

INTERIM REPORT OF THE SHARIA IMPLEMENTATION COMMITTEE [BORNO STATE]

Submitted to His Excellency the Executive Governor of Borno State,
Alhaji Mala Kachalla

[early March 2001 (?)]

The Sharia Implementation Committee was inaugurated on Saturday 3rd February, 2001 by His Excellency, the Executive Governor of Borno State, Alhaji Mala Kachalla with the primary assignment of providing the modality of implementing the Sharia in the State. It is also mandated to liaise with the various governmental and non-governmental agencies with the view to creating the conducive social and economic environment for the full implementation of the Sharia in the State.

The Committee held its first meeting on Tuesday 13th February, 2001, during which a number of decisions were taken to lay a foundation for the successful accomplishment of its assignments. Thereafter, series of meetings were held both by the main Committee and its sub-committees, which led to the following resolutions, among others:

1. The Committee recognised the need for the procurement of a functional secretariat and a take-off grant from the Government. Consequently, the Secretary was mandated to submit a request to the Government. A copy of the request letter is attached as Appendix 1 [no such attachment found].
2. For the Sharia implementation to succeed in the State and for the Committee to carry out its responsibility successfully, the Committee recommends that the four laws on Sharia and the law on the Sharia Administration of Justice in Borno State be reviewed and amended. After thorough deliberations which involved the setting up of a sub-committee, the Committee finally came up with a proposal for amendment to the Law. A copy of the proposed law as amended is attached as [Appendix II](#).
3. After due consultation with the Council of Ulama and other Islamic organisations, the Committee agreed on a gradual and multi-dimensional approach to the implementation exercise. This is in recognition of various activities needed for the successful take-off and implementation of Sharia in the State. These include:

- a. **Massive Awareness and Enlightenment Campaign**

The Committee recognised that despite the wide popularity of the Sharia programme, there is a gross misunderstanding of the Sharia. There is therefore the need to embark on a massive awareness and enlightenment campaign to cover all the Local Government Areas in the State with the view to creating awareness and enlightenment among the populace.

The campaign, which will be a continuous programme, will be done by the Sharia Implementation Committee.

- b. **Contact with Scholars, Islamic Institutions and Organisations**

The Committee proposes that there is the need to constantly liaise with scholars, Islamic institutions, organisations and the various agencies

concerned with the Sharia. Through contact and dialogue, the Sharia implementation programme can be enriched and government will be brought closer to the people. This will help greatly in maintaining peace, law and order. It can also assist in reducing crime rate and neutralise and positively redirect the excesses and enthusiasm of a segment of the youth who may use the popular Sharia advocacy for their selfish and misguided motives.

c. Setting up of Sharia Courts

The committee proposes to Government through the agencies concerned, to immediately set up the Sharia Courts and Upper Sharia Courts so that the implementation of Sharia can start in earnest.

d. Immediate Enforcement of some Sharia Laws

Government is advised to consider and work towards the taking-off of the Sharia on 1st June 2001. The laws to be enforced are those of *qazf*, adultery, fornication, homosexuality, lesbianism, prostitution, alcohol production, sale and consumption, gambling and separation of sexes in public places.

The enforcement of these laws which have already been codified without delay will vindicate the good intentions of Government and will reduce the tension among the populace who are eagerly waiting for the take-off of the Sharia.

e. Screening/Employment and Training of Sharia Judges

For the Sharia laws to be administered properly, the Committee suggested that there is the need for the selection and screening of some of the current Area Court judges, while new judges who meet the requirements can be considered for employment.

Continuous training and refresher courses are to be organised for both categories by the Implementation Committee in conjunction with the Council of Ulama and other relevant government agencies.

f. Satisfactory Conditions of Services for Sharia Administration

For the proper administration of justice in the Sharia Courts, the Committee advises Government to draw up attractive and satisfactory conditions of service for all personnel involved in the administration of Sharia. This is considered necessary to give them job security and to safeguard abuse of office.

g. Complete Codification of the Sharia Penal Code

To meet with the requirements of the 1999 Constitution of the Federal Republic of Nigeria, there is the need to codify the Sharia penal system. This can be done by reviewing and making amendments to the existing legal systems and incorporating all other penal systems of Islam.

The exercise which will start immediately can be handled by the Sharia Implementation Committee in liaison with the Council of Ulama and other government agencies.

h. Poverty Alleviation Programmes

The Committee has recognised the fact that most crimes and offences can be averted if Government can eradicate poverty and unemployment. It has also observed that the objective of the Sharia is not to punish and humiliate people but to create a society where crimes are reduced to the barest minimum.

If Government can de-politicise and strengthen its current poverty alleviation programmes, it is not only the Sharia implementation programme that will succeed, but Borno State will not only be the Home of Peace and Hospitality but also Home of SECURITY AND STABILITY.

The Implementation Committee can assist and contribute to the efforts of the various agencies concerned so that the desired results can be achieved.

i. Review of Educational Policy

The current educational curriculum in Borno State is not reflective of the culture and way of life of the majority of our populace. The Committee therefore recognises the need for its review and humbly advises Government to make it conform to the philosophy and way of life of our people.

By making our educational curriculum Sharia-compliant, there is every chance for improving school enrolment and addressing the problem of educational backwardness.

j. Creation of a Ministry for Awqaf and Religious Affairs

To guarantee the successful implementation of the Sharia, the Committee suggests the creation of a Ministry of Endowment and Religious Affairs.

This Ministry can as well supervise the Zakat Board, Pilgrims Welfare Board, Preaching Board, State Emergency Relief Agency (SERA), etc. and continuously monitor and ensure the compliance to the Sharia throughout the State.

Inauguration of the Zakat Board

The Committee commends the efforts of the Government in putting in place a law establishing the Zakat Board and hopes that it will be constituted and inaugurated as suggested in the attached time-table.

Advice, however, is given to the Government that its membership should be limited to trustworthy and transparent people.

A copy of the time-table as proposed by the Committee and based on the above activities and signifying the bodies concerned is attached as [Appendix III](#).

k. Timing

The Committee wishes the Government to note that the people of the State are eagerly waiting for the immediate implementation of Sharia in all its ramifications in the State. Based on this therefore, the Committee urges

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

Government to expedite action on this Interim Report and other things as may be presented to it by this and the Council of Ulama on the issue of Sharia.

1. Funding

Since the inception of the Committee, no funding has been given to the Committee. However, due to the zeal and commitment of the members to the implementation of Sharia, the Committee hereby produces this Interim Report before Government's approval reaches us.

However, we assure Government that we will not relent in our efforts towards the implementation of Sharia in Borno State as we earlier on promised on the day of our inauguration. We will brief Government of developments towards implementation as regularly as possible.

Prof. Ambulacra Mustapha
(Chairman)

BUT. Yerima
(Secretary)

APPENDIX I

[no Appendix I found]

APPENDIX II

**PROPOSED AMENDMENTS TO THE LAW ON SHARIA
ADMINISTRATION OF JUSTICE IN BORNO STATE**

**A BILL TO PROVIDE FOR A LAW ON SHARIA ADMINISTRATION OF
JUSTICE IN BORNO STATE**

BE IT ENACTED BY THE BORNO STATE HOUSE OF ASSEMBLY AS FOLLOWS:

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| Citation and commencement | 1. This Law may be cited as the Borno State Administration of Justice Law and shall come into effect on the.....day of.....2001 |
| Interpretation | 2. In this Law unless the context otherwise requires:
"Committee" means the Sharia Implementation Committee established under Section 14
"Constitution" means the Constitution of the Federal Republic of Nigeria 1999
"courts" means courts established under this Law for the administration of Sharia in the State
"Council" means the State Council of Ulama established under session 22
"Government" means the State Government
"Governor" means the Governor of the State
"Judicial Service Commission" means the Commission established under section 197(I) of the Constitution
"non-Muslim" means a person of another religious belief other than |

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

Islam

“qualification” means and includes a degree, diploma or certificate in Sharia/Civil Law [or] Arabic and Islamic Studies from an institution recognised by the Government.

“Sharia Court of Appeal” means the Court established under section 275 of the Constitution

“Sharia” means Islamic law and practice as prescribed by the Holy Qur’an, Hadith and Islamic jurisprudence

“State” means Borno State of Nigeria.

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| Establishment of Sharia Courts | 3. | <p>(1) There are hereby established for the purpose of the administration of Sharia in the State the following courts:</p> <ul style="list-style-type: none">(a) Sharia Courts(b) Upper Sharia Courts <p>(2) The number and jurisdiction of the courts established under subsection (1) hereto shall be specified by instrument under the hand of the Grand Kadi.</p> |
| Appointment of presiding and other judges of the Sharia Courts | 4. | <p>(1) Subject to the provisions of section 5, the Judicial Service Commission of the State may on the recommendation of the Grand Kadi of the State appoint judges for the Sharia Courts.</p> <p><i>Provided that</i> the persons recommended shall be screened by the State Council of Ulama.</p> <p>(2) An Upper Sharia Court shall in its original jurisdiction be competent if comprised of a single judge.</p> <p>(3) An Upper Sharia Court shall on appeal be constituted by a presiding judge and two other judges.</p> <p>(4) A single judge shall sit on matters before the Sharia Court.</p> |
| Qualification of presiding and other judges of the Sharia Courts | 5. | <p>(1) A person shall be qualified to hold the office of a judge of the Upper Sharia Court if:</p> <ul style="list-style-type: none">(i) He is a Muslim; and(ii) He is a serving Upper Area Court judge;(iii) He has an impeccable record of Islamic piety;(iv) He has obtained qualification in Sharia and or Civil/ Sharia Law, Arabic and Islamic Studies from a recognised institution; or(v) Notwithstanding paragraph (ii) of this subsection a person qualified under section (2) of this section can be appointed to the office of a judge of Upper Sharia Court whether he has previously served as a judge of the Upper Area Court or not. <p>(2) A person shall be qualified for appointment as a judge of the Sharia Court if:</p> |

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

- (i) He is a Muslim;
 - (ii) He is serving Area Court judge;
 - (iii) He has an impeccable record of Islamic piety; or
 - (iv) He has obtained qualification in Civil/Sharia Law or Arabic and Islamic Studies from a recognised Institution.
- Jurisdiction 6. (1) The courts established under this Law shall have, in addition to any other jurisdiction conferred by other enactment, original jurisdiction in civil and criminal matters where the parties are Muslims.
- (2) In any civil or criminal matter before the courts where any of the parties or one of the accused is a non-Muslim, and such party or accused consents to jurisdiction, such consent shall be given to the court in writing.
- (3) In any civil or criminal matter where one of the parties or an accused is a non-Muslim and refuses, or objects to jurisdiction, the court shall not have jurisdiction and the objection or refusal shall constitute a stay in the proceeding. Provided that the courts established under this Law shall have the power to refer the matter to any other court of competent jurisdiction set up by other enactment. Provided further that a non-Muslim accused person shall be informed in writing of his right to elect the court of trial.
- Applicable laws 7. The laws applicable in the courts established under this Law shall be the laws stipulated by the Holy Qur'an, Hadith, Islamic jurisprudence and interpretations adopted by the Maliki School of Law and legislation on Sharia as may be enacted from time to time by the State House of Assembly.
- Appeals 8. (1) Appeals in all matters from the decisions of the Sharia Courts established under section 3(1)(a) shall be filed within 30 days of the decision at the Upper Sharia Court.
- (2) Appeals in all matters from the decisions of the Upper Sharia Court established under section 3(1)(b) hereto shall lie within 30 days of the decision to the State Sharia Court of Appeal established under section 275 of the Constitution.
- (3) The time allowed for the filing of appeal under subsections (1) and (2) hereto may be extended upon oral application or by motion on notice.
- (4) In addition to the powers conferred by section 277 of the constitution, the Sharia Court of Appeal shall have the jurisdiction to hear and determine appeals in criminal matters from the decisions of the Upper Sharia Courts.
- Practice and procedure 9. The practice and procedure of the Courts established under this law shall be in accordance with:
- (1) The principles of the Maliki School of Law; and

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

- (2) Any other procedure under instrument made by the Grand Kadi of the State.
- Representation 10. (1) Any person charged with an offence before any of the courts established under this law shall be entitled to defend himself in person or by a legal practitioner of his own choice.
- (2) In civil matters before the courts established under this Law parties may present or defend their case in person or by a legal practitioner of their choice.
- Supervision 11. The courts established under this Law shall be under the supervision of the Judicial Service Commission through the Grand Kadi of the State.
- Inspectors 12. (1) There shall be appointed by the Judicial Service Commission, inspectors of the courts established under this Law as may be recommended by the State Grand Kadi.
- (2) The inspectors appointed pursuant to subsection (1) hereto shall:
- (i) Report quarterly to the Grand Kadi on the performance of the courts;
- (ii) Perform such other functions as may be prescribed by the State Judicial Service Commission through State Grand Kadi.
- (3) The State Grand Kadi shall on the receipt of the report under subsection (1) hereto forward the report with any recommendation to the State Judicial Service Commission.
- Qualification of inspectors 13. A person shall be qualified for appointment as an inspector if he has obtained a degree, diploma or certificate in Civil or Sharia Law, Arabic and Islamic Studies from a recognised institution.
- The Sharia Implementation Committee 14. There is hereby established for the State the Sharia Implementation Committee
- Committee Composition 15. The Committee shall comprise of the following:
- (1) A Chairman;
- (2) The Director, Law Reform Commission of the State.
- (3) The Secretary, Judicial Service Commission of the State
- (4) Not more than ten other persons recommended by the State Council of Ulama,
- (5) Two representative of the State Attorney-General;
- (6) Nine other persons nominated by the Governor; and
- (7) A Secretary, who shall be a legal practitioner of not less than five years standing.
- Provided that the ex-officio members are Muslims.
- Appointment 16. The Chairman, Secretary and members of the Committee established under Section 14 hereto shall be appointed by the

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

Governor.

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| Qualification | 17. | (1) A person shall be qualified for appointment as Chairman of the Committee if:
(i) He is a Muslim;
(ii) He is an Islamic scholar of repute;
(iii) He is a person of Islamic piety with impeccable record.
(2) A person other than an ex-officio member shall be qualified for appointment as a member of the Committee if:
(i) He is a Muslim; and
(ii) He is person of Islamic Piety with impeccable record. |
| Power and functions | 18. | The Committee established under section 14 hereto shall have and exercise the following powers and functions:
(1) To advise Government on the enactment and codification of Sharia laws or review of existing State laws referred to it by the Governor to conform with all the relevant rules, principles and practice of Islamic law;
(2) To advise Government on the training of personnel for the Courts established under section 3 of this Law;
(3) To advise Government on the creation of a conducive socio-economic environment for the implementation of Sharia in the State;
(4) To advise Government on the mode of implementation of the Sharia;
(5) With the approval of Government plan and execute any activity that may be necessary for the smooth implementation of Sharia in the State;
(6) To monitor, collate suggestions from the public, assess and advise Government on the implementation of Sharia in the State;
(7) To make rules for its sittings; and
(8) To from time to time as may be necessary consult with the State Council of Ulama;
(9) Such other powers and functions as may be conferred by the Governor. |
| Meetings | 19. | The Committee may meet at least five times every month. |
| Quorum | 20. | The Committee shall constitute a quorum where 2/3 of its members are present at any meeting. |
| Decisions | 21. | The decision of the Committee shall be by simple majority. |
| State Council of Ulama | 22. | There is hereby established a body to be called the State Council of Ulama. |
| Composition | 23. | (1) The Council established under this section shall consist of a Chairman and not more than nineteen members who shall be |

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

- learned Islamic scholars and or jurists.
- (2) The Council shall have a Secretary who shall be a Muslim and of impeccable record of Islamic piety.
- Appointment 24. The Chairman, Secretary and members of the Council established under section 22 shall be appointed by the Governor.
- Powers and functions 25. The Council established under section 22 hereto shall have the following powers and functions:
- (1) Screening of persons for appointment as Sharia and Upper Sharia Court judges;
 - (2) To make rules for its sittings.
 - (3) To advise Government on the establishment, functions, powers and composition of the Zakat and Endowment Board to cushion the effect of poverty in the State with a view to creating a conducive socio-economic environment for the implementation of Sharia in the State.
 - (4) To advise any authority or person on Islamic matters referred to it.
 - (5) To advise the Sharia Implementation Committee on the monitoring and assessment of the progress in the implementation of Sharia in the State.
 - (6) To advise any authority or person on Islamic law in relation to technological developments and other matters.
 - (7) To advise Government on the need to provide literature in audio, video and other forms for the purpose of enlightenment and education of the people of the State on the principles and practice of Sharia.
 - (8) To advise Government on the legislation relating to the prohibition of prostitution, brothels, sale and consumption of alcohol, gambling, betting and other vices in conflict with Sharia; and
 - (9) To advise Government on any other function as may be necessary or incidental for the implementation of Sharia in the State.
- Remuneration 26. Subject to the approval of the State House of Assembly, the remuneration of the chairmen, secretaries, members and other staff of the Committee and Council established under this Law shall be as determined by the Governor.
- Doctrine of repugnancy 27. The doctrine of repugnancy shall not apply in the courts established under this Law.
- Repeal 28. This Law repeals the Sharia Administration of Justice Law 2000.

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

APPENDIX III

PROPOSED TIME-TABLE FOR THE IMPLEMENTATION OF SHARIA LAW IN BORNO STATE

STAGE I: MARCH – MAY, 2001

S/N	ACTIVITY	BODIES CONCERNED	REMARKS/ DATELINE
1.	Review and amendment of law on Sharia Administration of Justice in Borno State and the 4 bills passed into law	Sharia Implementation Committee Council of Ulama, Ministry of Justice Borno State House of Assembly	31 st May
2.	Legislation on the separation of sexes in all public activities and a law on weight and measures	Sharia Implementation Committee Council of Ulama, Ministry of Justice Borno State House of Assembly	31 st May
3.	Data collection on centres of gambling, prostitution, production, marketing and consumption of alcohol	Ministries concerned, Police, SSS Sharia Implementation Committee	31 st May
4.	Massive enlightenment campaign on Sharia including tours to all Local Government Areas in the State	Sharia Implementation Committee, Islamic organisations, scholars, Min. of Information, voluntary organisations	Continuous
5.	Setting up of Sharia Courts with all that it entails	Ministry of Justice Judicial Service Commission	31 st May
6.	Employment and/or screening and training of Sharia Court judges	Council of Ulama Judicial Service Commission	31 st May
7.	Putting in place a satisfactory condition of service for Sharia administrators	Judicial Service Commission, Min. of Justice, Sharia Court of Appeal	31 st May
8.	Issuance of notice to centres that violate the Sharia	Sharia Implementation Committee, Min. of Information, Min. of Commerce, Police, SSS	31 st May

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

9.	Enforcement/taking off of the laws on alcohol production, marketing and consumption, gambling, prostitution, adultery, fornication, homosexuality, <i>qazaf</i> , weights and measures and separation of males/females from commercial means of transportation	1 ST JUNE, 2001 SHARIA IMPLEMENTATION STARTS	
10.	Commencement of the codification of the Sharia Penal Code and its passing into law	Sharia Implementation Committee, Council of Ulama, Ministry of Justice, Borno State House of Assembly	31 st March – 31 st August, 2001

STAGE 2: JUNE - AUGUST, 2001

S/N	ACTIVITY	BODIES CONCERNED	REMARKS/ DATELINE
1.	Massive public enlightenment campaign on Sharia	Sharia Implementation Committee Islamic Organisations, Scholars, Min. of Information, Voluntary organisations	Continuous
2.	Contact with unions professional bodies	Sharia Implementation Committee	Continuous
3.	Contacts with government agencies to make them assist in creating a conducive environment for the Sharia	Sharia Implementation Committee	Continuous
4.	Review of educational curriculum to conform with the new dispensation	Ministry of Education, Islamic scholars and organisations	Continuous
5.	Formation of <i>hisbabs</i> to assist in monitoring the violation of the Sharia and reporting to the concerned government agencies	Sharia Implementation Committee	30 th June

INTERIM REPORT OF THE BORNO STATE SHARIA IMPLEMENTATION COMMITTEE

6.	Creation of job opportunities to the unemployed and a better condition of life for the populace	Zakat Board, Poverty Alleviation Programmes Agencies, Min. Co-op and Rural Development, SERA, Dept. of Social Welfare, NACCIMA, Borno State and Local Government Councils	Continuous
7.	Creation of AWQAF and Ministry of Religious Affairs	Governor's Office	31 st August

STAGE 3: SEPTEMBER - NOVEMBER, 2001

S/N	ACTIVITY	BODIES CONCERNED	REMARKS/ DATELINE
1.	Massive enlightenment campaign on the Sharia law	Sharia Implementation Committee, Islamic Organisations, Scholars, Min. of Information, Voluntary Organisations	Continuous
2.	Monitoring of the implementation of Sharia law	Sharia Implementation Committee, Council of Ulama	Continuous
3.	Inauguration of Zakat Board	Governor's Office; Council of Ulama	30 th September
4.	Conclusion of all uncompleted tasks preparatory to the take-off of the Sharia Penal Code	Sharia Implementation Committee, Council of Ulama, Ministry of Justice, Judicial Service Commissioner, Governor's Office	(29 th Sha'ban)
5.	TAKING OFF OF THE FULL IMPLEMENTATION OF THE SHARIA PENAL CODE		1 st Ramadan