

REPORT OF THE COMMITTEE ON THE IMPLEMENTATION OF SHARIA IN KEBBI STATE

Submitted to His Excellency The Executive Governor of Kebbi State,
Alh. Muhammad Adamu Aliero

[Early 2000]

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[COVER LETTER]

Your Excellency, the Executive Governor,
Your Excellency, the Deputy Governor,
Honourable Speaker, State House of Assembly,
Your Lordship, Chief Judge,
Honourable Commissioners,
Secretary to the State Government
Head of the Civil Service.

Assalamu alaikum.

Praise be to Allah *Subhanahu Wata'alah* for His mercies, guidance and for giving us the strength and courage to advance towards defending our faith and religion. Praise be to Allah for inspiring and preparing the mind of our able leader, the Executive Governor of Kebbi State, Alhaji Muhammad Adamu Aliero, towards the idea of adopting the Sharia as the legal system for the people of Kebbi State which has been the struggle and steadfastness of our entire *ummah*. I therefore wish to congratulate His Excellency on this noble objective which for decades had appeared or was rather made to appear a task almost impossible. We heartily pray that the Almighty Allah would make it easy the accomplishment of this noble assignment.

We also pray that, His Excellency the Executive Governor of Kebbi State, His Executive Council Members, Honourable Members of the State House of Assembly, Members of the Committee on Sharia and all the concerned citizens who contributed in any way to this noble cause be rewarded by Allah the Almighty with the best of His paradise.

I wish to express my sincere appreciation for the tireless effort and concern exhibited by the members of this Committee day and night during our deliberations to produce this report. Your Excellency may wish to acknowledge this contribution of the members of this Committee.

During the State tour embarked upon by the Committee, we were warmly received in all the Emirate Council Headquarters. Our Royal Fathers the Emirs of Gwandu, Argungu, Yauri and Zuru, their traditional title holders, and all the chairmen and their council members had contributed in no small measure to the Committee. We are grateful for their fatherly support, encouragement, understanding, co-operation as well as recommendations extended towards achieving the successful implementation of Sharia in the State. His Excellency should rest assured that a cross section of our State-wide tour revealed that majority of the people of Kebbi State are not only happy, but eager to have Islamic law applied to the regulation of their day-to-day affairs. In other words, it is the hope and aspiration of the majority of our citizens. It is in fact mandatory on all Muslims to agitate for the establishment of our fundamental right i.e. Sharia as an instrument of law to govern our lives. A Muslim's faith is not complete if he is not governed under the Islamic legal system. According to the Holy Qur'an Chapter 5 v. 47, "And whosoever does not judge by what Allah has revealed, then such people are (not better than) disbelievers". This verse is clear both to the Muslim leaders and Muslim led that they are only allowed to have Sharia as their leading law.

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During the State tour the Committee received more than 70,000 letters of goodwill messages and support for the Sharia. People experienced in different disciplines also contributed with pieces of advice and suggestions orally and in the form of memoranda to the Committee. The report we present today to His Excellency, apart from being the orthodox and universally accepted Islamic legal system, is also a representation of the people's views on how they desire the social and administrative structure of the State to look like. The Committee also appreciate the efforts of our religious organisations, individual *ulamas* and State media houses for embarking on a general enlightenment campaign on Sharia in order to educate those who criticise Sharia on the ground of ignorance and wrong interpretation.

The grassroots-level enlightenment campaign for the Sharia has been greatly recommended by all our Emirs, eminent scholars and other concerned individuals. The Committee in its report particularly emphasised very much on this. This should be the first stage of Sharia implementation before the actual legal implementation of Sharia.

The Committee also appreciate His Excellency's gesture in his effort to complement the Committee's assignment by enacting the laws prohibiting street hawking by girls and children, sale and consumption of alcohol, and prostitution. In this regard the Committee recommends strict measure of enforcing any law enacted, to ensure absolute compliance from the public.

Once more we pray that the Almighty Allah *Subhanahu Wata'alah* will guide and assist us to successfully accomplish this noble cause.

I wish to seize this opportunity to express the sincere gratitude of the entire members of this Committee for allowing us to serve in this noble assignment.

Finally, on behalf of the Committee members, I submit to His Excellency the Report of the Committee on Sharia Implementation for Kebbi State. I wish to thank His Excellency Alhaji Muhammad Adamu Aliero for supporting this Committee morally and financially throughout the period of its deliberation. May Almighty Allah continue to guide and protect the leadership of the Executive Governor and those charged with authority. May Allah also guide and protect our Royal Fathers and their *ulama* and *al'ummah*. And may Allah also bring peace, stability and prosperity as a result of our effort to embrace Sharia in its totality. Amin.

Wassalam.

INTRODUCTION

Sharia, the Islamic law, is a body of sacred injunctions enforced as divine law to govern the lives of all Muslims. Once you are a Muslim, the Sharia becomes binding on you. For Muslims therefore the Sharia is not only law but also a way of life. A Muslim, to be so, must live by the sacred precepts of the Sharia. A Muslim shall not opt out of it for if he does so he is in breach of Allah's law and ceases to be a Muslim. In a purely Islamic society positive man-made laws will necessarily have to be consistent with the injunctions of Sharia to be valid.

Therefore the clamour for the entrenchment of Sharia in the legal system in some states all over the Federation is not a surprise.

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Muslims in Nigeria have always resisted the imposition of English Common Law on them even at the risk of losing their lives as an alternative. Sultan Attahiru in 1903, was the first to resist vehemently the replacement of Sharia with the Western secular law. There were also several attempts by concerned Muslim leaders to revert to Sharia, although little success was recorded. The introduction of Penal Code by the Northern Regional Administration, the numerous efforts to amend the relevant sections of the Nigerian Constitution to elevate Sharia to an appropriate rightful status were all geared towards the full application of the Sharia on the Muslims in Nigeria.

All the constitutions so far designed, from Macpherson's Constitution to that of the 1999 which is presently operational, relegated Sharia to a mere Islamic Personal Law and accorded superior status to the Common Law which is Roman and Christian in origin.

Despite the tremendous efforts exerted by various Muslim individuals and organisations to explain the inseparability of Sharia from Islam the few Sharia antagonists still continue to oppose its entrenchment into the Nigerian Constitution.

In view of the foregoing and in response to the above demand of the entire Muslim population in Kebbi State, His Excellency, Alhaji Muhammad Adamu Aliero, the Executive Governor of Kebbi State, appointed a 14-man committee to deliberate and advise the Government on how best to accomplish this objective.

This Committee consisted of eminent jurists, learned in Islamic and Common Law, and of experienced administrators from both the Muslim and non-Muslim areas of the State. The Committee was inaugurated with the following membership:

1. Alh. Muhammad Zaria Musa (Hon. Grand Kadi)	Chairman
2. Alh. Ibrahim Mai'ahu (Attorney-General & Comm. For Justice)	Member
3. Barrister Ibrahim Kangiwa (Hon. Comm. of Information)	Member
4. Justice Isma'ila Haruna Rasheed	Member
5. Kadi Tukur Argungu	Member
6. Kadi Mukhtar Imam Jega	Member
7. Alh. Idris Koko (Madawakin Gwandu)	Member
8. Prof. A.A. Gwandu	Member
9. Barrister Abubakar Abdullahi	Member
10. Khalifah Usman Mukhtar	Member
11. Mallam Abbas Jega	Member
12. Alh. Yusuf Jibril Zuru	Member
13. Alh. Ahmadu Sarkin Fada	Member
14. Alh. Yusuf Muhammad Argungu	Member
15. Alh. Aliyu Ahmad Bandi	Secretary
16. Yahaya M.H. Jega (co-opted)	Asst. Sec.

The Committee has the following terms of reference:

- a) To advise the Government on how best to entrench Sharia in the State legal system.

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- b) To identify and review relevant State laws, so as to bring them in conformity with the Sharia legal system.
- c) To do any other thing necessary or incidental to the discharge of its responsibilities.
- d) To call for oral and written memoranda from the members of the public on the ways and means of entrenching the Sharia in the State legal system.

The Committee was given six weeks to complete its assignment, from the date of inauguration. During the 1st meeting of the Committee held on the 18th October, 1999, the following strategies were drawn to guide it in carrying out this assignment:

- i) To obtain copies of all existing laws and edicts not conforming to, or are in conflict with the principles of Sharia and make necessary recommendations.
- ii) To undertake a working tour of the four Emirate Headquarters to meet the people at the grassroots to enable them contribute their quota by oral representations and written memoranda, to sensitise them about what Sharia stands for and allay the fears of the non-Muslims about the Sharia.
- iii) To examine the submissions and adopt those found useful and relevant to the Committee's terms of reference.
- iv) To identify laws that require amendment and those to be scrapped out or abolished; and,
- v) To make any other appropriate recommendation to the State Government.

Having drawn this framework, the Committee then appointed three sub-committees to facilitate its assignment. The sub-committees are:

1. Judicial Committee,
2. Social Order Committee, and
3. Public Enlightenment Campaign Committee.

WORKING TOUR OF THE EMIRATE HEADQUARTERS

The members of the Committee undertook working tour of the four Emirate Headquarters of Birnin Kebbi, Argungu, Yauri and Zuru. In all those places it met with the Emirs and people. The Committee recorded total support for the implementation of the Sharia from their Royal Highness, the Emirs of Gwandu, Argungu, Yauri and Zuru. There was also overwhelming support by the people of these Emirates. There was, however, a small opposition registered from the Christian population in Zuru town. In this regard the Committee met with Christian leaders in a church in Zuru where the Christians were assured that they were not going to be subjected to the provisions of the Sharia. The meeting ended up with the fears of Christians being allayed. The Committee also observed that no follower of the traditional religion in Zuru Emirate registered any opposition to the Sharia.

[DELIBERATIONS]

After the working tour, the Committee sat and deliberated as follows:

[1.0 CONSTITUTIONAL CONSIDERATIONS]

- i) SECTION 38 RIGHT TO FREEDOM OF THOUGHT CONSCIENCE AND RELIGION. Sharia is part and parcel of Islam, in fact the two are inseparable. For a Muslim to practice his religion, therefore, he must allow Sharia to govern his whole life. By the same token the Constitution allows non-Muslims to practice theirs freely. Islam also teaches that there is no compulsion in religion.
- ii) THE CONSTITUTION – 1999. The Committee studied the 1999 Constitution and came to the conclusion, after extensive deliberations, that it does not impede the implementation of Sharia code for the Muslims. This conclusion was reached after studying all the important provisions, which guarantee and protect freedom of religion. The Committee also took into cognizance section 10, which prohibits any State or Federal Government from adopting any religion. Our conclusion is that that section contemplates a situation where a particular religion will be recognised and the rights of its practitioners only protected as against other religious faiths by the State. Sharia, as is well-known, recognises and protects other religions.
- iii) Under section 6(4)(a) of the 1999 Constitution the House of Assembly has powers to establish courts other than those mentioned in the Constitution. The framers of the Constitution no doubt had at the back of their minds the need to make both legal and judicial systems in the country flexible enough to meet the cultural, ethical and religious demands of the people.
- iv) APPLICATION OF SHARIA ON NON-MUSLIMS. On the whole, unbelievers have enjoyed under Islamic law a measure of tolerance the like of which is not to be found in Europe. The Sharia, as is well-known, has always frowned against forcible conversion as is clearly demonstrated where the Holy Qur'an states: "Let there be no compulsion in religion." (Qur'an 11:217). Therefore, Islamic law is restricted to Muslims only unless a non-Muslim wishes to be tried by the Sharia Court on his own volition.

2.0 SHARIA COURT OF APPEAL

2.1 One of the existing judicial structures for the implementation of the Sharia recognised by the 1999 Constitution is the Sharia Court of Appeal. The constitution has limited the jurisdiction of the Sharia Court of Appeal to the Islamic Personal Law with a proviso, that the State House of Assembly may confer it with additional jurisdiction. Section 277 of the 1999 constitution refers.

3.0 EXISTING LAWS AND EDICTS IN KEBBI STATE

3.1 The present operational laws in Kebbi State are 152 in number. Most of them are of regulatory and administrative nature. Some of these laws may not apply to matters that are governed by Islamic law e.g. will law, trustee, law of property etc. The following laws need some modifications and/or amendments:

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1. Auctioneer's Law – This law is in order but it should be expanded so that a prospective buyer or bidder shall be given a chance to inspect the property or article to be auctioned.
2. Cinematography Licence and Censorship Law – The two should be amended to reflect the Committee's recommendations.
3. Kebbi State Trunk Roads – Necessary signs should be fixed on the State trunk roads. Inflicting damage to the road should be made an offence and therefore punishable e.g. digging, making holes as well as leaving dangerous obstacles on the road.
4. Kebbi State Transport Law – There should be a demarcation between men and women in buses. This should be extended to other commercial vehicles.
5. Audit Law and Audit (Local Government) Law – Enforcing an efficient auditing system should reduce corruption and embezzlement.
6. Road Traffic Law – Operators of kabu-kabu should be particularly more cautious while riding.
7. Boys Scout Law – This law should be extended to aid groups, Red Cross, vigilante groups and other recognised organisations.
8. The Beast of Burden Law – Donkey dealers should be prohibited from slaughtering and selling donkey meat for human consumption in the State.
9. Bush-burning Law – This Law should be strictly enforced in Kebbi State.
10. Meat Law – All slaughter houses and slabs should be prohibited from slaughtering animals the consumption of whose flesh is not allowed by Sharia like pigs, dead animals, etc. This is without prejudice to non-Muslims having provision for such animals to be provided by the Government.

All the remaining laws were considered and recommended by the Committee to remain operative while the under-listed in particular shall not apply to Muslims:

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|---|------------------------------|
| i) Administration (Real Estate) | x) Limitation |
| ii) Applicable Laws
(Miscellaneous Provisions) | xi) Pawn Brokers |
| iii) Burials | xii) Money lenders |
| iv) Civil liability (Miscellaneous
Provisions) | xiii) Married women property |
| v) Contracts | xiv) Oath and affirmation |
| vi) Defamation | xv) Prescription |
| vii) Fatal Accidents | xvi) Property |
| viii) Infants | xvii) Torts |
| ix) Legitimacy | xviii) Trustees |
| | xix) Will |

The Committee has observed that most of the offences provided for by the Sharia are covered under the Kebbi State Penal Code, the only exceptions being that most of the punishments are not in accordance with the Sharia. The Committee recommends that the Penal Code be amended by the State House of Assembly to bring about such punishments for the offences therein as are recognised by the Sharia.

4.0 JURISDICTION OF SHARIA COURT OF APPEAL SECTION 275

“There shall be for any State that requires it, a Sharia Court of Appeal for the State.”

The above section empowers any state of the federation that requires it to establish Sharia Court of Appeal. Implementation of Sharia is therefore in conformity with the above section of the Constitution.

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

- 1) Civil jurisdiction;
- 2) Specific matter and causes.

The same section above empowers the House of Assembly of a State to confer additional jurisdiction to the Sharia Court of Appeal.

[5.0 ADDITIONAL JURISDICTION FOR SHARIA COURT OF APPEAL]

5.1 The Committee recommends that questions involving Islamic law whether civil or criminal be conferred upon Sharia Court of Appeal.

This does agree with the decision reached during the Committee’s deliberations, where it was agreed that all Area Courts in Kebbi State be substituted with new courts to be known as District Courts, and the new courts shall be conferred with necessary jurisdiction to hear and determine cases with the jurisdiction of the scrapped Area Courts.

6.0 ESTABLISHMENT OF NEW SHARIA COURTS

6.1 The Committee recommends that the following Courts be established namely:

- i) The Sharia Court;
- ii) The Upper Sharia Court.

The Committee further recommends that a Sharia Court be established in each district of the State and if possible in other villages which deserve it. Similarly an Upper Sharia Court should be established in Local Government Headquarters.

The Judicial Service Commission is the body empowered to make the appointment to the posts of president and members of the Upper Sharia Court as well as alkali for the Sharia Court respectively.

7.0 COMPOSITION OF MEMBERSHIP OF UPPER SHARIA AND SHARIA COURTS

7.1 The Upper Sharia Court shall be composed of a president and one member, while a Sharia Court shall have a single alkali.

8.0 QUALIFICATIONS FOR THE APPOINTMENT OF PRESIDENT AND MEMBERS OF UPPER SHARIA COURT

8.1 A person to be appointed as a president or member of an Upper Sharia Court shall be:

- i) A serving judge; or

- ii) A legal practitioner in Nigeria who has been so qualified for a period of not less than seven years and has obtained a recognised qualification in Islamic law from an institution recognised by the Judicial Service Commission;
- iii) Shall be an alkali of the Lower Sharia Court who has been serving in that capacity for a period of not less than five years.

9.1 QUALIFICATION FOR THE APPOINTMENT OF AN ALKALI FOR THE SHARIA COURT.

A person to be appointed as an alkali of a Sharia Court shall be:

- i) A serving Area Court Judge; or
- ii) Legal practitioner in Nigeria with bias in Islamic law who has been so qualified and has recognised qualification acceptable to the Judicial Service Commission;
- iii) Any other qualification acceptable to the Judicial Service Commission.

10.1 CONTROL AND ADMINISTRATION OF SHARIA COURTS

The Committee recommends that administrative control and supervision of the new Sharia Court be under the office of the Honourable Grand Kadi.

11.1 APPOINTMENT OF WALI OF THE SHARIA COURT

The Judicial Service Commission on the recommendation of the Honourable Grand Kadi shall appoint the Wali of the Sharia Courts.

The Wali shall be vested with customary responsibility of advising the Grand Kadi on appointments and discipline of the presidents and members of the Upper Sharia Courts and the alkalis of the Sharia Courts, as well as their performance and complaints relating to them. The Wali is to further advise the Grand Kadi on the applicable laws of practice and procedure and their changes thereof.

12 QUALIFICATION FOR THE APPOINTMENT OF WALI

A person shall not be appointed to the post of Wali of the Sharia Court unless:

- i) He is a retired Upper Area Court judge or a retired kadi from the Sharia Court of Appeal;
- ii) He is qualified to be appointed as an Upper Sharia Court judge, a president or a member of the Upper Sharia Court.

13 STAFF OF THE SHARIA COURT

To avoid redundancy and abuse of office in the Sharia Court the number of staff to man it shall be restricted to the following:

- i) Registrar (*Al-Mufti*)
- ii) Court Clerk (*Al-Katib*)
- iii) Estate Distributor (*Al-Qasim*)
- iv) Valuer (*Al-Muqawwim*)
- v) Interpreter (*Al-Tarjuman*)
- vi) Messenger (*Al-Kadim*)
- vii) Bailiff (*Al-Awn*)

13.1 The alkali and staff of the Sharia Court mentioned above shall be public officers and shall be appointed by the Judicial Service Commission. The Judicial Service

Commission shall determine salaries and allowances of the president, members, alkali and the staff of the Sharia Court.

14 The Committee however recommends that the salaries and allowances of the above be sufficient enough to make them reasonably comfortable. On the other hand Code of Conduct for the judicial officers should be adhered to strictly.

15.1 JURISDICTION AND LAW OF THE SHARIA COURTS

The Sharia Court shall be competent to hear and determine all civil matters and causes where all the parties are Muslims including any proceeding involving:

- a) Marriage under Islamic Law (*An-Nikah*)
- b) Guardianship and maintenance (*Al-Kafala*) and (*Al-Nafaqa*)
- c) Succession (*Al-Mirath*), Will (*Al-Wasiyya*), gift (*Al-Hiba*) endowment (*Al-Wada*)
- d) Pre-emption (*Al-Shum's*) and trust (*Al-Amana*).
- e) Land Law (*Hokum Niamey Arid*)
- f) Contract (*Al-Ad*)
- g) Tort (*Al-Jine*)
- h) Commercial Law (*Haul Buy*)
- i) Company law (*Haul Sharked*) and (*Al-Maharajah*)

15.2 The Sharia Court shall, in addition to the above, hear and decide all criminal cases in which suspects or accused person(s) is/are Muslims including:

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| a) Homicide (<i>Qatlu-Nafis</i>) | l) Offering and receiving gratification (<i>Al-Rishwa</i>) |
| b) Robbery (<i>Al-Hiraba</i>) | m) Criminal breach of trust (<i>Al-Khayanah</i>) |
| c) Theft (<i>Al-Sariqa</i>) | n) Cheating (<i>Al-Gishsh</i>) |
| d) Defamation (<i>Al-Qazaf</i>) | o) Mischief (<i>Al-Fasad</i>) |
| e) Drunkenness (<i>Shurbul Khamr</i>) | p) Receiving stolen property (<i>Shara'a Mata'il Sariqah</i>) |
| f) Causing grievous hurt (<i>Al-Qisas</i>) | q) Giving false evidence (<i>Shahadatul-Zur</i>) |
| g) Homosexuality (<i>Al-Lumat</i>) | r) Apostasy (<i>Al-Ridda</i>) |
| h) Adultery (<i>Al-Zina</i>) | |
| i) Lesbianism (<i>As-Sihaq</i>) | |
| j) Bestiality (<i>Watul Dabba</i>) | |
| k) Perjury (<i>Al-Taẓẓir</i>) | |

15.3 All capital offences shall be triable by the Upper Sharia Court.

16.1 The applicable law in both civil and criminal proceedings shall include:

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| a) The Holy Qur'an | g) <i>Al-Istishab</i> |
| b) <i>As-Sunnah</i> and <i>Al-Hadith</i> | h) <i>Al-Urf Wal-Adat</i> |
| c) <i>Al-Ijma</i> | i) <i>Mazhabul Sababi</i> |
| d) <i>Al-Qiyas</i> | j) Other subsidiary sources as interpreted by the following reference books: |
| e) <i>Al-Masalib Al-Mursala</i> | |
| f) <i>Al-Istihsan</i> | |

16.2 REFERENCE BOOKS

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| a) <i>Al-Risalah</i> | b) <i>Al-Mukhtasar</i> |
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| c) <i>Al-Tuhfa</i> | l) <i>Jawahirul Ikilili</i> |
| d) <i>Al-Adawi</i> | m) <i>Al-Dasuqi</i> |
| e) <i>Al-Fawakibul Dawani</i> | n) <i>Al-Khirshi</i> |
| f) <i>Ibn Ashbir</i> | o) <i>Bulgatul Salik</i> |
| g) <i>Bidayat Al-Mujtahid</i> | p) <i>Mawahibul Hallaq</i> |
| h) <i>Al-Mudammwana</i> | q) Other reference books |
| i) <i>Muwatta Malik</i> | recognised by Maliki School of |
| j) <i>Al-Mayyara</i> | Law |
| k) <i>Al-Bahjah</i> | |

17 PRACTICE AND PROCEDURE

The practice and procedure to be applied by a Sharia Court shall include:

- i) The Islamic Law and procedure as contained in the sources and texts listed above.
- ii) The Grand Kadi (*Qadi*) shall issue rules of practice and procedure to include fees payable and execution etc.

18 POSTING AND TRANSFER OF SHARIA COURT JUDGES AND STAFF

Posting and transfer of Sharia Court judges and staff shall be made by a committee consisting of:

- i) One kadi (*qadi*) to be nominated by the Grand Kadi (*Qadi*) who should be the Chairman.
- ii) The Chief Registrar of the Sharia Court of Appeal who shall be the Secretary of the Committee.

Posting shall be subject to the approval of the Grand Kadi (*Qadi*).

19 OBSERVATIONS

The Committee after listening to oral advice and suggestions and having discussed the written memoranda received, observed (and recommends) as follows:

- i) That the background to the call for the revival and full implementation of the Sharia in Kebbi State was the dissatisfaction of both the Government and the people with poor administration of justice as well as the collapse of the social and political institutions of our society which is manifested in the prevalence of social vices such as corruption, nepotism, tribalism, abuse of public office and position, drunkenness, cheating, fornication, armed robbery, gross violation of human rights among others which are taking their toll on the national psyche on a daily basis under the very nose of the existing judicial system which is largely Western in its orientation and origin and which is so far removed from our cultural heritage that, not surprisingly, it has failed to provide adequate remedy to all these evils.
- ii) That for the Muslims and non-Muslims alike it is now time to look back to the good old days when Sharia was in full operation in some parts of this country. In those days, historical documents testify, there was security of life and property in all the territories where Sharia was being practiced and people lived in harmony, peace and tranquillity.

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- iii) That the social decay and moral decadence we observe today is similar to what obtained during the *jahiliyyah* period in Saudi Arabia, and that almost as soon as the Sharia was implemented these vices evaporated into thin air.
- iv) That in Saudi Arabia today serious crimes and anti-social behaviour have been reduced to a minimum due to the implementation of the Sharia.
- v) That seeing the effect of the implementation of the Sharia in this part of the country before the arrival of the British colonialists and the miracle it performed in Arabia during the early days of Islam as well as its effect in modern Saudi Arabia, the Muslims in Kebbi State call loudly for its entrenchment into our legal system once again as a remedy to our predicaments.
- vi) That Sharia is part and parcel of Islam and cannot be separated from it. Its application is as binding on the Muslims as is the observance of prayer, fasting, pilgrimage, etc.
- vii) That under Sharia all are equal before the law, the rich and the poor, the ruler and the ruled, and equality before the law is absolute. There is no privileged class and no one has immunity to protect him if he falls foul of the Sharia.
- viii) That Sharia is not new in this country; it was in existence from 1804 to 1903 when the British administration conquered the Sokoto Caliphate and suspended or modified certain provisions of it to suit their administrative system. They excluded some important provisions of the Sharia like those relating to *hadd* punishment for homicide and theft and allowed Muslims to implement only the civil aspects of the Islamic law which is referred to in our Constitution as Muslim Personal Law.

RECOMMENDATIONS

In view of the above, the Committee recommends that:

1. Begging, praise-singing and all forms of immoral gatherings and activities during marriage and naming ceremonies (such as luncheons, picnics, cocktail parties and disco) be banned and made illegal and punishable in Kebbi State.
2. The bridal gift given by the suitors to brides (customarily known as *lefe*) should be abolished and be made a punishable offence in Kebbi State. In place of it only dowry (*al-sadaq*) shall be payable.
3. All forms of music such as *wenrage*, *wai-waya baya*, *wasigidi* etc. during marriage, naming ceremonies, any other occasion should be banned throughout Kebbi State.
4. Extravagance in marriage should be prohibited. During marriage contract the suitor shall pay only *sadaq* (dowry) to the bride in accordance with the *Sunnah*. Payment of all forms of levies and other traditional gifts such as *kudin mai unguwa*, *kudin yan banga*, *kudin tobassai* etc. should be made illegal and punishable under the law. This prohibition also applies to circumcision and naming ceremonies. District, village and hamlet heads and elders (i.e. community leaders) should be required to bring to the notice of the law enforcement

agencies, names of all those who contravene this order in their areas of jurisdiction.

5. Imams of mosques as well as religious preachers should be involved in enlightening the public of the need to observe these laws in the interest of the society.
6. UNMARRIED WOMEN. All unmarried women should be encouraged to marry, and their relations and the general public should be encouraged to help them before they find husbands.
7. PROSTITUTES. Prostitution in whatever form shall be prohibited and all prostitutes engaged in this un-Islamic and social vice shall be required either to give it up or face the full weight of the law. If they reform, however, their relations and the general public should also be encouraged to assist them pending the time they find husbands or an honourable means of livelihood.
8. WEIGHTS AND MEASURES. One of the serious concerns in this country is the failure of the Federal, State and Local Governments to enforce law on weights and measures. The Committee, therefore, recommends enforcement of strict adherence of standard weights and measures in our markets throughout the State. Commodities like tuber, vegetables, meat, fish, fruits etc. should all be sold by standard weights and measures.
9. KHUL'. This is a divorce granted to a woman by her husband or by a judicial authority in consideration for an agreed sum of money or any other valuable payable to the husband by the wife. This type of divorce is normally resorted to where a wife seeks divorce from a husband but has no valid legal justification to obtain it, her husband not being willing to grant the request *gratis*.

Since no fixed amount of money or property is charged for *khul'* by the law, some husbands/judicial officers often demand unreasonably high amounts for it, thereby making it impossible for the wife to pay – a situation which leads to women remaining outside their matrimonial homes while looking for means to pay the required compensation.

In order to provide a solution to this problem, the Committee recommends that the judicial officer/alkali concerned in deciding the amount should use his discretion and effect a divorce by letting the wife refund to the husband the amount he paid as her *sadaq*. This is in line with a *hadith* (tradition) narrated by Thabit.

10. MODE OF DRESSING. People, both male and female, should generally dress decently. Muslim women in particular should dress in accordance with the Islamic injunction. Indecent dressing in any form should be prohibited. Non-Muslim women who opt not to dress in accordance with the Islamic injunction should nevertheless dress decently as provided for in the Bible and should not expose their bodies in a manner capable of tempting members of the public.
11. GAMBLING, POOLS, KALO-KALO, RAFFLES ETC. Gambling and all other games of chance involving money or property, such as pools, raffle and kalo-kalo should be prohibited.

- 12.1 GIRLS SCHOOL AND EDUCATION. The Ministry of Education should ensure that only responsible principals, teachers and other staff should be posted to girls' institutions. Persons known to be morally corrupt should under no circumstance be posted to girls' schools.

During visiting days only girls' parents or those authorised by the parents should be allowed to visit the girl students. Principals and duty masters should check staff involved in immoral relationships with the female students and report immediately to the Ministry for necessary disciplinary action. Roll calls should be observed to check students sneaking out of the school at night or during the day time.

- 12.2 At the secondary school level coeducation system should be phased out because of the Islamic prohibition of mingling of matured males and females in one place.
- 13 HAWKING ON STREETS BY GIRLS. Girls hawking law should be enforced strictly.
- 14 LIQUOR LAW. The State Liquor Law should be strictly adhered to. Traditional leaders and the law enforcement agencies should assist to enforce the law and also expose drug traffickers and pushers wherever they may be found in the State.
- 15 UNISLAMIC LITERATURE. All immoral literature should be banned from circulation to ensure conformity with Islamic ethics and practices.
- 16 ABUSE OF NATURE/ANIMALS. In view of the cruelty to the animals concerned and danger to the public, the use of animals such as hyenas, monkeys, snakes etc. to entertain people should immediately be banned. It is observed that there is abuse, exploitation, danger and cruelty in these practices.
17. FEMALE ARABIC AND ISLAMIC SCHOOLS/HIGHER ISLAMIC STUDIES SCHOOLS. Considering the urgent necessity for improving the moral standard of our youths, more girls' Arabic and Islamic institutions should be established in the State in addition to the only existing one in Kangiwa. In the alternative and in order to reduce cost some of the existing girls' institutions could be converted to such schools. This is imperative as most of the kadis (*qadis*) and other renowned Islamic scholars in the State in particular and the country in general are products of such schools as Arabic secondary and teachers' training schools as well as high Islamic colleges. More of these types of schools should be established to maintain and improve on the number of these Islamic oriented personnel. This will also improve Islamic awareness within the society.
18. PROVISION OF EMPLOYMENT FOR THE YOUTH. The Committee observed the alarming rate of youth unemployment in the State. It therefore recommends that our wealthy state indigenes residing both within and outside the State be encouraged to invest in the State by establishing factories, industries and other small scale commercial enterprises. The State Government should,

therefore, create a favourable and conducive environment to facilitate this by providing land, access roads, electricity, pipe-borne water, etc.

More of technical and vocational schools should also be established and should be provided with adequate, qualified and motivated instructors. This is to ensure that more boys and girls are trained as artisans. The spirit of apprenticeship should be inculcated in these students to prepare them adequately for the open labour market. The spirit of dignity of labour should also be inculcated in these artisans.

19. CODE OF CONDUCT FOR JUDICIAL STAFF, GOVERNMENT OFFICIALS AND POLITICAL OFFICE HOLDERS. A Code of Conduct should be drawn up for the judicial staff, government officials and political office holders. The Islamic law has a comprehensive written Code of Judicial Ethics for judges. The office of the Grand Kadi (*Qadi*) should see that those Codes are observed and maintained accordingly. This should be borne in mind in the process of selecting or employing any of these categories of people and must be observed by them while on the job. Failure to follow the Code of Conduct should attract disciplinary action. Council of Ulama or *Majlis Al-Shura* may be assigned the responsibility of monitoring adherence to this Code and reporting their findings to the appropriate authorities. In this regard the Committee recommends setting up of this Council.
20. TRADITIONAL RULERS AND ELDERS AS ARBITRATORS. Traditional rulers at all levels should be encouraged to ensure peaceful settlement of family disputes. This will hopefully reduce congestion of cases in the Sharia Courts and maintain mutual ties within the family in particular and the community in general.
21. ESTABLISHMENT OF ZAKAT OR FATWA COMMITTEE/MAJLIS AL-SHURA. A strong committee made up of people of proven integrity should be established in the State to collect appropriate *zakat* in accordance with the teaching of Islam. This Committee should also be charged with the responsibility of organising the necessary enlightenment training aimed at both securing the confidence of the public and getting them to understand the necessity of giving out *zakat* by those qualified to do so.

A Fatwa Committee/*Majlis As-Shura*, comprising very learned Islamic scholars should be established to examine new issues brought about by changing times and circumstances – issues which have not been treated in the existing Maliki School books – and come up with their findings.

Government should create a department to harmonise activities of such Islamic institutions as Preaching Board, Zakat Institute, Fatwa Committee, Pilgrims Board, etc.

22. HOARDING. Government should look into the possibility of establishing a committee to check hoarding and regulate storage of commodities. Middlemen should be identified and certified by the relevant authorities.

23. LOST PROPERTY. An office for the safe keeping of lost property should be established in all Local Government Headquarters.
24. CUMBERSOME CRIMINAL PROCEDURE. If the Islamic criminal law is to be applied properly, some of the cumbersome procedures of the existing criminal procedure code have to be discarded. Adequate arrangements should, therefore, be made to make it possible for all those who commit offences to be brought to justice in good time. It is also important that those prosecuting in Sharia Courts should be well versed in Islamic procedures. The possibility of obtaining the services of hamlet and village heads, vigilante groups and aid workers in reporting the commission of crimes should be considered. It is also suggested that bail of criminal suspects should depend on the gravity of the offence committed.

The Committee further recommends that junior staff of the Federal institutions in the State should be employed locally, especially the police cadre who can assist in enforcing the Sharia system being introduced now in the execution of *hadd* offence. Governor's consent must finally be obtained before execution.

25. In line with the teaching of Islam, whosoever is found guilty of any offence should be punished accordingly no matter his rank or position in the society.
26. STRENGTHENING THE SCHOOL OF LEGAL STUDIES IN YAURI. The School of Legal Studies in Yauri should be provided with all the necessary facilities and staff to adequately prepare it to cope with the additional teaching and research which will necessarily result from the envisaged revival of the implementation of the Sharia in the State.
27. PAYMENT OF DIYYA. Payment of *diyyah* should be made to victims or their heirs on demand where the Sharia provides for such payments. The extent of *ta'azir* penalties on minor offences should be spelt out to avoid discretionary tendencies of judges and no fine should be imposed as *ta'azir* except where necessary.
28. COMMENSURATE SALARY FOR PUBLIC OFFICERS. The Civil Service Rules and Regulations which are in line with the demands of the Sharia, particularly issues bordering on public integrity, justice, punctuality to work, fairness in official dealings and working for the progress and development of the State should be strictly adhered to.

On the state of the Government it is necessary that it should pay workers adequate wages sufficient to cater for their needs and the needs of their families. This will likely reduce corruption to the nearest minimum as happened in this country during early sixties and seventies.

29. INFLATIONARY TENDENCIES OF CONTRACTS. The tendency of inflating contracts should be stopped. Officially approved profit margin due to contractors should be strictly adhered to or reviewed. It is expected that where a public officer knows that a contractor is making only a little profit, he is not likely to demand gratification from him.

30. PUBLIC ENLIGHTENMENT CAMPAIGN. Judging from the memoranda received and oral submissions made to it, the Committee has been convinced that it is absolutely necessary to organise public enlightenment campaigns all over the State in order to enlighten all sections of the populace on the meaning of the Sharia and how it will affect them.

Consequently the Committee recommends that appropriate lectures, symposia and workshops be organised for organisations and individuals in order to give them the necessary information they need to fully understand and appreciate the meaning of the Sharia and the implication to them of its adoption and implementation.

It is also recommended that the special programme created by our media houses in order to enlighten the general public on issues relating the Sharia and its enforcement should continue as long as the need for them remains.

31. The Committee also recommends that some members learned in Sharia, Common Law and administration to visit Muslim countries like Saudi Arabia, Sudan etc. to observe these countries' court systems and procedures, as well as their administrative arrangements as they affect Islam, the general religious structures which are involved in the administration of justice, governance, propagation (*da'awa*) and guidance (*irshad*).

COMMITTEE MEMBERS [listed again as in the Introduction, with signatures]