

**REPORT OF THE COMMITTEE
ON APPLICATION OF SHARIA IN BORNO STATE**

Submitted to the Executive Governor of Borno State

April 2000

Contents:

Main Report:

- 1.0 Preliminary Matters
 - 1.1 Appointment of the Committee
 - 1.2 Membership of the Committee
 - 1.3 Terms of Reference
 - 1.4 Mode of Operation
 - 1.5 Working Documents
 - 1.6 Persons Co-opted
- 2.0 Term of Reference 'A': To organise public hearings on the general request for the implementation of all aspects of Sharia in Borno State
 - 2.1 Public Hearings
 - 2.2 Memoranda Received
 - 2.3 Visits to *Ulama* and Former Kadis and Grand Kadis
 - 2.4 Christian Association of Nigeria (CAN)
 - 2.5 Observations
 - 2.6 Recommendations
- 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
 - 3.2 Qur'anic Provisions That Make It Mandatory for Muslims to be Governed by Sharia
 - 3.3 Observations
 - 3.4 Recommendations
- 4.0 Term of Reference 'C': To look into legal implications of applying Sharia in Borno State
 - 4.1 Constitutional Provisions Tending to Limit the Application of Sharia
 - 4.2 Penal Code
 - 4.3 Criminal Procedure Code
 - 4.4 High Court Law
 - 4.5 High Court Civil Procedure Rules
 - 4.6 Area Courts Law
 - 4.7 Area Courts Civil Procedure Rules
 - 4.8 Other Laws
 - 4.9 Observations

4.10 [Recommendations](#)

5.0 [Term of Reference 'D': To give all necessary advice to Government upon carrying out its terms of reference above](#)

5.1 [General Advice For Government Consideration and Implementation](#)

[Signatures of Members of the Committee](#)

[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](#)
- A2 [Public hearing by the Committee on Sharia conducted at Mohammed Goni College of Legal and Islamic Studies for Borno Central Senatorial Zone](#)
- A3 [Views expressed by the people at Biu Centre](#)
- A4 [Questions and answers](#)

[Appendix B: Views of Certain Persons](#)

- B1 [Former Grand Kadi, Alhaji Baba Kura Imam](#)
- B2 [Alhaji Shettima Abani, Former Grand Kadi](#)
- B3 [Retired Kadi Kaka Shehu Imam](#)
- B4 [Sheikh Abul Fathi](#)
- B5 [Sheikh Ibrahim Saleh Al-Hussain](#)
- B6 [Sheikh Abubakar El-Miskin](#)
- B7 [Alhaji Modu Goni Kono](#)
- B8 [Sheikh Mohammed Cham](#)
- B9 [Sheikh Abubakar Gonimi](#)
- B10 [Muhammad Fugura El-Barnawy \(Goni Fura\)](#)

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

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

- (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:

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

- (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).

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

- (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.

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

- (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.

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

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.

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

- (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).

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

- (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 Mohamradu 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*.

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

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.

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

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.

REPORT OF THE COMMITTEE ON APPLICATION OF SHARIA IN BORNO STATE

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 *khubbat* 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 alkalis 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.