bauchi State House of Assembly and the subsequent assent of His Excellency in respect of these laws, all the legislations have now become

the Bauchi State laws and therefore enforceable on persons and group of persons within the State.

Although the Government had directed the State Ministry of Justice to gazette and print these laws, for the purpose of the immediate take-off of the Sharia judicial system in the State, the Task Force took the pain of printing copies from the computer and took them for spiral binding. Thereafter, the laws were distributed to the Sharia Courts for adjudication, the Nigeria Police Force for enforcement and to the other relevant bodies for appropriate action.

7.11 Extension of time/progress report. One of the main terms of reference of the Task Force was to ensure that all necessary groundwork for the take-off of the Sharia judicial system in the State was put in place before 31st March, 2001.

On the 26th of March, 2001, the Task Force wrote to His Excellency, the Executive Governor of Bauchi State, and informed him on the progress made by the Task Force from 27th February to 26th March, 2001. In consideration of the magnitude and enormity of the task assigned to it, the Task Force reviewed all the necessary groundwork to be undertaken for a smooth and hitch-free take-off of the Sharia judicial system and requested for extension of time up to 31st May, 2001 to achieve the said objectives. The request was also in line with the provision of the Government White Paper on Sharia Implementation which originally allocated three months period for the Task Force assignment.

The Government accordingly extended the deadline to 31st May, 2001 so that Sharia could take off without hitch in all parts of the State on 1st June, 2001.

On 30th May, 2001, His Honour Alhaji Abdulmalik Mahmoud, the Deputy Governor of the State wrote vide letter NO. GO/SS/REL/1/S informing the Task Force that it was mandated by the Government to perform the functions of the Sharia Consultative Council until the Council and the Sharia Commission were constituted. In the same letter, another mandate was given to the Task Force to notify the public that the Sharia judicial system would take off on the 1st June, 2001 as scheduled. Copy of the letter is annexed in Volume V of this report.

On the receipt of the letter mentioned above, the Task Force held a press conference on 31st May, 2001 and gave out its progress report and announced the take-off of the Sharia judicial system as directed by the Government. Copy of the Chairman's speech in respect of the said conference is annexed in Volume V for ease of reference.

On 26th July, 2001, the Secretary to the State Government vide letter NO. GO/SS/REL/S/1 informed the Task Force that the State Sharia Commission had been duly constituted by the Government. He therefore requested that the Task Force should prepare to hand over to the Commission on 14th August, 2001. Copy of the letter can be seen in Volume V.

8.0 OUTSTANDING WORK

In spite of all the achievements recorded by the Task Force throughout the period of its assignment; there are still so many things to be done in order to strengthen the actualisation of Sharia judicial system. For the purpose of continuity, such things are

specified hereunder for the guidance of the newly established Sharia Commission and Consultative Council. Some of these outstanding work include the following:

8.1 Amendment to all relevant State laws to conform with Sharia. To further strengthen the Sharia judicial system, there is the need to peruse and analyze the State laws. Where necessary, some of the existing laws of the State have to be amended to conform with the Sharia judicial system. All legal loopholes should be blocked to avoid misinterpretations.

8.2 Promulgation of Sharia Civil Procedure Rules by the Hon. Grand Kadi (draft already prepared). Already the Task Force (through its Legal Sub-Committee) had prepared/drafted the Civil Procedure Rules (see the draft in Volume V of this report) for the Hon. Grand Kadi to peruse and promulgate into law. It is therefore hoped that the Sharia Commission would speed up the matter in view of its relevance to civil adjudication under the Sharia judicial system.

8.3 Promulgation of Sharia Criminal Procedure Code by the State House of Assembly (draft already prepared). In addition to the Civil Procedure Rules, the Task Force (through its Legal Sub-Committee) had prepared the draft of the Sharia Criminal Procedure Code. However, unlike the Civil Procedure Rules which could be promulgated into law by the Hon. Grand Kadi, the Sharia Criminal Procedure Code has to be passed into law by the State House of Assembly and assented to by His Excellency the Executive Governor of Bauchi State before it becomes operational.

Considering that the Sharia judges have already been issued with the new Sharia Penal Code Law, there is the great need for the Commission to ensure the speedy promulgation of the Code for adjudication of criminal cases. Copy of the draft Sharia Criminal Procedure Code can be seen in Volume V for guidance.

8.4 Establishment of model Qur'anic school and nursery/kindergarten classes in all primary schools for teachings of Arabic and Islamic Studies. In paragraph 3.3.3 of the White Paper, Government had accepted to establish nursery/kindergarten classes in all the primary schools in the State with emphasis on Arabic and Islamic Studies, and the medium of instruction shall be the vernacular. It also accepted to establish model Qur'anic schools to complement the traditional Qur'anic school system of education in the State.

The Sharia Commission should study the Government White Paper carefully and pursue the establishment of such institutions as a matter of urgency.

8.5 Review of content of primary and secondary school curriculums to emphasise the teachings of Arabic and Islamic Studies. In paragraph 3.3.4 of the White Paper, Government accepts to review the contents of primary and secondary schools curriculums to emphasise the teachings of Arabic and Islamic Studies side by side with Western education.

The Government also accepts to make Arabic language compulsory for Muslim pupils in all primary and post-primary schools in the State. Pursuant to the above, a board for Arabic and Islamic Studies was also agreed to be established by legislation under the Ministry of Education. It is recommended therefore that the Sharia

Commission should take up the issue appropriately to a satisfactory and successful execution.

8.6 Evolution and enforcement of new dress code for male and female students in private and public primary and post-primary institutions in the State. In addition to the review of the content of school curriculums, Government (in the same paragraph 3.3.4 of the White Paper) decided to take positive steps in response to widespread complaints on the very unsuitable nature of both male and female modes of dressing both in public and private primary and post-primary institutions in the State. Consequently, Government had decided to evolve and enforce a new dress code. The Sharia Commission should therefore pursue these vigorously.

8.7 Translation of all legislation on Sharia into Arabic and Hausa Languages and be given wide coverage in all media in the State. In paragraph 4.0(iii) of the White Paper, Government noted the recommendation for translation of all legislation on Sharia in Arabic and Hausa languages and be given wide coverage in all media houses in the State. The Sharia Commission should therefore follow up the issue seriously until the success is recorded in that direction.

8.8 Establishment of Zakat and Endowment Fund Board. In paragraph 4.0(iv) of the White Paper, Government accepted to establish Zakat and Endowment Fund Board to cater for the welfare of the destitute and the needy in the society but resolved to refer the matter to the Sharia Commission when it comes into existence. As the Commission had been constituted, there is the need to facilitate the realisation of this objective.

8.9 Separate mode of transportation for men and women. In paragraph 4.0(v) of the White Paper, Government accepted to refer to the Sharia Commission the introduction of separate transportation for men and women as well as to direct the Local Governments and private sector to contribute to the success of the program. The Commission is to pursue this matter to conclusion.

8.10 Regulation of street hawking. In paragraph 4.0(vii) of the White Paper, Government took serious note of the necessity to regulate street hawking particularly by girls in order to safeguard public morality but decided to refer the matter to the Sharia Commission for further action.

8.11 Workshop for all categories of government officials and law enforcement organisations. It is the duty of the Government to ensure that all its officials and law enforcement agents are Sharia compliant. There is therefore the need to organise a workshop for all these personnel to keep them well informed on their duties under the Sharia judicial system.

8.12 Workshop for all Sharia and Upper Sharia judges. Considering that the Sharia has become almost a new code to our judges who are either newly appointed or were used to the Area Courts System, there is the need to re-orient them in line with the new dispensation. Already, the Task Force had commissioned some experts (Al-Bukar (Nig) Limited) and the company gave out an estimate of ₦450,000.00 which has already been released by the Government. However, the workshop could not be held as a result of lack of provision for the NATA of the judges. The Commission should therefore organise the workshop.

8.13 Workshop for members of *hisbah*. The *hisbah* organisation is the backbone of the Sharia judicial system. The main function of the organisation is to assist the Nigeria Police Force in the discharge of its duties of law enforcement. Considering the sensitivity of their operations, the Sharia Commission is thus called upon to enlighten all members of the organisation through workshop.

8.14 Introduction of weights and measures. The Judicial Structure and Personnel Sub-Committee of the Bauchi State Sharia Implementation Committee intended to inspect market premises to discuss with traders and recommend to the Government the appropriate scales and measures to be used by traders in transacting business in conformity with what obtains in all Sharia countries the world over. However, the Sub-Committee was unable to incorporate such recommendations in its report. In view of that, the Commission is now called upon to take necessary action in this regard.

9.0 SUSTENANCE OF SHARIA

The constitution of the Sharia Commission and the Consultative Council is aimed at sustaining the system permanently as in keeping with Allah's command. Sharia is the practical expression of Islam as a way of life. The preservation of Islamic culture and traditional values is a direct way of enforcing the Sharia practice. The most immediate contribution Muslims can make towards reinforcing Sharia is to maintain an awareness of our future as a body or *ummah* starting from individuals and extending to communities until it encompasses the *ummah*, the international brotherhood of Islam.

The future of Muslims, therefore, lies in our rediscovery of our individual selves and then consciously striving to assert our identity in our way of life which is the Sharia. The primary aim of individual Muslims should therefore be to train his "self" or "ego" to match the strength of steel, which he can only achieve by behaving as a *mu'min*. A *mu'min* is a believer in Islam who practices the Sharia in its entirety and whose belief pervades all his actions. It is thus one of the primary functions of the Commission to provide facilities through *da'awah* and sustained public orientation and non-formal Islamic education programme, for the inculcation of such a spirit of self-awareness in individual Muslims.

10.0 IMPLEMENTATION OF SHARIA

The success of Sharia implementation invariably depends on the intellectual quality and ability of the judges and other court staff interpreting it and administering it. Implementation of Sharia virtually means the enforcement of the Islamic law with particular reference to *hudud*, *qisas* and *ta'azir* offences and payment of compensation (*diyab*) instead of *qisas* (retaliation) as well as the enforcement of judgments in civil and personal cases.

Hudud offences include the following:

- (a) Adultery or fornication (*zina*)
- (b) False accusation to defame character (*qazaf*)
- (c) Drinking intoxicants (*sharbul-keharr*)
- (d) Theft (*sariqah*)
- (e) Robbery (*hirabah*)

- (f) Treason (*baghyi*)
- (g) Apostasy (*ridda*)
- (h) Intentional Homicide (*qatl-al-'amd*)
- (i) Unintentional Homicide (*jash-al-kebata*)
- (j) Intentional body injury (*jash-al-'and*)
- (k) Unintentional injury (*jurh-al-kebata*)

Against all these offences Allah (SWT) has prescribed specific punishments (*uquba*). *Qisas* offences include all offences of bodily hurt or injury in which the Divinely prescribed punishment is retaliation such as loss of limbs, eyes, nose, ears and other grievous bodily injuries in which the victim has the option to demand for compensation (*diyab*) instead of retaliation (*qisas*).

Ta'azir offences include all other offences against which imposition of punishment is left to the discretion of the presiding judge, such as criminal breach of trust, forgery, currency counterfeiting etc. Sharia is not, however, confined to only *budud*, *qisas* or *ta'azir* offences which together constitute only about one-fifth of the whole body of Divine Laws, but is also a complete way of life for all Muslims and includes absolute obedience to Allah the Exalted and His Messenger, Prophet Muhammad (SAW), respect for and kindness to parents, kindness to children and the aged, good neighbourliness, honesty and truthfulness. It also includes rules about marriage relationships, property and land disputes and guardianship of orphans and *waqf*.

Under the Islamic legal system only the *budud*, *qisas* and *ta'azir* offences and civil cases pertaining to property and land disputes and personal law matters regarding marriage, inheritance, *waqf* and guardianship of orphans need the intervention of the Sharia Courts. Obedience or not to all other body of Divine Laws depends entirely on the degree or strength of the faith of each individual and his relationship with his creator.

These Sharia criminal offences although already codified in the Holy Qur'an are again codified in the Sharia Penal Code of Bauchi State as required by section 36(12) of the 1999 Constitution.

11.0 ENFORCEMENT OF SHARIA

The pre-requisites for effective enforcement of any law include: an efficient and loyal law enforcement organisation; a virile, well informed and responsive citizenry; a well-organised judicial system administered by honest and Allah-fearing judges and an articulate, dynamic, pragmatic and Islamically-oriented executive and legislative arms of government.

It is the constitutional responsibility of the Nigeria Police under the Police Act to enforce all laws and regulations made by the National Assembly, House of Assembly of a State or Local Government Councils. Thus, it is the binding duty of the Nigeria Police Bauchi State to enforce the Sharia Penal Code Law 2001 of Bauchi State.

Under the provisions of section 215 sub-section 4 of the 1999 Constitution "the Governor of a State or such Commissioner of the Government of the State as he may authorise in that behalf, may give to the Commissioner of Police of the 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....”

The attention of the Commissioner of Police should therefore be drawn to his constitutional responsibility to enforce the provisions of the Sharia Penal Code being a law made by the House of Assembly. Adequate use should be made of the *bisbab* organisation to facilitate flow of information to enable effective enforcement.

12.0 CONCLUSION

We, the members of the Task Force on Sharia Implementation, would like to use this opportunity to once again thank His Excellency the Executive Governor, Alhaji (Dr) Ahmadu Adamu Mu’azu and his Government for giving us the opportunity to serve in the Task Force. We hope our humble contribution has positively helped in the historic implementation of Sharia which took off with effect from 1st June, 2001 throughout the State. We also thank the Chief Judge Alhaji Suleiman Darazo, the Grand Kadi, Alh. Ahmad Rufa’i Ibrahim and the Judicial Service Commission for their unfailing support and cooperation without which our work would not have been so successfully accomplished. We thank the Deputy Governor, the Secretary to the State Government and the Head of Service for their cooperation and guidance. We are also grateful to the Emirs of Bauchi and Katagum for their fatherly advice and moral support. We thank the Chairman of Katagum Local Government for his hospitality during our visit to Azare and all other Local Government Chairmen for their support and cooperation in attending to our numerous requests in the course of our assignment. We cannot forget the wonderful contribution of the Ministry of Works in painstakingly preparing and costing estimates of proposal court buildings and residential quarters for Sharia Court judges which we recommended to government. Members of all Muslim organisations, aid groups and *bisbab* organisation and the general public also deserve our appreciation for the interest shown and their contribution to the successful take off of Sharia. We are most grateful to all media houses, their chief executives and staff especially the BATV for their effective coverage of our activities. Finally we thank all members of the Task Force, the Secretary, Alh. Habibu Idris Shall, the Deputy Secretary Alh Ali Babyo Gamawa and the entire staff especially secretarial staff for their dedication and good quality production. May Allah shower His blessings on all.

[Members of the Task Force again listed as in § 5.1 above, with signatures.]

REPORT OF THE TASK FORCE ON SHARIA IMPLEMENTATION BAUCHI STATE OF NIGERIA

Submitted to the Executive Governor of Bauchi State
His Excellency Alhaji (Dr.) Ahmadu Adamu Mu'azu (Mutawallen Bauchi)
14th August, 2001

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ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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2. Letter from Task Force Chairman to the Director, Judicial Service Commission, re Appointment of Judges of Sharia Courts

**TASK FORCE ON SHARIA IMPLEMENTATION
BAUCHI STATE OF NIGERIA**

ADMINISTRATIVE SECRETARIAT;

Gombe Road (Adjacent Local Government Audit) Bauchi Ph: 077-642259
Our Ref: TFSI/BS/ADM/Vol.I/75 Your Ref:----- Date: 15th May 2001

The Director,
Judicial Service Commission,
Bauchi State Judiciary,
Bauchi.

**RECOMMENDATIONS FOR APPOINTMENT OF SHARIA COURT
JUDGES**

1. One of the terms of reference of the Task Force on Sharia Implementation, which was inaugurated by the Executive Governor on 27th February 2001 is appointment of judges and inspectors of Sharia Courts in liaison with the State Government, the Judicial Service Commission and the Office of the Grand Kadi of the State (see [Annex I](#) attached).
2. The first requirement of the exercise is to ascertain the optimum number of Sharia and Upper Sharia Courts for the first phase, which is the take-off phase as well as the number that will be required in the subsequent or second phase. It is envisaged that the take-off phase will commence 1st June 2001 and should be completed by December 2001. The second phase is to commence as from 1st January 2002 and be completed including buildings by 31st December 2002.
3. The Second requirement is to ascertain the number of judges that will be required to man these established courts under the two phases.
4. The third requirement is to ascertain the realistic number of inspectors, registrars, clerks and other staff that will be required to support these courts.
5. At paragraph 3.1.4 of the White Paper, the State Government has approved, for the take-off phase, the establishment of at least one (1) Sharia Court in each administrative district area and one (1) Upper Sharia Court in each Local Government Area of the State.

PHASE I: TAKE-OFF 1ST JUNE 2001 – 31ST AUGUST 2001

A. SHARIA COURTS

6. As is the case at present, there is at least one Area Court in each administrative district of the State. These will now be re-designated Sharia Courts and the total number should be as follows:

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

	Local Govt.	Administrative Districts		District Hqtrs Town
1.	Alkaleri	Pali	1.	Alkaleri
		Duguri-Gwana	2.	Duguri
			3.	Futuk
2.	Bauchi	Bauchi Town	4.	Kobi
			5.	Tashar Babiye
		Galambi	6.	Kangere
		Zungur	7.	L/Katagum
3.	Dambam	Dambam	8.	Dambam
		Dagauda	9.	Dagauda
		Jalam	10.	Jalam
4.	Darazo	Darazo	11.	Darazo
		Sade	12.	Sade
5.	Dass	Dass	13.	Dass
6.	Gamawa	Gwamawa	14.	Gamawa
		Udubo	15.	Udubo
7.	Ganjuwa	Ganjuwa	16.	Kafin Madaki
8.	Giade	Giade	17.	Giade
9.	Itas/Gadau	Itas	18.	Itas
		Gadau	19.	Gadau
10.	Jama'are	Jama'are	20.	Jama'are
		Dogonjeji	21.	Dogonjeji
		Jurara	22.	Jurara
		Hanafari	23.	Hanafari
11.	Katagum	Azare	24.	Azare I
			25.	Azare II
		Madara	26.	Madara
		Chinade	27.	Chinade
12.	Kirfi	Kirfi	28.	Kirfi
13.	Misau	Yerima	29.	Misau
		Hardawa	30.	Hardawa
14.	Ningi	Ningi	31.	Ningi
		Burra	32.	Burra
15.	Shira	Shira	33.	Shira/Yana
		Disina	34.	Disina
16.	Tafawa Balewa	Lere	35.	T/Balewa
		Bula	36.	Bununu
17.	Toro	Toro	37.	Toro
		Lame	38.	Gumau
		Jama'a	39.	Nabordo
18.	Warji	Warji	40.	Katangan Warji
19.	Zaki	Katagum	41.	Katagum
		Sakwa	42.	Sakwa
20.	Bogoro	Bogoro	43.	Bogoro

There will thus be 43 Sharia Courts to be established in the 41 administrative districts of the State for the take-off phase.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

B. UPPER SHARIA COURTS

7. There are two (2) Upper Sharia Courts in Bauchi Metropolis as at now, there should thus be 21 Upper Sharia Courts going by the Government White Paper since there are 21 Local Governments in the State. However, Bogoro Local Government, being a predominantly non-Muslim area, will have only one Sharia Court. There will not be enough cases for the Upper Sharia Court as an appellate and first instance court. No Upper Sharia Court will therefore be established in Bogoro Local Government to be heard by Upper Sharia Court will be referred to Tafawa Balewa Upper Sharia Court. There will thus be 20 Upper Sharia Courts for the State to be established as follows:

	Local Govt.	Location of Upper Sharia Court
1.	Alkali	Alkali
2	Bauchi	Bauchi
3	Bauchi	Bauchi
4	Dambam	Dambam
5	Darazo	Darazo
6	Dass	Dass
7	Gamawa	Gamawa
8	Ganjuwa	Kafin Madaki
9	Giade	Giade
10	Jama'are	Jama'are
11	Itas/Gadua	Itas
12	Katagum	Azare
13	Kirfi	Kirfi
14	Misau	Misau
15	Ningi	Ningi
16	Shira	Yana
17	Tafawa Balewa	Tafawa Balewa
18	Toro	Toro
19	Warji	Katangan Warji
20	Zaki	Katagum

C. APPOINTMENT OF SHARIA COURT JUDGES

8. As can be seen from the above calculations. 43 Sharia Court and 20 Upper Sharia Court judges will need to be appointed to man the courts scheduled to take off under phase 1 by 1st June 2001.

A total number of 89 judges already in the service have been interviewed and 99 new applicants sat for written tests out of whom 56 have been interviewed (see [Annex II](#) and [III](#) attached for the overall results).

(i) EXISTING SHARIA COURT JUDGES

In the opinion of the Task Force, the following existing judges are qualified by good service record, education and experience, for re-designation as Sharia Court judges and to be deployed as follows:

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

S/No	Name	Designation	Salary Grade	Posting
[1-36]	[omitted]	[SC] to HSC], SSC]II, SSC] I, PSC] II]	[GL 08 to GL 12]	[to all but seven of the forty- three District Headquarters Towns listed in ¶ 6 above]

Going by the above posting, it could be observed that Duguri, Kangere, Jalam, Sade, Jurara, Hanafari and Bogoro Sharia Courts have not been posted Sharia judges on the list above. Seven out of the new judges proposed for direct appointment are however recommended to fill these vacant positions and the details were provided under item vi (paragraph 13) of this letter.

(ii) **EXISTING UPPER SHARIA COURT JUDGES AND THOSE TO BE PROMOTED**

9. Out of the eight (8) existing Upper Area Court judges, three have not been recommended for appointment as Upper Sharia Court judges either because they are overdue for retirement due to age or length of service or because of pending petitions against them for alleged wrong doing fifteen vacancies are therefore available to be filled by appointments as follows:

S/No	Name	Present Status	Salary Grade	Recommendation	Posting
[1-20]	[omitted]	[HAC] to SAC] II, SAC], PAC] II, PAC] I, UAC] I, UAC]I]	[GL 09 to GL 15]	[all to be re- designated or appointed Upper Sharia Court judges, all on GL 14 or 15]	[the 20 locations of Upper Sharia Courts listed in ¶ 7 above]

(iii) **NORMAL RETIREMENT**

10. The under listed are recommended for normal retirement because of age or length of service.

S/No	Name	Status	Salary Grade	Date of Birth	Date of First Appointment
[1-3]	[omitted]	[PAC] II (2) and UAC] II]	[GL 12 (2) and GL 14]	[all 1940]	[1969, 1972, 1974]

(iv) **UNSUITABILITY TO SERVE AS SHARIA COURT JUDGES**

11. The Task Force is unable to recommend the following for appointment as Sharia Court judges either because of sub-standard performance at the interviews which indicates incompetence on their parts or because of pending petitions and complaints alleging wrong doings against them which are yet to be resolved. It will be better for the Commission to deal with their cases as deemed appropriate.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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S/No	Name	Status	Salary grade	Interview score	Remarks
[1-16]	[omitted]	[ACJ to HACJ, SACJ II, SACJ I, PACJ I, PACJ, UACJ II]	[GL 08 to GL 14]	[21% to 49%]	["Below Standard", "Questionable Conduct", "Pending Petitions", or two of the above]

(v) **PENDING PETITIONS AND COMPLAINTS**

12. The Task Force is also unable to make any recommendation in respect of the following judges because of the pending petitions and complaints against them. (See [Annex IV](#) for the summary of allegations labeled against them). The Commission is in a better position to deal with their cases appropriately.

S/No	Name	Status	Salary grade	Interview score	Remarks
[1-14]	[omitted]	[HACJ to SACJ II, SACJ I, PACJ II, PACJ, UACJ]	[GL 09 to GL 15]	[51% to 73%]	[all: "Pending Petitions"]

PHASE II: 1ST SEPTEMBER 2001 – 31ST DECEMBER 2001

D. SHARIA COURTS IN MAJOR VILLAGES

13. Even at present, there are Area Courts in nearly all-major villages throughout the State. These will be phased out with the coming into force of the Sharia Courts Commencement (Administration of Justice and Cain consequential changes) Law, 2000. As shown in the proceeding paragraphs, only 43 Sharia Courts and 20 Upper Sharia Courts will operate during the take-off or first phase of the Sharia implementation exercise as from 1st June 2001. The Task force is however, proposing that after the initial take-off, consideration should be given as the need arises for the establishment of more courts especially in major villages as follows:

S/No	Local Govt.	Administrative District		Major Villages Sharia Court Location
1.	Alkaleri		1.	Digare
			2.	Yashi
2.	Bauchi		3.	Doya
			4.	Tudun Alkali
			5.	Juwara
			6.	Tudun Gambo
			7.	Bayara
3.	Dambam		8.	Yame
4.	Darazo		9.	Lanzai
			10.	Konkiyel
			11.	Papa
5.	Dass		12.	Dass
			13.	Bazali
6.	Gamawa		14.	Gololo

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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			15.	Gadiya
7.	Ganjuwa		16.	Soro
			17.	Miya
			18.	Nasarawa
			19.	Zalanga
8.	Giade		20.	Zabi
			21.	Isawa
9.	Itas/Gadau		22.	Magarya
10.	Jama'are		-	-
11.	Katagum		23.	Bulkachuwa
12.	Kirfi		24.	Bara
			25.	Dewu
13.	Misau		26.	Akuyam
			27.	Zadawa
14.	Ningi		28.	Nasaru
			29.	Gadar Maiwa
			30.	Agwar Maji
			31.	Yada Gungume
15	Shira		32.	Faggo
16.	Tafawa Balewa		33.	Dull
			34.	Dajin
			35.	Bolo
			36.	Lere
17	Toro		37.	Tulu
			38.	Rishi
			39.	Nahuta
			40.	Rimin Zayam
			41.	Tilden Fulani
			42.	Tulai
18	Warji		43.	Baima
			44.	Tudun Wada
19.	Zaki		45.	Lodiyo
			46.	Kafin Larabawa
20	Bogoro		-	-

(vi) **NEW APPLICANTS**

14. The following new applicants are recommended for immediate appointment as Sharia Court judges on appropriate grades for commencement of service³ from 1st June 2001 under the first phase of the Sharia implementation.

S/No	Name	LGA	Educational Qualification	Date of Birth	Test Score	Posting
[1-7]	[omitted]	[4 Bauchi 1 Darazo 2 Katagum]	[1 Diploma in Arabic and Hausa 1 Diploma in Hausa, Arabic and Islamic Studies 1 Diploma in Sharia and Common Law]	[1960 to 1976]	[69% to 79.5%]	[various]

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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			1 B.A. in Arabic 2 B.A. in Arabic and Islamic Studies 1 B.Ed. in Hausa and Islamic Studies]			
--	--	--	---	--	--	--

15. The following new applicants are also recommended for direct appointment as Sharia Court judges on appropriate grades for commencement of service from 1st September 2001 under the second phase of the Sharia implementation. They should however be immediately appointed and attached to the older judges for a period of three months (i.e. from 1st June to 31st August 2001) after which they may be posted to the various stations indicated against their names during which the Area Courts system will be completely phased out. They are as follows:

S/No	Name	LGA	Educational Qualification	Date of Birth	Test Score	Posting
[1-32]	[omitted]	1 Alkaleri 10 Bauchi 1 Dambam 2 Darazo 1 Dass 1 Giade 4 Ganjuwa 2 Katagum 5 Tafawa Balewa 4 Toro 1 Zamfara State	[1 Qur'anic School 2 NCE Arabic 8 Diploma in Arabic and Hausa 4 Diploma in Hausa, Arabic and Islamic Studies 7 Diploma in Sharia and Common Law 1 Advanced Diploma in Arabic 1 B.A. in Arabic 1 B.A. in Sharia 2 B.A. in Islamic Studies 2 B.A. in Arabic and Islamic Studies 1 B.A. in Hadith and Islamic Studies 1 M.A. in Arabic 1 M.A. in Arabic and Islamic Studies]	[1954 to 1972]	[55% to 68%]	[various]

16. For the 46 Sharia Courts recommended for the second phase of the Sharia implementation, only the 32 new judges listed above are hereby recommended for direct appointment. The Task Force is unable to conduct recruitment interviews in Katagum Senatorial District because of the time factor. In view of that, it is strongly recommended that you should employ from Katagum Senatorial District the balance of 14 new judges required and post them along with the 32 recommended above immediately to Yame, Nasarawa, Zabi, Isawa, Magarya, Bulkachuwa, Akuyam, Zadawa, Agwarmaji, Yada-Gungume, Dajin, Nahuta, Tudun Wada and Lodiyo Sharia Courts for the second phase of the Sharia implementation.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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E. **APPOINTMENT OF INSPECTORS, REGISTRARS AND OTHER SUPPORTING STAFF**

17. Recommended in respect of these category of staff will be forwarded later.

SUMMARY

[Courts]

Phase I [1/6/2001 – 31/8/2001]	
Upper Sharia Courts	20
Sharia Courts	<u>43</u>
	63
Phase II [1/9/2001 – 31/12/2001]	
Sharia Courts	<u>46</u>
Total	<u>109</u>

Judges

Phase I [1/6/2001 – 31/8/2001]	
From existing judges	20 Upper Sharia Court judges
From existing judges	36 Sharia Court judges
From new applicants	<u>7</u> Sharia Court judges (Training)
	63
Phase II [1/9/2001 – 31/12/2001]	
From New applicants	<u>46</u> New judges in training
[Total]	<u>109</u>

They should be appointed now and placed on training but to be deployed w.e.f 1/9/2001.

Thank you

ALH. MUHAMMADU DANMADAMI, CFR, NP'M, mni
(Sa'in Katagum)
Chairman

Copy to:
The Secretary to the State Government
Governor's Office
Bauchi.

Above is submitted for His Excellency's information. In order to boost the morale of the Sharia judges and curtail the tendency of their being corrupt, it is strongly recommended that the following scale of allowances be approved for them to be paid

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monthly along with their Salaries. You will recall that the State Government has recently approved similar allowances for Magistrates and State Counsel Officials. To this end, the Task Force recommendation is as follows:

IMPROVED FRINGE BENEFITS TO SHARIA JUDGES

Sharia & Upper Sharia Judges	Domestic Staff Allowance	Inducement Allowance	Total Package
GL. 08	5, 000.00	3, 500.00	N8, 500.00
GL. 09	5, 000.00	4, 000.00	9, 000.00
GL. 10	6, 000.00	5, 000.00	11, 000.00
GL. 12	7, 000.00	6, 000.00	12, 000.00
GL. 13	8, 000.00	6, 000.00	14, 000.00
GL. 14	9, 000.00	6, 500.00	15, 500.00
GL. 15	10, 000.00	7, 000.00	17, 000.00

2. In addition to the above, it is also recommended that the State Government should consider the possibility of giving special loans to the Sharia judges to enable them purchase vehicles in order to ease their transportation problems as well as raise their status in the community, please.

ALH. MUHAMMADU DANMADAMI, CFR, NP'M, mni
(Sa'in Katagum)
Chairman

ANNEX 1
TERMS OF REFERENCE
BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION

1. To co-ordinate the take-off of the Sharia Legal System. In doing so, the Task Force should liaise with the State Government, the Judicial Service Commission and the Office of the State Grand Kadi on the establishment of the State Sharia Commission and the Sharia Consultative Council as well as the appointment of new judges and inspectors of Sharia Courts
2. To ensure that all-necessary groundwork for the take-off of the Sharia Legal System in the State is put in place before 31st May 2001.
3. The Task Force³ can co-opt any other person(s)m it deems appropriate to facilitate its onerous work.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION: DETAILS AND DOCUMENTATION

ANNEX II

MASTER LIST No. 1

BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION

Details of interviews for prospective Sharia and Upper Sharia Courts judges

S/No	Names of Judges	Date of Birth	L.G. of Origin	Highest Qualification	Present Post	Present Station	Sal. GL	Date of First Appt.	Date of Present Appt.	Marks	Grade
[1-89]	[omitted]	[1940 to 1970]	2 Alkaleri 18 Bauchi 1 Dambam 1 Darazo 5 Dass 9 Gamawa 2 Ganjuwa 1 Giade 2 Itas/Gadau 3 Jama'are 12 Katagum 2 Kirfi 6 Misau 4 Ningi 5 Shira 6 Tafawa Balewa 7 Toro 1 Warji 2 Zaki	2 Advanced Judicial Course 1 Islamic Studies Certificate 8 Higher Islamic Studies Certificate 18 Diploma in Hausa, Arabic and Islamic Studies 49 Diploma in Sharia and Civil Law 2 Advanced Diploma in Legal Studies 1 Advanced Diploma in Public Administration 3 B.A. in Islamic Studies 4 LL.B. 1 LL.B. and B.L.	[AC] to UACJ]	[various]	[08 to 15]	[1968 to 1996]	[1991 to 1999]	[21% to 85%]	3 A 39 B 44 C 3 F

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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ANNEX III

MASTER LIST NO. II

BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION

Result of written test of 30th April and interview of 8th May 2001 for new applicants for the post of Sharia Courts judges

S/No	Names	Qualifications	LG of Origin	Date of Birth	Years of Service	Written Test Score	Interview Score	Total Scores	Remarks
[1-56]	[omitted]	2 Qur'anic School 1 Junior Islamic Studies Cert. 1 SSCE Cert. 2 NCE Arabic 2 Diploma Arabic Studies 9 Diploma Arabic & Hausa 5 Diploma Hausa, Arabic & Islamic Studies 13 Diploma Sharia & Civil Law 3 Diploma ?? 1 Advanced Diploma Arabic 1 Advanced Diploma ?? 2 B.A. Arabic 4 B.A. Arabic & Islamic Studies 2 B.A. Sharia 1 B.A. Islamic Studies 1 B.A. Hadith & Islamic Studies 1 B.Ed. Islamic Relig. Knowledge 2 B.Ed. Hausa & Islamic Studies 1 M.A. Arabic 2 M.A. Arabic & Islamic Studies	2 Alkaleri 21 Bauchi 5 Darazo 1 Dass 1 Gamawa 4 Ganjuwa 2 Giade 4 Katagum 1 Misau 1 Ningi 7 Tafawa Balewa 6 Toro 1 Zamfara State	[1942-1979]	[3-30, with 16 "???"]	[45-70.5]	[4.5-10]	[47.5-79.5]	39 recommended 1 disqualified 16 not recommended

ANNEX IV

POSITION OF THE TASK FORCE ON SOME AREA AND UPPER JUDGES PETITIONED AGAINST FOR CORRUPT PRACTISES AND OTHERS WHOSE OUTWARD CONDUCTS AND DISPOSITIONS WITHIN THEIR AREAS OF JURISDICTIONS ARE MANIFESTLY INJURIOUS TO THE IMPLEMENTATION OF SHARIA LEGAL SYSTEM IN BAUCHI STATE

1. **[Name omitted]** Upper Area Court Judge II GL. 14 – Scores 48%
 - (a) He was petitioned for non issuance of receipts after making payment [particulars omitted].
 - (b) He was petitioned by [name omitted] on land matters.
 - (c) [Name omitted] petitioned requesting the indulgence of the Chief Judge for the refund of N53, 000 collected by the judge.
 - (d) [Name omitted] petitioned requesting the Chief Judge to compel the judge to refund N20, 000 to him
 - (e) He was also petitioned by [name omitted], a judgment creditor who was awarded N150, 000 but was only given N20, 000 by the judge.

In almost all the cases, the judge was requested to say his own side of the story but he is yet to respond to any. Ministry of Justice has once written the Director of JSC and the matter is being investigated.

2. **[Name omitted]**, SACJ GL. 09 scores 48%
 - (a) He was petitioned in 1999 by one [name omitted] for misappropriating his judgment creditor money.
 - (b) A petition was sent in jointly by six persons from [place-name and date omitted] alleging that the judge after conducting a trial without giving them fair hearing. At last he convicted them an imposed fines convict and fines as well as comprises [sic]. They alleged that the fines were without receipts. It needs to be verified and investigated whether something was done in that direction. The Director of Area Court or the petitioner can be contacted to ascertain the final position of things.
3. **[Name omitted]**, SACJ II Scores – 55%

He was petitioned by one [name and LGA omitted] for not handing over the sum of N33, 750 being share of an estate to the petitioner's wife. According to him, he should have handed over the money to the judge in [name omitted] while proceeding on transfer. There was a directives by the Chief Judge that the matter be investigated and he reported back to him. There is nothing in the file to show that the matter is concluded.
4. **[Name omitted]**, SACJ I GL. 10 Scores 38%

In a letter dated [date omitted], the [title omitted] informed the [title omitted] that the judge and his registrar [name of registrar and name of court omitted] connived with some criminals in the Area in collaboration with one [name omitted], a person who claims under a cover of charge and bail. The [title omitted] has endorsed the

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

letter to the Chief Judge who also directed the Director of Area Court to proceed and investigate the matter and report back. However there is nowhere in the file to show that something of that direction was done. The judges and the registrars were only transferred.

5. **[Name omitted]**, HACJ GL.09 – Scores 68%
Like his counterpart above he was reported by the [title omitted] for conniving with criminals in the Area to intimidate innocent citizens. His registrar [name omitted] is also indicted.
6. **[Name omitted]**, PACJ II GL. 12 Scores 56%
 - (a) There was a petition by one [name omitted] against the judge while he was a judge at the [name of court omitted] sometimes in [date omitted]. According to the petition, the judge demanded the sum of N10, 000 on the pretext that he will give judgment in his favour against one [name omitted]. According to the petitioner since judgment was not done in his favour he therefore demanded his money back. The Chief Registrar directed that the judge should put forward his comments but to no avail.
 - (b) There were complaints against the judge for befriending women litigants and some reports had it that he married so many women litigants before his court. Reference could be made to [names of courts] for details as the petition reads.
7. **[Name omitted]**, HACJ GL. 09, Scores 50%
 - (a) There was a petition sent in by one [name omitted] against the judge when he was at [name of court omitted]. He said at [name of court omitted] the judge fixed Kull'l for N20,250 and his daughter paid the amount to the court, unfortunately the money was not given to the former husband who therefore did not allow them to collect her belongings. He went on to say that the former husband appealed to Upper Area Court II [place-name omitted]. The appellate court after hearing the case dismissed the appeal. The petitioner was shocked stressing that instead for the former husband to appeal again he went to headquarters and complained where it was directed that the case be retried at the [name of court omitted]. He said after that was done, the [name of court omitted] arrived at yet another judgment where his daughter was made to pay another Kull'l amounting to N17,500. His appeal to the Chief Judge was to compel the judge to refund the N20,250 which his daughter paid as Kull'l when the judge was sitting at [place-name omitted].
 - (b) Another petition was also sent in [date omitted] from one [name omitted] alleging that the judge has misappropriated Kull'l money amounting to sixty thousand naira (N60,000) while he was the Area Court judge at [place-name omitted].
8. **[Name omitted]**, HACJ, GL. 09 Scores 72%
The Area Court judge had series of petitions against him almost all on misappropriation of judgment creditors money. A petition was received on [date

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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omitted] alleging that he misappropriated the sum of forty-five thousand naira (N45,000) being Kull'l money when he was a judge at [name of court omitted].

9. **[Name omitted]**, UACJ, Alkaleri, Score 60%

Some petitions were levelled against the judge for misappropriating various sums of money for litigants as follows:

- (a) A petition dated [date omitted] signed by one [name of person and his town omitted] alleged that the judge demanded the sum of seventeen thousand naira (N17,000) to assist him in granting judgment in his favour over a land matter in [place-name omitted] when he was the Upper Area Court judge [place-name omitted]. The issue was not settled, as there was no evidence to show that the matter was concluded. The Chief judge advised the petitioner to take legal action to recover his money back.
- (b) There was yet another petition from [name of person and his town omitted] dated [date omitted], alleging that at various times during the substance of a case at the [place-name omitted] Upper Area Court the judge illegally collected the sum of twenty-eight thousand naira (N28,000). The Chief Judge directed that it should be investigated and if confirmed the judge should refund same. After the Chief Judge's intervention, the judge agreed to refund only fifteen thousand naira (15,000) as against twenty-eight thousand naira (N28,000). Out of the fifteen thousand naira he admitted to have collected, he refunded only three thousand five hundred naira (N3,500) from all indications it is the failure of the judge to refund the remaining sum that motivated him to send a reminder. The Chief Judge therefore gave the judge an ultimatum dated [date omitted] by 12.00 within when to refund the sum of eleven thousand five hundred naira (N11,500). There is no record to show that the matter was concluded.

10. **[Name omitted]**, PACJ GL. 12 Scores 73%

- (a) The Divisional Inspector of Area Courts, [place-name omitted] Division [name omitted] is reporting the judge to the Director of Area Courts over the judge's continued disrespect to lawful orders given to the judge. He cited an instance when a litigant sought his assistance over a case, the judge brought his personnel from the court including the court orderly and arrested and molested the litigant, he said the same disturbed every body including the people sitting around the Emir's Palace [place-name omitted]. He said if he had not restrained himself it would have been a serious scandal to the judiciary.
- (b) The Divisional Inspector cited some instances when the judge misappropriated some judgment creditor money. He said in the case of [case-name omitted] decided by the judge, the Divisional Inspector went on to say that the defendant in that case confirmed to him that he made payment of over forty-thousand naira of the judgment debt to the court, but the plaintiff after making several attempts to collect the amount was given only five thousand naira (N5,000)
- (c) Similarly, the Divisional Inspector made a reference to a case involving one [name omitted] where the judge misappropriated Kull'l money and was asked to refund the money. The case was still not over

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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- (d) A petition dated [date omitted] was addressed to the Chief Judge alleging among other things that the judge misappropriated a Kull'l money amounting to fifteen thousand naira (N15,000). Similarly in the same case he demanded the sum of seven thousand naira (N7,000) and was given without refunding it to the petitioner.

It is certain from the directives of the Chief Judge, the judge has admitted misappropriating the money, where he was directed that the Director of Area Courts should collect all the money and refund same to the petitioner. It was not stated in the file if the order was complied with or not at all.

11. **[Name omitted], SACJ GL. 09 Scores 39 %**

There was a petition from [name of person and his village omitted] where the petitioner is alleging that one [name omitted] trespassed into his farm; he therefore sought the intervention of the Maiunguwa so that the matter is settled at their level. He said, when the matter was being settled, the trespasser took the matter to court. The judge without finding the true position of things remanded him in prison custody. The judge demanded the sum of two thousand naira before he was granted bail. When the case came for trial the judge also demanded the sum of ten thousand naira (N10,000) so that he could give him back his farm. The petitioner pleaded with the judge to reduce the sum, and yielded and reduced it to six thousand five hundred naira (N6,500) and was collected by the judge without refund.

At the conclusion of the case, the judge did not give the petitioner the farm in question. The petitioner's prayer is that the Chief Judge should retrieve the sum of thirteen thousand naira (N13,000) being his money from the judge and be refunded back to him. The petitioner said he gave the money in the presence of the Maiunguwar [place-name omitted].

12. **[Name omitted], PACJ II GL. 12 Scores 53%**

- (a) In [date omitted], he was interdicted by the judicial service commission for delving himself into the affairs of [name of court omitted] and also for receiving gratification to the tune of three thousand naira (N3,000) from one [name omitted], later he was cleared.
- (b) The [name of organisation omitted] also petitioned against the judge alleging that the judge has misappropriated the sum of thirty eight thousand eight hundred naira being bail deposit of one of their members named [name omitted] when he was the judge at [name of court omitted] in [date omitted]. He was queried on why he should not be disciplined for so doing. In his reply to the query, he said the sum in question was not bail deposit, but compensations for three different judgments all involving [name omitted] a member of [name of organisation omitted]. The commission on the other hand invited the petitioner to hear his own version but before the due date the petitioner sent in a letter informing the commission that he has withdrawn his petition against the judge and he gave so many reasons that he could not be reached for anything in connection with the petition.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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13. **[Name omitted]**, SACJ I GL.10, Scores 56%

He was interdicted and later reverted from the judge's cadre to that of registrar in [date omitted] for demanding and receiving gratification from one [name omitted] when he was a judge at [name of court omitted]. In [date omitted] the reversion order was lifted and he was once again reinstated as a judge.

A petition was lodged against the judge by one [name omitted] alleging among other things that the judge failed to refund bail deposit for himself and four others amounting to seven thousand naira (N7,000). The Chief Judge has directed a formal letter be written to the judge to that effect but there is no response from him.

14. **[Name omitted]**

A petition dated [date omitted] was addressed to the Chief Judge by one [name of person and his town omitted] alleging that the judge has collected the sum of sixteen thousand naira (N16,000) from the petitioner through one [name omitted] over a loss and found cow when he was a judge at [name of court omitted].

In another petition dated [date omitted] signed by [name of person and his town omitted] alleged that the judge collected the sum of fourteen thousand naira (N14,000) through his registrar [name omitted] as follows:

The petitioner alleged that the case was that of [name omitted], the judge collected ten thousand naira (N10,000) and one hundred tubers of yam through [name omitted] his registrar.

The registrar of the [name of court and of person omitted] also collected the sum of four thousand naira (N4,000) as part of his own share to pave way for the petitioner to get judgment in his favour.

Another petition dated [date omitted] by [name of organisation omitted] alleged that the judge while at [name of court omitted], the judge heard a case which was finally determined by the [name of court omitted] and when record of proceeding were brought from the [second court] the judge ignored them and confer title on [name omitted].

15. **[Name omitted]**, HACJ I GL 09 Scores 44%

(a) This is a joint petition by people numbering fifteen from [name of town omitted] dated [date omitted] alleging among other things:

- (i) That when he was sharing the estate of the wife of one [name of person and town omitted], he made away with one goat and money.
- (ii) That he received the sum of four thousand naira (N4,000) as bail deposit from one [name omitted] without refunding it back at the end of the case.
- (iii) The following people [names omitted] are requesting the Chief Judge to compel the judge to refund the sum of nine thousand eight hundred naira (N9,800) being money collected by the judge at various cases before the judge.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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- (iv) That the judge could not control his carnal desire with women litigants, a mention was made of one [name omitted], a litigant who the petitioners alleged had immoral dealings with her.
 - (v) That the judge collected between N500 to N700 from twenty-five people who were alleged to have put a mentally deluded woman in a family way. The amount collected, was said to be used for catering for the alleged pregnant woman up to the delivery period, they further alleged that up till this time around, the woman has not delivered and if at all she delivers they want the child if not they want their money back.
 - (b) A petition dated [date omitted] signed by three people namely [names omitted] alleged that the judge had a questionable character that does not qualify him to serve as a Sharia judge. They cited as an example that the judge has a habit of involving himself in love affairs with women litigants and also misappropriates litigants' money.
16. **[Name omitted], SACJ I GL.10 Scores 53%**
- (a) There was a petition addressed to the Divisional Inspector of Area Courts of [name of zone omitted] signed by one [name omitted] dated [date omitted] alleging among other things tampering with the accounts of children of late [name omitted] with the [name of bank omitted]. The petition further alleged that the heirs of the estate of [name omitted] are minors, namely [names omitted] whose estate is entrusted with the court presided by the judge. According to the petitioner, it came to their notice also that it was only the account of [one of the children] that was opened while that of [the other child] was never opened. The petitioner, further alleged that even the account of [the first child] which was opened, it came to their notice also that the sum of fifteen thousand naira (N15,000) was withdrawn without the consent of the account's holder. At the end the petitioner threatened to institute legal action if the judge fails to refund the amount allegedly withdrawn.
 - (b) The judge was said to have played a great role in disposing of two plots of land near Government Lodge [name of town omitted] belonging to the wife of [name of person omitted]. The case is right now before [another court]. It was further alleged that it was this episode that led to the dismissal of one [name omitted] a staff of the [name or organisation omitted] attached to the Area Office [name of town omitted].
 - (c) He was petitioned on [date omitted] by one [name of person and his town omitted] alleging that the judge misappropriates the petitioner's money amounting to N30,000 and also re-opened bank account of a heir and even withdrawn some money without the heir's consent.
17. **[Name omitted], HACJ GL. 09 Scores 63%**
- Reports have it that, the judge's most disheartening conduct is having love affairs with women litigants. It was alleged that the judge cannot resist the temptation of any woman that comes his way as litigant. It was further alleged that it was this shameful act that caused his transfer from [name of town omitted] to the [Area Court in another town]. Some specific instances may be relevant as follows:

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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- (a) A petition dated [date omitted] revealed that when he was at [name of town omitted], he fell in love with a litigant and when he was returning her to base they had accident along the way and the woman burnt her thigh from the machines silencer.
 - (b) That while the judge was at [name of Area Court omitted], he fell in love with a police man's wife named [name omitted] the case is right now before the Chief Inspector of Area Court [name of district omitted].
 - (c) That at a certain time the judge unilaterally transferred the court sittings from [one town to another] for a field day.
18. **[Name omitted]**, HACJ GL. 09 Scores 48%
He was petitioned that his main problem was demanding and receiving gratification from litigants that is why he is all over nicknamed 'hokkan shede' meaning bring money. It was also alleged that he remands litigants at will and with the slightest provocation.
19. **[Name omitted]**, PACJ I GL. 13 Scores 40%
He is said to be a drunkard, this is to the knowledge of everybody and staggers around to the disappointment of everybody.
20. **[Name omitted]**, SACJI GL. 10 Scores 50 %
- (a) His file shows that in [date omitted] he was reverted from the judge's cadre to the registrar's cadre that is from [being a judge] to [being a registrar]. He made appeal to the judicial service commission in [date omitted] and the reversion order was lifted and he was once again re-posted as an area judge.
 - (b) A petition dated [date omitted] signed by one [name omitted] stated that at one time he impregnated one [name omitted] and she gave birth out of wedlock. Similarly, the petition alleged that he for the second time impregnated the wife of one [name omitted] who has a matter before him. The petition showed that he befriends the wife of [name omitted]. It further alleged that while at [name of court omitted], he impregnated a woman and that had even caused him to be downgraded in 1994.
 - (c) He is also said to be a drunkard.
21. **[Name omitted]**, PACJ I GL 13 Scores 48%
A petition dated [date omitted] was forwarded against him by the Sharia Committee of [name of district omitted] alleging that he has a questionable conduct. They alleged that the judge plays card and moves freely with women to notice of all persons. The petition also alleged that the judge has never brought his wife to [name of town omitted] but moves with women freely in the town.
22. **[Name omitted]**, ACJ I GL. 08 Scores 52%
His conduct as judge is quite unethical. He said to be a gambler he comes in love with woman litigant and also a drunkard.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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Observation:

The submissions on individual judges were made possibly [sic: possible] through the petitions sent in writing, verbal complaints and to some extent the conducts of the judges which were so constant and habitual to an extent they amount to evidence of general repute and common knowledge to every person. Failure to take into account such misconduct will be tantamount to a disservice to the implementation of the Sharia legal system in the State. And will in no small measure jeopardise the implementation of same.

The Task Force is of the view that academic qualifications per se is not enough to qualify one as a judge, his character and person must be beyond reproach. These are the considerations which guided the Task Force in arriving at its decisions.

The Task Force is aware that the petitions enumerated above are not exhaustive as there are many against Upper and Area Courts judges, but due to the poor record keeping at the Judiciary, those petitions could not be found. It is however the view of the Task Force that individual judges mentioned in this exercise could be invited to hear their side of the story, then on investigation, the JSC is at liberty to decide their fate. Inspectorate divisions of Area Courts need to be contacted to get to the root of the matter.

3. Letter from Task Force Chairman to the Director, Judicial Service Commission, re Appointment of Inspectors of Sharia Courts

**TASK FORCE ON SHARIA IMPLEMENTATION
BAUCHI STATE OF NIGERIA**

ADMINISTRATIVE SECRETARIAT;

Gombe Road (Adjacent Local Government Audit) Bauchi Ph. 077-642259

Our Ref: _____ Your Ref: _____ Date: _____

TFSI/BS/ADM/Vol.I/90

30th May, 2001

The Director,
Judicial Service Commission,
Bauchi State Judiciary,
Bauchi.

APPOINTMENT OF INSPECTORS OF SHARIA COURTS

According to its terms of reference, the Task Force is to liaise with the State Government, the Judicial Service Commission and the office of the Grand Kadi in respect of the appointment of Sharia Court judges and inspectors. The Task Force has already dealt with the appointment of Sharia Court judges vide letter No. TFSI/BS/ADM/Vol.I/75 dated 15th May 2001.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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2. Section 31 of the Sharia Courts (Administration of Justice and Certain Consequential changes) Law, 2001 provides that a Chief Inspector and any such number of inspectors may be appointed for the Sharia Courts.

At present, there are eight inspectors headed by a Director of Area Courts deployed as follows:

Headquarters	-	2 (including the Director)
Bauchi Inspectorate Office	-	2
Katagum Inspectorate Office	-	3
Misau Inspectorate Office	-	1
Ningi Inspectorate Office	-	1

3. As can be seen from the provision of section 31 of the Sharia Court Law 2001, the office of Director of Area Courts is abolished and replaced by the office of Chief Inspector of Sharia Courts under the new dispensation. For the purpose of proper and effective control, it is thus recommended that one chief inspector and one deputy chief inspector of Sharia Courts be appointed for the Sharia Court Inspectorate Headquarters under the office of the Grand Kadi in Bauchi.

4. It is also recommended that two assistant chief inspectors should be appointed one each for Bauchi and Katagum zones. They should be assisted by 2 inspectors each making a total of eight as follows:

1 Chief Inspector	-	Headquarters
1 Deputy Chief Inspector	-	Headquarters
1 Assistant Chief Inspector	-	Bauchi Zonal office
1 Assistant Chief Inspector	-	Katagum Zonal office
2 Inspectors	-	Bauchi Zonal office
2 Inspectors	-	Katagum Zonal office

5. In order to find suitable candidates to recommend to the JSC for appointment to fill the above mentioned posts, the Task Force interviewed 20 candidates made up of serving inspectors and other court personnel and new applicants. The following that have been found suitable are recommended for appointment:

- (i) **[Name omitted]**: Born in [date and place omitted]. He holds a BA degree in Islamic Studies and a Postgraduate Diploma in Educational Psychology. He is already an employee of the Judiciary holding substantive post of [name of post omitted] as well as [name of post omitted] on GL.15/3. He is well qualified by educational qualification and experience for the post of Chief Inspector of Sharia Courts and is accordingly recommended
- (ii) **[Name omitted]**: Born on [date and place omitted]. He holds an LL.B, BL degree. He has a good knowledge of Islamic Law and is presently a [position omitted] on GL. 12/1. He is recommended for appointment as Deputy Chief Inspector on GL. 14.
- (iii) **[Name omitted]**: Born in [date and place omitted]. He holds a Diploma in Sharia and Civil Law. He retired as Upper Area Court Judge II on GL. 14. Honest candidate with good knowledge of Islamic Law and practice and

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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considerable practical experience. He can still give some more years of useful service to the Sharia judicial service even though retired from the service. Strongly recommended for appointment on contract as Assistant Chief Inspector of Sharia Courts on GL. 14.

- (iv) **[Name omitted]**: Born in [date and place omitted]. Holds a Diploma in Sharia and Civil Law. Has fair knowledge of Islamic law. Recommended for appointment as inspector of Sharia Courts.
- (v) **[Name omitted]**: Born on [date and place omitted]. Holds a Diploma in Sharia and Civil Law. Presently employed as [position omitted] on GL. 07/7 and posted to [name of posting omitted]. Qualified for appointment as inspector and is recommended.
- (vi) **[Name omitted]**: Born in [date and place omitted]. Holds Higher Islamic Studies Certificate. Presently employed as a teacher at name of school omitted] on GL. 04/1. Recommended for appointment as inspector after induction training.
- (vii) **[Name omitted]**: Born in [date and place omitted]. Holds Diploma in Sharia and Civil Law. Although quite intelligent, has little practical experience. He is qualified for the post of inspector and is recommended for appointment after induction course.
- (viii) **[Name omitted]**: Born on [date and place omitted]. Holds LL.B – BL Civil law and presently employed in [position omitted] on GL. 08/9. Recommended for appointment as inspector of Sharia Courts on GL.09.

6. The following existing Area Court inspectors who have not been found suitable for the posts under the new dispensation may be re-deployed to other duties or otherwise dealt with as appropriate:

[names of seven persons omitted].

[Name omitted]: Did not attend the interview. The Task Force is therefore unable to make any recommendation on him.

7. Copies of the interview reports in respect of the Candidates are attached hereto.

Alh. Muhammad Danmadami CFR, NPM, mni

(Sa'in Katagum)

Chairman

Copy to:

The Secretary to the State Government,

Governor's Office.

Bauchi

Above is for your information, please.

Alh. Muhammad Danmadami CFR, NPM, mni

(Sa'in Katagum)

Chairman

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION: DETAILS AND DOCUMENTATION

MASTER LIST NO. III
BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION
DETAILS OF INTERVIEWS FOR PROSPECTIVE INSPECTORS OF SHARIA COURTS

S/No	Names	Date of Birth	LG of Origin	Highest Qualification	Present Post	Present Station	Sal. Grade Level	Marks Obt'd	Grade	Remarks
[1-21]	[omitted]	[1939-1971]	[3 Bauchi 1 Darazo 1 Dass 5 Katagum 3 Misau 1 Ningi 3 Tafawa Balewa 3 Toro 1 Warji]	[1 Basic Judic. Cert. 1 Grade II Cert. 1 A.E.O. (Gen) 1 Diploma Law & Personnel Mgmt 1 Diploma Public Admin. & Auditing 1 Advanced Diploma Public Admin. 1 Diploma Hausa, Arabic & Islamic Studies 8 Diploma Sharia & Civil Law 1 Higher Islamic Cert. 3 LL.B. 1 LL.B., B.L. 1 Post-graduate Diploma Educ. Psychology]	[9 Area Courts Inspectorate 2 Area Court judges 1 Ag. Director Area Courts 3 High Court Registry 1 Ministry of Justice 2 Teachers 1 Adult Edu. Admin. 2 None]	[various]	[02 to 15]	[20% to 80%]	1 A 9 B 3 C 7 F 1 did not attend in- terview	[8 recommended for appointment to various positions in Sharia Courts Inspectorate. 12 others not recommended for various reasons: "could not read the Holy Qur'an well which is a fundamental shortcoming for a Sharia Court Inspector"; "failed the interview"; "suffers from diabetes and could not write with his hands"; "has a pending petition against him"; "too young for the post".]

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION: DETAILS AND DOCUMENTATION

4. Letter from Task Force Chairman to the Director, Judicial Service Commission, re Screening of Sharia Court Registrars, Court Clerks, Messengers, Bailies, Cleaners and Watchmen

**TASK FORCE ON SHARIA IMPLEMENTATION
BAUCHI STATE OF NIGERIA**

ADMINISTRATIVE SECRETARIAT

Gombe Road (Adjacent Local Government Audit) Bauchi Ph. 077-642259

Our Ref: _____ Your Ref: _____ Date: _____

TFSI/BS/ADM/Vol.I/112

9th August 2001

The Director,
Judicial Service Commission,
Bauchi State Judiciary,
Bauchi.

**SCREENING OF SHARIA COURT REGISTRARS, COURT CLERKS,
MESSENGERS, BAILIES, CLEANERS AND WATCHMEN**

Please refer to paragraph 17 of my letter No. TFSI/BS/ADM/Vol.1/75 dated 15th May 2001. Appended hereunder for your appropriate action are lists of the above mentioned supporting staff of Sharia/Upper Sharia Courts and Sharia Courts Inspectorate offices and recommendations made on them by the Task force in line with the requirements of the Sharia Courts judicial system.

1. REGISTRARS

As a result of interview and staff audit carried out on these categories of staff, it was discovered that some Area Courts in urban centres have between eight and ten registrars. Similarly, it was also observed that even Area Courts in rural areas have between three and five registrars making a total of 206 registrars in the Area Courts in Bauchi zone and 78 in Katagum zone, which, when added together, make a total of 284 registrars for the whole State.

This is far in excess of what is actually required under the Sharia dispensation. In accordance with the requirements of the Sharia judicial system in the State, there will be 66 and 43 courts in Bauchi and Katagum zones respectively plus one Zonal Inspectorate office in Bauchi, one in Azare and a State Inspectorate Headquarters in Bauchi making a total of 112. In order to restore sanity to the system therefore, it is recommended that no Sharia Court/Inspectorate office should have more than two registrars except in exceptional cases. If each court/inspectorate office employs two registrars, there will thus be 224. There will therefore be excess of registrars to be re-deployed to other duties.

In order to establish and maintain high standards, only holders of Diploma in Sharia and Civil Law or its equivalent and above should be appointed to the office of Sharia Court registrars. The following, which have been selected from the existing registrars, are qualified for re-deployment to Sharia Courts or inspectorate offices indicated hereunder.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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(i) **BAUCHI ZONE**

- (a) There will be a Zonal Inspectorate office and a State Inspectorate Headquarters plus 66 courts including Upper Sharia Courts in this zone to which 136 registrars are to be deployed. The under listed are found suitable and recommended for deployment as follows:

S/No	Names	LG of Origin	Date of Birth	Date of 1 st Appt.	Highest Qualification	Designation	Sal. GL
[1-108]	[omitted]	[2 Alkaleri 1 Bogoro 27 Bauchi 1 Dambam 7 Darazo 13 Dass 4 Ganjuwa 1 Kirfi 2 Misau 9 Ningi 18 T/Balewa 13 Toro 9 Warji 1 Zaki]	[1942-1974]	[1968-1993]	[25 Basic Judic. Cert.. 12 Adv. Judic. Cert. 69 Diploma Sharia & Civil Law 1 Diploma Civil Law 1 Diploma Islamic Studies & English]	[variously Registrar or Assistant, Higher, or Senior Registrar]	[06-10]

Station	New Posting
[various Area Courts]	[various Sharia Courts]

- (b) The Task Force observed that there are quite a number of Diploma holders who are presently serving as court clerks. Such personnel, having possessed the requisite qualifications (i.e. Diploma in Sharia and Civil Law) are recommended for up grading to the post of assistant registrars. From Bauchi zone we have the following:

S/No	Names	LG of Origin	Date of Birth	Date of 1 st Appt.	Highest Qualification	Designation	Sal. GL
[1-7]	[omitted]	[3 Bauchi 1 Darazo 1 Dass 1 Shira 1 Warji]	[1968-1972]	[1990-1992]	[7 Diploma Sharia & Civil Law]	[5 Clerical Assistant 2 Snr. Ct. Clerk]	[03-05]

Station	New Posting
[various Area Courts]	[various Sharia Courts]

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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- (c) The under-listed are recommended for posting to State Inspectorate Headquarters, Bauchi:

S/No	Names	LG of Origin	Date of Birth	Date of 1 st Appt.	Highest Qualification	Designation	Sal. GL
[1-4]	[omitted]	[1 Alkaleri 1 Misau 1 Ningi 1 T/Balewa]	[1952-1964]	[1983-1989]	[1 Secretarial Studies Cert. 2 Typists 1 Stores Asst.]	[5 Clerical Assistant 2 Snr. Ct. Clerk]	[06-08]

Station	New Posting
[various Area Courts]	[Inspectorate Headquarters]

- (d) The following have not been found suitable for appointment as registrars. They should therefore be re-deployed to other duties:

S/No	Names	LG of Origin	Date of Birth	Date of 1 st Appt.	Highest Qualification	Designation	Sal. GL
[1-92]	[omitted]	[3 Alkaleri 36 Bauchi 9 Bogoro 2 Dambam 1 Darazo 12 Dass 2 Ganjuwa 1 Katagum 2 Misau 2 Ningi 12 T/Balewa 5 Toro 2 Warji 3 out of state]	[1946-1974]	[1968-1993]	[wide variety ranging from Primary School Cert. up to one degree-holder (B.Sc. Pub. Admin.)]	[variously Registrar or Assistant, Higher, or Senior Registrar; 2 "E.O", 1 Court Clerk]	[04-10]

Station
[mostly various Area Courts; 4 Inspectorate Offices]

(ii) **KATAGUM ZONE**

- (a) There will be a Zonal Inspectorate Office and 43 courts including Upper Sharia Courts in this zone to which 53 registrars are recommended for deployment as follows:

S/No	Names	LG of Origin	Date of Birth	Date of 1 st Appt.	Highest Qualification	Designation	Sal. GL
[1-53]	[omitted]	[3 Dambam 4 Gamawa 7 Giade]	[1944-1974]	[1968-1999]	[15 Basic Judic. Cert. 2 Adv. Judic.]	[variously Registrar or]	[06-14]

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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		1 Itas/Gadau 2 Jama'are 14 Katagum 16 Misau 3 Shira 3 Zaki]			Cert. 1 Cert. in Law 1 Diploma Islamic Stud. 33 Diploma Sharia & Civil Law 1 LL.B.]	Assistant, Higher, or Senior Registrar]	
--	--	--	--	--	--	--	--

Station	New Posting
[various Area Courts; 3 from Inspectorate Offices]	[various Sharia Courts; 3 to Inspectorate Offices]

- (b) As recommended under 1(c) above in respect of Bauchi Zone, in Katagum zone too, 3 court clerks have been found suitable for up grading to the substantive posts of assistant registrars having possessed Diplomas in Sharia and Civil Law. The officers recommended for such up-grading are as follows:

S/No	Names	LG of Origin	Date of Birth	Date of 1 st Appt.	Highest Qualification	Designation	Sal. GL
[1-3]	[omitted]	[Gamawa, Giade, Katagum]	[1965, 1970, 1974]	[1986, 1992, 1993]	[all: Diploma Sharia & Civil Law]	[2 Clerical Asst. 1 Clerical Officer]	[03-04]

Station	New Posting
[various Area Courts]	[various Sharia Courts]

- (c) One **[name omitted]** Confidential Secretary Grade IV attached to [name of town omitted] Inspectorate Office should remain at the Zonal Inspectorate Office [same town] as Confidential Secretary.
- (d) The following have not been found suitable for appointment as registrars. They should therefore be re-deployed to other duties:

S/No	Names	LG of Origin	Date of Birth	Date of 1 st Appt.	Highest Qualification	Designation	Sal. GL
[1-23]	[omitted]	[1 Dambam 3 Giade 3 Jama'are 11 Katagum 4 Misau 1 Shira]	[1942-1974]	[1968-1993]	[wide variety ranging from Primary School Cert. up to two Diploma-holders]	[variously Registrar or Assistant, Higher, or Senior Registrar; 1 A.E.O]	[05-09]

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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Station
[mostly various Area Courts; 2 Inspectorate Offices]

2. COURT CLERKS

In relation to this category of staff, the Task Force observes that many courts have clerks in excess of their requirements. For example, there were 8 court clerks in addition to 5 other Secretarial staff in Upper Sharia Court 1 Bauchi alone and 6 court clerks in addition to other Secretarial staff in Liman Katagum Area Court which is considered to be a rural court.

The Task Force therefore recommends that except in very exceptional cases, Sharia Courts should be limited to a maximum of two clerks each and the minimum qualification for a court clerk should not be less than SSCE or GCE. The following deployments are thus recommended based on the above mentioned criteria.

(i) **BAUCHI ZONE**

- (a) Court clerks for this zone are recommended for deployment as follows:

[We omit even a summary version of the table. A total of 176 people were recommended for deployment as clerks, coming from 14 of 20 of Bauchi State's Local Government Areas. Except for one or two coming from Inspectorate Offices, all were redeployed from Area Courts to Sharia Courts. Their highest qualifications ranged from O-level certificates up to Diplomas.]

- (b) The following do not possess the minimum educational qualification for court clerks or are otherwise not suitable and should be re-deployed to other duties as considered appropriate:

[Table giving names and particulars of 79 people omitted.]

(ii) **KATAGUM ZONE**

- (a) Court clerks for this zone are recommended for deployment as follows:

[Table giving names and particulars of 82 people omitted.]

- (b) The under-listed, by virtue of their qualifications, are not found suitable for appointment as court clerks. They should be deployed to other duties. They are as follows:

[Table giving names and particulars of 9 people omitted.]

3. COURT MESSENGERS/BAILIFFS

As in the case of other staff discussed above, there are also too many messengers far in excess of the requirements of the courts. For instance there are 10 messengers/bailiffs deployed in Upper Area Court I, Bauchi and 6 in Liman Katagum Area court, 10 in

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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Bayara Area court, 8 in Galambi Area Court, 8 in Kobi Area court and 15 in Bauchi Civil Area Court.

The Task Force is therefore recommending that each Sharia Court should be limited to 2 messengers/bailiffs in order to restore sanity and probity in the system.

The following deployments are thus recommended:

(i) **BAUCHI ZONE**

[(a): Recommended for deployment:]

[Table giving names and particulars of 143 people omitted.]

(b) The under listed court messengers/bailiffs are recommended for deployment to other duties. They are as follows:

[Table giving names and particulars of 130 people omitted.]

(ii) **KATAGUM ZONE**

(a) Messengers/bailiffs in this zone are recommended for deployment as follows:

[Table giving names and particulars of 88 people omitted.]

(b) The under listed are recommended for deployment to other duties. They are:

[Table giving names and particulars of 46 people omitted.]

4. **NIGHT WATCHMEN/CLEANERS**

The Task Force observes that only very few courts have employed more than two watchmen and one cleaner, and thus recommends that each court should be allowed a maximum of two watchmen and one cleaner. The following deployment is therefore recommended:

(i) **BAUCHI ZONE**

In this zone, 136 watchmen and 68 cleaners are therefore required for the 66 Sharia Courts, one Inspectorate Headquarters and one Zonal Inspectorate Office of the Sharia Courts. From the available watchmen and messengers, the under listed deployments are recommended as follows:

[Table giving names and particulars of 85 people omitted.]

(ii) **KATAGUM ZONE**

In this zone, 88 watchmen and 44 cleaners are required for the 43 Sharia Courts and Zonal Inspectorate Office of the Sharia Courts. From the available watchmen and cleaners, the under listed deployments are recommended as follows:

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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[Table giving names and particulars of 56 people omitted.]

5. **GENERAL RECOMMENDATIONS**

- (i) The Task Force recommends direct employment of 46 watchmen and cleaners in Bauchi Zone to fill the vacancies in the following stations:
 - (a) Zonal Inspectorate Office Bauchi
 - (b) Darazo, Dass, Kirfi and Ningi Upper Sharia Court.
 - (c) Tashar Babiye, Gumau, Katangan Warji, Yashi, Doya, Tudun Alkali, Tudun Gambo, Lanzai, Papa, Soro, Zalanga. Dewu, Gadar Maiwa, Agwarmaji, Yada Gunfume, Dajin, Lere, Tulu, Nahutan Taba, Rimin Zayam, Tulai, Baima and Tudun Wada Sharia Courts.
- (ii) The Task Force also recommends direct employment of 58 watchmen and cleaners in Katagum zone to fill vacancies in the following stations:
 - (a) Dambam, Gamawa, Itas/Gadau, Jama'are and Katagum (Zaki) Upper Sharia Courts.
 - (b) Dambam, Dagauda, Jalam, Gamawa, Udubo, Giade, Itas, Jama'are, Dogon-Jeji, Jurara, Hanafari, Azare I, Azare II, Madara, Chinade, Hardawa, Shira/Yana, Disina, Katagum (Zaki), Sakwa, Yame, Gololo, Gadiya, Zabi, Isawa, Magarya, Akuyam, Zadawa, Faggo and Lodiyo Sharia Courts.
- (iii) The Task Force finally wishes to state that court personnel whose names have not appeared in this letter (if any) should be dealt with as deemed most appropriate by the Judicial Service Commission or delegated authority.

Alh. Muhammad Danmadami CFR, NPM, mni

(Sa'in Katagum)
Chairman

Copy to:

The Secretary to the State Government,
Governor's Office,
Bauchi.

The Head of Civil Service,
Abubakar Umar Secretariat,
Bauchi,
Bauchi State.

Above is for your information, please.

Alh. Muhammad Danmadami CFR, NPM, mni

(Sa'in Katagum)
Chairman

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

**5. Letter from Task Force Chairman to the Secretary to the State Government re
Establishment of Hisbah Organisation**

**TASK FORCE ON SHARIA IMPLEMENTATION
BAUCHI STATE OF NIGERIA**

ADMINISTRATIVE SECRETARIAT

Gombe Road (Adjacent Local Government Audit) Bauchi Ph. 077-642259

Our Ref: _____ Your Ref: _____ Date: _____

TFSI/BS/ADM/Vol.I/85

16th May 2001

Secretary to the State Government,
Government House,
Bauchi.

ESTABLISHMENT OF HISBAH ORGANIZATION

The main term of reference of the Task Force is the co-ordination of activities appertaining to the take-off of the Sharia Legal System. One of these activities is the formation of a *hisbah* organisation. *Hisbah* is an Arabic word, which literally means “reckoning, counting or investigation”. In the context of Sharia and Islamic law however, it means a group or party of persons working for a good common purpose within a community such as enjoining what is good or right and shunning or forbidding what is wrong or evil with a view to ensuring peace and public order.

The *hisbah* organisation therefore comprises groups or bands or parties of good Samaritans carrying out their civic duties regarding maintenance of public order assisting law enforcement organisations as reckons by giving useful information on crime and criminal leading to their arrests.

2. Formation of *hisbah* is therefore a binding duty on all Muslims as shown in the following Qur’anic induction:

There must be a party from amongst you who call upon others to do good work and who enjoin what is right and shun or forbid what is wrong and evil (Surar Ali Imiran).

3. Functions of Hisbah

- (1) Assisting law enforcement organisations in the prevention and investigation of crime by giving useful information
- (2) Guidance on Sharia do’s and don’ts.
- (3) Making peace among communities and correcting misunderstandings between them.
- (4) Preventing the circulation of pornographic or obscene books, pictures, radio and videocassettes.
- (5) Prevention or minimising unnecessary and un-Islamic intermingling of men and women in public places.
- (6) Exhortation of all Muslim to be of good behaviour, honest and law abiding and to mutually respect one another.
- (7) Exhortation of all Muslims to constantly keep the five compulsory daily prayers in Jama’a and to do all that the Messenger of Allah (SAW) has directed them to

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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do and avoid or shun all that he has forbidden them to do; such as adultery, fornication, drinking of alcohol, gambling, backbiting, false accusation, corruption, slander, hoarding, dishonesty in any form of transactions, playing cards (Karta) and the likes.

4. **Organisation**

Following a discussion between members of the Task Force and representatives of Muslim organisations in the State, it was agreed that the *hisbah* organisation should comprise the following committees at State, Local Government District, and ward/village levels:

(i) **Committee on Tabliq and Guidance**

The functions of this committee include:

- (a) Delivery of religious sermons using the electronic media – NTA, B.R.C. and BATV.
- (b) Visit to Mosques and other appropriate places for Tabliq
- (c) Periodic Tabliq visits to public and private schools
- (d) Tabliq visits to prisons, Market places, Motor parks and other places of public resort.
- (e) Tabliq visits to Local Governments, Districts and village areas
- (f) Organisation of seminar for all categories of Government employees.

(ii) **Hisbah Intelligence Committee (*Uyunul Hisbah*)**

The function of this committee is largely procurement of information on the various aspects of Sharia implementation programme to help sustain the system.

(iii) **Hisbah Joint Aid groups Committee**

Of the 16 Muslim organisations in the State, only eight have established aid groups: These are uniformed private aid groups engaged on humanitarian work to help members of the community. They have all agreed to work in the *hisbah* organisation using their various uniforms but all aid groups working in the *hisbah* will be identified by red bands worn on their right shoulders. ID cards will also be made for all *hisbah* aid groups.

They are to be organised at State, Local Government, District and ward/village levels, with secretariat at each Local Government capital. (See [Annex I](#) for detailed information).

5. The *hisbah* organisation will come under the purview of the Sharia Commission when it is established. Meanwhile, the provision of the following infrastructural facilities is recommended to enable the *hisbah* organisation to be in place before the take-off of Sharia on 1st June 2001:

- (i) Suitable office accommodation in Bauchi to be used as the State Secretariat of the organisation. To be provided by the State Government
- (ii) Assignment of Director and Secretary to head the *hisbah* organisation before the take-off of Sharia. To be provided by the State Government.
- (iii) Suitable office accommodation in Local Government capitals to be used as Divisional or Local Government offices. To be provided by each Local Government.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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- (iv) Vehicles – Two cars for State Secretariat and one each for Local Government offices, two motorcycle for the State Secretariat and one for each Local Government office. To be provided by the Local Governments. The two cars and two motorcycles for the State Secretariat to be provided by the State Government.
 - (v) Loud Speakers to be fitted to at least one vehicle at State and Local Government offices. To be provided by the Local Governments. Video Cameras and Projectors for State Secretariat to be provided by the State Government.
 - (vi) *Hisbah* pamphlets on Sharia to be produced by the Sharia Commission.
 - (vii) Launching of *hisbah* organisation at least one week before the take-off of Sharia i.e. 25th May 2001.
 - (viii) A workshop for all members of the *hisbah* organisation to educate them on their Sharia implementation role.
 - (ix) See [Annex II](#) for estimated cost of items (iv) – (viii).
 - (x) See [Annex III](#) for the estimate of the requirements of the women wing of *hisbah*,
6. It would be appreciated if these facilities could be made available before the take-off of Sharia on 1st June 2001.

Alh. Muhammad Danmadami CFR, NPM, mni
(Sa'in Katagum)
Chairman

ANNEX I

REPORTS OF MEN'S AND WOMEN'S WINGS OF HISBAH

ANNEX IA: REPORT OF THE MEN WING OF HISBAH

[In Hausa in the Task Force Report; translated by Sama'ila Abdullahi Mohammed.]

**REPORT OF THE REPRESENTATIVES OF ISLAMIC GROUPS ON THE
PLANNING AND IMPLEMENTATION OF HISBAH UNDER SHARIA IN
BAUCHI STATE**

PRESENTED TO

**TASK FORCE ON SHARIA IMPLEMENTATION
7TH SAFAR, 1422 A. H. / 30TH APRIL 2001 A. D.**

To: The Task Force on Sharia Implementation, Bauchi State

Assalamu Alaikum wa Rahamatullahi Ta'ala Wa Barkatuhu.

We greet you as prescribed in Islam.

Praise is to Allah (SWT) for giving us the opportunity to present this report of ours in good time. Alhamudu lillah.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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As a result of our meeting with you on Friday April 20, 2001, in your Secretariat and your comments regarding the planning for the implementation of *hisbah* under the Sharia in this State, we have utilized the opportunity given to us in this very important assignment to recommend as follows:

1. We, representing all the sixteen Islamic associations in this State, have agreed to establish *hisbah*; and the *hisbah* is to be composed of our representatives.
2. We have also agreed that the envisaged *hisbah* should have the following sub-committees:
 - a. Preachers and Counselors
 - b. Intelligence and Monitoring Unit
 - c. Uniformed First Aid Group

Our recommendations, including other recommendations, are organised around these three sub-committees.

3. We advise the Task Force Committee to get a chairman and a secretary for *hisbah* under which the above three sub-committees can commence work immediately, even before the Task Force Committee completes its assignment.
4. We also advise that a secretariat be put in place to enable these three sub-committees begin work even before the Task Force Committee completes its assignment.
5. Further, we advise that special training programme be organised for members of the three *hisbah* sub-committees so that they can commence work with the Task Force Committee even before it submits its Report to the Sharia Commission.

Finally, we are hereby handing over the work plan for the three *hisbah* sub-committees for your study and implementation.

We pray Allah (SWT) to show us the right path and the strength to abide by it and to show us the false path and give us the moral courage to avoid it.

Wassalamu alaikum wa rahmatullahi Ta'ala wabarkatuhu.

Chairman
Alhaji Umaru Bara'u

Secretary
Ahmed Tijjani Sa'id

HISBAH: ITS PLAN AND IMPLEMENTATION

MEANING OF HISBAH

- (a) *Hisbah* is a derived Arabic phrase, for example, *Hasaba* (he has counted); *Yabasibu* (he is counting); *Hasib* (count).
- (b) But, in Sharia, it means those who advise, implore and counsel Muslims to perform virtuous acts and caution Muslims against prohibited acts with the aim of upholding good morals and the worship of Allah (SWT).

STATUS OF HISBAH

The establishment of *hisbah* is an obligatory act of worship in an Islamic community as Allah states in the Holy Qur'an:

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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It is necessary for a community from among you to commit itself to call Muslims to virtuous acts and to caution against wrongful, prohibited acts. That community (of *hisbah*) will be bountifully rewarded.

IMPORTANCE OF HISBAH

The importance of *hisbah* are many. The following are some of them:

- (a) Imploring Muslims to worship Allah according to the procedure prescribed by Him.
- (b) Counseling Muslims to conduct relationships (economic, social, etc.) as prescribed by Sharia.
- (c) Amicable settlement of disputes and improving the living condition of Muslims by providing efficient and adequate means of living.

LEGAL POWER OF HISBAH

- (a) The *hisbah* shall have power to arbitrate and to counsel
- (b) The *hisbah* shall have power to arrest suspected criminals and hand them over to the Police.

ACTIVITIES OF HISBAH

- (a) Counsel the doing of all activities that Sharia approves and to caution against all activities disapproved by Sharia.
- (b) Counseling disciplined behaviour by Muslim juveniles and adults.
- (c) Arbitral settlement of disputes and counseling.
- (d) Enforcing censorship laws in respect of pornographic magazines and films
- (e) Enforcing the separation of males and females during celebrations and similar activities.

In addition, the *hisbah* shall have the right to counsel virtuous norms and counsel against deviant behaviour and activities. For example, the *hisbah* shall counsel leaders and their followers on the following:

- (a) The performance of the five obligatory daily prayers promptly and the performance of the weekly Friday prayers in congregation. The *hisbah* shall counsel Muslims on the virtue of speaking the truth at all times and of keeping the trust and mutual respect.
- (b) To counsel against prohibited vices such as lies, deception and complicity.
- (c) To counsel against tampering with scales and measures in trading transactions.
- (d) The *hisbah* shall have the power to prohibit all vices that the Prophet (SAW) prohibited such as charging interest, usury, gambling, fraud, indulging in trades prohibited by Sharia such as speculative transactions, temporarily diverting goods meant for the market, hoarding and all activities directed at harming Muslims and Islam.

PREACHING SUB-COMMITTEE: PLAN OF ACTIVITIES

The Council of Ulama in charge of preaching has met three times in which three representatives each from the sixteen Islamic Associations attended and formed *hisbah*.

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After necessary discussions and debates, the sub-committee has arrived at the firm conclusion that this sub-committee should be structured as follows:

PREACHING COMMITTEE

This committee comprises three learned Islamic teachers each from sixteen Islamic Associations, making a total of forty-eight confirmed members. They are responsible for planning and implementing *hisbah* activities in Bauchi State.

Every association is to contribute ten malams each to ward's preaching and counseling activities of the *hisbah* in Bauchi State.

STRUCTURE OF PREACHING AND GUIDANCE

- (a) The committee shall visit electronic broadcast media in the State such as N.T.A., B.R.C., B.A.T.V. for preaching.
- (b) The committee shall conduct preaching and guidance activities in all mosques.
- (c) The committee shall conduct preaching and guidance sessions in all schools, whether public or private, in the State.
- (d) The committee shall conduct preaching guidance sessions at prisons, motor parks, markets, industries and in public places.
- (e) The committee shall plan preaching in Local Government Areas, districts and wards.
- (f) The committee shall conduct tours of counseling and guidance in places such as markets, motor parks, industries, government offices, hospitals and vocational workshops including conducting seminars for workers.

LEADERSHIP, OFFICE AND LOGISTICS REQUIREMENTS

- (a) LEADERSHIP: Government should provide a Director who is to lead this section. He should be learned in Islamic religion and in western education. In addition, he should be virtuous and be capable of promoting and defending the Islamic religion.
- (b) OFFICE SPACE AND OFFICE EQUIPMENT: The following items are required: adequate office accommodation in a suitable location, motor vehicles, motorcycles, amplifier, loud speakers, generators, video projectors, video camera, printing press capable of producing Arabic and English characters, Islamic books, dedicated conference room, photocopiers, computers and typewriters.

COMMITTEE CHAIRMAN
MALAM SA'IDU YALWA

COMMITTEE SECRETARY
MALAM MAHMOOD SANI KOBİ

**NAMES OF ASSOCIATIONS AND THEIR REPRESENTATIVES
IN THE PREACHING AND GUIDANCE SUB-COMMITTEE**

[We give only the names of the associations; the names of their representatives, given in the original, are omitted here.]

1. (JIBWIS) Bauchi State
2. (JAMA'ATU NASRIL ISLAM) Bauchi State

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3. (JAMA'ATU TAJDIDIL ISLAM) Bauchi State
4. (JAMA'ATU RIYADIL ISLAM) Bauchi State
5. (JAMA'ATUL NAHDATIL ISLAM) Bauchi State
6. (FITTYANUL ISLAM OF NIGERIA) Bauchi State
7. (JIBWIS A KARKASHIN SHEIKH ISMA'IL IDRIS) Bauchi State
8. (JAMA'ATUL SHABABIL ISLAM) Bauchi State
9. (MUSLIM STUDENT SOCIETY)Bauchi State
10. (MUSLIM UMMA) Bauchi State
11. (MUNAZZAMTU FITTYANIL ISLAM) Bauchi State
12. (WAKILIN COUNCIL OF ULEMA) Bauchi State
13. IMAN
14. IHSAN
15. ANSARUDDEEN
16. NACOMYO
17. FOMWAN

REPORT OF THE HISBAH INTELLIGENCE SUB-COMMITTEE
(UYUNUL HISBAH)

Three members each representing eleven out of the sixteen associations in the State and one member from the Council of Ulama met under this sub-committee.

Members, representing Islamic associations, have made important contributions. These contributions, in the final analysis, included useful ideas as to successful formation of this sub-committee and the implementation of Sharia in the State as follows:

1. All the associations that participated in the sittings have agreed to unite under *hisbah* for the purpose of successful implementation of *hisbah* in the State and to be the Hisbah Intelligence Group (*Uyunul Hisbah*).
2. Members have agreed that the appropriate name for this sub-committee should be
 - a. in Arabic: *Uyunul Hisbah*
 - b. in Hausa: *Wakilin Hisbah*
 - c. in English: Hisbah Intelligence Group
3. Members of this sub-committee have agreed that persons to be appointed into the Hisbah Intelligence Group should have the following qualifications:
 - a. He should be practicing Muslim adult and possessing unimpeachable integrity.
 - b. He should be literate in English and Arabic and be competent in Islam.
 - c. He should be humble, trustworthy, courageous, patient and forbearing.
 - d. He should be gainfully employed.
4. This Sub-committee has agreed that the Hisbah Intelligence Group will have committees at the State, Local Government Area, and District levels. It was further agreed that all the sixteen associations should contribute three members each at the State level; three members each at the Local Government Area level and three members each at the District level.
5. Members have further agreed that the above representative of sixteen Islamic associations will be the persons charged with the responsibility of carrying out of the

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- duties of Hisbah Intelligence Group either at the State Level, Local Government Area Level or District Level, as the case may be.
6. Members have unanimously agreed that the duties to be entrusted to Hisbah Intelligence Group are as follows:
 - (1) Enjoining Muslims to practice all that Allah (SWT) has commanded Muslims to do.
 - (2) Enjoining Muslims to avoid all that Allah(SWT) has commanded Muslims to avoid.
 - (3) Providing a report on any Muslim who violates the command of Allah(SWT) or any Sharia law, to any of the following:
 - a. By way of intimating the alleged offender or violator as to the nature of the offence under Sharia.
 - b. By way of reporting the offence to the higher officials of H. I. G., if the nature of the alleged offence is one such that only the higher officials have the power to command the doing or the avoidance of it.
 - c. By way of reporting the alleged offence/offender to the *hisbah* committee on preaching if the alleged offence is one that only the committee on preaching can preach for it or against it.
 - d. By way of presenting to *hisbah* aid group if the offence must be reported to the higher officials of Hisbah Intelligence Group.
 - e. Providing general advice to other *hisbah* sub-committee as a way of preventing the occurrence of similar offence among Muslims.
 7. Members have agreed that Sharia Commission should equip H.I.G. with:
 - a. H.I.G. Identification cards
 - b. Necessary equipment to discharge their duties any time the need arises
 8. Members have agreed that the following committees that initially formed *hisbah* preaching sub-committee—Aid Group Sub-Committee and Hisbah Intelligence Committee—should be given autonomy but to operate under the State *hisbah*.
 9. The members are recommending that these three sub-committees should be relating directly with Government as other committees, in the following manner:
 - a. By making a law establishing them.
 - b. By providing them with operational autonomy but operating under the State Sharia committee.

Mal. Muhammad Bello Abubakar
Chairman

Ahmad Tijjani said
Secretary

**NAMES OF ASSOCIATIONS AND THEIR REPRESENTATIVES
IN THE HISBAH INTELLIGENCE SUB-COMMITTEE**

[Names of representatives, given in the original, are omitted here.]

- (1) (JIBWIS) Bauchi State
- (2) (JAMA'ATU NASRIL ISLAM) Bauchi State
- (3) JAMA'ATU TAJDIDIL ISLAM, Bauchi State

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- (4) (JAMA'ATU RUYADIL ISLAM) Bauchi State
- (5) (JAMA'ATU NAHDATIL ISLAM) Bauchi State
- (6) (FITTYANUL ISLAM OF NIGERIA) Bauchi State
- (7) (JIBWIS A KARKASHIN SHEIKH ISMA'ILA IDRIS) Bauchi State
- (8) (JAMA'ATUL SHABABIL ISLAM) Bauchi State
- (9) (MUSLIM STUDENT SOCIETY) Bauchi State
- (10) (MUSLIM UMMA) Bauchi State
- (11) (MUNAZZAMATU FITTYANIL ISLAM) Bauchi State
- (12) (*WAKILIN* COUNCIL OF ULEMA) Bauchi State
- (13) IMAN
- (14) IHSAN
- (15) ANSARUDDEEN
- (16) NACOMYO
- (17) FOMWAN

**PLAN OF AID GROUP ORGANIZATIONS UNDER HISBAH
IN BAUCHI STATE**

This plan relates only to the aid groups and their organization under *hisbah*.

- 1a. UNITY: In answer to this clarion call, out of the sixteen associations in Bauchi State, eight associations that wear uniforms have agreed to unite under the Sharia.
- 1b. We have further agreed that the name of this sub-committee should be as follows:
 - i. In Arabic: *Isafatul Hisbah*
 - ii. In Hausa: *Dakarun Hisbah*
 - iii. In English: Hisbah Aid Group
2. UNIFORM: We have agreed to retain our different associations' aid group uniforms without the need to appear in a single uniform. But all persons deployed into the Hisbah Aid Group should wear a red shoulder band to identify them with *hisbah*.
3. STATE OFFICE STRUCTURE:
 - a. State b. Division c. District d. Ward
 - a. STATE: Hisbah Aid Group is to have a State branch which co-ordinates all the *hisbah* activities at the Local Government Area level.
 - b. DIVISION/LOCAL GOVERNMENT: Hisbah Aid Group at this level is to co-ordinate in each of the Local Government Area level branches
 - c. DETACHMENT/DISTRICT: Hisbah Aid Group at this level is to co-ordinate activities at the ward level in each district.
 - d. UNIT/WARD: This is the Hisbah Aid Group at each ward level. It will conduct its activities at the ward level and report to the Hisbah Aid Group at the district level.

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4. SECRETARIAT: It is recommended that Sharia Commission provides administration secretariat at the State, Local Government Area, district and ward levels.
5. INITIAL APPOINTMENT OF OFFICIALS: Hisbah Aid Group recommends that the following officials should be appointed initially. In due course other officials are to follow.
 - a. Commandant
 - b. Secretary
 - c. District Officer
 - d. Welfare Officer
 - e. Intelligence Officer
 - f. Training Officer
6. REPRESENTATION FROM ASSOCIATIONS: Hisbah Aid Group, in order that its activities are conducted appropriately, has agreed to allow for five representatives from each of the 16 aid groups in the State to be organized as follow:
 - a. STATE:
 - i. Director
 - ii. Secretary
 - iii. Three other officials.
 - b. LOCAL GOVERNMENT LEVEL:
 - i. Divisional Leader
 - ii. Divisional Secretary
 - iii. Organizing Secretary
 - iv. Discipline Officer
 - v. One other official
 - c. DETACHMENT/DISTRICT: This is to be organized as in the Local Government Area Level.
7. IDENTIFICATION CARD: Hisbah Aid Group has agreed and is recommending that every member should have an I. D. Card in order to protect the integrity of this work.
8. ACTIVITIES:
 - a. All associations under *hisbah* have agreed that they will carry out activities, provided that such activities conform and sharia.
 - b. *Hisbah* will relate with all trades and vocations, especially their leaders, with the aim of improving and sanitizing trading and vocational activities.
 - c. Hisbah A. G. has agreed to co-operate in its activities of controlling against commitment of offence and arresting offenders with the following *hisbah* sub-committees.
 - i. Preaching sub-committee
 - ii. Hisbah Intelligence sub-committee

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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9. NAMES OF REPS FROM THE ASSOCIATIONS: [Names of representatives, given in the original, are omitted here.]
- a. FIRST AID GROUP OF JIBWIS GWALLAGA
 - b. NIGERIA AID GROUP OF J. N. I.
 - c. FIRST AID GROUP OF JIBWIS B/KURA
 - d. FIRST AID GROUP FITTYANIL ISLAM
 - e. FIRST AID GROUP OF MUNAZZAMATUL FITYANUL ISLAM
 - f. FIRST AID GROUP OF JAMAATU TAJDDUL ISLAM
 - g. FIRST AID GROUP OF ANNAHDATUL ISLAMIYA
 - h. FIRST AID GROUP OF SHABABUL ISLAM

Alh. Umar Barau
Chairman

AbdurRahaman A. Ghani
Secretary

ANNEX IB: REPORT OF THE WOMEN WING OF HISBAH

[In Hausa in the Task Force Report; translated by Sama'ila Abdullahi Mohammed.]

**REPORT OF THE WOMEN HISBAH UNDER
THE BAUCHI STATE SHARIA COMMITTEE**

PRESENTED TO

**TASK FORCE ON SHARIA IMPLEMENTATION
21ST SAFAR 1422 A. H., 14TH MAY 2001**

REPORT OF THE BAUCHI STATE WOMEN HISBAH COMMITTEE

Bismillahi Rahamanir Rahim.

Following the invitation which the Sharia Commission extended to FOMWAN and M.S.O. and subsequent deliberation arising from this invitation, the two associations met and deliberated on April 27th 4 Safar 1422 A. H. on how to plan Bauchi State *hisbah* women wing. Immediately, a central working committee which comprised eleven persons under the leadership of Aisha Awah Bint Musa, President, Suwaiba Salihu, Vice President, and Halima Ibrahim, Secretary.

During this meeting, the *hisbah* president explained that the work of *hisbah* should essentially be to counsel the doing of right things and caution against the doing of unlawful things, that is *Amri bil ma'aruf wa yanba anil munkar*. Because of the significance of this work, we suggest that work in Bauchi Town be organized on the basis of wards.

Bauchi town is divided into twenty six wards. Other Local Government Areas (LGAs) were discussed later. A woman leader and deputy were appointed for each of the 26 wards in Bauchi town LGA. The ward leader and her deputy were to appoint other

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suitably-qualified ward officials, subject to a minimum number of seven and a maximum of eleven.

This limit should be violated subject only to a very strong consideration. These ward committees are executive committees of the wards.

A second meeting of the *hisbah* women wing met again on 29th April 6 Safar 1422 A. H. to plan the meeting with all the elected wards representatives.

On 30th April 7th Safar 1422 A. H. the appointed ward committees met with the State *hisbah* women wing. The State *hisbah* women wing leader read the welcome address in which she explained the purpose of the meeting and the nature of *hisbah* work. After this, she called upon each of the ward executive committee to come forward and explain the success and the challenges they faced in selecting their ward representatives. They also submitted their individual list.

Final comments were made in which the *hisbah* women committee implored the ward committee representatives to brace up as to how to plan execution of their responsibility. They were also asked to plan their mode of reporting to the main committee and how they should obtain clearance.

The next meeting was scheduled for Sunday, 6 May /13 Safar at 4:30 pm at the Women Centre Kofar Gombe.

The next meeting for the State women *hisbah* committee is fixed for Wednesday 2nd May/9th Safar in the State leader's residence.

**REPORT OF THE COMMITTEE OF REPRESENTATIVES OF
ASSOCIATIONS (WOMEN WING) ON PLANNING AND EXECUTION OF
HISBAH UNDER SHARIA IN BAUCHI STATE**

Consequent upon the invitation which the Sharia Commission extended to the major women associations in Bauchi State, that is, FOMWAN and M.S.O., and arising from the deliberations which took place, these two associations invited other Muslim women for discussions.

They met and deliberated on 27th April 4 Safar 1422 A. H. The meeting deliberated on the desire to execute *hisbah* work in Bauchi State. Immediately, the State *hisbah* women wing committee was formed, which comprised eleven members, with Hajiya Aisha Awah Bint, State Leader; Hajiya Suwaiba Salihu, Deputy State Leader and Hajiya Halima Ibrahim as secretary.

1. The main State committee has agreed to form *hisbah* committees at the ward levels.
2. The main State committee has reported to have the following sub-committees:
 - (a) Women ward preaching committees
 - (b) Hisbah Aid Group Uniformed
 - (c) Women Committee Dispute Resolution Assembly

There will no Hisbah Intelligence sub-committee, that is uniformed, for the women.

We are submitting our report on the duties of the sub-committees accompanied with our recommendations.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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We, the *hisbab* women, are recommending to the Bauchi State Task force committee on Sharia implementation to provide an administrative secretariat for the eleven State EXCO members.

Ward leaders should have their offices alongside those of men so as to facilitate their work even before actual implementation of sharia in the State.

Furthermore, we would want to organize special training programs for the main committee and the ward leaders on all the important aspect involves in the work of *hisbab* in Bauchi State.

Finally, the *hisbab* women wing is submitting its plans of activities and the committees and the wards that will implement them. This is so that the Sharia Commission will study and implement our submission.

We pray to Allah to assist us to achieve our objective of implementing Sharia which the European colonial rulers destroyed two hundred years ago.

With peace and Allah's blessings to you all.

Hajiya Aisha Awal Bent Musa
Committee Leader

Hajiya Halima Ibrahim
Committee Secretary

MEMBERS OF THE STATE MAIN COMMITTEES

- | | | |
|------------------------------|---|-----------|
| 1. Hajiya Aisha Bint Musa | - | Leader |
| 2. Suwaiba Salihu | - | Naiba |
| 3. Halima Ibrahim | - | Secretary |
| 4. Hajiya Habiba Muda Lawal | - | Member |
| 5. Fatsuma Dan Bauchi | - | “ |
| 6. Hajiya Dada (Fatima Abba) | - | “ |
| 7. M. Asama'u Muh'd | - | “ |
| 8. Alwaiyyatu Aliyu Musa | - | “ |
| 9. Fatima Dahuwa | - | “ |
| 10. Kadija Adam Abdullahi | - | “ |
| 11. Rukaiyyatu Tijjani | - | “ |

MEMBERS OF THE WARD COMMITTEES

[Names of members, given in the original, are omitted here.]

1. DOYA WARD
2. KOFAR GOMBE/ABUJAN KWATA
3. OLD G. R. A.
4. BORNO WARD
5. GWALLAGA/GWABBA
6. SHEKAL/ZANNUWA
7. BAKARO/KOFAR DUMI
8. NEW G. R. A.
9. ILELA WARD

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10. FEDERAL LOWCOST/ZANGO/GWALLAGA
11. NASARAWA/JAHUN II
12. STATE LOWCOST/Police Barrack
13. BAKIN KURA/RARIYA/IBO QUARTERS
14. YALWAN TUDU/LEBURA
15. KURMI/MAKERA/TASHAN BAIYE MABUGA WARD
16. GWALLAMEJI/FEDERAL POLY
17. KAROFI/SHAGARI/ALLURA/MAHAUKATA WARD
18. JAKI WARD
19. RAMADAN/BACAS/FADAMAN MADA
20. JAHUN 1/DUTSEN TANSHI
21. TAFAWA BALEWA ESTATE
22. IBRAHIM BAKO/FGGC/ADAMU JUMABA
23. RAILWAY
24. KOBI/JAKI/NUFAWA WARD
25. KOFAR FADA/TUJI/TURA
26. ALKALI/GWANGWANGWAN WARD

Leader
Hajiya Aisha Awak Bint Musa

Secretary
Hajiya Halima Ibrahim

**PLAN OF ACTIVITIES OF HISBAH WOMEN'S WING ON COUNSELING
THE LAWFUL AND CAUTIONING AGAINST THE UNLAWFUL**

Alhamdu Lillabi Rabbil Alamin. Wassalatu wassalam ala asbrafil Mursalina.

INTRODUCTION

We are pleased at the efforts being put in place to implement Sharia in Bauchi State. It is imperative to restate to ourselves that this task is squarely on us. If we fail to do it, nobody will do it for us. *Hisbah* work is a voluntary work, it is an act of worship and it is a means of assisting the religion of Allah. We are fully aware that Allah has promised to assist any person who assists His religion. We therefore need to be aware that *hisbah* work is not administration, it is not trading, it is not unskilled labouring and it is not contradicting; it is an act of worship. This is the understanding we require concerning *hisbah* work.

ORIGIN OF HISBAH AND ITS IMPORTANCE

We have embraced sharia and we have accepted it to be the torch that will lighten all aspects of our lives. The first thing to do in this respect, therefore, is to ensure that we protect this torch from any attack that may arise to extinguish it and further throw us into the darkness that we emerged from. God forbid. This protection comes from the activities of *hisbah*.

As a result of the meeting we held with the representatives of women associations, the meeting we held on Friday, April 20th 2001 at your secretariat and your addresses to

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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us on implementation of *hisbah* in Bauchi State, under Sharia, we have utilized the opportunity to carry out this important assignment as follows:

PLAN OF THE CENTRAL HISBAH COMMITTEE

There is a need to form a sub-committee out of the central *hisbah* committee for the purpose of enlightening women regarding Sharia. There is also the need to appoint representatives of the central *hisbah* committee from the different sub-committees for the enlightenment of women in Bauchi State. In order to get effective representation, it is important to include women from all the various branches.

Organization of ward committees

Two subcommittees will be formed in every ward as follows:

- a. Women Enlightenment Committee
- b. Women Dispute Resolution Committee

The Women Enlightenment Committee is responsible for conducting continuous preaching in every nook and cranny of the ward. The committee is also responsible for identifying places where offences are committed and reporting upon them. This committee will also be formed taking into account the need for effective representation. The Women Dispute Resolution Committee is to comprise women representatives from different branches. It will assist the Enlightenment Committee in dispute resolution.

QUALIFICATION OF HISBAH MEMBERS

1. She should be God-fearing
2. She should ensure that her activities/deeds accord with her words.
3. She should be truthful in all circumstances
4. She should be a moderate and not an extremist
5. She should possess reasonable knowledge of Sharia.
6. She should emphasize cordiality, respect and networking.
7. She should forgive her transgressors
8. She should think for the good of the committee.
9. She should be generous even to the most niggardly.
10. Her words should always stress upon the positive development of the committee.
11. Her life should be focused on the principle of counseling the lawful and cautioning against the unlawful.

IMPORTANT CONSIDERATIONS IN HISBAH

Every *hisbah* member should realize that the following are the important guidelines in the work of *hisbah*:

1. Unity in the word of Allah and a single ideology
2. Unity on one purpose, which is Allah's acceptance
3. Fostering of love and acceptance among one another devoid of jealousy and enmity.
4. Counseling good behaviour and actions.
5. Preparing the minds to record the truth from wherever it originates.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

6. To avoid leadership-seeking actions, arrogance, display of knowledge or *hassada*.
7. To avoid arrogance and unilateral decision making in things that affect the public. To discuss with members of the community and build conscience. To encourage shared governance.
8. To State problems and the proposed solutions.
9. To ensure that there is an accredited representative in all the wards sub-committee.

ACTIVITIES OF THE HISBAH MEMBER

Briefly, the *bisbah* member can conduct her activities of counseling the lawful and cautioning against the unlawful in the following manner:

1. Performance of activities that have become unlawful under the Sharia (But not tradition)
2. Sharia must have explicitly counseled in favour or cautioned against that activity she intends to act upon.
3. She is to conduct her activity at the time the event is occurring or after the event has occurred in the community. These events include:
 - a. Harmful traditions that have turned the act of marriage into commerce.
 - b. Excessive materialism in all activities.
 - c. Ignoring excellent norms such as upholding trust, truthfulness and *dattaku*. (gentlemanly behaviour).
 - d. Lack of self respect which has given rise to begging and sycophancy.
 - e. Blind imitation of customs of Europeans and their abominable way of life.
 - f. Failure to perform the Salat at its appointed time.
 - g. Setting up others as partners to Allah, especially sorcerers.
 - h. Respecting the husband's trust.
 - i. Removing *hassada*, jealousy, enmity among colleagues (Co-wives).
 - j. To understand that wealth comes from Allah; it is not a creation of some person or an inheritance from the husband.
 - k. Doing away with lies, fraud, harm and fornication.
 - l. Understanding the essence of marriage and its importance.
 - m. Respecting and enhancing the discipline of children.
 - n. Creating conducive forum for the discipline.
 - o. Receiving or giving interest on loan.
 - p. Unity of Muslims and
 - q. Any other issue that affects the life of a Muslim or Islam.

PREFERRED NORMS OF HISBAH MEMBERS

1. She should be patient and receptive to her audience.
2. She should not be intrusive and invasive on people's activities. She should restrict her activities to verifiable things. She should not set traps for the unwary offender.
3. She should use wisdom and diplomacy in her activities.
4. She should be normally upright. She should avoid covetousness and gifts while performing her responsibilities.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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5. She should maintain confidentiality of her work and of the offenders she comes across.
6. She should avoid arrogance and high-handedness.
7. She should be patience and persevering.

PLAN OF ACTIVITIES OF WARD HISBAH PREACHING SUB-COMMITTEE AND HISBAH AID GROUP

- a. The Committee will require special slots in the electronic media such as NTA, B.R.C. BATV for the purpose of preaching.
- b. We will require Government to produce identification card to identify the member either as *hisbah* member, preacher or a member of the First Aid Group.
- c. We will require a bus to routinely convey us to Local Government Areas.
- d. We will require writing equipments such as computer, photostating machines, writing books, amplifier, loudspeakers, camera, etc.
- e. We will require Islamic books as reference materials for guidance.
- f. We will require seminar and workshop rooms.
- g. Women *hisbah* will require an administrative office and other equipment such as electric generator, video and audio recording machines. We will require to be connected to the internet so as to increase our knowledge and to be conversant with the evil machinations of the Jews and how to protect ourselves from their plots
- h. We will require a dedicated meeting room where we can meet regularly to discuss and resolve challenges that confront us.
- i. The Government should create an avenue for dialogue between us so that our problems can be solved.
- j. The *hisbah* women wing will require that all facilities and equipment provided for men's wing be also provided for them, so as to facilitate them.
- k. We will require special protection (immunity?) both within and outside the State.

Finally, we wish to thank Allah for giving us the opportunity to present this report. May Allah give us the patience to implement this report fully. Our special thanks go to the Sharia Task Force. May Allah guide us all. Amin.

Hajiya Aisha Awak Bint Musa
Committee Leader

Hajiya Halima Ibrahim
Secretary

* * *

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

ANNEX II

**MATERIAL ESTIMATE
OF THE REQUIREMENT OF MEN WING OF HISBAH**

S/No	Description of Item	Quantity Required	Recommendations
1.	State Secretariat	One	To be provided by the State Government at the State Headquarters
2	Local Government Secretariat	20 Nos.	One each to be provided by each Local Government at its Headquarters
3.	Peugeot Wagon	2 Nos.	To be provided by the State Government for the State Secretariat of Hisbah Organisation
4	Bus	20 Nos.	One each to be provided by each Local Government to its Secretariat of Hisbah Organisation.
5	Motor-Cycles	2 Nos.	To be provided by the State Government to the State Secretariat of Hisbah Organisation.
6	Motor-Cycles	20 Nos.	To be provided by each Local Government to its Secretariat of Hisbah Organisation.
7	Loud Speakers	1 set	To be fitted by the State Government to one vehicle out of the 2 recommended for the State Secretariat of Hisbah Organisation
8	Loud Speakers	20 sets	One each to be fitted by each Local Government to the vehicle of its Secretariat of Hisbah Organisation.
9.	Video Camera	1 set	To be provided by the State Government to the State Secretariat of Hisbah Organisation.
10	Projector	1 set	To be provided by the State Government to the State Secretariat of Hisbah Organisation
11.	Pamphlets on Sharia	-	To be produced by the Sharia Commission.
12.	Generator Set	1 set	To be provided by the State Government to the State Secretariat of Hisbah Organisation.
13.	Computer	1 set	To be provided by the State Government to the State Secretariat of Hisbah Organisation
14.	Photocopier	1 No.	To be provided by the State Government to the State Secretariat of Hisbah Organisation.
15.	Typewriter	1 No.	To be provided by State Government to the State Secretariat of Hisbah Organisation.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

ANNEX III

**MATERIAL ESTIMATE
OF THE REQUIREMENT OF WOMEN WING OF HISBAH**

S/No	Description of Item	Quantity Required	Recommendations
1.	State Secretariat	One	To be provided by the State Government at the State Headquarters
2	Bus	One	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
3.	Computer	1 set	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
4.	Photocopier	1 No.	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
5.	Typewriter	1 No.	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
6.	Loud Speakers	1 set	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
7.	Video Camera	1 No.	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
8.	Still Camera	1 No.	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
9.	Reference Material	-	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
10	Generator	1 set	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
11	Video Recorder	1 No.	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
12	Audio Recorder	1 No.	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
13	Television set	1 No.	To be provided by the State Government to the Secretariat of Women Wing of Hisbah
14.	Connection to Internet	-	To be effected by the State Government for the Women Wing of Hisbah.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

**6. Letter from Secretary to the State Government to Task Force Chairman re
Islamic Preaching Session organised by Hisbah**

BAUCHI STATE OF NIGERIA

Telex Fax : 077-542429
Tel: 077-542238, 542822, 542234

Office of the Secretary to the Government
Governor's Office,
P. M. B. 0060,
Bauchi.

Your Ref:
Our Ref: GO/SS/SIR/S/22

11th July 2001

The Chairman,
Sharia Implementation Task Force,
Task Force Secretariat,
Women Centre Complex,
Bauchi.

RE: ISLAMIC PREACHING SESSION

It has been observed that the preaching session held on 1/6/2001 at Emir's Palace drive Bauchi, organised by "HIBA" has been conducted in an orderly and peaceful manner. The preaching session was full of useful enlightenment, exhortations on proper conducts by Muslim faithful and peaceful co-existence with adherent of other faiths.

2. In the light of the foregoing, I am directed to request you to encourage such kind of preaching sessions in order to sensitise the public, especially Muslims about their responsibilities under the Sharia Legal System.

3. Thank you for the usual co-operation.

Y. M. KARAMBA
for: SECRETARY TO THE STATE GOVERNMENT

7. Press Release on the Take-off of Sharia Judicial System

**TASK FORCE ON SHARIA IMPLEMENTATION
BAUCHI STATE OF NIGERIA**

ADMINISTRATIVE SECRETARIAT;
Gombe Road (Adjacent Local Government Audit) Bauchi Ph. 077-642259

Our Ref: _____ Your Ref: _____ Date: _____

**PRESS CONFERENCE ON THE
TAKE-OFF OF SHARIA JUDICIAL SYSTEM**

Bismillahir Rahmanir Rahim, Wassalatu Wassalamu ala Nabiyl Kareem

Gentlemen of the Media:

Members of the public are already aware that on the 27th February 2001, His Excellency the Executive Governor Alhaji Ahmadu Adamu Mu'azu signed into law Sharia (Administration of Justice and Certain Consequential Changes) Bill and the Sharia Penal Code Bill 2001 and inaugurated the Task Force on the Implementation of Sharia in the State. The main term of reference of the Task Force is to co-ordinate the take-off of the Sharia judicial system liaising with the State Government, the Judicial Service Commission and the Office of the Grand Kadi on the establishment of the State Sharia Commission and the Sharia Consultative Council as well as the appointment of judges and inspectors of Sharia Courts. The Task Force was also to ensure that all the necessary groundwork for the take-off of Sharia was completed before 31st March 2001.

It was not, however, possible to keep this date line, as there were so many pre-requisites to be put in place before Sharia would be said to take off smoothly. Apart from the establishment of the Sharia Commission, the Sharia Consultative Council and the appointment of judges and inspectors, suitable and more befitting courthouses and residential accommodation for the judges ought to be provided as well as the improvement of their allowances and other fringe benefits such as vehicle advances and personal housing loans. It would not have been possible to do all these within a period of barely one-month.

It therefore became necessary for the Government to extend the date line to 31st May 2001 so that Sharia could take off without hitch in all parts of the State on 1st June 2001.

With the exception of permanent building accommodation almost all the stated pre-requisites have now been put in place for example 89 serving Area Court judges have been interviewed from whom 20 have been appointed by the JSC and already posted as Upper Sharia Court judges one per each Local Government and 43 as Sharia Court judges at least one per each administrative district as approved by the Government White Paper on Sharia Implementation. 39 new Sharia Court judges are also being appointed for posting to major villages throughout the State.

Consultations have been held with the State Government, the Judicial Service Commission the Chief Judge and the Grand Kadi on the readiness for the commencement of Sharia on June 1st 2001, which the Government has approved. The Task Force is thus using the occasion to renew its earlier warning to members of the public that all persons currently engaged in prostitution, gambling, sale and consumption of or in any-way dealing in alcoholic drinks and other vices which are not in conformity with Islamic teachings and practices should shun or abandoned such acts or conduct. Any persons who contravene the provisions of the Sharia Penal code law will be strictly dealt with in accordance with the law without fear or favour.

Other prohibited acts under the Sharia Penal Code include: praise singing (*roko*) street begging (*bara*), playing cards (*karta*), *wasan maciji*, *wasan da kura*; *wasan wuta*, *wasan da nuka* (*kufegere*), *wasan bori*, *yanchori* etc. Anyone committing such acts will be guilty of an

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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offence liable on conviction to imprisonment, which may extend to one year and fine of less than N5, 000 and shall also be liable to caning of twenty lashes

The Task Force wishes to also draw attention of members of the public to the new positions under the Sharia judicial dispensation as follows:

- (i) With the coming into effect of the Sharia (Administration of Justice and Certain Consequential changes) Law 2001, the Area Court Law Cap 12 Laws of Bauchi State 1991 is repealed.
- (ii) With the coming into effect of the Sharia Penal Code of Bauchi, the Penal Code of Bauchi State Cap 108 Laws of Bauchi State 1991 as amended will be applicable only to non-Muslims of the State only.
- (iii) All criminal, civil and personal cases involving Muslims under the Sharia Penal Code will only be heard in Sharia Courts.
- (iv) Appeals from Sharia Courts in respect of criminal offences involving Muslims will lie to Upper Sharia Courts and appeals from Upper Sharia Courts go to Sharia Court of Appeal. Copies of all relevant laws are being printed and gazetted and will be made available to public as soon as possible i.e. the Sharia Penal Code law 2001 and the Sharia Courts Law 2001.
- (v) A case between Muslims and non-Muslims will be tried in Magistrates Courts unless consented to in writing by the non-Muslim that such a case be tried in Sharia Court.

Members of the public are further informed that the State Government has duly mandated the Task Force on Sharia Implementation to perform the functions of the Sharia Consultative Council pending the time when the law establishing the Sharia Commission is promulgated and the Sharia Commission and the Sharia Consultative Council duly constituted.

Members of the public are therefore warned to desist from constituting themselves into law enforcement agencies or taking the law in to their hands to foment trouble in breach of the peace. The Government wishes to assure all citizens of their safety and the protection of their lives and property and will not hesitate to deal decisively with any person or a group of persons who deliberately cause a breach of the peace in the State. The Government, however, appreciates the importance of *hisbah* organisation under the Sharia judicial dispensation and has mandated the Sharia Commission when constituted to deal with the recruitment and control of *hisbah* organisations in the State. For the avoidance of doubt the main functions of *hisbah* under the Sharia are assisting law enforcement agencies in the prevention and investigation of crime by giving useful information; exhortation of the *ummah* to be of good behaviour, honest and law abiding and to shun or forbid what is wrong and enjoin what is right; making peace among communities and correcting misunderstandings between them and to promote mutual respect between them. Until the constitution of the Sharia Commission all voluntary *hisbah* workers are advised to restrict their activity to general preaching to educate members of the community on the dos and don'ts of the Sharia.,

Sharia is the collective wish of all Muslims who constitute more than 99% of the population of the State; a fundamental right entrenched in the constitution of the Federation.

Finally, the Task Force has been mandated by the Government to notify the good members of the public that Sharia Legal system will unfailingly *insha* Allah take off

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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tomorrow Friday the 1st day of June 2001 as scheduled. On behalf of the Government of the State therefore, we are calling on the all good people of the State to continue to be law abiding and peace loving in the spirit of Islam and to continue to pray for the success of Sharia not only in this State but also in the rest of the Federation. May the Almighty Allah continue to guide and protect us.

Alh. Muhammad Danmadami CFR, NPM, mni

(Sa'in Katagum)

Chairman

31/5/2001

**8. Letter from Task Force Chairman to Secretary to the State Government re
Office and Residential Accommodation for Sharia Court Judges**

**TASK FORCE ON SHARIA IMPLEMENTATION
BAUCHI STATE OF NIGERIA**

ADMINISTRATIVE SECRETARIAT;

Gombe Road (Adjacent Local Government Audit) Bauchi Ph. 077-642259

Our Ref: _____ Your Ref: _____ Date: _____

TFSI/BS/ADM/VOL.I/89

16TH May 2001

The Secretary to the State Government
Government House,
Bauchi.

**OFFICE AND RESIDENTIAL ACCOMMODATION FOR
SHARIA COURT JUDGES**

The position of court buildings and residential accommodation for Sharia Court judges in the State is far from being satisfactory. With the exception of only very few, most of the courts especially in rural areas are housed in inadequate dilapidated buildings. In one of the places the Task Force visited the court and observed it to be housed in one dilapidated mud *zauwe*, which was being used as the courtroom without dock or witness box and as office for the court clerks and other staff. The condition is so pitiful and demoralising that it becomes necessary for the Government to take immediate action to remedy the situation by providing permanent and befitting court buildings and residential accommodation for judges wherever they are if only to boost their morale and raise their dwindling status in the community. As earlier discussed with His Excellency the Executive Governor, the Task Force is thus making the following recommendations for serious consideration by the Government.

PHASE I

(i) Construction of “Type B” Court Buildings

According to the Sharia Implementation Government White Paper, at least one Upper Sharia Court should be established in each Local Government Area. This means that 20 such courts will be required. “Type A” court buildings are the traditional buildings for Upper Area Court (now Upper Sharia Courts). In order to reduce costs, the Task Force is recommending the construction of “Type B” courts in each Local Government capital to be used as Upper Sharia Courts. There are already 15 “Type B” buildings in 15 Local Government Area, which require renovation only 5 new “Type B” buildings will therefore be required. The cost implication is as follows:

- | | |
|---|----------------|
| (a) Renovation of 15 No “Type B”
court buildings @N639,980.00 = | N9,599,700.00 |
| (b) Construction of 5 No. “Type B”
court buildings @ N3,091,093.50 = | N15,455,467.50 |

(ii) Construction of “Type C” Court Buildings

The Government White Paper on Sharia implementation also provides that at least one Sharia Court is to be established initially in each administrative district in the State. In order to reduce costs, it is recommended that “Type C” court is constructed in all the districts that have no permanent courts buildings. There are 38 of such districts and the cost implications are as follows:

- | | |
|---|-----------------|
| Construction of 38 Nos. “Type C”
court buildings @ N2,697,788.00 = | N102,515,944.00 |
|---|-----------------|

(iii) Renovation of “Type A” Court Buildings

Traditionally, Upper Area Courts have been housed in Type A court buildings. These are much bigger buildings than Type B and are now found only at Bauchi, Azare, Misau, Jama’are and Ningi. The Task Force recommends that these types of building be retained for Emirate capitals and that any new building for Upper Sharia Courts should be “Type B”. There is however, the need to make some alterations to the buildings to make them conform to requirement of Sharia as well as to generally renovate them. The cost implications are as follows:

- | | |
|---|---------------|
| Renovation of 2Nos. “Type A”
court buildings @ N1,006,995.00 = | N1,013,990.00 |
|---|---------------|

(iv) Construction of 3 Bed-Room Judges’ quarters

These quarters are to be constructed for Upper Sharia Court judges. At present, there are 14 such quarters already constructed in the various Local Government Areas of the State. Only 6 new ones will therefore be required. And the cost estimate is as follows:

- | | |
|--------------------------|----------------|
| N3,395,694.50 x 6 Nos. = | N20,374,167.00 |
|--------------------------|----------------|

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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(v) Renovation of 3 Bed-Room Judges' quarters

It is also observed that the 14 Nos. 3 bedrooms mentioned above are in dilapidated conditions. There is therefore the need to renovate them using a provisional sum of N1,200,000.00 for each making a total sum of N16,800,000.00.

(vi) Construction of 2 Bed-Room Judges' quarters

These are to be constructed for Sharia Court judges in the 42 District Headquarters of the State as follows:

Construction of 42 Nos. 2 Bed-Room
Judges' Quarters @ N2,218,084.00 = N93,159,528.00

PHASE II

(i) Construction of "Type C" Court Buildings

For the second phase of the Sharia implementation, there is a great need to construct 46 "Type C" court buildings in the 46 major villages recommended to have Sharia Courts in the State. The cost estimate for the construction of such courts is as follows:

N2,697,788.00 x 46 Nos. = N124,098,248.00

(ii) Construction of 2 Bedroom Judges' Quarters in Major Villages

These are to be constructed for Sharia Court judges in major villages under Phase II Programme (1st September – 31st December 2001) as follows:

Construction of 46 Nos. 2 Bedroom
Judges' Quarters @N2,218,084.00 = N102,031,864.00

SUMMARY

PHASE I

01 Renovation of "Type B" Court Buildings:

N639,980.00 x 15 Nos. = N8,599,700.00

02 Construction of "Type B" Court Buildings:

N3,091,093.50 x 5 Nos. = N15,455,467.50

03 Construction of "Type C" Court Buildings:

N2,697,788.00 x 38 Nos. = N102,515,944.00

04 Renovation of "Type A" Court Buildings:

N1,006,995.00 x 2 Nos. = N2,013,990.00

05 Construction of 3 Bedroom Judges' Quarters:

N3,395,694.50 x 6 Nos. = N20,374,167.00

06 Renovations of 3 Bedroom Judges' Quarters:

N1,200,000.00 x 14 Nos. = N16,800,000.00

07 Construction of 2 Bedrooms Judges' Quarters:

N2,218,084.00 x 42 Nos. = N93,159,528.00

PHASE I TOTAL: N259,918,796.50

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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PHASE II

01 Construction of “Type C” Court Buildings:

N2,697,788.00 x 46 Nos. = N124,098,248.00

02 Construction of 2 Bedrooms Judges’ Quarters:

N2,218,084.00 x 46 Nos. = N102,031,864.00

PHASE II TOTAL: N226, 130, 112.00

OVERALL SUMMARY

Phase I Total = N259,918,796.50

Phase II Total = N226,130,112.00

Grand Total = N486, 048, 908.50

In view of the importance of these projects in strengthening and sustaining the Sharia legal system, it is recommended that serious attention be given to that matter. It is appreciated that the Government may be confronted with funding problem but the projects can be staggered or implemented in phases. For example, the Government may decide to provide 10 court buildings and 10 residential quarters this year etc.

It is also advised that Local Governments should be requested to contribute towards the funding as all of them are directly affected being beneficiaries of the projects.

All plans updated in respect of the above projects are with the State Ministry of works. However, for ease of reference, the under listed annexes are attached here to:

[Annex I](#)

Specification of locations for constructions/renovations of the Sharia Courts and residential quarters of the Sharia judges.

[Annex II](#)

The Bill of Quantities received from the State Ministry of Works in respect of the above.

Alh. Muhammad Danmadami CFR, NPM, mni

(Sa’in Katagum)

Chairman

ANNEX I

TASK FORCE ON SHARIA IMPLEMENTATION, BAUCHI STATE

**SPECIFICATION OF LOCATIONS FOR
CONSTRUCTIONS/RENOVATIONS OF SHARIA COURTS AND
RESIDENTIAL QUARTERS OF THE SHARIA JUDGES**

(A) PHASE I

01 RENOVATIONS OF “TYPE A” COURT BUILDINGS

1. Misau

2. Azare

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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02. RENOVATIONS OF “TYPE B” COURT BUILDINGS

- | | | |
|-------------|--------------|-------------------|
| 1. Bauchi | 2. T/Balaewa | 3. Dass |
| 4. Toro | 5. Ningi | 6. K/Madaki |
| 7. Darazo | 8. Alkaleri | 9. Misau |
| 10. Azare I | 11. Azare II | 12. Jama’are |
| 13. Yana | 14. Gamawa | 15. Katagum(Zaki) |

03 CONSTRUCTIONS OF “TYPE B” COURT BUILDINGS

- | | | |
|-----------|----------|----------|
| 1. Dambam | 2. Kirfi | 3. Giade |
| 4. Warji | 5. Itas | |

04 CONSTRUCTIONS OF “TYPE C” COURT BUILDINGS

- | | | |
|----------------|---------------|-------------------------|
| 1. Yana | 2. Disina | 3. Madara |
| 4. Itas | 5. Gadau | 6. Katagum (Zaki) |
| 7. Sakwa | 8. Gamawa | 9. Udubo |
| 10. Giade | 11. Dambam | 12. Dass |
| 13. Dagauda | 14. Jalam | 15. Jama’are |
| 16. Dogon-Jeji | 17. Jurara | 18. Hanafari |
| 19. Ningi | 20. Burra | 21. Warji |
| 22. Kangere | 23. L/Katagum | 24. Bauchi I |
| 25. Bauchi II | 26. K/Madaki | 27. B/Dutse
(Duguri) |
| 28. Alkaleri | 29. Futuk | 30. Kirfi |
| 31. Darazo | 32. Sade | 33. T/Balewa |
| 34. Bununu | 35. Boto | 36. Toro |
| 37. Gumau | 38. Nabordo | |

05 RENOVATIONS OF JUDGES’ QUARTERS (3 BEDROOMS)

- | | | |
|--------------|--------------------|-----------|
| 1. T/Balewa | 2. Dass | 3. Toro |
| 4. Ningi | 5. K/Madaki | 6. Darazo |
| 7. Alkaleri | 8. Hardawa | 9. Azare |
| 10. Jama’are | 11. Katagum (Zaki) | 12. Misau |
| 13. Gamawa | 14. Yana | |

06 CONSTRUCTION OF JUDGES’ QUARTERS (3 BEDROOMS)

- | | | |
|-------------|--------------|----------|
| 1. Bauchi I | 2. Bauchi II | 3. Kirfi |
| 4. Dambam | 5. Giade | 6. Warji |

07 CONSTRUCTIONS OF JUDGES’ QUARTERS(2 BEDROOMS)

- | | | |
|-------------|--------------|----------------|
| 1. Duguri | 2. Alkaleri | 3. Futuk |
| 4. Bogoro | 5. Kobi | 6. T/Babiye |
| 7. Kangere | 8. L/Katagum | 9. Dambam |
| 10. Dagauda | 11. Jalam | 12. Darazo |
| 13. Sade | 14. Dass | 15. Gamawa |
| 16. Udubo | 17. K/Madaki | 18. Giade |
| 19. Itas | 20. Gadau | 21. Dogon-Jeji |

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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22. Jama'are	23. Jurara	24. Hanafari
25. Azare I	26. Azare II	27. Madara
28. Chinade	29. Kirfi	30. Misau
31. Hardawa	32. Ningi	33. Burra
34. Yana	35. Disina	36. T/Balewa
37. Bununu	38. Toro	39. Gumau
40. Warji	41. Katagum(Zaki)	42. Sakwa

(B) PHASE II

01 CONSTRUCTIONS OF "TYPE C" COURT BUILDINGS

1. Digare	2. Yashi	3. Doya
4. Tudun Alkali	5. Juwara	6. Tudun Gambo
7. Bayara	8. Yame	9. Lanzai
10. Konkiyel	11. Papa	12. Dass
13. Bazali	14. Gololo	15. Gadiya
16. Soro	17. Miya	18. Nassarawa
19. Zalanga	20. Zabi	21. Isawa
22. Magarya	23. Bulkachuwa	24. Bara
25. Dewu	26. Akuyam	27. Zadawa
28. Nasaru	29. Gadar Maiwa	30. Agwamaji
31. Yada Gungume	32. Faggo	33. Dull
34. Dajin	35. Boto	36. Lere
37. Tulu	38. Rishi	39. Nahuta
40. Rimin Zayam	41. Tilde	42. Tulai
43. Baima	44. Tudun Wada	45. Lodiya
46. K/Larabawa	47	48

02 CONSTRUCTIONS OF JUDGES' QUARTERS (2 BEDROOMS)

1. Digare	2. Yashi	3. Doya
4. Tudun Alkali	5. Juwara	6. Tudun Gambo
7. Bayara	8. Yame	9. Lanzai
10. Konkiyel	11. Papa	12. Dass
13. Bazali	14. Gololo	15. Gadiya
16. Soro	17. Miya	18. Nassarawa
19. Zalanga	20. Zabi	21. Isawa
22. Magarya	23. Bulkachuwa	24. Bara
25. Dewu	26. Akuyam	27. Zadawa
28. Nasaru	29. Gadar Maiwa	30. Agwamaji
31. Yada Gungume	32. Faggo	33. Dull
34. Dajin	35. Boto	36. Lere
37. Tulu	38. Rishi	39. Nahuta
40. Rimin Zayam	41. Tilde	42. Tulai
43. Baima	44. Tudun Wada	45. Lodiya
46. K/Larabawa	47	48

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
DETAILS AND DOCUMENTATION

ANNEX II
BILL OF QUANTITIES PREPARED BY
THE STATE MINISTRY OF WORKS

ESTIMATE FOR THE RENOVATION OF SHARIA COURTS
“TYPE A” IN BAUCHI STATE A2^[1]

A.	Allow a provisional sum of N20,000.00 for checking and repair of all cracks, construction of female witness dock, and all works associated to masonry	Sum	20,000.00
	To summary		N20,000.00
B.	Allow a provisional sum of N150,000 for checking and repair of timber roof and felt work on concrete roof	Sum	150,000.00
	To summary		N150,000.00
	<u>Supply and fix the following solitary fittings including assembling of component parts and bedded in cement mortar and pointed to service and waste</u>		
C.	Low level W. C. suite complete (Royal)	2 No. N12,000.00	24,000.00
	<u>GLAZING</u>		
E.	450 X 100 mm plain louver glass	16 Pcs 250.00	4,000.00
F.	4mm thick clear sheet of glass fix to door and window frame using good quality putty	5 M2 1500.00	7,500.00
G.	4mm thick glass plain to aluminium sliding door	3 M2 1600.00	4,800.00
	To summary		N58,300.00
	<u>IRON MONGERY</u>		
H.	Crittall Hope lock complete	2 No. 3600.00	7,200.00
I.	Window handle	6 pairs 380.00	2,280.00
J.	Mortise lock set complete	5No 500.00	2,500.00
K.	Flush doors shutter 900 x 2100mm	5 No 6000.00	30,000.00
L.	Burglary proof of approve design	30 M2 1,600.00	48,000.00
	To Summary		N89,980.00
	<u>CEILING</u>		
A.	2400 x 1200 x 6mm hard board ceiling nailed to hardwood noggins at 600mm C/C	100 M2 380.00	38,000.00

¹ Text and numbers in this estimate as in the original. There are anomalies in the numbers.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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	To Summary	N38,000.00
	<u>PAINTING AND DECORATION</u>	
B.	Prepare and apply two coats of emulsion paint to block work and concrete surfaces (including conc. Decking) deluxe type	1277 M2 200.00 255,400.00
C.	Ditto gloss paint on timber and metal surfaces	45 M2 240.00 10,800.00
	To summary	N266,200.00
	<u>PLUMBING</u>	
D.	Allow a P.S. of N25,000.00 for checking and repair of plumbing pipe works	Sum 25,000.00
	To Summary	N25,000.00
E.	Allow a sum of N50,000.00 for repair of Car parks (3 No)	Sum 50,000.00
	To Summary	N50,000.00
	<u>ELECTRICAL</u>	
F.	Allow a sum of N120,000.00 for general checking and repairs of all electrical works including, pipe and fittings.	Sum 120,000.00
	To Summary	N120,000.00
	<u>DRAINAGE</u>	
G.	Allow a sum of N60,000.00 for drainage including soak-away, septic tank etc.	Sum 60,000.00
	To summary	N60,000.00
	SUMMARY	
	Masonry	N20,000.00
	Roof	N150,000.00
	Services	N58,300.00
	Glazing	N38,000.00
	Iron Mongery	N89,980.00
	Finishes	N38,000.00
	Painting and Decorations	N266,200.00
	Plumbing	N25,000.00
	Carpentry and Joinery	N50,000.00
	Electrical	N120,000.00
	Drainage	<u>N60,000.00</u>
		N915,450.00
	Add 5% Prelims	N45,772.50

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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Add 5% Contingency	<u>N45,772.50</u>
Add 5% Prelims	N313,586.25
TOTAL	N1,006,995.00

[Estimates for:

- The renovation of Sharia Court “Type B” in Bauchi State
 - The construction of Sharia Court in Bauchi State Type B
 - The construction of Sharia Court in Bauchi State Type C
 - The construction of 3-bedroom for Sharia Court judges in Bauchi State
 - The construction of 2-bedroom for Sharia Court judges in Bauchi State
- are similar to the above and are omitted here.]

9. Letter from Deputy Governor to Task Force Chairman re Commencement of Sharia Legal System in the State

**BAUCHI STATE OF NIGERIA
DEPUTY-GOVERNOR’S OFFICE**

P.M.B. 0059
BAUCHI

Tel: No. 077 542592

GO/88/REL/1/S

Date: 30th May 2001

The Chairman
Sharia Task Force Committee,
Bauchi

COMMENCEMENT OF SHARIA LEGAL SYSTEM IN THE STATE

Since the Sharia Commission cannot be constituted until the bill establishing it, which has been passed to the House of Assembly only yesterday, it was promulgated into law. Government has decided to mandate the Task Force to perform the functions of the Consultative Council for the time being. This is to enable the take-off of the Sharia Legal System in the State on 1st June, 2001 as scheduled especially that as all judges have been appointed and posted. Both the Sharia Commission and the Sharia Consultative Council will be constituted as soon as the law establishing the Sharia Commission is promulgated.

2. You will please notify the public that Sharia Legal System takes off on 1st June 2001 as scheduled. However, individual members of the public should be warned against constituting themselves into law enforcement agencies to foment trouble in breach of

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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peace. The duty to arrest should be performed only by those so designated by the Sharia Law.

ALHAJI ABDULMALIK MAHMOOD
DEPUTY GOVERNOR

**10. Letter from Secretary to the State Government to Task Force Chairman re
Constitution of Bauchi State Sharia Commission**

BAUCHI STATE OF NIGERIA

Telex Fax : 077-542429
Tel: 077-542238, 542822, 543234

Office of the Secretary to the Government
Governor's Office,
P. M. B. 0060,
Bauchi.

Your Ref:
Our Ref: GO/SS/REL/S/1

26 May, 2001

The Chairman
Task Force on Sharia Implementation,
Gombe Road,
Bauchi.

CONSTITUTION OF BAUCHI STATE SHARIA COMMISSION

Sequel to the constitution of the Bauchi State Sharia Commission, I wish to inform you that the Task Force should prepare to hand over to the Commission. The process of handing over and final disengagement should however, be done over a period of two (2) weeks, up to 14th August, 2001.

2. On behalf of His Excellency and the Government of Bauchi State, I wish to express our sincere gratitude to you, the members and all staff of the Task Force on Sharia Implementation for the faithful manner in which you have carried out this onerous responsibility. May Allah (SWT) reward you for all you have been doing towards facilitating the successful implementation of Sharia Legal System in Bauchi State,

3. Thank you.

MUHAMMAD NADADA UMAR
SECRETARY TO THE STATE GOVERNMENT

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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11. Letter from Task Force Secretary to the Secretary to the State Government re Request for Approval of Transfer and/or Delegation of Powers on the Control and Supervision of Sharia Courts to the Office of the Grand Kadi of Bauchi State

[Letter-heading not included on copy of letter in Task Force Report]

TFSI/BS/ADM/Vol.I/99

Date: 28th June 2001

The Secretary to the State Government,
Governor's Office
Bauchi.

REQUEST FOR APPROVAL OF TRANSFER AND/OR DELEGATION OF POWERS ON THE CONTROL AND SUPERVISION OF SHARIA COURTS TO THE OFFICE OF THE GRAND KADI OF BAUCHI STATE

I am directed to forward herewith the attached draft instrument for the formal approval, by His Excellency, of the transfer of control and supervision of Sharia and Upper Sharia Courts from the Office of the Hon. Chief Judge to the Office of the Hon. Grand Kadi of Bauchi State.

2. Thank you.

ALI BABAYO GAMAWA

For the Secretary

[No attachment included in Task Force Report, but see attachment to next item.]

12. Letter from Task Force Chairman to Chief Judge Forwarding Approval for Transfer and/or Delegation of Powers on the Control and Supervision of Sharia Courts to the Office of the Grand Kadi of Bauchi State

[Letter-heading not included on copy of letter in Task Force Report]

TFSI/BS/ADM/Vol.I/100

2nd July 2001

The Hon. Chief Judge and Chairman,
Judicial Service Commission,
Bauchi State.

FORWARDING OF APPROVAL FOR THE TRANSFER AND/OR DELEGATION OF POWERS ON THE CONTROL AND SUPERVISION OF SHARIA COURTS TO THE OFFICE OF THE GRAND KADI OF BAUCHI STATE

I have the honour to inform your Lordship that His Excellency, the Executive Governor has formally authorised the Judicial Service Commission as required under

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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section 12 sub section (1) and (2) of the Bauchi State Judicial Service Committee Law Cap. 75 to confer some of its powers and functions with respect to general supervision and control of Sharia and Upper Sharia Courts to the Office of the Grand Kadi. The Governor has already signed an instrument to that effect.

2. Original Copy of the Instrument is attached hereto for your further action with the Judicial Service Commission, please.

ALH. MUHAMMADU DANMADAMI, CFR, NP'M, mni
(Sa'in Katagum)
Chairman

**APPROVAL FOR THE TRANSFER AND/OR DELEGATION OF POWERS
ON THE CONTROL AND SUPERVISION OF SHARIA COURTS TO THE
OFFICE OF THE GRAND KADI OF BAUCHI STATE**

WHEREAS section 6(c) part II of the third schedule to the 1999 Constitution of the Federal Republic of Nigeria vests powers to appoint, dismiss and exercise disciplinary control over staff of the Judiciary including, all other members of staff of the judicial service of the State not otherwise specified in the constitution, on the State Judicial Service Commission:

AND WHEREAS by section 12(1) of the Bauchi State Judicial Service Committee Law Cap 75 Laws of Bauchi State 1991, the Executive Governor of Bauchi State is vested with the power to approve the transfer and/or delegation of powers of the State Judicial Service Commission to any officer or authority for the purpose of discharging its functions;

AND WHEREAS by section 30(1) of the Sharia Courts (Administration of Justice and Certain Consequential Changes) law 2001, the general supervision and control of the Sharia and Upper Sharia Courts in the State have now been transferred to the office of the Grand Kadi;

NOW THEREFORE, I ALHAJI AHMADU ADAMU MU'AZU, THE EXECUTIVE GOVERNOR OF BAUCHI STATE in exercise of the powers conferred on me by Section 12(1) and (2) thereof, do hereby approve the transfer of the general supervision and control of the State's Sharia and Upper Sharia Courts from the office of the Chief Judge to the office of the Grand Kadi of Bauchi State.

BY SO DOING this shall be your warrant.

Dated this 28th day of June 2001

ALH. (Dr.) AHMADU ADAMU MU'AZU,
(Mutawallen Bauchi)
The Executive Governor of Bauchi State

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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**INSTRUMENT ON FORMAL TRANSFER OF CONTROL AND
SUPERVISION OF BAUCHI STATE SHARIA COURTS FROM THE HON.
CHIEF JUDGE OF BAUCHI STATE TO THE HON. GRAND KADI OF
BAUCHI STATE**

WHEREAS section 6(c) of part II of the third schedule to the 1999 Constitution vests powers to appoint, dismiss and exercise supervision and disciplinary control over State judicial and other staff of Area or Sharia Courts in the State Judicial Service Commission.

AND WHEREAS the Judicial Service Commission with the approval of the Governor is vested with the power under section 12 subsections (1) and (2) of the Bauchi State Judicial Service Committee Law Cap 75 Laws of Bauchi State of Nigeria 1991 to confer or delegate some of its powers and functions on any of its officers for the purpose of discharging its functions.

AND WHEREAS by section 30 subsection (1) of Sharia Courts (Administration of Justice and Certain Consequential changes) Law Cap 1 Laws of Bauchi State of Nigeria 2001, the general supervision and control of Sharia and Upper Sharia Courts in the State are now vested in the office of the Grand Kadi.

AND WHEREAS the State Executive Governor's approval and/or consent has been sought and obtained in accordance with section 12(1)(c) of the Judicial Service Committee Laws Cap 75 Laws of Bauchi State.

NOW THEREFORE the Bauchi State Judicial Service Commission has from the 1st day of June 2001 hereby transferred and delegated all its powers for the control and supervision of the State Sharia Courts established under the Sharia Courts (Administration of Justice and Certain Consequential Changes) law 1991 on the Grand Kadi of Bauchi State, he being an ex-officio member of the Commission.

Accordingly, from the date herein before mentioned, the control and supervision of all the Sharia Courts of Bauchi State are hereby transferred from the office of the State Chief Judge to the office of the Grand Kadi of Bauchi State.

Dated this _____ day of _____ 2001

Hon. Justice S. S. Darazo
Chief Judge and Chairman
Judicial Service Commission
Bauchi State.

13. Draft Rules of Civil Procedure for the Sharia Courts

THE BAUCHI STATE SHARIA COURTS LAW – 2001 THE SHARIA COURTS (CIVIL PROCEDURE) RULES, 2001

Date of Commencement: 1st June 2001

In the exercise of powers conferred upon him by section 7(ii) of Sharia Courts Law 2001, the Grand Kadi has made the following rules:

ORDER 1. – CITATION, APPLICATION AND INTERPRETATION

- | | |
|--|--|
| Citation,
commencement
and application | 1. (1) These rules may be cited as the Sharia Courts (Civil Procedure) Rules 2001, and shall come into operation on the 1 st day of June 2001. |
| Interpretation | (2) These rules shall apply to all Sharia Courts.
2. In these rules unless the context otherwise requires:
“Court” means an Upper Sharia Court or Sharia Court of any grade of Bauchi State.
“Registrar” means the registrar of court.
“ <i>Mudda’l</i> ” means plaintiff or complainant and includes and appellant.
“ <i>Mudda’a alaibi</i> ” means the defendant or respondent.
“ <i>Mudda’a fibi</i> ” means the subject matter in issue.
“ <i>Al-qadi</i> ” means the judge of the court.
“Judgment” includes any appealable order, decree, verdict or ruling whether interim or final.
“Process” includes any writ, summons, warrant, order, notice or other document issued by a court.
“Authorised agent” means an authorised <i>wakil</i> (agent) representing any litigant in accordance with Sharia and may include a legal practitioner.
“Service of process” means delivery of any court process by the court official to the affected person, who shall duly, endorse the reverse of the duplicate copy of the process by his signature name date and time of collection.
“Outside jurisdiction” means outside Bauchi State.
“The Law” means Sharia as defined in the Sharia.
“Legal practitioner” means the legal practitioner as defined in the Legal Practitioners Act 1975.
“Party” means <i>mudda’l</i> , <i>mudda’a alaibi</i> and their representatives and shall include any other person who by leave of court is joined either at trial level or on appeal.
“Proceedings” includes full hearing of a case from commencement of hearing to judgment and shall include hearing of appeals and any application.
“Property” includes both moveable and immovable, perishable and non-perishable item(s) in issue.
“Rules” means the Bauchi State Sharia Courts Civil Procedure Rules 2001 with all subsequent amendments thereto.
“ <i>Hadana</i> ” means all causes or matters relating to the right of |

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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guardianship of a child from pregnancy to his puberty in accordance with the Sharia.

“*Adalah*” means trustworthiness of a witness within the context of the surrounding circumstances.

- | | | |
|------------------------------------|----|---|
| Inconsistency with primary sources | 3. | Where any provision of the rules is in contradiction with the Qur’an, the Sunnah of the Prophet and <i>Ijma</i> shall be void to the extent of its inconsistency. |
| Forms | 4. | The forms in the appendix shall be used where applicable with such variations as the circumstances of the particular case may require. ² |

ORDER 2 – FORM AND COMMENCEMENT OF ACTION

- | | | |
|------------------------------------|----|--|
| Institution of Civil Complaint | 1. | (a) Civil proceedings shall be instituted in the courts by oral or written complaint to the registrar within court working hours.
(b) No court shall entertain a cause or matter which it considers that it has no Jurisdiction or no sufficient powers to try, but shall transfer or obtain the transfer of the cause or matter to a court of appropriate and competent jurisdiction or powers.
(c) A court shall refuse to entertain a case or matter if the said cause or matter fails to disclose any cause of action, and any refusal under the provisions of the rules together with the grounds therefore shall be entered in the appropriate record:
Provided that the refusal to entertain a complaint under this rule shall not by reason only of such refusal preclude the plaintiff from presenting a fresh complaint in respect of the same cause of action. |
| Commencement of action | 2. | The complaint may be lodged directly or by the authorised representative or agent of the person making the complaint. |
| Content of a complaint | 3. | The complaint shall contain sufficient detail to identify the cause of action, the parties involved and their addresses and the remedy sought. |
| Fees | 4. | The complainant shall pay the fees as prescribed in Table A of the rules for the type of complaint and obtain a receipt photocopy of which must be kept in the judges file before commencement of hearing or where photocopy is not available, the production of the original by the claimant. |
| Entries in relevant books | 5. | The registrar shall keep proper records of all complaints lodged before his court and shall issue such reference number to the complain to distinguish it from other complaints before the court. |
| Fixing a date and issue of summons | 6. | The registrar may in consultation with the judge fix any date appropriate for the commencement of hearing and notify all parties involved for attendance and the registrar shall issue writ of summons. |
| Particulars of summons | 7. | A writ of summons shall not be valid unless it contains the following particulars:
(a) suit number
(b) parties
(c) cause of action |

² Ed. note: none of the forms mentioned in the draft rules are given in our source document.

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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- (d) date, time and venue of attendance
- (e) date of issue.

Form of summons Form 01 8. Every summons issued by a court under these rules shall be in writing, signed by the judge of such court and as in Form **Sh. 01**

ORDER 3 – SERVICE OF PROCESS

- | | |
|--|---|
| Service of Process | 1. Service of process shall be effected by any person authorised by law or employed for the court or assigned by the court to effect service. |
| By legal practitioner | 2. Where both parties are represented by legal practitioners upon filing of any document, the legal practitioner may serve upon the other legal practitioner a copy of the document and obtain his endorsement thereof as evidence of such service. |
| Method of service | 3. Save as otherwise prescribed by these rules, a process shall be served personally by delivering it to the person to be served and obtaining his endorsement at the reverse of a duplicate copy. |
| Substituted service | 4. Where it appears to the court after an attempt at personal service that for any reason personal service cannot be conveniently effected, the court may order substituted service by any of the following means possible: |
| By delivery to person in contact | (a) By delivery thereof to his master, senior officer, village head, agent or any person in contact with him upon it being proved that there is reasonable probability that the document would in the ordinary course, through that agent, or person come to the knowledge of the person to be served. |
| By leaving in house
By fixing on wall | (b) By delivery of the document on an adult living in the same house with the person to be served or any member of his family. |
| By advertisement | (c) By notice or by affixing the document at the courthouse or other place of public resort or the usual or last known place of abode or business of the person to be served. |
| | (d) By advertisement in the Federal Gazette or in the State Gazette or in some newspapers circulating within the jurisdiction. |
| Time of service | 5. A document may be served on any day between the hours of the day. [sic] |
| Proof of service | 6. No court shall take any action, which is dependent upon a document being served upon any person unless service is admitted by such person or service upon him has been proved in accordance with these rules. |
| Arrest of defendant Form Sh. 02 | 7. No court shall issue a warrant for the arrest of a defendant: Provided that a court may issue a warrant where it is satisfied that: <ul style="list-style-type: none"> (a) the defendant has been served with summons and he does not appear at time and place appointed in such summons; and (b) the cause or matter cannot be disposed of under Islamic law without the appearance of the defendant. As in Form Sh. 02. |

ORDER 4 – SERVICE OUTSIDE JURISDICTION

Service outside 1. The service and execution of any process or order of a Sharia Court

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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- State within the State to any other person outside Jurisdiction shall be governed by the:
- (a) Sheriff and Civil Processes law in States that does not operate Sharia legal system or
 - (b) Principles of Islamic Law in all other States.

ORDER 5 – TRIAL PROCEEDINGS (GENERAL)

- | | |
|---|--|
| Time of proceedings | 1. The sitting of the court during hearing shall be open and accessible to the public and shall commence between the hours of 9.00 a.m. and terminate not later than 4.00 p.m. from Monday to Thursday and between 9.00 a.m. to 12.30 p.m. On Fridays except in cases of strong urgency on application by any party. |
| Accessibility to the court | 2. In the interest of the parties, public morality public peace, or where an under ages person is involved, the court may sit in chambers and be accessible only to the parties, their agents and relatives. |
| Non-appearance of both parties | 3. If on the day fixed for a cause or any adjourned date thereof to the notice of the parties and neither party nor an authorised agent appears, the court shall strike out the cause unless the court sees good reason to the contrary. Any such reason shall be recorded in the appropriate records. |
| Non-appearance of plaintiff | 4. If on such appointed day, only the defendant appears, the court may strike out the cause without prejudice and discharge the defendant with such cost as may cover his transportation home. Any such reason shall be recorded in the appropriate record. |
| Counter claim | 5. Where a cause has been struck out under rule 4 above and the defendant has a counter claim the court may: <ol style="list-style-type: none"> (a) on proof of service of the process on the plaintiff or (b) where it is considered that the plaintiff had due notice of the hearing. The court shall treat such a counter claim as a separate claim and apply the provisions of this rules relating to a claim mutatis mutandis to the counter claim. |
| Issue of fresh notice | 6. If a cause is called on for hearing or at any adjourned date requiring a fresh service or notice of hearing, service of the process on the parties is not proved to the satisfaction of the court the court shall fix a new day before hearing and issue a fresh hearing notice on the party not in court. |
| Joinder of parties | 7. <ol style="list-style-type: none"> (a) A judge may for good reasons either suo motu or on the application of any party join any person as <i>mudda'l</i> or <i>mudda'a alaihi</i>. (b) A third party may also apply to be joined as a party to any proceedings before the court. |
| Relisting of cause or matter struck out | 8. Any cause or matter struck out may by leave of the court be re-listed on the cause list on such terms as the court may deem it fit. |

ORDER 6 – INTERLOCUTORY APPLICATIONS

- | | |
|----------------------------|---|
| Interlocutory applications | 1. Interlocutory applications may be made ex-parte in emergency cases or by motion on notice at any stage of the proceedings in a cause or matter and by any of the parties thereto or their authorised agents. |
|----------------------------|---|

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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Form of motion	2.	Every motion may be made orally or in writing in open court or in chambers as the circumstances of the case may require. In either case, the party seeking the order shall state clearly the terms of the order sought.
Notice of motion	3.	Except for motions ex parte, motions shall only be heard after notice of motion has been served on all the parties likely to be affected.
Supporting evidence	4.	A motion need not be supported by affidavit but shall be supported by sufficient argument, explanations or evidence in favour of the grant thereof.
Objection	5.	A party against whom a motion is moved may oppose the application upon such explanation or evidence against the grant of the application.
Preserving the status quo	6.	The <i>al-qadi</i> shall not make up his mind on the substantive case at the interlocutory stage and shall avoid touching matters suitable for the substantive case at interlocutory stage, except for preserving the status quo.
Direction or refusal	7.	<i>Al-qadi</i> may direct a motion ex parte to be made on notice or a motion on notice to be taken at the substantive hearing, or refuse to grant the application sought.
Orders not to be made if applicant is absent	8.	Where any party has file a notice of motion and is not present at the subsequent hearing of motion the court shall not make and order in favour of such party.
Adjournment	9.	The hearing of any motion may from time to time be adjourned upon such terms as the court think fit.

ORDER 7 – PROCEEDING AT HEARING

Cause list	1.	The registrar shall prepare and make accessible to litigants cause list for every day of hearing containing the list of cases for the day duly signed by him. He shall also make and keep separate files or records for cause lists.
Calling of cases	2.	At the commencement of proceedings a clerk of the court shall call out loudly the names of the parties of a case coming up for determination on his own motion or on application may give priority to litigants who came from far places or as the court deem fit.
Record of attendance	3.	The <i>al-qadi</i> shall record attendance of the parties and/or their authorised agents.
Stating of claims	4.	The <i>al-qadi</i> shall thereafter call upon the <i>mudda'l</i> to state his case and claims and such a claim shall clearly state the subject matter, (<i>mudda'a fih</i>) the parties involved the relevant period and the remedy sought from the court.
Statement of defence	5.	When the <i>mudda'l</i> (plaintiff) concluded stating his case and such other or further explanation and clarifications he may wish to make, the <i>al-qadi</i> shall then call upon the <i>mudda'a alaihi</i> (here-after called <i>mudda'a</i>) to reply to the plaintiff's case.
Admission of liability	6.	The <i>mudda'a</i> in his reply may admit liability in respect of the whole claim or part of the claim or may deny liability entirely. Where <i>mudda'a</i> clearly admits only a part of the claim, the <i>al-qadi</i> shall pass

ACTIVITIES OF THE BAUCHI STATE TASK FORCE ON SHARIA IMPLEMENTATION:
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		judgment in respect of the admitted part and proceed to hearing in respect of the un-admitted part.
Denial of liability	7.	Where the <i>mudda'a</i> denies liability the <i>al-qadi</i> shall call upon the <i>mudda'l</i> to prove his case in accordance with Islamic rules of evidence.
Cross examination	8.	The court shall give an opportunity to the <i>mudda'a</i> to cross-examine the <i>mudda'l</i> and his witnesses and the <i>mudda'l</i> shall also be given opportunity to cross-examine the <i>mudda'a</i> and his witnesses if called.
Calling of witnesses	9.	If the <i>mudda'l</i> concludes and closes his case, the <i>al-qadi</i> shall give an opportunity in cases where <i>mudda'a</i> is permitted to call witnesses in Islamic law to open his defence and present his witnesses.
Address	10.	Parties shall be given opportunity either by themselves or their counsel to address the court on the position of the law in relation to the facts before the court.
Judgment	11.	(a) At the conclusion, the judge shall review the case and evidence adduced and addresses of the parties or legal practitioners as the case may be and deliver his judgment. No court shall deliver its judgment in the absence of the parties or their authorised agents. (b) The court shall deliver its judgment not later than three months from the date of address by the parties or their agents (c) Where the time enumerated in (b) above has elapsed, the court has to be addressed again.
Contents of a judgment	12.	(a) Every judgment of the court must contain the names of the parties, number of the case, date of delivery, the verdict of the court and must be signed by the judge and shall indicate the number of days available for appeal against the judgment (b) Notwithstanding the provision of rule 12(a) of this order the signature of a judge is hereby dispensed with if the registrar certifies a true copy of the judgment of the court proceedings. (c) Where a judgment has been entered in respect of the property either moveable or immovable, the court may issue certificate of title to the successful party(s) as in Sharia Form Sh 06 .

ORDER 8 – EVIDENCE AND JUDGMENT

Witness summons Form Sh 03	1.	(a) A court may of its own motion or on the application of either party summon any person subject to its jurisdiction to attend the court and to give evidence or produce any document or item in his possession as in Form Sh 03 . (b) The court may order that before the issue of a summons to a witness, a deposit of money be made by the <i>mudda'l</i> in court to cover the expenses of such witness.
Default of appearance of a witness	2.	If a witness does not appear in answer to a summons after a reasonable sum has been tendered to him to cover his expenses of attending, a court may, upon proof or service of summons cause a bench warrant to issue for arrest and producing such witness before the court at such time and place as is convenient.
Admission of evidence	3.	Every evidence relevant and admissible in Islamic law shall be

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- admitted and where such evidence is physical or documentary it shall be appropriately marked.
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| Reviewing of evidence and judgment | 4. | (a) The <i>al-qadi</i> shall while reviewing the evidence before him for purposes of writing his judgment allot such weight as is appropriate to every evidence considering the principles of Islamic law and the circumstance surrounding the evidence including the demeanour and dispositions of the witnesses such as test of their <i>adalab</i> .

(b) Where a cause or matter involves divorce and the court is disposed towards granting the divorce, a certificate of such divorce may be given as contained in Form Sh 08 on the date of judgment or so soon thereafter, after paying all the necessary fees. |
| Visit to locus | 5. | The court may visit for physical inspection any <i>mudda'a fibi</i> or may where moveable. Request the <i>mudda'a fibi</i> to be brought to or produced before the court. |
| Ordering witnesses out of court | 6. | The court shall order witnesses of both parties to be kept out of court room and at a reasonable distance away from hearing the court proceedings except when they are actually giving evidence or have given evidence when they shall be required to remain in court. |
| Parties are not witnesses | 7. | Parties shall not be treated as witnesses and may remain in court during proceedings. |
| Recording of evidence and exhibits | 8. | The <i>al-qadi</i> shall write in the appropriate record book the oral evidence given before the court and also the mark of any exhibit tendered. |
| Disposal of perishable items | 9. | The <i>al-qadi</i> may take appropriate step for the preservation or disposal of any perishable item subject matter of dispute or admitted in evidence. |
| Forwarding of records | 10. | The court shall where there is an appeal forwarded to the appellate court, certified copies of the record of proceedings and all documents and or exhibit admitted or rejected in evidence during the proceedings. |
| Release of exhibits | 11. | The court shall release to the appropriate party any exhibit tendered by him upon his request after the expiration of the time specified for appeal. |
| Marking of exhibits | 12. | Any exhibit admitted or rejected by the court shall be marked as such. |

ORDER 9 – EXECUTION

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| Execution after 7 days | 1. | Execution shall not normally be issued until seven days after the day of the date of final judgment except that the court may if is shall think fit in the interest of justice make a special order for immediate execution. |
| Application for enforcement | 2. | Where a party desires to enforce an order made in his favour, he shall apply to that court in writing as in Form Sh 04 for execution. |
| Execution on property | 3. | Execution can be levied against the properties of a judgment debtor including a deceased judgment debtor. |
| Joint and several | 4. | Where an order has been made against two or more persons jointly |

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executions		execution may be levied upon the property of each of them on pro-rata basis as adjudged by the court.
Order for payment	5.	A judgment or order of a court for the payment of money in a civil cause or matter may be enforced by the attachment and sale of the property of the judgment debtor.
Seizure of property and auction	6.	(a) A court staff executing a judgment may seize moveable properties in the actual possession of the judgment debtor including any money, bank notes, bills of exchange, promissory notes, bonds or securities for money belonging to that person and immediately deposit the property to the custody of the court for safe keeping any place directed by the <i>al-qadi</i> .
Form Sh 05		(b) Property seized may be sold by way of public auction after 7 days of such seizure and at least 3 days notice of intention to auction the properties must be served on the judgment debtor as in Form Sh 05 .
		(c) Proceeds of auction shall be handled to the creditor and any balance returned to the debtor.
Tools of trade and immovable properties	7.	Tools of trade and immovable properties shall not be attached or seized without a specific order of the <i>al-qadi</i> to that effect and such order shall be issued only after the moveable properties could not satisfy the judgment debt.
Installmental payment	8.	The <i>al-qadi</i> may allow the settlement of a judgment debt by way of instalment payment if the court is satisfied, then such an application shall be granted.
Detention of debtor	9.	Subject to the provision of this rules, the <i>al-qadi</i> can order the detention of a judgment debtor for such period not exceeding six months if he has no property which execution can be levied on.
Detention not to satisfy debt	10.	The serving of a detention term by a judgment debtor does not discharge him from his obligation to pay the judgment debt.
Surety	11.	After serving a detention term, the judgment debtor shall be produced before the <i>al-qadi</i> and shall produce a surety who shall be an owner of a landed property within jurisdiction.
Monthly production	12.	The surety shall undertake to produce the judgment debtor to the court monthly and shall so produce him until the judgment debt is satisfied.
Garnishee	13.	In the execution of its judgment, the court may adopt other methods to see to the satisfaction of the judgment debt including garnishee proceedings and domiciliation proceedings.

ORDER 10 – INTERPLEADER

Oath in support of claim	1.	Where attachment is levied against any property and a third party claims that the property belongs to him and not the judgment debtor, such claimant shall be made to swear to the Holy Qur'an that the said property does not belong to the judgment debtor but to the claimant (or any other person). Provided that a claim must be made to the court at the earliest opportunity and if the attached property has been advertise for sale, the sale shall be postponed until the claim has been investigated.
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Administration of oath	2.	Where the value of the property amounts to or exceeds one quarter of a dinar, such an oath to be administered on the claimant shall be performed in any <i>juma'at</i> mosque as provided by Sharia.
Evidence after oath	3.	Upon the oath of the claimant the court shall allow such claimant and judgment creditor to lead evidence on the ownership of the property including cross-examination of witnesses.
Attachment of property	4.	The <i>al-qadi</i> shall affirm the attachment or release the property from attachment based on the evidence of ownership before the court.
Deliberate delay	5.	When it appears to the court that their has been a deliberate delay with a view to obstructing the aims of justice or when the sale has taken place before the claim was made, the interpleader proceedings, shall be dismissed.
Procedure where damages are claimed	6.	Where in any interpleader proceedings the claimant claims damages from the judgment creditor or from bailiff or messenger of the court in respect of any misfeasance occurring during the course of the attachment he shall, in the declaration under rule 1 of this order state the amount which he claims for damages and grounds upon which he claims such damages.
Payment into court where damages are claimed	7.	Where in the interpleader proceedings a claim for damages is made, a person from whom damages are claim may pay money into the court in satisfaction of that claim and the payment shall made in same manner and have same effect as if the proceedings were an action in that court and the person claiming damages were plaintiff and the person from whom damages are claimed were defendant.
Costs	8.	Costs in any interpleader proceedings may be ordered to be paid in such manner as shall appear to the court to be just.

ORDER 11 – APPEALS

Application of the rules	1.	The provision of this rules shall apply to an Upper Sharia Court <i>mutatis mutandis</i> while sitting in this original or appellate capacity except where it is otherwise provided in these rules.
Time of filing appeals	2.	An appeal shall be filed within 14 days in case of an interlocutory judgment and within 30 days in case of a final judgment by any aggrieved party.
Right to appeal	3.	Any person affected by the decision of any Sharia Court may appeal against such a decision.
Notice of appeal	4.	The appeal shall be filed by the appellant at the appeal court registry and the particulars of this appeal shall be as contained in Form Sh. 06 .
Fees	5.	The registrar of the appellate court shall receive such fees from the appellant as prescribed in Table A of this rules and issue a receipt thereof a photocopy of which must be kept in the judges file.
Registering and service of appeal	6.	The registrar shall register the appeal and provide such number for the appeal and cause service of notice of the appeal to the respondent and the registrar of the lower court.
Record of proceedings	7.	The registrar shall serve along with the notice of appeal, to the registrar of the lower court a directive requesting for the transmission of record of proceedings of such court to the appellate

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| Expiration of time | 8. | <p>court within seven working days.</p> <p>Upon the expiration of the above limited time in rule 7 of this order, if no such record is transmitted to the court by the registrar of the lower court the appellate court shall summons the registrar of the lower court to show cause.</p> |
| Cost of record and proceedings | 9. | Every appellant shall bear the reasonable cost of the production of record of proceedings. |
| Date for hearing | 10. | Upon receipt of the record of proceedings the appeal registrar shall fix a date for hearing of the appeal and cause hearing notice and a copy of the record of proceedings to be served on all the affected parties. |
| Hearing of appeal | 11. | A court hearing an appeal shall call on the appellant to present his grounds and argument in support of his appeal and thereafter allow the respondent to reply accordingly. |
| Delivering of judgment | 12. | The court shall after reviewing the submission of the parties deliver its judgment. |
| Powers of appellate court | 13. | <p>Notwithstanding the provision of rule 12 above, the appellate court shall have power to:</p> <ul style="list-style-type: none"> (a) Hear fresh evidence from any of the parties. (b) Vary, set aside, or affirm the decision of the lower court (c) Order for a retrial (d) Order a transfer of the case to a court of competent jurisdiction. |
| Technicalities | 14. | An appeal court shall have all the powers of a trial court and shall give priority to substantial justice between the parties without undue regard to technicalities. |
| Stay of proceedings | 15. | The appellate court may for good reason shown by any applicant order for stay of proceedings of any case pending before the lower court whether such an application is first made to the lower court or not. |
| Stay of execution | 16. | <p>An appellate court may stay execution of the judgment of the lower court on any of the following grounds shown by the applicant whether or not an application for stay of execution was first made at the lower court.</p> <ul style="list-style-type: none"> (a) If the subject matter (<i>mudda'a fihi</i>) would be changed or destroyed. (b) If return to status quo would be difficult if execution is carried out and the appeal succeeds. (c) If the execution will render the applicants appeal nugatory or fruitless (d) If it is in the interest of justice so to do (e) If the grounds of appeal contains substantial and arguable issues of Islamic law (f) If the balance of convenience is in favour of the applicant and the stay of execution would not cause substantial hardship and injustice to the judgment creditor. |

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ORDER 12 – TIME AND COST OF PROCEEDINGS

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| Abridging of time | 1. The court may for good reason shown by the applicant extend or abridge time for doing any act limited by time in this rules. |
| Costs | 2. At the conclusion of the case a successful party shall be entitled to costs at least all receipted filing fees of any matter he made for the prosecution of the case he succeed. |

ORDER 13 – RECORDS

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| Records to be kept by Sharia Court | 1. Each court shall cause the following records to be kept:
(a) a civil cause book
(b) a civil cause record book |
| Form | 2. All proceedings of a court, including final and interlocutory orders; order of adjournment and notes of evidence may be in English or in the vernacular. |
| Recording of proceedings to be in English or the vernacular | 3. (1) The judge shall be responsible for the carrying out of the provisions of rule 2 and shall authenticate all records by signing the same. |
| Maintenance and authentication of records | (2) All records and forms as prescribed in the First Schedule shall be authenticated by the signature of the judge of the court concerned with the exception of Form Sh 06 . |
| Copies of records | 4. (1) A copy of any proceedings in any cause or matter shall upon application and payment of the prescribed fee be supplied by a court:
(a) to a party or person concerned in any such cause or matter;
(b) to a member of the immediate family or such party or person;
(c) to any administrative officer applying on behalf of such party or person, and
(d) with the consent of the court, to any other person.
(2) Any copy so supplied shall be certified by the signature of the judge as being a true copy. |
| Preservation of records | 5. The record and forms prescribed by these rules and any other records or forms which may from time to time be prescribed by rules made under the edict shall be preserved by the registrar. |

ORDER 14 – ACCOUNTS

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| Cash books and receipt books | 1. Every court shall cause to be kept:
(a) a civil cause cash book,
(b) receipt book(s),
(c) cash deposit book
and such cash book and receipt books shall be in such form and patterns as may from time to time be approved by the Accountant-General in consultation with the Auditor-General. |
| Registrar responsible for all moneys | 2. All moneys received by a court and all moneys paid out by a court in the course of the business of the court shall be accounted for by the |

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Entering of deposits in books	3. registrar of the court. (1) All moneys received by a court whether revenue or deposits and all moneys paid out by a court in the course of the business of the court shall be entered in the cash book and the cash deposit book respectively by the registrar. (2) Each entry shall show the date and the suit number of the appropriate record and whether payment was made by the plaintiff or defendant or whether payment was for fees, costs or deposit as the case may be.
Issue of receipts	(3) The clerk shall from the receipt books required to be kept by paragraph (b) of rule 1 of this order issue a receipt to all persons paying money into court in the course of the business of a court. The receipt number shall be entered in the cash book as part of the particulars required by paragraph (1) of this rule.
Sharia Court to comply with financial instructions	4. All money received by a court and all moneys paid out by a court in the course of the business of the court shall be and paid out in accordance with ... be retained, deposited and paid out in accordance with the provisions of such financial instructions as may from time to time be issued.
Inspection and audit of cash books and receipt books	5. All cash books and receipt books required to be kept by a court under the provisions of rule 1 shall be submitted for treasury inspection and audit at such time and in such manner as the Accountant-General or Auditor-General respectively may direct.

ORDER 15 – ALTERATION OF PARTIES

Order to carry on proceedings	1. Where after a cause or matter has been instituted any change or transmission of interest or liability occurs in relation to any party to the cause or matter, or any party dies or becomes incapable, or the cause or matter in any other way becomes defective or incapable of being carried on, any person interested may apply to the court for any order requisite for curing the defect, or enabling or compelling the proper parties to carry on the proceedings.
Application to discharge order	2. Any person served with such an order may, within such time not exceeding fourteen days after services as the court directs, apply to the court to discharge the order.
Misjoinder and non joinder	3. The court may at any stage strike out the names of any party or parties improperly or unnecessarily joined, and may, after due notice given to the party or parties affected, add the name(s) of party(ies) whose presence is essential to a just decision of the matter in dispute, and on proof of such notice the parties so served, whether they shall have appeared or not, shall be bound by the proceedings in the action.

14. Draft Sharia Criminal Procedure Code

SHARIA CRIMINAL PROCEDURE CODE LAW
CAP LAWS OF BAUCHI STATE OF NIGERIA 2001

Short title	1.	This law may be cited as the Sharia Criminal Procedure Code Law and shall come into force on the same day with the Sharia Penal Code Law Cap 2, 2001.
Establishment of the Sharia CPC	2.	The provisions contained in the schedule to this Law shall be the law of the State with respect to the several matters therein dealt with and the said schedule may be cited as, and is hereinafter called the Sharia Criminal Procedure Code.
Trail of offences under Sharia Penal Code and other laws	3.	(1) All offences under the Sharia Penal Code shall be investigated, inquired into and otherwise dealt with according to the provisions contained in the Sharia Criminal Procedure Code. (2) Where the Sharia Penal Code law is silent on any issue or criminal mater, the presiding judge is at liberty to resort to the primary sources of Islamic law and any other work recognised Islamic jurists and proceeds accordingly . (3) All offences against any other law but in which Muslims are directly involved shall be investigated and inquired into in accordance to the same provision of that law but tried and dealt with in accordance with Islamic law. (4) In any matter of criminal nature the Sharia Courts shall be bound by the provisions of this Sharia Criminal Procedure Code and exclusive of any other system not being Islamic law.
Delegation of powers of Attorney-General	4.	The State Attorney-General may delegate his powers of prosecution to any of his staff, private legal practitioners, private citizens or group as the case may be.

SCHEDULE

PART I: PRELIMINARY

Interpretation	1.	In this code unless where the context otherwise requires: “Accused person” includes an arrested person, a person the subject of a complaint, or a First Information Report, or a Police Report or Hisbah Report even though any such person may not be the subject of a formal charge. “Sharia Court” means a court established or deemed to have been established under the Sharia Courts (Administration of Justice and Certain Consequential Changes) Law 2001 and its any subsequent amendment. “Court” means Sharia Court. “Complaint” means the allegation made directly to the court by individual or group orally or in writing with a view to taking action under this Code that some person(s) whether known or unknown has/have committed an offence, but
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except where the context otherwise requires it does not include a Police Report.

“Code” means the Sharia Criminal Procedure Code established under this law.

“Inquiry” includes every inquiry other than court trial.

“Investigation” means and shall include all proceedings under Chapter XII of the Criminal Procedure Code law Cap 38 Laws of Bauchi State of Nigeria 1991 or section 149 thereof for the collection of evidence by the police but the trial proper must be conducted in accordance with Islamic law.

“Sharia Penal Code” means the Sharia Penal Code established by the Sharia Penal Code Law 2001 with subsequent amendments thereto.

“Hisbah” has the same meaning and functions as cited to it under the Sharia Commission law and includes all *bisbah* functions as may be conferred on it by the Sharia Commission from time to time.

“Police Division” includes any Police Station, not post within jurisdiction.

“Police Officer” means any member of the Nigeria Police Force.

“Superior Police Officer” shall have the same meaning as in section 2 of the Police Act.

“Take cognisance” with its grammatical variation means take notice in an official capacity.

“Complainant” includes prosecutor authorised by this Code as defined.

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| Illegal omissions | 2. | Words which refer to acts done also extend to illegal omissions. |
| Words to have the same meaning as in the Sharia Penal Code | 3. | All words and expressions used herein and defined in the Sharia Penal Code shall have the same [meaning as in such] Code. |

PART 2

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| Classes of criminal courts in the State | 4. | The classes of the criminal courts in the State under this Code are:
(a) Sharia Courts
(b) Upper Sharia Courts
(c) Sharia Court of Appeal
(d) State High Court |
| Territorial jurisdiction | 5. | The territorial jurisdiction of:
(a) Any Sharia and Upper Sharia Court of the State is limited to the Local Government in which the court is situate (both first instance and appellate).
(b) The Sharia Court of Appeal and the High Court is the entire State provided that such High Court shall conduct the trial of the accused persons, being Muslims, in accordance with Islamic law. |
| Appeal stays execution in | 6. | (1) No payment of <i>diyab</i> or amputation of limb or stoning to |

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certain cases death under the Sharia Penal Code shall be carried out until after time for appeal lapses and the convict fails to appeal.
(2) For the purposes of sub-section (1) of this section appeal includes an application for leave to appeal out of time.

TRIAL GENERALLY

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| Initiation of criminal proceeding | 1. A person shall be tried by the Sharia Court if:
(a) a written complaint is made against him by the Attorney-General , or
(b) upon the receipt of complaint of fact which constitutes an offence by a victim of crime or his representative if the court has reason to believe or suspect that an offence has been committed
(c) Upon receiving Police First Information Report. |
| Every complaint shall disclose a cause of action | 2. Every complaint shall disclose a cause of action; in this respect it is sufficient for a complaint to have a statement of the offence complained of with date and place and when material, the value of the property in respect of which the offence has been committed. |
| Court to ascertain from the complaint details of the complaint Particulars of the offence to be read over to the accused | 3. Upon the receipt of a complaint the court shall ascertain the details thereof and if the court is satisfied that it discloses a course of action it shall ensure the attendance of the suspect.
4. When a suspect/defendant appears or is brought before the court, the particulars/details of the offence of which he is being accused shall be read over to him by the court in a language he understands, and upon the courts satisfaction that the suspect/defendant understands the accusation against him shall be asked to make a plea. |
| Court can convict on the confession of the accused | 5. (1) If the accused confesses before the court to the commission of an offence which he is accused of his confession shall be recorded as nearly as possible in the words used by him, and the court may convict and sentence him accordingly; if the confession satisfies conditions laid down by Sharia provided that the court is satisfied that the accused has clearly understood the meaning of the accusation against him and the consequence of his confession.
(2) Notwithstanding the provision of sub section (1) of this section where an accused person retracts from his confession he shall not be convicted but the court shall proceed to hear the evidence as may be produced by the complainant/prosecution. |
| Court to hear evidence against the accused if he denies or if refuses to admit or deny | 6. If the accused denies the accusation against him, or if he refuses to admit or deny, the court shall proceed to hear the accusation against him and take all such evidence as may be produced in support of the accusation against him in accordance with Islamic law. |

BAIL

7. (1) All defences under Sharia Penal Code not being offences

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- punishable by *hadd* or *qisas* are bailable.
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| Consent to bail not to be unreasonably withheld | 8. | <ul style="list-style-type: none"> (2) Offences punishable by <i>hadd</i> lashing are bailable if the judge is satisfied that the accused satisfies the necessary conditions for bail. (3) A judge may grant bail of an accused person on <i>hadd</i> or <i>qisas</i> offence not being one involving intentional or unintentional killing if the complainant being the victim of the crime consent provided that consent shall not be unreasonably withheld. |
| When bail to be granted BASLN 1 of 1982 | 8. | <ul style="list-style-type: none"> (1) When any person accused of an offence punishable with imprisonment whether with or without fine for a term not exceeding three years or with fine only is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court and is prepared at any time while in the custody of that officer or before that court to give such security as may seem sufficient to the officer or court, such person shall be released on bail unless the officer or court for reasons to be recorded in writing considers that by reason of the granting of bail the proper investigation of the offence would be prejudiced or a serious risk of the accused escaping from justice be occasioned. (2) The officer or court referred to in subsection (1) if he or it thinks fit may instead of accepting security from such person discharge him on his executing a bond without surety(ies) for his appearance as provided in sections 345 and 346.³ |
| When bail may be taken in respect of non-bailable offence | 9. | <ul style="list-style-type: none"> (1) Persons accused of an offence punishable with death shall not be released on bail. (2) Persons accused of an offence punishable with imprisonment for a term exceeding three years shall not ordinarily be released on bail; nevertheless the court may upon application, release on bail a person accused as aforesaid if it considers: <ul style="list-style-type: none"> (a) that by reason of the granting of bail the proper investigation of the offence would not be prejudiced; and (b) that no serious risk of the accused escaping from justice would be occasioned, and (c) that no grounds exist for believing that the accused, if released, would commit an offence. |
| Power of High Court to direct release on bail | 10. | <ul style="list-style-type: none"> (1) Where any person is accused of an offence a single judge may, subject to the provisions of section 341, direct that such person be admitted to bail. (2) When any person is convicted of an offence in a court and appeals from such court to the Upper Sharia Court or Sharia |

³ The references are to sections 345 and 346 of the Criminal Procedure Code, not included in this Sharia Criminal Procedure Code. Similar references to CPC sections not included here are made in subsequent sections on bail. Cf. §45(3) of this Code.

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Court of Appeal or any other court a single judge therefore may, subject to the provisions of section 341, direct that such person be admitted to bail.

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| Power to arrest person released on bail | 11. | Any court may at any subsequent stage of any proceeding under this Code cause any person who has been released under section 8, 9, 10 to be arrested and may commit him to custody. |
| Power of High Court to order reduction of bail bond of accused and sureties | 12. | A judge may in any case direct that the bail required by an officer in charge of a police station or any court is reduced. |
| | 13. | Before any person is released under section 340, 341 or 342 he shall execute a bond for such sum of money as the officer in charge of the police station or the court thinks sufficient on condition that such person shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed by the court and if he is released on bail the sureties shall execute the same or another bond or other bonds containing conditions to the same effect. |
| Discharge from custody | 14. | (1) As soon as a bond referred to in section 345 has been executed, the person for whose appearance it has been executed shall be released; and if he is in prison, the court admitting him to bail shall issue a written order of release to the official in charge of the prison and such official on receipt of the order shall release him.

(2) Nothing in the section, section 340 or section 341 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed. |
| Deposit instead of bond | 15. | When any person is required by any court or officer in charge of a police station to execute a bond with or without sureties, the court or officer may, permit him to deposit a sum of money to such amount as the court or officer may think fit in lieu of executing such bond. |
| Bond required from a person under eighteen years | 16. | When the person required to execute a bond is under eighteen years of age, a bond executed by a surety or sureties only may be accepted. |
| Amount of bond not to be excessive | 17. | (1) The amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) If, through mistake, fraud or otherwise, insufficient sureties have been accepted or if the sureties afterwards, become insufficient, the court may issue a warrant for the arrest of the person on whose behalf the sureties executed the bond and, when that person appears, the court may order him to find sufficient sureties and on his failing to do so may make such order as in the circumstances is just and proper. |
| Reconsideration of bail | 18. | Where a person has been admitted to bail and circumstances arise which in the opinion of the Attorney-General would justify the court in cancelling the bail or requiring bail of greater amount, a court may, on application being made by the Attorney-general, issue a warrant for the arrest of the person and, after |

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- giving him an opportunity of being heard, may either commit him to prison to wait trial, or admit him to bail for the same or an increased amount.
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| Discharge of sureties | 19. | <p>(1) All or any sureties to a bond may at any time apply to the court which caused the bond to be taken to discharge the bond either wholly or so far as relates to the applicants.</p> <p>(2) On an application under subsection (1) the court shall issue a warrant for the arrest of the person on whose behalf the bond was executed and upon his appearance shall discharge the bond either wholly or so far as relates to the applicants and shall require such person to find other sufficient sureties and, if he fails to do so, may make such order as in the circumstances is just and proper.</p> |
| Discharge of surety's estate | 20. | <p>When a surety to a bond dies before his bond is forfeited, his estate shall be discharged from all liability under the bond, but the person on whose behalf such surety executed the bond may be required to find a new surety, and in such case the court may issue a warrant for the arrest of such person and upon his appearance may require him to find a new surety and, if he fails to do so, may make such order as in the circumstances is just and proper.</p> |
| When person fails to find surety | 21. | <p>If a person required by a court to find sufficient sureties under section 17, 19, 20 fails to do so the court, unless it is just and proper in the circumstances to make some other order, shall make:</p> <ul style="list-style-type: none"> (a) an order committing him to prison for the remainder of the period for which he was originally ordered to give surety or until he finds sufficient sureties; or (b) in the case of a person accused of an offence and released on bail under section 340 an order committing him to prison until he is brought to trial or discharged under section 7 and 8 of the law. |
| Procedure on forfeiture of bond | 22. | <p>(1) Whenever it is proved to the satisfaction of the court by which a bond has been taken or, when the bond is for appearance before a court to the satisfaction of the court by which a bond has been taken or, when the bond is for appearance before a court to the satisfaction of such court, that a bond has been forfeited, the court shall record the grounds of such proof and may call upon any person bound by the bond to pay the penalty thereof or to show cause why it should not be paid.</p> <p>(2) If sufficient cause is not shown and the penalty is not paid, the court may proceed to recover the same from any person bound or from his estate if he is dead in the manner laid down in section 204 for the recovery of fines.</p> <p>(3) A surety's estate shall only be liable under this section if the surety dies before the bond is forfeited.</p> <p>(4) If the penalty is not paid and cannot be recovered in the</p> |

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manner aforesaid, the person bound shall be liable by order of the court, which issued the warrant to imprisonment for a term, which may extend to two months.

- (5) The court may at its discretion remit any portion of the penalty and enforce payment in part only.
- Arrest on breach of bond for appearance 23. When a person who is bound by any bond to appear before a court does not so appear, the court may issue a warrant for his arrest.

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- Witnesses to be ascertained from the complainant 24. The court shall ascertain from the complainant the name of any person or persons likely to give evidence for the complainant/prosecution and such of them, as the court deems necessary.
- Witness to state his name and address 25. When a witness appears before the court he is to be questioned as to his name religion, age, occupation and residence, and his relationship with the party if any.
- Court may test the truth-worthiness of a witness 26. After a witness has given evidence for the complainant or prosecutor, the court may put such questions to him, as it may deem necessary.
- Accused may impeach any witness 27. (1) The accused is at liberty to impeach any witness that testifies against him.
(2) Notwithstanding the provision of subsection 1 of this section the accused may put any question to the witness which he deems necessary, but if the court considers any of the questions irrelevant it shall refuse to allow such a question to be put and such refusal shall be entered into the courts record.
(3) Evidence of bad character shall not be given against the accused person before conviction or verdict.
28. (1) If the court after exhausting all witnesses for the prosecution/complainant come to the conclusion that a prima facie case is not established against the accused person, or if the evidence against the accused is not sufficient to justify the continuation of the trial for any other offence the court shall without calling the accused to enter his defence discharge him.
(2) A discharge under sub-section (1) of this section shall not be a bar to further proceedings against the accused in respect of the same offence if within six months the complainant is able to bring credible evidence that can warrant reopening of the case.
- Accused person to defend himself when prima facie is established against him 29. After taking the evidence of witnesses if the court is satisfied that a prima facie case has been established by the prosecution /complainant as prescribed for proof under Sharia the court shall call upon the accused person to enter his defence.
- Accused can call as many witnesses as he can for his defence 30. Without prejudice to the right of the accused person of making statement from the dock, the accused is at liberty to call his witnesses in his defence.

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Provided that an accused person cannot give evidence in the witness box in his own behalf in any trial whether he is accused solely or jointly with others, but he can give evidence against a co-accused.

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| Prosecutor at liberty to impeach defence witnesses | 31. | <p>(1) Defence witnesses shall be examined one after the other and the prosecutor/complainant will be at liberty to impeach witnesses brought by the accused.</p> <p>(2) Notwithstanding the provision of subsection (1) of this section, the complainant may put any question to a witness, which he deems necessary. But if the court considers any question irrelevant it shall refuse to allow such a question to be put. The question and the answer shall however be entered into the court record.</p> |
| Court to compel the attendance of any witness | 32. | <p>(1) The court shall compel the attendance of any witness of the accused who may likely give factual evidence for the defence.</p> <p>(2) When ever in the course of any trial it appears to the court that the examination of a witness is necessary from the ends of justice and that the attendance of such witness cannot be procured without undue delay, expense or inconvenience, which in the circumstances of the case will be un-reasonable, such court may dispense with his attendance and may issue a commission to any court within the local limits of whose jurisdiction such witness resides to take his evidence.</p> |
| | 33. | <p>(1) After exhausting all witnesses for the defence the court shall give the accused person a chance to say whether or not he has any other thing to say before the court adjourns for judgment.</p> <p>(2) If the accused raises any point that merits consideration the court shall proceed to determine all the issues raised by the accused.</p> |
| Court to record the names of 2 persons as witnesses to the accused's reply | 34. | Where the accused says he has nothing to say his answer shall be recorded in his own words and the court shall record the names of two (2) persons present in the court when the accused made that statement. |
| Court to retire for judgment after exhausting all defence witnesses | 35. | After concluding the case for the prosecution and defence including addresses by the parties or their counsel, the court may then adjourn the case for its judgment. |
| Finding; judgment to be announced in open court | 36. | <p>(1) Judgment in every trial shall be in writing and its content shall be explained to the accused in a language he understands.</p> <p>(2) If the accused is in custody he shall be brought up to hear the judgment, if he is not in custody he shall be made to attend to hear the judgment.</p> |
| Accused to be discharged and acquitted if found not guilty | 37. | Where the court finds the accused not guilty he shall be discharged and acquitted. |
| | 38. | If the court finds the accused guilty the court shall pronounce him guilty and shall convict and sentence him accordingly. |

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- Provided that in cases under sections ... to ... of the Sharia Penal Code the court shall invite the blood relations of the deceased or the complaint as the case may be to express their wishes as to whether retaliation (*qisas*) should be carried out or compensation (*diyyah*) should be paid and the court shall be bound by the wishes so expressed.
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| In death sentence court to send the record of proceedings to the Governor | 39. | <p>(1) In cases falling under sections ... of the Sharia Penal Code where death sentence is passed the court shall as soon as possible after passing the death sentence send to the governor through the Attorney-General a report on the case together with the records of proceedings in respect of the case for confirmation or otherwise before executing the sentence.</p> <p>(2) In cases falling under sections ... of the Sharia Penal Code where sentence for amputation of the hand or retaliation (<i>qisas</i>) is entered, the court shall send to the Governor through the Attorney-General a report on the case together with the records of proceedings for confirmation or otherwise before executing the sentence.</p> |
| Governor to order for execution after exhausting avenues for appeal | 40. | <p>(1) After exhausting all avenues of appeal if utilised by the convict the Governor shall make an order for the execution of any sentence falling under sections ... of the Sharia Penal Code.</p> <p>(2) Where a woman convicted of an offence punishable with death, alleges that she is pregnant, the court shall before executing the said sentence determine the question whether or not she is pregnant.</p> <p>(3) Where the court is satisfied that the convict is pregnant it shall post-pond the execution of the sentence pending the time she delivers and breast-feeds the child.</p> <p>(4) The mode of executing any death sentence shall be expressly stated in the judgment and it shall be in accordance with Islamic law.</p> |
| Payment of <i>diyyah</i> | 41. | <p>(1) In cases falling under sections ... Sharia Penal Code where payment of <i>diyyah</i> is ordered as per the wishes of blood relations or victim of crime as the case may be, the court shall order payment of such <i>diyyah</i> on the convict and his relations.</p> <p>(2) Where the court is satisfied that the close relations are not available or where they are not financially capable of making such payments the court shall make an order for the full payments of the <i>diyyah</i> on the convict. Provided that in both circumstances under subsections (1) and (2) of this section where the court is satisfied that the close relations, and the convict are unable to effect payment of <i>diyyah</i> by reason of their financial incapability, the court shall make an order that State Government takes over the responsibility of settling the <i>diyyah</i>.</p> |

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| Sharia Court to be guided by the CPC | 42. | <p>(1) In any matter of criminal nature the Sharia Court shall be guided in regard to practice and procedure by the provisions of this law</p> <p>(2) The fact that a Sharia Court has not been so guided by the provisions of the Sharia Criminal Procedure Code shall not entitle any person to be acquitted or any order of the court to be set aside.</p> |
| Sharia Court to be bound by the provisions of chapter . . . Jurisdiction and powers | 43. | Notwithstanding the provision of subsection (1) of section 27 of this law Sharia Courts shall be bound by the provisions of chapter . . . ss . . . to . . . [sic: ?] |
| | 44. | The jurisdiction and powers of the Sharia Courts shall be as contained in the schedule to the Sharia Courts (Administration of Justice and Certain Consequential Changes) Law and the Sharia Penal Code Law 2001. |
| Record of proceedings | 45. | <p>(1) In all criminal proceedings a Sharia Court shall make a record of proceedings which shall include the following:</p> <ul style="list-style-type: none"> (a) The serial number of the cause; (b) Name, religion, occupation and age of the accused; (c) Name, religion, occupation and age of the complainant; (d) Offence complained of; (e) Date and place of commission of the offence; (f) Date of complaint before the court; (g) Name, age, occupation and religion of witnesses for the prosecutor/complainant; and the accused; (h) The plea of the accused person; (i) Finding with reasons; (j) Sentence or other final order and date; (k) Date on which proceedings terminated. <p>(2) The judge of the court shall sign the record.</p> <p>(3) Where this code is silent on any procedure in a case before a judge recourse may be made to any relevant provision in the Criminal Procedure Code Law of Bauchi State in Nigeria a Cap 38 1991 provided that such provision under reference shall not in any manner, contravene the Sharia.</p> <p>(4) A judge is at liberty to resort to any Arabic text of recognised Islamic jurists on any procedure notwithstanding the provision of this code if the text to be referred to is more in conformity with the primary sources of Sharia as defined in the Sharia Penal Code Law.</p> <p>(5) The provisions of the Qur'an, Sunnah and <i>Ijma</i> being the primary sources of Sharia are supreme accordingly any provision in this Code that is inconsistent with any of the provisions of the said primary sources shall, to the extent of the inconsistency be void.</p> |