

## 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,  
14<sup>th</sup> 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 14<sup>th</sup> 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.

11<sup>th</sup> 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 11<sup>th</sup> 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 26<sup>th</sup> 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<br>( <i>Marafan Bauchi</i> )   | - | Chairman | ..... |
| 2.  | Alhaji Muhammadu Danmadami<br>( <i>Sa'in Katagum</i> )  | - | Member   | ..... |
| 3.  | Justice Adamu Abdulhamid                                | - | Member   | ..... |
| 4.  | Mal. Dan'azumi Musa T/Balewa                            | - | Member   | ..... |
| 5.  | Alh. Umaru Dahiru<br>( <i>Baraden Bauchi</i> )          | - | Member   | ..... |
| 6.  | Alh. Mahmoud Bello<br>( <i>Sarkin Malaman Katagum</i> ) | - | Member   | ..... |
| 7.  | Amb. Adamu Yusuf  | - | Member   | ..... |
| 8.  | Alh. Abdulhamid Muhammad                                | - | Member   | ..... |
| 9.  | Alh. Muh'd Daudu Abubakar<br>( <i>Zannan Katagum</i> )  | - | Member   | ..... |
| 10. | Alh. Usman Nananu<br>( <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 29<sup>th</sup> 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 26<sup>th</sup> 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 29<sup>th</sup> 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 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
- 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 1<sup>st</sup> 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.