

Chapter 2 Part II  
Report of the Bauchi State  
Sharia Implementation Committee

Submitted to the Executive Governor of Bauchi State  
On 29<sup>th</sup> September, 2000

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1.

**Main Report of the Committee**

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

Dear Sir,

SUBMISSION OF REPORT

1. Reference to your letter No. GO/SS/REL/S/1 of 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.

We remain

Yours faithfully,

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

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

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

ACKNOWLEDGEMENTS

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

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

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

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

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

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

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

#### PREAMBLE

The Sharia legal system in Bauchi State was a popular demand. To that effect, the State Government under the able leadership of His Excellency the Executive Governor, Alhaji Adamu Mu'azu, on 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 organise seminars, discussions, drama presentations and working visits with a view to enlightening the public, particularly the non-Muslims, on their rights and duties under the Sharia legal system. Accordingly, the Enlightenment Subcommittee shall co-opt the Chairman of CAN, Bauchi State.
- d. To submit recommendations to the Government by 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.

#### MEMBERSHIP

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

#### 1.0 CONSTITUTIONALITY OF SHARIA

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

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 2.0 MODUS OPERANDI AND ACTIVITIES

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

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

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

### 2.1 Documentation And Codification Subcommittee

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

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

2.1.2 Membership. The members of this Subcommittee were:

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

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

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



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

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

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

The report of the Subcommittee is given in Appendix II.

## **2.2 Judicial Structure And Personnel Subcommittee**

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

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

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

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

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

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

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

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

### 2.3 Public Enlightenment Subcommittee

#### 2.3.1 Terms of Reference:

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

#### 2.3.2 Membership. The members of this Subcommittee were:

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

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

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

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

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

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

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

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

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

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

### 3.0 SPECIFIC RECOMMENDATIONS

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

#### 3.1 Recommendations on Structure and Personnel of Sharia Courts

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

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

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

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

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

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

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

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

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

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

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

## **3.2 Recommendations on Amendments to the Penal Code**

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

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

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

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

3.2.2 Sharia Penal Code. Since by the combined provisions of section 4(6) & (7) and section 6(4)(a), a House of Assembly of the State has powers to make laws for the peace, order and good governance of the State or any part thereof and establish courts with subordinate jurisdiction to that of the High Court of the State, the Committee is of the opinion that *there is need to establish a new Penal Code to be known as the Sharia Penal Code of Bauchi State which will be applicable to all Muslims within the territorial jurisdiction of Bauchi State. To this end, the Committee has therefore made a draft of the proposed Sharia Penal Code to this report.* (see Appendix VI [omitted here<sup>3</sup>]).

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

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

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

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

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

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

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

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

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

- (i) A law to establish the Sharia Courts (Administration of Justice and Certain Consequential Changes) Law 2000 (Appendix VII [Appendix VII omitted here<sup>4</sup>])
- (ii) A law to amend the Sharia Court of Appeal Law Cap. 145 Laws of Bauchi State (to vest the court with appellate criminal jurisdiction) (See Appendix VIII [Appendix VIII omitted here<sup>5</sup>])
- (iii) A law to establish a Zakat Board that shall be charged with the collection and disbursement of *zakat*
- (iv) A law to provide for Sharia Criminal Procedure Code
- (v) A law to repeal the Area Courts Edict (See Appendix IX [Appendix IX omitted here<sup>6</sup>])
- (vi) A law to establish the Ulama Consultative Council.

### 3.3. Recommendations on Public Enlightenment

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

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

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

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

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

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

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

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

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

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

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

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

#### 4.0 GENERAL RECOMMENDATIONS

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

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

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



2.

**Appendix I**

**Memoranda Submitted to the Bauchi State Sharia Implementation Committee by Members of the Public<sup>7</sup>**

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

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

Director : Alh. Aliyu Nuru

Our Ref: ADR/CLIS/OFF/1

Registrar: Alh. Turaki Aliyu Misau

Date: 12/09/200

Telephone: 071 – 40279

Telegrams: CLIS MISAU

The Chairman,  
Bauchi State Sharia Implementation Committee,  
Bauchi.

Dear Sir,

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

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

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

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

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

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

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

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

#### Establishment of the College

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

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

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

#### Courses Offered in the College

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

##### (i) Department of Sharia and Civil Law

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

##### (ii) Department of Arts and Islamic Studies

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

##### (iii) Department of Humanities and Education

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

#### Quality Control

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

## REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

### Expected Role to Play

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

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

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

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

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

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

### Conclusions

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

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

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

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

Thank you.

(sgd)

Bakoji Aliyu Bobbo

For: Director

**[Attachment:]**

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

Section A: Course Structure:

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

Section B: Course Content:

(a) Penal Code of Northern Nigeria

History of the Penal Code

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

Criminal liability

Punishment

Parties to an Offence

Attempt

Conspiracy

Offences relating to civil servants

Offences relating to administration of justice

Offences relating to human body

Offences against property

(b) Criminal Procedure Code

History

Power of the criminal courts

Arrest

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

(c) Area Courts Edict

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

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

CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

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

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

English Version/Text<sup>8</sup>

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

Hausa Version/Text Books

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

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ABDULLAHI KUMO AMINU  
HEAD OF DEPARTMENT SCL

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

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

Translated from the Hausa by Ahmed S. Garba

The Ministry of Lands, Housing  
and Environment,  
Bauchi.  
14<sup>th</sup> August, 2000

The Chairman,  
Sharia Implementation Committee,  
Bauchi State

SUGGESTIONS

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

*Assalamu alaikum warahmatullahi wa barakatuhu.*<sup>9</sup>

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

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

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

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<sup>9</sup> "Peace and blessings of Allah be upon you."

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

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

(sgd)  
Musa Jabir Gori

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

The Chairman  
Sharia Committee  
Bauchi State

RE: MEMORANDUM FOR THE APPLICATION OF SHARIA IN BAUCHI  
STATE

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Such Web Surfing can focus on among other things:

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

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

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

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

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

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

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

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

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

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

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

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

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

*Assalamu alaikum,*

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

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

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

Our Ref: \_\_\_\_\_ Your Ref: \_\_\_\_\_ Date: 16<sup>th</sup> August, 2000

The Chairman  
Bauchi State Sharia Implementation Committee  
Bauchi

Mr. Chairman Sir,

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

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

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

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

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

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

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

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

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

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



REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

Yours faithfully,

(sgd)

Chief Patrick Anyanwu

Chairman, Bauchi State Hoteliers Association

(sgd)

Secretary Bauchi Hoteliers Association

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

**(5) From Bauchi State Area Court Judges Association**

Translated from the Hausa by Ahmed S. Garba

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

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

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

### RENAMING OF COURTS

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

### JURISDICTION

This Association suggests as follows:

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

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

### ALKALI COURTS GRADE I

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

### ALKALI COURTS GRADE II

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

### CHIEF ALKALI COURTS

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

### NUMBER OF COURTS

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

### MONETARY JURISDICTION

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

## REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

### OFFENCES BASED ON ACCIDENT

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

### SHARIA COURT OF APPEAL

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

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

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

### COURT WITH CUSTOMARY LAW MEMBERS

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

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

### INSPECTORS OF COURTS

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

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

### PROSECUTORS

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

### PUBLIC COMPLAINTS COMMISSION

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

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

(sgd and dated 11/09/2000)

Malam Musa A. Barde  
Chairman (BASACJA)

(sgd and dated 11/9/2000)

Alh. Shehu Gadiya  
Assistant Secretary

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

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

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

Many have written or spoken but the majority kept reticent to see which way the cat jumps. However, the recent press release signed by the Chairman and the Secretary of CAN Bauchi State Chapter<sup>13</sup> has drawn our attention to some subterraneous plan in the minds of the writers to achieve some egocentric aims by throwing dust into the eyes of Bauchi State Government, the State House of Assembly and the Muslim communities.

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

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

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

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<sup>13</sup> The CAN press release referred to is reprinted below, no. 19.

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

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

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

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

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

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

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

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

<sup>15</sup> Associating Allah with another in worship; idolatry; polytheism.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mal. Yakubu Ahmad  
Ganjuwa Local Government

**(7) From Jonathan Yakubu Madugu, Bauchi**

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

The Secretary  
Sharia Implementation Committee  
Bauchi State

Sir,

SHARIA LAW IN BAUCHI STATE

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

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

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

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

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

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

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

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

Yours faithfully,

(sgd)

Jonathan Yakubu Madugu

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

Translated from the Hausa by Ahmed S. Garba

C/O EMIR'S PALACE  
Bauchi  
10<sup>th</sup> August, 2000

The Secretary  
Sharia Implementation Committee  
Bauchi State

*Assalumu alaikum.*

MY CONTRIBUTION FOR THE IMPLEMENTATION OF SHARIA  
IN BAUCHI STATE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### BEER PARLOURS AND BROTHELS

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

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

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

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

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

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

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

(sgd)

Muhammad Dan-Ale

*Bunun Sarkin Fada*, Bauchi

**(9) Three memos from Aliyu Muhammad Sa'id, Gamawa**<sup>17</sup>

All three translated from the Hausa by Ahmed S. Garba

(1)

SUGGESTIONS TO THE SHARIA IMPLEMENTATION COMMITTEE  
BAUCHI STATE OF NIGERIA

The Chairman of the Committee,  
Other Committee Members

*Assalam alaikum.*

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

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

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

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



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

[Page 2, in English, reads:

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

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

#### WAYS BY WHICH THIS COMMITTEE CAN SUCCEED

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

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

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

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

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

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

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

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

- Tab-Sirat al-Hukkam fi Usul al-Aqdiya wa al-Manahij al-Abkam*, by Ibn Farhun Al-Maliki.\*
- Al-Abkam*, by Al-Qadi Ibn Mudrif Abdurahman.
- Az-Zari'a Ila Makarim as-Shariyya*, by Sheikh Ibn Qasim Ibn Muhammad.
- Dara'ik al-Hukum fi as-Shariyya al-Islamiyya*, by Dr. Saeed Ibn Darwish.
- Al-Jarima wa al-Uquba fi al-Fiqh al-Islam*, by Sheikh Muhammad Abu Zahra.\*
- Al-Hukum wa al-Tuhakum fi Khidab al-Wahyi*, by Abdulaziz Mustafa.
- Al-Qadaa fi Abdi Umar Ibn Qaddab*, no author given.
- Al-Jihad wa al-Kital fi as-Siyasa*, by Dr. Muhammad Khayr Haykal.
- Al-Qadaa wa an-Nizam fi al-Kitab wa as-Sunnah*, by Dr. Abdurahman.
- Raf'u al-Haraj fi as-Shariyya al-Islamiyya*, by Dr. Salid [sic] Ibn Abdullah.
- Mawahib al-Khallaq ala Sharh al-Tawidi li Lamiyyat al-Zaqqaq*, by Ibn Al-Shita'a Ibn Al-Hassan.\*
- Tahrir Ahli al-Iman Inda al-Hukum Bighair ma Anzala ar-Rahman*, by Sheikh Ibn Hibit al-Allah Ismaeel Ibn Ibrahim.
- Al-Fatawa al-Kubra*, by Ibn Taimiya.\*
- Majmu'u al-Fatawa*, by Ibn Taimiya.\*
- Irwa'u al-Ghalil fi Takbriju Ahadis Manar as-Sabil*, by Al-Bani.\*
- Bidayat al-Mujtabid wa Nihayatul Muqtasid*, by Ibn Rushd Al-Maliki.\*
- Tuhfat al-Hukkam fi Nukatil al-Uqud wa al-Abkam (Matn al-Asimiyya)*, [by Ibn Asim, although author's name not given].\*
- Fath al-Aliyy al-Malik fi al-Fatwa ala Madhab al-Imam Malik*, [by Sheikh Abu Abdallah Muhammad ibn Ahmad Alaysh, although author's name not given].\*
- Fatawa*, by Imam Nawawi.
- Kitab al-Fiqh ala Madhabib al-Arba'at*, by Abdurahman Al-Jaziri.\*
- All books of Islamic jurisprudence, books on Islamic law, and all *fatawa* which relate to judgments under Sharia.]

May Allah help us and give us good.

I wish you good luck.

(sgd)

Aliyu Muhammad Sa'id, Gamawa

(2)

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

*Assalamu alaikum.*

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

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

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

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

(sgd)  
Aliyu Mohammed Sa'id, Gamawa  
30<sup>th</sup> June, 2000

(3)

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

Honourable Chairman of Committee  
Other Committee Members,

*Assalamu alaikum.*

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

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

This Committee should organise an awareness campaign on the following:

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

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

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

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

I wish you well.

(sgd)

Aliyu Mohammad Sa'id, Gamawa.

**(10) From Jama'atul Shababul Islam, Bauchi**

Jama'atul Shababul Islam  
Bauchi, Bauchi State  
2<sup>nd</sup> July, 2000

Kadi Abdullahi Marafa  
Chairman, Sharia Implementation Committee

Dear Sir,

BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE:  
OUR VIEWS

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

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

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

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

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

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

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

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

(sgd) \_\_\_\_\_  
Sa'ad bin Adam  
Chairman

(sgd) \_\_\_\_\_  
Ibrahim Sani  
Secretary

(sgd) \_\_\_\_\_  
Mohammed Chindo  
Deputy Chairman

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

Translated from the Hausa by Ahmed S. Garba

Treasury Department  
Alkaleri Local Govt.  
19-7-2000

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

*Assalamu Alaikum*

MEMO ON ISLAMIC LAW

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

HERE ARE MY SUGGESTIONS TO THIS COMMITTEE

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

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

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

Yours,

Mahmood Aliyu, Revenue Officer, Alkaleri Local Government

**(12) From Gwani Jallaba and Company, Bauchi**

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

Ref. No.....

Date: 18<sup>th</sup> July, 2000

The Chairman,  
Sharia Implementation Committee, Bauchi.  
Sir,

MEMORANDUM ON THE IMPLEMENTATION OF SHARIA SYSTEM  
IN BAUCHI STATE

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

Thank you.

Yours faithfully,  
GWANI JALLABA AND COMPANY

(sgd)  
TIJANI GWANI JALLABA  
Managing Consultant.

MEMORANDUM ON THE IMPLEMENTATION OF SHARIA SYSTEM  
IN BAUCHI STATE

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

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

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

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<sup>18</sup> "Glory be to Him."

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

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

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

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

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

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

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

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



REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

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

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

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

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

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

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

Bauchi,  
July, 2000.

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

**(13) From Baba Y. Ahmed**

Translated from the Hausa by Ahmed S. Garba

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

The Secretary,  
Committee for the Implementation of Sharia  
Bauchi State

Greetings, and good wishes be upon you.

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

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

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

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

May Allah help Sharia. *Wassalam.*

I am:

(sgd and dated 17/7/2000)

Mal. Baba Y. Ahmed

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

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

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

Sir,

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

INTRODUCTION

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

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

THE STRUCTURE OF BAUCHI STATE

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

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

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

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

#### THE STATUS OF THE SHARIA UNDER THE 1999 CONSTITUTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### THE DILEMMA OF THE IMPLEMENTATION OF SHARIA IN BAUCHI STATE

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

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

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

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

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

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

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

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

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

#### MY STAND ON THE SHARIA IN BAUCHI STATE

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

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

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

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

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

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



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

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

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

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

#### CONCLUSION

In conclusion, I make bold to state as follows:

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

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

May God help us all.

Thanks,

(sgd)

Dr. SYLVESTER S. SHIKYIL

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

NIGERIAN PILGRIMS WELFARE ASSOCIATION  
KUNGIYAR TAIMAKON ALHAZAI

*P.O. BOX 259, KANO NIGERIA*

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

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

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

WHAT IS SHARIA?

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

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

THE FEAR OF NON-MUSLIMS

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

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

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

WHAT THE BIBLE SAYS ABOUT THE PUNISHMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### EQUAL TREATMENT UNDER SHARIA

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

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

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

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

#### EQUAL SECURITY

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

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

#### PROTECTION BY SHARIA STATE

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

#### CONCLUSION

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

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

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

18<sup>th</sup> June, 2000.

Kano

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

Translated from the Hausa by Ahmed S. Garba

Ismaila Tahir, Dambam Local Government  
Bauchi State  
25<sup>th</sup> July, 2000

Sharia Committee

*Assalamu alaikum,*

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

Here are my suggestions:

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

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

*Wassalamu Alaikum,*

(sgd)

Ismaila Tahir

My profession is farming.

From Dambam Local Government Area, Bauchi State

**(17) From Abdullahi A. Sabiu**

Translated from the Hausa by Ahmed S. Garba

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

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

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

Your brother.

(sgd)

Abu Sulaib Abdullahi A. Sadia

5-8-2000

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

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

Ref: \_\_\_\_\_

Date: 19 July, 2000

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

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

*BISMILLAHIR-RAHMANIR-RAHIM<sup>19</sup>*

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<sup>19</sup> "In the name of Allah, most beneficent, most merciful."

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

1. On the premise of the terms of reference (TOR) of the Committee Part I(B) I wish to state that Islam is known to be a total submission to the will of Allah (SWT) who as a creator of all beings, deserves to give orders and be obeyed unequivocally. It is in this light that I will call for the total implementation of Sharia legal system in all facets of our social system. Therefore, there should be an overhaul in our economic system, cultural and in all other forms of operational paradigms to conform to Islamic ideals.

2. Also in accordance with Part II(C) I wish to suggest that Bauchi State Government as well as all the Local Governments in the State should create a welfare package to cater for the basic needs of the unemployed, till such a time they are either rehabilitated through the economic structure put in place or through their initiatives.

3. Likewise, in accordance with Part II(B) of the TOR of the Committee I wish to suggest that those with authority should be mindful of the near-absence of Bauchi State indigenes in some Federal establishments, most especially in the military and paramilitary sectors. Lack of paper qualification always tends to be our nemesis. I would rather suggest that at the time for recruitment into these sectors, our leaders should bear on the authorities that be to lower such criteria for recruitment in consideration of our disadvantaged position to only include those that can read and write, with the required height, physique and mental balance so long as the candidate is a Muslim.

4. With reference to part II(A) of the TOR, I strongly feel that poverty is the principal factor behind most of the social ills bedevilling our societies, including prostitution. However, these vices can be checked when there is even distribution of social services to the populace by the State and Local Government administrations. One advantage of such distribution is the empowerment of the family economically.

5. As a form of integrating the machinery of governance to conform to the Sharia legal system, the State Ministry of Finance should be empowered to collect and disburse *zakat* in accordance with the Islamic injunction. The Ministry may establish a board that could be charged with establishing the sources of wealth of individuals, keeping records of businesses/transactions to allow for ease of reference (computation etc.) towards a factual assessment.

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

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<sup>20</sup> “Peace be upon him.”

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

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

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

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

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

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



REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

(sgd)

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

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

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

Your Ref: \_\_\_\_\_ Our Ref: \_\_\_\_\_ Date: \_\_\_\_\_

“That all may be one” John 17:21

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

Gentlemen of the Press,

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

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

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

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

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

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

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

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

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

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

EXAMPLES:

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

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

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

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

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

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

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

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

*Sura* 24:2 says – beaten hundred times.

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

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

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

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

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

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

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

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

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

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

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

**Long Live Bauchi State.**

**Long Live the Federal Republic of Nigeria.**

Thank you and God bless.

(sgd) \_\_\_\_\_  
Rev Dauda Marafa  
CAN Chairman  
Bauchi State

(sgd) \_\_\_\_\_  
Mr. Iliya Hassan  
CAN Secretary

CC:

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

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

**(20) From Abubakar Yunus**

Translated from the Arabic by Ahmed S. Garba

In the Name of Allah, most merciful.

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

After that, I have questions as follows:

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

Peace be upon you.

(sgd)

Abubakar Yunus

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

Translated from the Hausa by Ahmed S. Garba

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

Committee for Sharia,  
c/o Women Development Centre  
Bauchi

*Assalamu alaikum,*

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

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

May peace be upon you.

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

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

Translated from the Hausa by Ahmed S. Garba

MESSAGE TO THE SHARIA COMMITTEE

15-08-2000

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

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

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

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

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

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

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

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

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

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

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

Further, I urge the Committee to note the following:

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

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

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

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

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

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

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

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

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



REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

*Bissalam.*

From Umar Alhaji Maigari Gambalu  
Katagum Local Government

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

Translated from the Hausa by Ahmed S. Garba

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

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

Our Ref: JIBWIS/BLG/MM/2/195  
Your Ref: \_\_\_\_\_

11<sup>th</sup> Jimada Ula 1421  
11<sup>th</sup> August 2000

The Chairman,  
Committee for the Implementation of Sharia

*Assalamu alaikum,*

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

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

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

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

*Wassalamu alaikum,*

(sgd)

Iliyasu Danjuma Bandas  
Secretary

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

Translated from the Hausa by Ahmed S. Garba

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

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

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

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

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

1. *Na kama* (“I take hold”)
2. Trade of brokerage and its conduct<sup>23</sup>
3. Reduction of price after completion of transaction
4. Charging exorbitant prices.<sup>24</sup>

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

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

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

*NA KAMA* (“I take hold”)<sup>25</sup>

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

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

There are three types of *na kama*:

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

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

**Explanation:**

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

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

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

#### TRADE OF BROKERAGE AND ITS CONDUCT

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

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

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

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

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

#### REDUCTION AFTER

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

## REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

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

### CHARGING EXORBITANT PRICES

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

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

### CONCLUSION

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

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

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

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

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

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

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

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

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

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

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

*Wassalam.*

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

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

*In the Name of Allah, Most Beneficial, Most Merciful*

MUSLIM FORUM

COLLEGE OF EDUCATION AZARE

*Shurah/Executive Council*

P.M.B. 44

Azare, Bauchi State

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

Date: 11<sup>th</sup> September 2000

Your Ref: \_\_\_\_\_

The Chairman, Sharia Implementation Committee,  
Bauchi State

Sir,

SUBMISSION OF MEMO ON SHARIA

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

REPORT OF THE BAUCHI STATE SHARIA IMPLEMENTATION COMMITTEE

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

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

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

Wassalamu Alaikum.

(sgd)  
\_\_\_\_\_  
Ado Musa  
Ameer

(sgd)  
\_\_\_\_\_  
Shehu Moh'd  
Ag. Secretary

\* \* \* \* \*

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

INTRODUCTION: WHAT IS SHARIA?

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

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

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

SHARIA: A MISCONCEIVED CONCEPT

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

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

## CHAPTER 2: SHARIA IMPLEMENTATION COMMITTEE REPORTS AND RELATED WHITE PAPERS

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

### THE NEED FOR SHARIA

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

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

In another Hadith he says:

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

He also says:

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

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

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

### SHARIA AND THE NIGERIAN HISTORY

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

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

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

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

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



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

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

### BENEFITS OF SHARIA

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

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

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

### SOME URGENT AREAS TO BE TOUCHED BY SHARIA

#### (A) Education:

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

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

#### (B) Economic:

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

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

#### CRITERIA FOR SELECTION OF JUDGES

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

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

(sgd) \_\_\_\_\_  
Ado Musa  
Ameer

(sgd) \_\_\_\_\_  
Shehu Moh'd  
Ag. Secretary

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

Translated from the Hausa by Ahmed S. Garba

To the Sharia Implementation Committee of Bauchi State

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

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

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

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

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

I am A. Yaya Mu'azu Jahun  
Bauchi

3.

**Appendix II**

**Report of the Subcommittee on Documentation and Codification**

**PREAMBLE**

This report is arranged into seven (7) sections:

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

**1.0 INTRODUCTION**

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

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

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

1.2 Membership. The Members were:

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

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

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

### 2.0 MODALITIES

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

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

Below is an account of how the above was accomplished:

(i) Study of the Terms of Reference.

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

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

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

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

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

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

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

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

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

### 3.0 LEGISLATION

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

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

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

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

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

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

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

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

#### 4.0 RECOMMENDATIONS

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



The following laws are imperative:

- i) a law to establish a new penal code to be known as the Sharia Penal Code, which will apply to Muslims within the territorial jurisdiction of Bauchi State; see Appendix 'B' [omitted here<sup>26</sup>].
- ii) The penalty as contained in the existing Penal Code as fine is too low bearing in mind the weak value of the naira since the law was made. They should be revised upwards to have parity with those in the Sharia Penal Code.

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

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

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

##### **Laws to be repealed**

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

##### **Laws to be amended**

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

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

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

#### **New Legislation**

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

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

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

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

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

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

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

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

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

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

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

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

13. Emirate Councils should comprise persons knowledgeable in Sharia.

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

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

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

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

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

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

## 5.0 OTHER ASSIGNMENTS

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

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

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<sup>27</sup> See previous note.

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

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

## 5.2 Amendment of the Constitution.

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

Amendments recommended in the 1999 Constitution are as follows:

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

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

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

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

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

- Article 23
- Article 67 and
- Article 68.

## 6.0 CONCLUSION

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

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

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

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

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

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

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

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

APPENDIX A [to Appendix II]

LIST OF DOCUMENTS PERUSED

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

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

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







































































































































