

**INTERIM AND FINAL REPORTS OF THE COMMITTEE SET UP
TO ADVISE THE SOKOTO STATE GOVERNMENT
ON THE ESTABLISHMENT OF SHARIA**

Submitted to His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto)
Governor of Sokoto State
on 13 October, 1999 and 16 December, 1999, respectively

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I.

**REPORT OF THE COMMITTEE SET UP TO ADVISE
THE SOKOTO STATE GOVERNMENT
ON THE ESTABLISHMENT OF SHARIA**

Submitted to
His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto)
Governor of Sokoto State
On Wednesday Rajab 4, 1420 A.H.
October 13th 1999

INTRODUCTION

- 1.1 On the 8th of October, 1999 His Excellency, the Governor of Sokoto State, Alhaji Attahiru Dalhatu Bafarawa, Garkuwan Sokoto, approved the appointment of a committee to advise the Government on the establishment of Sharia in Sokoto State.
- 1.2 The Committee has the following composition:
- | | | |
|--|---------------------------------|------------|
| (a) Alhaji Abdullahi Maccido Ahmad
Hon. Grand Kadi | - | Chairman |
| (b) Barrister Nuhu Adamu
Hon. A.G/Com. For Justice | - | D/Chairman |
| (c) Alhaji Tahir Muh'd Mai Akwai
Hon. Com. For Information | - | Member |
| (d) Alhaji Abdullahi Abdullahi Goronyo
Hon. Special Adviser On Special Duties
and Religious Affairs. | - | Member |
| (e) Hon. Justice M. H. Binji
High Court of Justice | - | Member |
| (f) Hon. Justice Bello Abbas
High Court of Justice | - | Member |
| (g) Hon. Kadi Muh'd Danchafe
Sharia Court of Appeal | - | Member |
| (h) Hon. Kadi Abdulkadir S. Tambuwal
Sharia Court of Appeal. | - | Member |
| (i) Hon. Usman Arzzika Binji
Chairman, Judiciary Committee
Sokoto State House of Assembly | - | Member |
| (j) Alkalin Alkalai M.B. Mai Wurno
Rep. Of Sokoto Emirate Council. | - | Member |
| (k) Professor A. A. Gwandu
Usman Danfodiyo University Sokoto | (absent on official assignment) | |
| (l) Dr. Sambo W. Junaidu
Usman Danfodiyo University Sokoto | - | Member |
| (m) Sheikh Sidi Attahiru Ibrahim | | |

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	Committee on Religious Affairs	- Member
(n)	Ustaz Muh'd Mode Abubakar Committee on Religious Affairs	- Member
(o)	Ustaz Sidi A. Sidi Committee on Religious Affairs	- Member
(p)	Ustaz Muh'd Salisu Imam Isa Committee on Religious Affairs	- Member
(q)	Ustaz Muh'd Mansur Ibrahim Committee on Religious Affairs	- Member
(r)	Umaru Dahiru Esq. Private Legal Practitioner	- Member
(s)	Yahaya Mahmood Private Legal Practitioner	- Member
(t)	M. Abdullahi Sifawa Secretary Law Reform Commission Sokoto State.	- Member
(u)	Alhaji Faruk Ladan DPM Political Affairs	- Secretary
(v)	Bande Muh'd Rikina DDPM Admin. & Gen. Services	- D/Secretary

- 1.3 The State Government appointed 2 members to represent the State Committee on Religious Affairs. It was at the inaugural meeting of the main Committee that a decision was taken to co-opt 3 more members of the Committee on Religious Affairs, and allow in audience other members of the Committee. Also to be co-opted is M. Abdullahi Sifawa, the Secretary of the State Law Reform Commission.
- 1.4 The main Committee also co-opted two (2) lawyers, Barrister Aliyu Abubakar Sanyinna, a Private Lawyer and Barrister Muhammadu Saidu Sifawa, Director Legal Drafting, Ministry of Justice, Sokoto.
- 1.5 The Terms of Reference of the main Committee are:
- (a) To advise the Government on how to enshrine Sharia into the State Legal System and to effect the needed review on the State Laws for submission to the State House of Assembly for confirmation.
 - (b) To co-opt any person or group of persons that can contribute to the success of its assignment, and call for oral submission or written memoranda on the issue from members of the general public.
 - (c) To complete the assignment within one week from the date of inauguration.
- 1.6 The inaugural meeting was held on the 8th October, 1999 when two sub-committees were formed as follows:
- (a) Members of the Committee on Religious Affairs to prepare in detail and submit:

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- i. the substantive penal law (*budud*)
 - ii. the procedural law.
- (b) The remaining members to prepare a draft bill for consideration by the whole Committee.

SUBSTANTIVE LAW AND PROCEDURE

- 2.1 The members of the Committee on Religious Affairs submitted its report which contains explanation on the seven (7) offences, procedure for proof and punishment. These are:
- (a) Homicide (*qisas*)
 - (b) Adultery and homosexuality (*zina* and *luwad*)
 - (c) Theft (*sariqa*)
 - (d) Robbery (*al-mubaraba*)
 - (e) Drunkenness (*shurubul khamr*)
 - (f) Defamation (*al-qazaf*)
 - (g) Apostasy (*ridda*)
- 2.2
- (i) The report was received and adopted by the main Committee. [See [Annex B](#) to the Final Report of the Committee, below.]
 - (ii) The report will be translated into English and submitted to the Honourable Grand Kadi to be incorporated in the rules of court. The substantive law had been incorporated into the [draft bill](#) by the main Committee.

DRAFT BILL [[annexed](#)]

- 3.1 The sub-committee which prepared the draft bill considered the following provisions of the Constitution of the Federal Republic of Nigeria 1999 (referred hereinafter as the Constitution), and its likely consequences and/or on the bill:
- Section 1(1) and (3) on the supremacy of the Constitution
- Section 4(7) which empowers the State House of Assembly to make laws for the peace order and good government of the State.
- Section 6(4) and (5) which:
- (i) allow the State House of Assembly to establish courts with subordinate jurisdiction to that of the High Court;
 - (ii) can have both original and appellate jurisdiction.
- Section 10 which provides that the Government of the Federation or of a State shall not adopt any Religion as a State Religion.
- Section 33 which provides that every person has a right to life, and no one shall be deprived intentionally of his life save in execution of a sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.
- Section 34 which provides the fundamental right to dignity of human person.

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Section 36 which provides for the fundamental right to fair hearing including:

- (i) the right to have the offence and penalty existing at the time of the commission of the offence;
- (ii) the offence and penalty to be written in a law of a State, a subsidiary legislation or an instrument under provisions of law.

Section 38 which allows for the fundamental right to freedom of thought, conscience and religion.

Section 275 which allows any State that requires it, to establish Sharia Court of Appeal.

Section 277 which restricts the jurisdiction and power of the Sharia Court of Appeal to:

- (i) civil jurisdiction;
- (ii) specific matters and causes.

but allows the House of Assembly to confer additional jurisdiction.

3.2 The sub-committee after discussing the provisions in paragraph 3(1) above, decided:

That the Sharia Courts can be established.

- (i) it shall only apply to Muslims;
- (ii) the Sharia is intended to reform the mind, and inculcate discipline, honesty and transparency.

That efforts should be made to avoid any conflict with the Constitution, and at the same time giving Muslims their full rights as provided in the Sharia, and guaranteed by the section 38(1) of the Constitution.

That the following Courts shall be established namely:

- (i) the Lower Sharia Court
- (ii) the Upper Sharia Court
- (iii) the Sharia Court of Appeal

That the Lower Sharia Court shall be constituted by an alkali sitting alone, while the Upper Sharia Court shall be constituted by a president and one (1) member.

That the Lower Sharia Court alkali shall be a person qualified to be an Area Court judge, while the president and members of the Upper Sharia Court shall be persons having qualifications of an Upper Area Court Judge.

That recognised, relevant or equivalent qualification shall be defined in the bill.

That in addition to the civil causes and matters listed under section 277 of the Constitution, the Sharia Court shall be conferred with additional civil and criminal jurisdiction in all causes and matters.

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That both the Sharia Court of Appeal and Upper Sharia Court shall be conferred with appellate jurisdiction in civil causes and matters, and in criminal cases.

That the draft bill shall provide the sources of Islamic law and reference text books and authorities to be used by the Sharia Courts.

That the practice and procedure and the law of evidence applicable shall be Sharia Law of Maliki School.

That there shall be provided the fundamental and constitutional right to legal representation in criminal cases, and general right of representation in civil causes and matters.

That the presidents, members, al-kadhis and other staff of the Sharia Courts shall be public officers of the State.

That walis (inspectors) shall be appointed.

That there must also be provided provisions for:

- (1) right of appeal
- (2) review of the State Laws
- (3) provision for confirmation and execution of sentence of death.

That specific monitoring and advisory roles shall be given to the Emirate Council, Council of Ulama and State Committee on Religious Affairs.

Other ancillary matters.

GENERAL ADVICE AND RECOMMENDATIONS

There are certain obligations, conducts and behaviours, which are pre-requisites for the establishment of Sharia. It was unanimously agreed that the time given to the Committee will not be enough to receive any memorandum or oral submission from the general public. There is therefore the need for the government to extend the time given to this Committee, to at least two (2) months to:

- (a) accept or receive written memoranda and oral submissions
- (b) submit a detail report.

The issues to be covered by the Committee shall include advice on:

The need to review certain State laws i.e. Liquor Law, Sharia Court of Appeal Law, Area Courts Law etc.;

Adequate training, seminars and courses for the Sharia Court personnel;

Sufficient publicity through media, rallies and public lectures on what Sharia is all about;

Formulation of practice and procedure to guide the application of Sharia;

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Enforcement of Islamic law behaviour and control of anti-Islamic behaviour concerning:

- i. marriage ceremonies and bridal gifts
- ii. begging
- iii. praise singing
- iv. picnic and disco
- v. mode of dressing
- vi. prostitution
- vii. gambling
- viii. cinema and video houses
- ix. payment of *zakat*
- x. girls' schools and education
- xi. hawking
- xii. hoarding
- xiii. payment of *dijab*
- xiv. observance of the month of Ramadan
- xv. code of conduct for the personnel of Sharia Courts
- xvi. publication and translation of Islamic literature
- xvii. code of conduct for political leaders, traditional title holders and public officers

Creation of specific roles for Local Governments and traditional institutions;

Educating non-Muslims on the Sharia;

Construction and redesigning of our courts to conform with Islamic tradition.

- 4.3 The government shall consider a suitable date as the effective date for the implementation of the Sharia and take-off of the courts.

ACKNOWLEDGEMENT AND CONCLUSION

The Committee is ever grateful to Almighty Allah for giving His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto) the wisdom and courage to initiate the implementation of Sharia in Sokoto State. The Committee wishes to register its gratitude to His Excellency for giving the Committee the opportunity to serve in this assignment.

May the Almighty Allah continue to guide, help, assist and protect us all.

Dated 13th day of October, 1999

[Here follows the list of committee members again with place for their signatures.]

NB: The Draft Bill is hereby annexed

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ANNEX: DRAFT SHARIA COURTS BILL

I assent this day of 1999

ALHAJI ATTAHIRU DALHATU BAFARAWA
(GARKUWAN SOKOTO)
GOVERNOR
SOKOTO STATE OF NIGERIA
BILL NOOF 1999

A BILL TO ESTABLISH SHARIA COURTS TO APPLY SHARIA LAW
IN SOKOTO STATE

PREAMBLE

WHEREAS the 1999 Constitution of Nigeria provides for a Federal System of Government in a Federation consisting of States and Federal Capital Territory based on the principles of democracy and social justice as guaranteed under chapter 1 thereof;

AND WHEREAS almost one hundred percent (100%) of the people of Sokoto State are Muslims and are desirous of being governed by Sharia law;

AND WHEREAS by the provisions of S. 38 (1) of the Constitution every person is entitled to freedom of thought, conscience and religion amongst other fundamental human rights enshrined under Chapter IV of the Constitution;

AND WHEREAS by the provisions of S.4 (7) and S. 6(4) & (5) of the Constitution the House of Assembly of the State is vested with powers to make laws for peace, order and good government of the State or any part thereof;

NOW THEREFORE, BE IT ENACTED by the House of Assembly of Sokoto State as follows:

PART 1 – PRELIMINARY

1. This Law may be cited as the Sharia Courts Law, 1999 and shall come into operation on day of Citation and Commencement
2. In this Law Interpretation
 - ‘alkali’ means the judge of the lower Sharia Court
 - ‘Attorney-General’ means Attorney-General of Sokoto State
 - ‘Chief Mufti’ means the Chief Registrar of the Sharia Court of Appeal
 - ‘Constitution’ means the Constitution of the Federal Republic of Nigeria 1999
 - ‘Governor’ means the Governor of Sokoto State of Nigeria
 - ‘Grand Kadi’ means the Grand Kadi of the State Sharia Court of Appeal

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- ‘Hadith’ means the sayings, teachings and approvals of the Holy Prophet Muhammad (SAW)
‘*ijma*’ means the consensus of opinion of renowned Muslim Jurists and Scholars on any issue in Islamic Law
‘Judicial Service Commission’ means the Commission established for the State under section 197(1) (c) of the Constitution
‘kadi’ means the kadi of the State Sharia Court of Appeal
‘member’ means alkali of the Upper Sharia Court
‘mufti’ means a registrar of the Sharia Court
‘person’ means a Muslim whether male or female
‘president’ means the presiding alkali of the Upper Sharia Court
‘*qiyas*’ means analogical deductions in Islamic Law
‘Qur’an’ means the divine and Holy Book of Islam revealed to Prophet Muhammad (SAW) by Almighty Allah containing a complete legal, moral, spiritual, economic and political system to govern the life and conduct of Muslims
‘Sharia Court’ means the Lower and Upper Sharia Courts established under this Law and shall include Sharia Court of Appeal
‘Sharia Court of Appeal’ means the Sharia Court of Appeal established under section 275 of the Constitution
‘Sharia law’ means the Islamic law and practices as prescribed by the Qur’an, Hadith, *ijma*, *qiyas* and other sources of Islamic law
‘State’ means the Sokoto State of Nigeria
‘wali’ means an inspector of Sharia Court

PART II – ESTABLISHMENT AND CONSTITUTION OF SHARIA COURTS

3. (1) There are hereby established in the State the following Sharia Courts: Establishment of Sharia Courts
- (a) The Lower Sharia Court
 - (b) The Upper Sharia Court
 - (c) The Sharia Court of Appeal
- (2) There shall be established a Lower Sharia Court and Upper Sharia Court in such designated areas the Grand Kadi shall decide by way of warrant.
- (3) The appointment of a person to the post of the president and members of the Upper Sharia Court and alkali of the Lower Sharia Court shall be made by the Judicial Service Commission.
- (4) The Upper Sharia Court shall be constituted by a president and one member.
- (5) The Lower Sharia Court shall be constituted by a single alkali.
4. (1) A person shall not be qualified to hold the office of a president or a member of the Upper Sharia Court unless: Qualification
- (a) he is a serving or retired Upper Area Court judge or
 - (b) he is a legal practitioner in Nigeria and has been so qualified for a period of not less than seven (7) years and has obtained a recognised qualification in Islamic law from an institution acceptable to the Judicial Service Commission or

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- (c) he has been an alkali of the Lower Sharia Court for a period of not less than five (5) years.
- (2) A person shall not be qualified to hold the office of an alkali of the Lower Sharia Court unless:
 - (a) he is a serving or retired Area Court judge or
 - (b) he is a legal practitioner in Nigeria and has been so qualified for a period of not less than five (5) years and has a recognised qualification in Islamic law acceptable to the Judicial Service Commission.
 - (c) Any other relevant qualification acceptable to the Judicial Service Commission.
- (3) Recognised qualification in this part of this Law means and shall include:
 - (a) a degree in Islamic law from a recognised university
 - (b) a certificate from the former Kano (Islamic) Law School
 - (c) a diploma or certificate in Sharia and Civil Law from a recognised university, college or institution
 - (d) a certificate from a school for Arabic Studies or higher Islamic Studies certificate.
 - (e) Sufficient knowledge of Islamic law and practical training.

PART III – JURISDICTION AND LAW

- 5. (1) A Sharia Court shall have jurisdiction to hear and determine civil matters and causes, where the two parties are Muslims, and in criminal cases where the suspects or accused person(s) is/are Muslims.
- (2) The Upper Sharia Court and State Sharia Court of Appeal shall only have appellate and supervisory jurisdiction over the Lower Sharia Court.
Provided that where the need arises the Grand Kadi shall have power to confer original jurisdiction to the presiding alkali of an Upper Sharia Court.
- (3) For the purpose of subsection (1) of this section the Sharia Court shall be competent to decide all civil matters and causes where all the parties are Muslims including any proceeding involving:
 - (a) Marriage under Islamic Law (*al-nikah*)
 - (b) Guardianship and maintenance (*al-kafala*) and *nafaqa*)
 - (c) Succession (*mirath*), will (*wasiyah*), gift (*hiba*), endowment (*waqf*), pre-emption (*shuf'a*), and trust (*amana*).
 - (d) Land law (*hukmu niz'a'il aradi*)
 - (e) Contract (*al-aqd*)
 - (f) Tort (*al-diyah*)
 - (g) Commercial law (*ahkamul buyu*)
 - (h) Company law and partnership (*ahkamul sharikat* and *al-musharakah*).
- (4) For the purpose of subsection (2) of this section the Sharia Court shall be competent to try all criminal cases in which suspect(s) or accused person(s) is/are Muslim, including:

Civil
proceedings

Criminal
proceedings

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- (a) Homicide (*qatlul-nafs*)
 - (b) Robbery (*al-muharaba*)
 - (c) Theft (*al-sariq*)
 - (d) Defamation (*al-qazf*)
 - (e) Drunkenness (*shurbul-khamr*)
 - (f) Causing grievous hurt (*al-qisas*)
 - (g) Homosexuality (*luwat*)
 - (h) Adultery (*al-zina*)
 - (i) Lesbianism (*al-sihaq*)
 - (j) Bestiality (*wat'ul dabba*)
 - (k) Perjury (*al-tazwir*)
 - (l) Offering and receiving gratification (*al-rishwa*)
 - (m) Criminal breach of trust (*al-khiyanah*)
 - (n) Cheating (*al-gish*)
 - (o) Mischief (*al-fasad*)
 - (p) Receiving stolen property (*shira'u muta'il sariqa*)
 - (q) Giving false evidence (*shahadatul-zur*)
 - (r) Apostasy (*riddah*)
6. The applicable laws in both civil and criminal proceedings shall include: Law applicable
- (a) The Holy Qur'an
 - (b) Sunnah and Hadith
 - (c) *Ijma*
 - (d) *Qiyas*
 - (e) *Maslahat mursala*
 - (f) *Istihsan*
 - (g) *Istishab*
 - (h) *Al-urf*
 - (i) *Muzhabul-sahabi*
 - (j) Other subsidiary sources
7. The reference books to be used by the Sharia Court shall include the following texts and authorities: -
- (a) *Al-Risalah*
 - (b) *Mubtasar*
 - (c) *Tubfab*
 - (d) *Al-Adawi*
 - (e) *Al-Fawakih al-Dawani*
 - (f) *Ibn Ashir*
 - (g) *Bidayat at Mujtahid*
 - (h) *Al-Mudawwanah*
 - (i) *Muwattab Malik*
 - (j) *Mayyara*
 - (k) *Bahjab*
 - (l) *Jawahir-al-Iklil*
 - (m) *Dasuki*
 - (n) *Al-Khirshi*
 - (o) *Bulgatil Salik*
 - (p) *Mawabibul Hallaq*

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- | | |
|---|---------|
| <p>8. A Sharia Court shall have jurisdiction and power only over:</p> <p style="padding-left: 20px;">(a) Civil causes and matter where the parties are Muslims;</p> <p style="padding-left: 20px;">(b) Criminal cases where the suspect or accused is a Muslim.</p> | Persons |
| <p>9. Where only one or more of several suspects or accused person(s) are Muslims, the Sharia Court shall not have jurisdiction to hear and determine the case, but the court shall have the power to try the Muslims and refer the case of the others to the Area or Magistrates Courts, or such other court with competent jurisdiction to try the offence(s)</p> | Mixed |

PART IV – PRACTICE AND PROCEDURE

- | | |
|---|----------------------|
| <p>10. (1) The practice and procedure to be applied by a Sharia Court shall include:</p> <p style="padding-left: 20px;">(a) Islamic law and procedure contained in the sources and texts listed in section 6 and 7 of this Law.</p> <p style="padding-left: 20px;">(b) The Grand Kadi shall issue rules of practice and procedure to include fees payable, execution etc.</p> <p>(2) The law of evidence to be applied shall be the Islamic law of evidence of the Maliki School.</p> | |
| <p>11. (1) Every person who is charged with a criminal offence shall be entitled to defend himself in person or by a legal practitioner of his choice.</p> <p>(2) Every party to any civil proceedings may be represented by a legal practitioner of his own choice or by any relation or nominee.</p> | Legal representation |

PART V – CONTROL OF SHARIA COURT

- | | |
|---|--------------------------|
| <p>12. A Sharia Court shall be under the general supervision and control of the Grand Kadi.</p> | Supervision |
| <p>13. There shall be appointed by the Judicial Service Commission on the recommendation of the Grand Kadi, wali of Sharia Court</p> | Appointment of wali |
| <p>14. The functions of a wali shall include:</p> <p style="padding-left: 20px;">(a) advising the Grand Kadi on the appointment, performance, complaint and discipline of the president and members of the Upper Sharia Court</p> <p style="padding-left: 20px;">(b) advising the Grand Kadi on applicable law, practice and procedure, and changes thereon.</p> | Functions of wali |
| <p>15. A person shall not be qualified to be appointed as a wali of Sharia Court unless (qualification of a wali):</p> <p style="padding-left: 20px;">(a) he is a retired Upper Area Court judge or a retired kadi of the Sharia Court of Appeal, or</p> <p style="padding-left: 20px;">(b) he is qualified to be appointed as an Upper Area Court judge, a president or member of the Upper Sharia Court, or a Sharia Court of Appeal kadi, or</p> <p style="padding-left: 20px;">(c) he is recommended by the State Committee on Religious Affairs, and found fit by the Judicial Service Commission.</p> | Qualifications of a wali |

PART VI – STAFF OF THE SHARIA COURT

16. (1) there shall be the following staff of the Sharia Court:

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- (a) Chief Mufti (Chief Registrar)
 - (b) Mufti (Registrar)
 - (c) Court clerk (*katib*)
 - (d) Estate distributor (*qasim*)
 - (e) Valuer (*muqawwim*)
 - (f) Interpreter (*tarjuman*)
 - (g) Messenger (*khadim*)
 - (h) Bailiffs (*am*)
- (2) The alkali and staff of the Sharia Court mentioned in subsection (1) and such other staff as may be required shall be public officers of the State to be appointed by the Judicial Service Commission.
- (3) The salaries and allowances of the president, members, alkalis and staff of the Sharia Court shall be determined by the Judicial Service Commission. Remuneration

PART VIII – APPEALS

17. (1) In any civil matter or cause, an appeal shall lie as of right from the decision of the Lower Sharia Court to the Upper Sharia Court.
- (2) In criminal cases an appeal shall lie as of right from the decision of the Lower Sharia Court to the Upper Sharia Court.
- (3) An appeal shall lie as of right in both civil causes and matters and in criminal cases from the decision of the Upper Sharia Court to the State Sharia Court of Appeal.
- (4) The appeals mentioned in sub-sections (1), (2) and (3) shall be filed within 30 days from the date of the decision.
- (5) The appeal shall be filed at the registry of the Sharia Court of Appeal or Upper Sharia Court as the case may be.

PART VIII – MISCELLANEOUS

18. (1) The president and members of the Upper Sharia Court, and alkalis of the Lower Sharia Court shall not be liable to be sued in any court for any act done or ordered to be done in the exercise of the jurisdiction conferred by this Law or any other, whether or not within the limits of the jurisdiction, provided that he at the time of such act or giving such order believed in good faith to have jurisdiction. Protection
- (2) The protection in subsection (1) of this section shall extend to the staff of the Sharia Court mentioned in section (16)(1) for all acts done in pursuance to any order of the court.
19. A Sharia Court shall have jurisdiction to punish summarily for the offence commonly known as contempt of court for any act committed in its presence intentionally done to question its authority or disobey its order. Contempt
20. A Sharia Court shall in addition to the powers conferred on it by this Law, apply the provisions of the following legislation with such modifications as may be necessary to conform with the principles of Sharia: Other legislation
- (a) Auctioneers Law (Cap 10) Laws of Sokoto State

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- (b) Applicable Laws (Cap 6) Laws of Sokoto State
 - (c) Children and Young Persons Law (Cap 22) Laws of Sokoto State
 - (d) Courts Touts (Prohibition) Law (Cap 40) Laws of Sokoto State
 - (e) Criminal Procedure Code (Cap 41) Laws of Sokoto State
 - (f) Fatal Accidents Law (Cap 50) Laws of Sokoto State
 - (g) Infants Law (Cap 68) Laws of Sokoto State
 - (h) Legitimacy Law (Cap 79) Laws of Sokoto State
 - (i) Married Women's Property Law (Cap 91) Laws of Sokoto State
 - (j) Oath and Affirmation Law (Cap 97) Laws of Sokoto State
 - (k) Probation of Offenders (Cap 113) Laws of Sokoto State
 - (l) Sharia Court of Appeal Law (Cap 133) Laws of Sokoto State
 - (m) Area Courts Law (Cap 9) Laws of Sokoto State
21. (1) The provisions in the following laws and any other legislation applicable to the State which defines customary law to include Islamic or Muslim Law are hereby repealed: Repeal
- (a) Area Courts Law (Cap 9) Laws of Sokoto State
 - (b) Civil Liability Law (Cap 25) laws of Sokoto State
 - (c) District Court Law (Cap 44) Laws of Sokoto State
 - (d) High Court Law (Cap 60) Laws of Sokoto State
- (2) The provision of section 3 of the Applicable Laws (Miscellaneous Provisions) Law (Cap 6) Laws of Sokoto State which allows for the continuous application of the common law and doctrines of equity is hereby repealed.
22. A Sharia Court shall carry out the orders and directions of any superior court of record when required to do so, and properly within its jurisdiction.
23. Where an accused person appealed against a sentence of death, the sentence shall not be carried out until after the hearing and determination of the appeal.
24. Where a Sharia Court has sentenced a person to death or confirmed a sentence of death, the record of proceedings and order of the court shall be forwarded to the office of the Attorney-General, within two weeks and the sentence shall be carried out on a date fixed and specified by the Governor.

PART IX – SAVINGS

25. Pending the issuance of the rules of court, the rules applicable in the Area Courts in the case of civil matters and causes, and the Sharia Court of Appeal in the case of civil appeals shall be applicable with such modifications as may be necessary to conform with the rules as provided by the Maliki School of Jurisprudence. Rules of court
26. This Law shall only apply to causes and matters filed or offences committed after its commencement. Commencement and application

II.

**FINAL REPORT OF THE COMMITTEE SET UP
TO ADVISE THE STATE GOVERNMENT
ON THE IMPLEMENTATION OF SHARIA IN SOKOTO STATE**

Submitted to
His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto)
Governor of Sokoto State

16th December 1999

INTRODUCTION

On the 8th of October 1999, His Excellency, the Executive Governor, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto), approved the appointment of this Committee to advise the Government on the establishment of Sharia in Sokoto State. It was given one week within which to submit its report. The Committee has the following composition:

- | | | | |
|-----|---|---|------------|
| (a) | Alhaji Abdullahi Maccido Ahmad
Hon. Grand Kadi | - | Chairman |
| (b) | Barrister Nuhu Adamu
Hon. A.G/Comm. For Justice | - | D/Chairman |
| (c) | Alhaji Tahir Muh'd Mai Akwai
Hon. Comm. For Information | - | Member |
| (d) | Alhaji Abdullahi Abdullahi Goronyo
Hon. Special Adviser on Special Duties
and Religious Affairs | - | Member |
| (e) | Hon. Justice M. H. Binji
High Court of Justice | - | Member |
| (f) | Hon. Justice Bello Abbas
High Court of Justice | - | Member |
| (g) | Hon. Kadi Muhammad Danchafe
Shari'a Court of Appeal | - | Member |
| (h) | Hon. Kadi Abdulkadir S. Tambuwal
Shari'a Court of Appeal. | - | Member |
| (i) | Hon. Usman Arzzika Binji
Chairman, Judiciary Committee
Sokoto State House of Assembly | - | Member |
| (j) | Alkalin Alkalai M.B. Mai Wurno
Rep. Of Sokoto Emirate Council | - | Member |
| (k) | Professor A. A. Gwandu
Usman Danfodiyo University Sokoto | - | Member |
| (l) | Dr. Sambo W. Junaidu
Usman Danfodiyo University Sokoto | - | Member |
| (m) | Sheikh Sidi Attahiru Ibrahim
Committee on Religious Affairs | - | Member |

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- | | | | |
|-----|--|---|--------------|
| (n) | Ustaz Muhammad Mode Abubakar
Committee on Religious Affairs | - | Member |
| (o) | Ustaz Sidi A. Sidi
Committee on Religious Affairs | - | Member |
| (p) | Ustaz Muhammad Salisu Imam Isa
Committee on Religious Affairs | - | Member |
| (q) | Ustaz Muhammad Mansur Ibrahim
Committee on Religious Affairs | - | Member |
| (r) | Umaru Dahiru Esq.
Private Legal Practitioner | - | Member |
| (s) | Yahaya Mahmood
Private Legal Practitioner | - | Member |
| (t) | Umar Faruk Ladan
DPM Political Affairs | - | Secretary |
| (u) | Bande Muhammad Rikina
Admin. & Gen. Services | - | D/Secretary |
| (v) | Barrister Muhammad S. Sifawa
Ministry of Justice | - | Co-Secretary |
- 1.2 The State Government appointed two members to represent the State Committee on Religious Affairs. It was at the inaugural meeting of the main Committee that a decision was taken to co-opt three more members of the Committee on Religious Affairs, and allow in audience other members of the Committee. Also co-opted is Alhaji Abdullahi S. Sifawa, the Secretary of the State Law Reform Commission.
- 1.3 The main Committee also co-opted two (2) lawyers, Barrister Aliyu Abubakar Sanyinna, a Private Lawyer and Barrister Muhammadu Saidu Sifawa, Director Legal Drafting, Ministry of Justice, Sokoto.
- 1.4 The terms of reference of the main Committee are among others:
- (i) to advise the Government on how to enshrine Sharia into the State legal system and to effect the needed review on the State laws for submission to the State House of Assembly for confirmation.
 - (ii) can co-opt any person or group of persons that can contribute to the success of its assignment. It can also call for oral submissions or written memoranda on the issue from members of the general public.
 - (iii) the assignment is expected to be completed within one week from 8th October, 1999.
- 1.5 On the 14th of October 1999, the Committee submitted its Interim Report to the State Government comprising the draft bill to be processed with the State House of Assembly for ratification. It has also offered some key advice on how to implement Sharia in Sokoto State.
- 1.6 In consideration of the fact that Islam is a practicable and feasible religion relating to the whole life, the Committee saw the need and requested the State Government for an extension of two months. The extension will be used to

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reconstruct and re-orient our populace on the importance of Sharia. The request was granted by the State Government. The Committee will, among other things;

- (a) study and work out how best to reform the present court structure to conform with Islamic provision;
- (b) study and redesign the practice and procedures in courts;
- (c) embark on re-orientation of the general public on the importance of Sharia in the State through organized discussions, seminars, workshops and *wa'azis*;
- (d) receive written memoranda and oral submissions from the general public.

1.7 The Committee held series of meetings during which three sub-committees were formed as follows:

- (a) Legal Sub-Committee
- (b) Publicity Sub-Committee
- (c) Sub-Committee on Structural Reform.

In addition, the contributions of the State Elders Consultative Committee under the chairmanship of the Former Executive President of Nigeria, Alhaji Shehu U. A. Shagari and Advisory Consultative Committee on Sharia under the Chairmanship of Alhaji Buhari Siriddawa, Sarkin Malamai were received.

2.0 [Specific Recommendations]

The Committee carefully reviewed the reports of its sub-committees, State Elders Consultative and Advisory Consultative Committees and unanimously recommended the following to the State Government for adoption:

a. LAWS OF SOKOTO STATE

The Committee recommends the amendment of the following in order to bring them in conformity with Sharia Law:

i. **Lunacy Law Cap 88 Laws of Sokoto State 1996.**

Recommends that sections 10, 11, 12, 13, 14, 15 and 17 should be amended to include alkali, wherever they refer to a magistrate, while section 20 be amended to include Sharia Court of Appeal where it refers to a High Court.

ii. **Collective Punishment Law Cap 28 Laws of Sokoto State**

The Committee considered this law outdated and that its provisions had never been implemented. It therefore recommends that this law should be repealed.

iii. **Auctioneers Law Cap 10 Laws of Sokoto State 1996**

The Committee observed that the only conflict of this law with Sharia is that bidders invited to buy goods under this law are not given the opportunity to examine the goods they are buying. It is therefore recommended that the law should be amended to give bidders access to the property they are buying.

iv. **Cinematographic Licenses Cap 24 and Censorship Law Cap 23 Laws of Sokoto State 1996.**

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These laws are recommended for amendment to accommodate the recommendations contained in the report of the Committee on the need to enforce certain obligations.

v. **Transport Authority Law Cap 143 of Sokoto State 1999**

This law should be amended to accommodate the recommendations contained in the report of the Committee on the need to enforce certain obligations, conduct and modes of behaviour.

[numerals vi and vii skipped.]

viii. **Audit Law Cap 11 Laws of Sokoto State 1996**

There is the need to develop ways of carving out corruption and embezzlement in our public life, hence the need to amend this law to ensure efficient auditing and accountability.

ix. **Road Traffic Law Cap 127 and Road Traffic (Control of Hackney Carriages) Cap 128 Laws of Sokoto State 1996**

These laws need to be amended to bring them in line with the recommendations of the Committee.

x. **Boys Scouts Law Cap 15**

The Committee recommends a similar legislation to cater for Islamic organizations.

xi. **The Beast of Burden Preservation Law**

The Committee recommends that this law be enforced to stop sale of donkeys etc. for human consumption in the State.

xii. **Meat Law Cap 92 Laws of Sokoto State 1996**

First schedule of this law to be amended to remove pigs and other animals that are prohibited by Sharia.

xiii. **Penal Code Law Cap 104 Laws of Sokoto State 1996**

The Committee recommends that section 3(1) and (2) of the Penal Code should be repealed. The two sub-sections prohibit trial of any person other than in accordance with the provisions of the Penal Code.

xiv. **Effect of Section 39 of the Land Use Act 1978**

The Committee observed that this section gave the High Court exclusive jurisdiction to adjudicate on land matters in an urban area. By Sokoto State Legal Notice No. 11 of 1992 all Local Government headquarters are declared urban areas with a radius of eight kilometres from the headquarters.

This means therefore that the newly created Sharia Courts are excluded from hearing such cases. The Committee therefore recommends that the legal notice No. 11 be repealed.

xv. **Criminal Procedure Code Cap 41 Laws of Sokoto State 1996.**

The Committee recommends that a provision be made to the effect that the provision of the CPC should not be applicable in any proceedings before the Sharia Court.

xvi. Local Government Adoptive Rules

The Committee recommends that the following be amended to reflect the position of Sharia.

- (a) Sokoto State Legal Notice No. 25 of 1977
- (b) Sokoto State Legal Notice No. 2 of 1977 (Control of Beggars etc.)
- (c) Sokoto State Legal Notice No. 24 of 1977 (Control of Hawking)
- (d) Local Government Law No. 2 of 1977
- (e) Liquor Adoptive Rules 1977
- (f) Control of Advertising Adoptive Rules 1977.

xvii. Liquor Law Cap 81 Laws of Sokoto State 1996

This Committee recommends that this law should be amended to prohibit the sale and consumption of alcohol by a Muslim throughout the State.

The Committee recommends that the following laws should remain in force but should not apply to Muslims. The laws are:

- i. Administration of Estate Law Cap 10
- ii. Applicable Laws (Miscell. Provisions)
- iii. Burials Law Cap 18
- iv. Civil Liability (Miscell. Provisions) Cap 25
- v. Contract Law Cap 34
- vi. Defamation Law Cap 42
- vii. Fatal Accidents Cap 50
- viii. Infants Law Cap 68
- ix. Legitimacy Law Cap 79
- x. Limitation Law Cap 30
- xi. Pawn-brokers Law Cap 102
- xii. Money Lenders Law Cap 94
- xiii. Married Women's Property Law Cap 91
- xiv. Oath and Affirmation Law Cap 97
- xv. Prescription Law Cap 109.
- xvi. Property Law Cap 114
- xvii. Sale of Goods Law Cap 130.
- xviii. Torts Law Cap 141
- xix. Trustees Law Cap 145
- xx. Wills Law Cap 152

b. SHARIA COURTS (CIVIL PROCEDURE) RULES 1999

The proposed Sharia Courts (Civil Procedure) Rules 1999 were carefully drafted and recommended by the Committee to the State Government for adoption. Refer to [Annex A](#) for detailed rules.

c. **ISLAMIC CRIMINAL LAW PROCEDURE**

The Islamic Criminal Law Procedure was carefully drafted and recommended by the Committee to the State Government for adoption. Refer to [Annex B](#) for detailed procedure.

d. **TA'AZIRATU (CORRECTIONAL PUNISHMENTS)**

Islamic law has identified some offences that require correctional punishment, which were carefully reviewed by the Committee and recommended to the State Government for adoption. Refer to [Annex C](#) for details.

e. **MASS PUBLICITY**

The Committee observed that there is urgent need to re-orient our people on the importance of Sharia and its principles. It was on this ground that the Committee saw the need to promote understanding among both Muslims and non-Muslims on the general concept of Sharia.

The Committee suggested that in order to effectively disseminate information and re-orient general public on the issue of Sharia, the services of all means of communication ought to be employed. These include Rima Radio, Nigerian Television Authority, and national newspapers. The Committee also saw the need to conduct workshops, seminars and *wa'azi* at all levels of our society to enlighten both the urban and rural populace on the importance of adopting Sharia in Sokoto State. Details of the Committee's recommendations to the State Government on publicity are placed at [Annex D](#) for detailed study and implementation

To serve as the first step towards the preparation to adopt Sharia in the State, the State Government approved the conduct of State and Local Government *wa'azi*. The *wa'azi* was conducted successfully from 29th November, 1999 to 3rd December, 1999 at all Local Government headquarters and some few major towns. The reception accorded the groups by the rural populace was outstanding. It was a clear demonstration of people's overwhelming desire and acceptance of Sharia law in the State.

The State *wa'azi* was conducted on 7th December, 1999 at Shehu Kangiwa Square. The turn-out of people to witness the unprecedented event was overwhelming. It was attended by His Excellency, the Executive Governor, Alhaji Attahiru Dalhata Bafarawa (Garkuwan Sokoto), His Eminence, the Sultan of Sokoto, Alhaji Muhammadu Maccido Abubakar III, former President, Alhaji Shehu U.A. Shagari, the speaker and members of the State House of Assembly, the judges/kadis, prominent Muslim scholars and some important personalities in the State.

f. **WRITTEN MEMORANDA AND ORAL SUBMISSIONS**

Many written memoranda and oral submissions were received from different people of various walks of life. The memos touched on some of the most often questioned aspects of Sharia, particularly structural reformation and social conditioning

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necessary to provide the basis for the implementation of Sharia in Sokoto State. Few of the memos are summarised as follows:

i. **Mal. Aliyu Bello Galadima** of Sunnah Marriage Mediation Association

Suggested the need for the State Government to:

Establish Ministry for Religious Affairs to perform functions that are not catered for by the existing ministries, boards and parastatals/departments.

Ensure that prostitutes or free women as they are otherwise referred to, should be taken care of by the new Ministry for Religious Affairs, in houses designated for reforming them. Unions and associations like this will assist in the reformation and placement process.

See to it that law enforcement agencies fully enforce the law passed by the State House of Assembly in 1992 on marriage expenses.

Set up committee of people with proven integrity, whose membership should not exceed seven, to perform, among other functions, monitoring the activities of judges, policemen, traditional rulers and wealthy individuals to ensure that marriages are conducted in accordance with Islamic provisions

Incorporate the roles of Islamic organizations in the marriage processes and promote public awareness on the need to ease the process and curb extravagance.

Ban praise singing and notorious music during marriage and naming ceremonies.

ii. **Dalhatu Aminu Yartsakuwa**, Upper Area Court Judge

Suggested the need for the State Government to prepare and conduct refresher courses for the alikalis from time to time to ensure their competence in running their various courts.

iii. **Alhaji A.Y. Rabah** of J.S.S. Rabah

Suggested in his memo titled "Islamic Legal Perspective: An Overview" the need to observe the fundamental human rights as contained in the Holy Qur'an, Sunnah and *Ijma*. He particularly stressed the need for a social security policy sufficient to cater for the disadvantaged and under-privileged in our society. He added that provision of equal opportunities for all the citizens is crucial and fundamental. The rights of our children should be protected to ensure the building of a strong generation.

iv. **Muhammadu Maigero Dingyadi**

Suggested the need to promote pursuance of Islamic education by all citizens and encourage awareness on the part of the civil servants, traditional rulers and preachers. He also stressed the need to conduct tests for all the preachers to

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promote understanding and peaceful co-existence. In addition, he called on the government to always ensure a leadership of proven integrity.

v. **Muhammadu Gidado Liman**

Suggested the need for the State Government to establish a law banning:

- drinking and selling of alcohol
- prostitution
- gambling
- extravagance in marriages, among others.

He also emphasised the urgent need for the State Government to promote programmes at Rima Radio geared towards enlightening the general public on the importance of adopting Sharia in Sokoto State.

He stressed that the State Government in its next year's (2000) budget should make the promotion of the welfare of civil servants a priority through improved wages. It should also minimise the common man's burden of community tax and embark on projects that will promote the overall social and economic well-being of the people.

vi. **Mal. Aminu A. Bayero**

Suggested the need to map out a strategy geared towards promoting understanding, unity and harmony among Muslims within the State and beyond, particularly among the Islamic sects in the society.

vii. **Mal. B. B.**

Suggested the urgent need for the State Government to enact a law prohibiting prostitution and homosexuality in our society. He further stressed that mischief and cheating are becoming a common practice in our society and should be seriously addressed by the Government.

viii. **Barrister J. C. Shaka**

Traced the history of Sharia and Nigerian legal experience. He, among others, suggested the need for the State Government to:

- (a) Embark upon a mass public enlightenment or education on the meaning of Sharia law, its substance, procedure, scope and its implications – penal and civil;
- (b) Conduct an objective opinion survey in the State to determine whether the people really desire the application of Sharia law;
- (c) Train and send persons to be charged with the enforcement and administration of the Sharia law to countries where Sharia law has long taken roots to expose them to the practical application of this concept
- (d) Adopt Sharia only when the present economic, social and political institutions would ensure that the minimum basic standard of living is improved and facilities are available and guaranteed for all. And that the

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affairs of government and government officials are transparent and responsive to the needs of the people;

- (e) Ensure gradual introduction of the Sharia law so as to be able to monitor the effects and arrest any adverse developments arising from its application;
- (f) Ensure that life, rights and properties of non-Muslims are well protected.

ix. **Mal. Bello Ahmad Sokoto** of Ministry of Education, Sokoto.

Explained the consistency of Sharia law and its application as a complete way of life for all Muslims. He stressed that the implementation of Sharia solely depends on the understanding of the leaders and the led.

He emphasised that the leaders, in particular, must be ready to;

- lead by example
- keep to their promises
- be clean in words and practice
- avoid ostentations living
- ensure the rule of law
- make the weak (subject) strong etc.

He added that there is need for mass education to the general public on the importance of Sharia and the need to promote Islamic education cannot be overemphasised.

x. **Mohammad B. S. Tabanni** of Centre for Islamic Studies, ABU Zaria

Suggested the need to accurately distribute the roles, functions and jurisdictions of the courts to be established for an effective coordination and conduct of the legal processes.

xi. **Hajiya Laraba Dattijo** of Women Society

Narrated the historic and constitutional basis for the adoption of Sharia in the State and the roles played by women in the history of Islam. She suggested the need to involve and encourage women to participate in the process and implementation of Sharia in Sokoto State. She further emphasised the need to protect the rights of women in the society as prescribed in the Sharia law.

xii. **Murtala Yahaya**, Dan Tireda

Suggested the need for the State Government to come to the rescue of the younger ones. He stressed that the extravagant marriages in our society pose a serious threat to marriages and called on the government to curb the cost to make it affordable to the youngsters.

xiii. **Malami Giwa Abubakar**

Suggested the need to embark on mass public enlightenment of our people on the importance of adopting Sharia as a solution to our ongoing cultural decay,

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moral decadence, economic shamble, political instability and administrative uncertainties.

xiv. **Alhaji Ibrahim Umar**

Suggested the need to establish a Ministry for Islamic Affairs which will be responsible for supervision, administration and coordination of matters related to Islamic affairs.

xv. **Abdullahi B. Mohammed**

Suggested the need for the State Government to as a matter of necessity, arrange to conduct short courses for young girls in the fields of para-medical practice, such as nursing, laboratories, physiotherapy, pharmacy etc. Special arrangement should also be made to encourage the training of particularly, women in all fields of medicine and health care.

g. **STRUCTURAL REFORMATION**

The Committee observed the need to enforce certain obligations, conduct, and behaviour to go hand in hand with the establishment of Sharia concerning the following: -

- | | |
|---|---|
| i. marriage ceremonies and
bridal gift | xiii. payment of <i>dijab</i> |
| ii. begging | xiv. observance of the month of
Ramadan |
| iii. praise singing | xv. qualification, ethics and
responsibilities of an alkali |
| iv. picnic and disco | xvi. publication and translation of
Islamic literature |
| v. mode of dressing | xvii. a guide for political leaders,
<i>Sarakunan Musulunci</i> and public
officers |
| vi. prostitution | xviii. roles for Local Government and
traditional institutions |
| vii. gambling | xix. mode of transportation |
| viii. cinema and video houses | |
| ix. payment of <i>zakat</i> | |
| x. female education | |
| xi. hawking | |
| xii. hoarding | |

In the course of its deliberations, the Committee resolved to include any other relevant issue, which it considers to be of importance for the successful implementation of Sharia.

RECOMMENDATIONS

After thorough deliberation on the itemised issues, the Committee recommends as follows: -

i. **Marriage and Marriage Ceremonies**

Marriage ceremonies are to be conducted in a manner prescribed by Islam. Bridal/betrothal gift should be made moderate and affordable. The Government is to take appropriate steps to wipe out all kinds of extravagance usually associated with marriages and naming ceremonies.

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- ii. Picnic, disco as well as the newly innovated *wazgidi* dance usually associated with such ceremonies be banned and such immoral behaviour be made an offence punishable under the appropriate law.
- iii. Praise singing, drumming and begging should conform with Islamic traditions and should not be insulting or abusive. The Government is advised to provide more job opportunities to the unemployed so that its citizens can be gainfully employed to reduce the high rate of begging and other forms of social vices.
- iv. The Government should encourage its citizens to be self-reliant through training of handwork, crafts and other small-scale ventures. The Government should also cater for the handicapped by training them craft and providing them with basic assistance for take off.
- v. **Mode of Dressing**
All Muslims males and females should dress in a manner approved by Islam and *hijab* form of dressing be encouraged for females.
- vi. **Prostitution should be abolished throughout the State**
The law prohibiting prostitution should be enforced. Unmarried women should be advised, encouraged and assisted to get married as soon as possible.
- vii. **Liquor Houses**
Production, sale and consumption of all intoxicants be banned throughout the State. The licences of the existing liquor houses should be revoked.
- viii. **Gambling**
Gambling of any form should be punishable offence under appropriate law.
- ix. **Cinema and Video Houses**
Censorship Board should step up efforts to enforce the law banning all films, videos and other pornographic pictures that offend Islamic injunctions. Audio and video cassette sellers and rentals should be under the control and supervision of censorship Board of the Ministry of Information.
- x. **Mode of Transportation**
The Government should provide vehicles for transport at an affordable fare exclusively for women and should encourage organisations and well-to-do individuals to make their own contribution in this regard. Where there is only one mode of transport, some back seats should be reserved exclusively for women. Women should be discouraged from riding kabu-kabu as a means of transport.
- xi. [numeral xi skipped.]
- xii. **Zakat**
The Islamic policy of distribution of wealth through *zakat*, *sadaqat*, etc. helps a lot in discouraging accumulations and concentration of wealth in a few hands.

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The Government is advised to give emphasis on *zakat* collection and distribution as prescribed by Islamic injunctions. The Zakat Committee should intensify the collection of *zakat* and publish the amount and names of the individuals who give out the *zakat*.

xiii. **Female Education**

Female education is of paramount importance. There should be a deliberate policy to encourage female education in the State.

xiv. **Hawking**

Street hawking by girls and women who have reached the age of puberty pose a threat to the society and tend to encourage immoral upbringing of our youths. In order to eradicate evil and immoral behaviour usually associated with this kind of business, the Government is advised to take steps to stop street hawking by girls in the State.

xv. **Hoarding**

Hoarding of any essential food item is unlawful. It is through this inhuman practice that the society suffers a lot. Appropriate penalty be prescribed under Sharia and culprits punished accordingly to serve as deterrent to others.

xvi. **Diyah**

The payment of appropriate *diyyah* is to be determined in accordance with the prescribed Islamic principle.

xvii. **Observance of the Month of Ramadan**

Ramadan fasting is one of the five pillars of Islam. It is compulsory that all eligible Muslims must fast it, commencing after sighting the moon usually confirmed through an official announcement and ending as soon as the moon is sighted marking the end of Ramadan and the beginning of the month of Shawwal. It is unlawful to refuse to fast at all or to refuse to commence fasting after an official announcement confirming the sighting of the moon marking the commencement of the Ramadan. It is unlawful to refuse to break the fast at the end of Ramadan. Government is advised to take steps to utilise the services of Islamic preachers to enlighten Muslims on the significance of fasting. The offenders should be punished in accordance with Islamic law.

xviii. **Qualification, Ethics and Responsibilities of an Alkali**

a. **Qualification of an Alkali**

Alkali must, among other things, be: Muslim, sane, male, free, not a slave, matured, just, knowledgeable in Sharia, free of physical defects such as deaf, dumb and blind.

The qualification of an alkali should include the following qualities:

- i. Must not have been convicted of any *hadd* punishment
- ii. Must not be of questionable lineage/affinity

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- iii. Must not be a pauper
- iv. Must not be illiterate
- v. Must not be physically and mentally unfit
- vi. Must be intelligent and fully alert
- vii. Must be reserved and self-contented
- viii. Must be man of personality
- ix. Must be patient and tolerant
- x. Must be ready to seek opinion from learned people

An alkali must:

- i. Not also mingling with people of questionable integrity
- ii. Must be courageous in passing judgment without fear or favour
- iii. Must be thorough and meticulous
- iv. Must be an indigenous
- v. Must be intrinsically moderate.

b. Responsibilities of an Alkali

- i. He must treat all litigants before him on equal footing without fear or favour.
- ii. Parties in a dispute must be brought before the judge.
- iii. He must be careful in awarding *hadd* punishment i.e. where there is a slightest doubt in establishing the crime, he should refrain from awarding *hadd* punishment.
- iv. He must not keep an accused in custody without due process of law.
- v. He must shun bribery and corruption and must not indulge himself in dubious activities.
- vi. He owes it a duty to protect the rights of all Muslims and non-Muslims as against human rights infringement/violation.
- vii. He must not demand nor accept gift of any kind from litigants.
- viii. He shall dress decently at all times, he must wear complete attire i.e. gown, jumper, trousers, cap, turban and shoes while discharging his official duties.
- ix. He shall control his temper and must not harass or embarrass parties to litigation.
- x. He shall not indulge in commercial business activities that are in conflict with his judicial functions.

xix. Publication and Translation of Islamic Literature

The Government should encourage the publication and translation of Islamic literature. Government institutions such as office of the Grand Kadi, Law Reform Commission, Board of Arabic and Islamic Education and individuals

should be encouraged to translate and publish authoritative Islamic literature, particularly Sharia books.

xx. **A Guide for Political Leaders, Sarakunan Musulunci, Religious and Community Leaders as well as Public Officers**

- (a) Our leaders must be honest, trustworthy and God-fearing in all their endeavours.
- (b) They must shun materialism, be dedicated and hardworking in the discharge of their duties.
- (c) They must shun corruption, selfishness and nepotism.
- (d) They should teach/enlighten their subjects on the need to eradicate evil and immoral behaviour more particularly on the dangers of copying immoral behaviour by our youths.
- (e) They must ensure peaceful co-existence among the subjects.
- (f) They must be tolerant and accommodating.

xxi. **Roles for Local Governments and Traditional Institutions**

The general public enlightenment for the successful implementation of Sharia in the State could be achieved through the efforts of the Local Governments and the Traditional Institutions. The government should take steps to utilise these institutions, which deal directly with people at the grassroots level. Preaching by means of media organisations should be further intensified so as to make people understand the importance of Sharia and its applications.

xxii. **Islamic Economic System**

There are number of Qur'anic injunctions which have encouraged Muslims to engage themselves in lawful and wide ranging activities in trade and commerce.

Government should encourage its citizens to earn their livelihood in a lawful manner and provide assistance in appropriate cases. The development efforts should be spread over the rural areas of our State.

Government should intensify efforts to standardise weights and measures in the market to conform with Sharia.

Government should welcome and encourage the establishment of interest-free banking system in the State.

In rendering its social services to the people, there is the need for Government to provide food items and other essential commodities etc. at affordable prices particularly during the month of Ramadan to serve as an assistance to alleviate hardships of its citizens.

xxiii. **Prayer Timings**

The importance of prayer in the life of a Muslim which is one of the five pillars of Islam cannot be over-emphasised.

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Government is to ensure that during office hours and at any of its official functions, prayer times are strictly adhered to. Consequently, the Committee recommends timing of prayers as follows: -

Zuhr Prayer 1:45 pm to 2:00 pm

Asr Prayer 3:45 pm to 4:00 pm

xxiv. **Hajj – Pilgrimage**

Muslims travelling to Makka for *hajj* for the first time in their lifetime to discharge this important obligation as ordained by Islam be given priority. The intending pilgrims should be given a basic training. While the difficulties associated with *hajj* operation shall as much as possible be reduced.

[numerals xxv-xxix omitted.]

xxx. **Religious Instructions**

There is the need to intensify religious instructions in our schools. The subjects to be taught among others should include Arabic language and *tajweed*.

xxxii. **Refresher Course for Alkalis and Sharia Court Personnel**

Sharia Court personnel be trained on procedure from time to time to make them work more efficiently for the successful administration of Sharia in the State.

xxxiii. **Civil service**

Remuneration for civil servants should be improved to cater for their basic social needs. A special consideration be given to judges' salary and welfare to guard against corruption. Government should consider giving interest-free soft loans to civil servants to reduce the problems of bribery, corruption and misappropriation of public funds. Government should base all appointments on qualification and/or seniority, merit and fear of Allah

The independence of the Service Commissions should be maintained as provided in the law to ensure disciplined civil service.

xxxiiii. **Welfare Scheme and Continuing Education.**

There should be social security scheme that will cater for the aged, the disabled and likes in our society. The Women Centre for Continuing Education should be established in each Local Government Area of the State. The activities of the Centre should be publicised with a view to promoting self-reliance as enjoined by Sharia.

OTHER RECOMMENDATIONS

- (a) Enlightenment of the general public on the importance of Sharia and its application is strongly recommended. The importance of seminars, workshops and *wa'azji* on Sharia cannot be overemphasised. The Committee is still recommending the conduct of such activities as per [Annex D](#) to ensure that the people understand what the Sharia is all about.

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- (b) The Government should map out strategies geared towards improving agricultural production through fair distribution of fertiliser to farmers, providing small, middle and large-scale support to farmers and engage itself in large-scale farming. The objective is to ensure self-reliance and food security in our society.
- (c) The government should direct Ministry of Works, in liaison with the Sharia Court of Appeal, to redesign and construct the court structures that are in conformity with the Islamic injunctions.
- (d) The State Government should establish a Ministry for Islamic Affairs which will be responsible for supervision, administration and co-ordination of matters related to Islamic affairs.
- (e) Code of conduct for political leaders, traditional rulers, public officers and alkalis should be enforced.
- (f) The Government should make a special arrangement to train adequate manpower in the health care sector. Efforts should be made to balance the shortage of female nurses, lab technicians, physiotherapists, pharmacy technicians etc. through mass recruitment in the health care sector.

ACKNOWLEDGEMENT AND CONCLUSIONS

The Committee is grateful to Almighty Allah for giving His Excellency, Alhaji Attahiru Dalhatu Bafarawa (Garkuwan Sokoto) the wisdom and courage to initiate the implementation of Sharia in Sokoto State. The Committee wishes to register its gratitude to His Excellency, the Executive Governor, and the people of Sokoto State for giving it the opportunity and support to serve in this assignment. The contribution of the members of the State Committee on Religious Affairs is worth noting. The Committee would like to extend its deep appreciation to those who have sacrificed their time and dedicated themselves to this cause.

May the Almighty Allah continue to guide, help, assist and protect us all.

Dated 16th day of December, 1999.

[here follow the names and signatures of the committee members.]

ANNEX A

SHARIA COURTS (CIVIL PROCEDURE) RULES 1999

1. When the parties appear before the court the judge must treat them on equal terms in seating, talking hearing and paying attention to them. There must be no discrimination regarding religion or position in life. The judge shall ask the plaintiff to state his claim. The claim must be realistic and unambiguous. If the subject matter of the claims is land, the plaintiff must mention its boundaries and its location. If it is money, he must tell the amount. If it involves animals he must mention them numerically and their descriptions. If it is something of money value he must mention the estimated value and if possible the object should be brought before the court. If the claim is not realistic in nature and if without substance, the judge should

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dismiss the case. If the claim, however, is not explanatory, the judge shall require the defendant to state what he knows about it. If afterwards it becomes clear that there is no definite claim to answer, the judge shall dismiss the plaintiff's claim.

2. When the plaintiff states his claim, the judge shall ask the defendant to give a reply to the plaintiff's claim. The defendant may admit either in whole or in part that he is civilly liable in the action. The defendant may also deny liability.
3. (a) If the defendant admits liability, the judge shall enter judgment in favour of the plaintiff; provided that the defendant is an adult person whose admission is acceptable under the Islamic law i.e. he is not subject to any disqualification.
(b) If the defendant keeps mute, the judge may try to get him to say something in answer to the claim. If the judge fails to get him to talk his silence may be construed as an admission of the claim and judgment shall be entered against him. The plaintiff shall not be made to take an oath in such circumstances.
4. Where the defendant denies the plaintiff's claim the judge shall determine the type of claim brought before him in order to decide who in fact is the plaintiff (*mudda'i*) and who is the defendant (*mudda'an alabi*) between the parties, so as to know on who the burden of proof lies. A party who cannot be helped by nature of his originality or custom is normally regarded as the plaintiff. Provided that in claims having connection with property or valuables; a house or a farm land; consummation of marriage so that a wife could qualify for full dowry; a divorce suit and dispute on child affinity which does not involve inheritance, the judge shall consider the nature of such claims, in order to assess which right may be established and which may not be by taking an oath.
5. In cases where the defendant denies liability, after the judge has determined who is a plaintiff and who is a defendant between the parties, the judge shall ask the plaintiff to produce evidence in support of his claim. If the plaintiff produces his witnesses the judge shall order them to be brought into open court one by one. He shall ask the first witness to state what he knows about the dispute between the two parties. If he does not testify anything the judge may discharge him. But if the witness gives evidence which supports the plaintiff's claim the defendant shall be allowed to cross-examine him. The judge shall allow a witness to defend himself against a challenge which may result in discrediting him or his evidence. If the defendant succeeds in discrediting the evidence given that evidence shall be discarded. But if he fails to succeed in discrediting the evidence that evidence shall stand. The judge shall allow witnesses in all cases to be cross-examined. Any judgment obtained in which a witness's evidence is not cross-examined shall be void. Provided the witnesses called to discredit evidence given by another witnesses shall not be subject to cross examination.

Examples of grounds for discrediting evidence are family affinity of the witness with the party on behalf of whom the testimony is given; marriage connections; allegation that a witness may as a result of giving evidence obtain some benefit or that he may remove some defects or loss from himself or that the witness is an

