

*In the name of Allah, the Most Beneficent,
the Most Merciful.*

Mr. Vice-Chancellor,
Deputy Vice-Chancellors,
Honourable Members of Council,
Registrar,
Other Principal Officers of the University,
Deans of Faculties,
Dean of Postgraduate School,
Dean of Student Affairs,
Professors and Other Members of Senate,
Other Academic Colleagues,
My Lords Spiritual and Temporal,
Members of the Bench and Bar,
Members of my Family, Nuclear and Extended,
Students of Law,
Great Unilorites,
Distinguished Invited Guests,
Ladies and Gentlemen.

1.0. INTRODUCTION

By the grace of Allah, I stand before you today to present the 66th in the series of Inaugural Lectures of this University. It is the first Inaugural Lecture from the Faculty of Law to be delivered in this University. And by the will of Allah, it is the first Inaugural Lecture from a Department of Islamic Law in this country-Nigeria and by the authentic statistics the first ever in the Sub-Region of West Africa. I bow in humility to Almighty Allah for using me to play the pioneer's role in His chosen Law of *Shari'ah*. I bow also to those that have contributed positively in paving the way for *Shari'ah* to rise to the highest academic post of the Chair. Mr. Vice-Chancellor,

permit me here to rejoice with the University of Ilorin, which by divine intervention was able to snatch from my former employer¹ the credit of being the first University in the Sub-Region of West Africa to produce the first Professor of pure Islamic Law through her able immediate past Vice-Chancellor, Professor Shu^caib Oba Abdul-Raheem. I dove my hat to the management of this Great University for their open-mindedness.

It is a common fact that pioneers always have stories to tell for traversing the unusual land.. The stories are of struggles, either struggles for discovery of the unusual things or struggles against obstacles, or both. Mine is against both, with explanations. Many may think that nothing is unusual under Islamic Law, for there can be no new discovery. Any new discovery is easily attributed to innovation (*Bid^cah*) which is unlawful and error menaced with hell-fire. I upheld this view at my school-life. I had no sooner started my career as lecturer of Islamic Law than I discovered that there were unusual thinkings about Islamic Law by the lecturers of common law.² Muslims and non-Muslims alike. At that particular time, the Faculty of Law, Bayero University, Kano, was in the forefront of those Faculties of Law that were experimenting the infusion of *Shari^cah* courses into Law courses that were to be taught. Every time that new courses of Islamic Law were to be introduced in line with common law courses, there were arguments on whether such courses are available in *Shari^cah*. Though an Assistant Lecturer by then, I always found proofs to substantiate my arguments in support of Islamic Law courses with full encouragement and support from the Dean of the Faculty by then, Dr. Muhammad ^cAta' al-Sid, a Sudanese. And before the stabilization of the approved curriculum for the Faculty, almost all common law courses had got

counterpart in Islamic Law. This situation created a lot of challenges and responsibilities for me at the early stage of my career. My colleagues and I, who were in Islamic Law section, since we were running the Faculty as one department by then, were tasked to provide both the syllabi and teaching materials for these courses. Thus, I was induced to the writing of textbooks on Islamic Law courses based on their primary sources and primary references in Arabic Language. Thanks to Faculty of *Shari'ah*, Islamic University of Madinah, Saudi-Arabia that had equipped me with necessary tools for this assignment during my under-graduate days. The American University in Cairo accomplished and fine-tuned the tools for the necessary skills of translation of these Arabic references.

The second struggles are against the obstacles. These obstacles are many as can be envisaged in any adventure. But the foremost obstacle was the inherited persecution of the *Shari'ah* initiated by the colonial masters which was well articulated in the books of legal history of this country and in our statutes. One would have expected that the persecution stopped by the end of the colonialism. Alas! What happened was ordinary change of baton from the white man, the principal, to the black man, the agent, who claimed to know more of English Oak than an English man. Thus, the persecution persisted and the *Shari'ah* lecturers were given lukewarm support to say the least. The situation has not changed up to this moment especially in all fora of legal profession. Perhaps, the long period that these facts had embedded in my memory enforces on me the topic of this lecture. I will be happy if this lecture can reflect the true colour of the situation. My role, however, is academic, and the lecture has been tailored to be factual, free from fantasy and

rhetoric. This is because this forum provides the first opportunity to the academia to have a glimpse of what is happening to the study of *Shari^cah* in our Universities.

2.0. TEACHING LAW IN NIGERIA

To many legal luminaries in this country, the history of law teaching dates back to October 1962 when four out of the five Universities, then in existence, established Faculties/Departments of Law. These are the Ahmadu Bello University, Zaria, the University of Ife (now O.A.U.), Ile-Ife, the University of Lagos, and the University of Nigeria, Nsukka (Enugu Campus). About three months later, in January 1963, the Nigerian Law School joined the fold for the purpose of vocational training in Law.³ While this is true of the British style common law, it cannot be said of indigenous Laws, i.e. the *Shari^cah* and the Customary Laws. The true picture of customary laws had been properly painted in the following summary:

The Law was a living law – it was not something detached from the people – it was what they practised, so that law, morals, and religion tended to be very closely related, much more so than in our society.

The Law was popular, understood by everybody. There was no special course of instruction given to people who specialize in it. They learnt the law as they learnt their language during the process of growing up⁴

This is the situation of many African Customary Laws including Nigeria, up till today. There is no organised system of legal education for customary laws

though they existed and they are applied and made binding

Many features of customary laws are fitted to Islamic Law except that there are special courses of instruction given to people who specialize in it with a well organised system of legal education recognised world-wide-since the time of its revelation. The Qur'an asserts:

Nor should the believers all go forth together (on expedition), if a contingent remained behind, they should devote themselves to acquiring a deeper knowledge (ya-ta-faqahu fi al-din) of their Faith, and admonish the people when they return to them, so that they (may learn) to guard themselves against evils.

Qur'an 9:122

This verse instructs Muslims to always have a contingent that will specialize in the study of Fiqh of their religion. The Fiqh of Islam is nothing but the whole *Shari'ah*.⁵

In Nigeria, as well as in other parts of Islamic world, the history of teaching Islamic Law in its formal form, goes hand in hand with history of Islam.

The most important knowledge in Islam is *Shari'ah*, and since the acquisition of knowledge is a duty upon every Muslim,⁶ Muslims therefore, took pains to learn the *Shari'ah* and the learned took honour to teach it to people. The whole history of Islam is full of instances of people who traversed long distances and endured hardships for the purpose of acquiring knowledge of *Shari'ah*.⁷ In fact, there is no renowned jurist in Islam whose career had not involved him in adventure for the sake of knowledge. In Nigeria, the first formal Islamic School was established by Umar bin Mukhtar, an Arab man from Morocco in 1787,

for the purpose of teaching *Shari'ah* to the Muslims. Many others sprung up throughout the 18th century with tutors from Futa Ture and Timbuktu.⁸

The advent of Shaykh Uthman Danfodio (18) paid more attention to the studies of Islamic Law which paved the way for the reformation of the society and brought it nearer to real values of Islam. This eventually graduated to Jihad. After the victory, Shaykh Fodio resorted to teaching by establishing a school at Sokoto where he taught all aspects of Islamic Law and Arabic. His disciples followed suit by the establishment of schools and taught the *Shari'ah* to people. The large literature of Islamic Law left by these Jihadist scholars is a unique legacy of this nation.⁹

Between 1930 and 1947 the School of Arabic Studies (i.e. *Madrasat al'Ulum al-'Arabiyyah*) was established in Kano teaching Islamic Law courses. Later in the year, Kano Government took over the school and incorporated into its syllabus some English courses. The intervention, as expected by that time, contributed to the decline in the standard of Islamic Law courses. Many of our former Grand-Kadis, eminent statesmen and scholars are products of this school. With times, the method of training in the school has been tailored towards Western education and changed its name firstly to "College of Higher Islamic Studies," and presently "School of Arabic Studies," Kano. It has now been relegated down to a mere secondary school.

The same process took place in the Borno Empire since the advent of Islam into the region.¹⁰ Even the areas where no Islamic government emerged, like South Western Region of the Country, Muslims were voluntarily responsive to their religious duties of acquiring the knowledge of *Shari'ah*, for that is the only means of becoming a proper Muslim rather than nominal one. Our

local mallams dedicated their life to the teaching of this divine law religiously without any expectation as there is no remuneration except from Allah. May Allah reward them abundantly in this world and the hereafter.

3.0. **Definition of Terms:**

There are two major terms to be expounded in this presentation. They are 'Islamic Law' and 'Common Law'.

Islamic Law is a translated term of *al-Shari'ah*. There is a need to examine whether the term 'Islamic Law' conforms perspicuously with the meaning of *al-Shari'ah*. Our primary concern here, however, is to look into the definition of the word, *Shari'ah* as it has been conventionally used for Islamic Law.

Literal Meaning of *Shari'ah*: This word derived its root from the Arabic word *Shin, Ra' and 'Ain*, with verb

شَرَعَ or أَشْرَعَ or شَرَع . The word شَرَعَ means 'He made apparent, manifest or plain a road or an affair or a case and in like manner, religion. In the same line one says شَرَعَ اللهُ لَنَا كَذَا to mean Allah made apparent, manifest, or plain to us, such a thing.¹¹ The philological

usage of the word شَرَعَ forges ahead to connote the literal meaning of سَنَّ . A clear proof to this assertion, is the statement which says شَرَعَ لَهُمْ i.e. 'he instituted, established or prescribed for them a religious ordinance, a law, etc'. This is an equivalent of the statement سَنَّ

هـ.¹² Al-Zabidi¹³ also quoted Ibn ʿAbbas where the latter said: *Shirʿatan wa manhajan* means ‘way and custom’. The infinitive noun of these verbs is *Shariʿah* or *Shirʿah* or *Sharʿ*. The word *Shariʿah* literally means “the path or the road leading to the water or a place to which men come to drink therefrom and to draw water and into which they sometimes make their beasts to enter to drink”¹⁴

The legal usage of *Shariʿah* as understood from its conventional and technical sense in the sciences of Islam, from the earlier period, denotes:

*The religious law of Allah, consisting of such ordinances as those of fasting, prayer, pilgrimage, the giving of the poor-rate, marriage and other acts of piety, or of obedience to Allah, or of duty to Him and to men.*¹⁵

In this definition, we can see that *SHARIʿAH* correlates to *DIN* because it is a way of belief and practice in respect of religion. The only difference in both the words is that while *Shariʿah* is the ordaining of the way and its proper subject is Allah, *Din* is the following of that way and its subject is man. It is in this vein that Allah spoke in the Qurʿan when He says:

قال الله تعالى:

شرع لكم من الدين ما وصى به نوحا..

سورة الشورى : 13

*The same religion has He established for you as that which he enjoined on Noah.....
(Qur'an 42:13).*

He states again:

قال تعالى:

أم لهم شركاء شرعوا لهم من الدين ما لم يأذن به الله ..

سورة الشورى : 21

*What! Have they partners (in godhead), who have established for them a religion without the permission of Allah?
(Qur'an 42:21)*

These two words, i.e. *Shari'ah* and *Din*, are used inter-changeably by the scholars. Another word which coincides with these words in the conventional usage is Islam. Allah states in the Qur'an thus:

قال تعالى :

اليوم أكملت لكم دينكم وأتممت عليكم نعمتي ورضيت لكم الإسلام دينا ...

سورة المائدة : 4

"This day have I perfected your religion for you, completed My favour upon you and

have chosen for you Islam as your religion.”

(Qur'an 5:4).

In this verse, the chosen religion for the Muslim community is Islam. This shows that the three words, *al-Shari'ah*, *al-Din*, and *al-Islam*, are identical.

The next important point is whether the term 'Islamic Law' refers to the term *Shari'ah*. In this endeavour, we need to break-down the structure of the term 'Islamic Law' in order to know the precise meaning of it. Islamic Law as a term, is a noun and an adjective. As usual, the adjective is given to elaborate, modify, qualify, define or limit a noun. The adjective in the term is Islamic and it does one or more of its functions to the noun which is Law. Precisely here, it defines and limits the scope of the noun and restricts it to what is Islamic in nature and meaning. And since *Shari'ah* is identical with Islam by itself, as submitted earlier, we have no case with the adjective. Our concern is then, with the word 'Law'. Law in its literal meaning, indicates the rule to which actions conform or should conform. But secular jurists, judges and lawyers have given a very narrow meaning to this word, 'Law'. To them, the idea of obligation is a necessary element of law. Therefore, it is the obligatory rules that constitute Law. Although they argue among themselves whether Law is a command, normative or imperative in nature, yet they all agree that it must have the idea of imposition.¹⁶ When this imposition is by the state, it is called obligatory rules and constitute the law of the land. But when the imposition is by the force of public opinion, it is called rules of morality. This be the meaning of law in the technical term of secular lawyers, we can then, compare it with the connotation of the *Shari'ah*.

Firstly, there is one significant point in this definition, that is the idea of obligation, either by the state which inspired obligatory rules, or by the public opinion which is considered as the rules of morality. Although the idea of obligation is not negated in the *Shari'ah*, it is not a necessary element of every rule of law as it is under secular law, because it is not everything in the *Shari'ah* that is obligatory. This, therefore, shows that what is not obligatory is not considered part of Law according to the secular jurists.

This inclination necessarily negates large numbers of rules of law which are essential to the conducts of human beings. For example, the *Shari'ah* prescribes for the offence of sexual morality in the form of Zina, i.e. fornication or adultery, with the severe punishment. Under the common law, *Zina* is not a legal offence until it is aggravated by circumstances which can amount to the criminal offences of rape, incest, sodomy, etc.¹⁷ By this, it is obvious that an offence against the Islamic religious ethic is an offence against the law of Allah as any other offence. The *Shari'ah* is both a code of law and a code of morals. It is impossible for anyone to draw a dividing line between law and morality as secular jurists did in case of law. This shows the comprehensive nature of the *Shari'ah* in its applicability to the totality of human behaviour.

Secondly, I do submit that the imposition of law, as it is understood in secular law, is unwarranted in the *Shari'ah*. The divine nature of this law indicates that it comes from one Supreme Legislator. The Legislator is Allah. He prescribed, in His own will, a comprehensive and uniform code of behaviour for all His creatures on the earth. Therefore, it is out of point here to question the supremacy of law as that will be necessarily tantamount to the questioning of the supremacy of Allah.

Nevertheless, this ideal law needs to be perceived and comprehended in order to be practised. The subject of the *Shari'ah* is man. This draws the line between Legislation and Judiciary in the *Shari'ah*. But under the secular law both the functions, i.e. legislative and judicial, are performed by man, a fallible and deficient creature. Man-made law needs to be imposed before it can attain legal bindingness because of the divergence of its subjects. This is a clear-cut distinction in the terminological usage of '*Shari'ah*' and 'Law'. We shall, for this reason, prefer to use the word '*Shari'ah*' to avoid the misconception the word 'Law' may inspire in the minds of some people.

The word 'Common Law' is a term of many meanings in English legal parlance. It means, at its broadest, the Anglo-American system of jurisprudence, in contrast to the 'Civil Law' or Romanist systems of Roman or Napoleonic inspiration.¹⁸ By ancestry the 'Common Law' derives from the rules administered by the old English Common-Law courts which in their turn derived from the general law and custom of the realm of England. However, there are substantial arguments that the term 'Common Law' varied according to the formula of reception of English law. Moreso, 'Common Law' in some other countries like south of the Zambezi means the Roman-Dutch law as applied in South Africa, and has no connection with the common law of England.¹⁹

I will not like to delve into the arguments surrounding the term 'Common Law'. But allow me to mention two quotations on the concept of Reception of English Law in Nigeria. Honourable Justice Niki Tobi vehemently opposed the submission of Professor T. B. Smith who accepted that 'reception' includes both voluntary and imposed infusions of the common law where he said:

*However, the point should be made that in Nigeria, and like most other countries, the common law was imposed on the people, and therefore the element of voluntaries or choice was completely absent in the reception process.*²⁰

Park had already asserted that English law was imposed upon Nigeria rather than freely chosen by its inhabitants, when he was contrasting the background of the reception of laws globally.²¹

The Application of the received law was provided for statute enacted by the colonialists.²² Section 45 of the Interpretation Act reads as follows:

45(1) Subject to the provision of this section, and except in so far as other provision is made by any Federal Law, the common law of England and the doctrines of equity, together with the statutes of general application that were in force in England on the 1st day of January, 1900, shall be in force in Lagos and, in so far as they relate to any matter within the exclusive legislative competence of the Federal Legislature, shall be in force elsewhere in the Federation..

(2) Such Imperial laws shall be in force so far only as the limits of the local jurisdiction and local circumstances shall permit and subject to any Federal law.

(3) For the purpose of facilitating the application of the said Imperial laws they

shall be read with such formal verbal alterations not affecting the substance as to names, localities, courts, officers, persons, moneys, penalties, and otherwise as may be necessary to render the same applicable to the circumstances.

With this provision, the complete English common law and equity, together with certain English statutes form parts of Nigerian Law.²³ Similar provisions to Section 45 of the Interpretation Act were made in the three regions that formed the Federation.²⁴ Although some of the reception statutes have since changed names, the contents of the provisions remain the same.²⁵ The relationship between this imposed law and the Nigerian society has been beautifully summarised by Bryde:

He observes:

*Looking at the reception in practice against this background, we must expect to find considerable distinctions between the law and the reality of African Society, caused not only by the imported law being ineffective, but on occasions by its being too effective or effective in the wrong way.*²⁶

4.0. Teaching of Islamic Law to LL.B. Students:

Muslims, all over the world, are now beginning to realize the extent of damage they suffered after centuries of religious, cultural and intellectual persecution at the hands of colonial powers. This realization is considered as Islamic resurgence, which has been an integral part of Islamic history because of the everlasting conflicts between Islam and *Jahiliyyah* (ignorance). Islamic resurgence, however, do assume different dimensions during different eras and epoches. But the present situation

is unfortunate in that the so- called “intellectual”, Muslims and others, whose ideas are un-Islamic assume leadership of knowledge and play negative roles in the very cause they champion, especially in the field of Islamic law in our universities and its application in our courts of law. The lamentation of Dr. Suleiman Kumo, though made as far back as 25 years, was very relevant to our situation. He remarked:

The effect of this neo-colonial psychology on the study of Islamic law in our universities and its application in our courts of law has been perhaps more profoundly negative than on any other aspect of our national life. Thus, we borrowed a leaf from the universities of ‘the mother countries’ and confine the study of Islamic law to matters of ‘personal status’ leaving out all other subjects, and thereby conforming to the correct position of Islamic Law as seen from the stand-point of the Western intellectual circles. The same attitude is replicated in respect of its application by our courts of Law.²⁷

As long as this group remains in authority in our citadels of learning, the progress of knowledge remains twiddled. Their attitude is a clear case of academic apathy and dishonesty. They have been bewildered by the vulgar arrogance to assume that the accumulation of fifteen centuries of Islamic legal heritage has nothing of relevance to the present world. The study of Islamic law in a country like Nigeria, whose vast populace guided and their lives regulated by Islamic law, regardless of the limitation imposed by legislation on our courts of records, will make our lawyers social engineers. After all, law exists to serve

social interest and to fulfill the task of social engineering. Every lawyer must know the law and society around him in order to understand social issues and to comprehend solutions. Professor Hanbury (1966) made the point with greater particularity:

*Knowledge of the broad general principles of social inter-relationship between scientific disciplines, and African, Islamic and Western Culture in Nigeria, cannot be invaluable to a lawyer, who later in his career, must be prepared to swallow-albeit for speedy regurgitation-vast slabs of knowledge on widely different subjects.*²⁸

In the later years, Hon. Dr. T. Akinola Aguda, when he was advocating a Nigerian Common Law emphatically submitted as follows:

*Before we can have a unified Legal Profession the basic legal education in all our Universities must include a proficiency in all aspects of the system of laws – Customary, Shari’ah and the General Law (Common Law) – which form the total corpus of our law.*²⁹

Teaching of Islamic Law to Law Students in Nigerian Universities should be a natural assimilation between the law and our society. But the leadership at the citadels of learning in this country, Nigeria, keeps the society and its customary values and norms at arm’s length to the law taught to our LL.B. students. The antiquated and alien laws and procedures of Britain take precedence over and above indigenous norms and precepts, our courts of records are made to suffer the same tale, under the meaningless colonial principle of

repugnancy to natural justice, equity and good conscience necessarily to be interpreted in terms of English notions. Forty-three years after the country's independence, not much change of attitude to this extraneous law has been recorded both from the bar and the bench.

Hon. Justice Niki Tobi³⁰ remarks:

*It is most unrealistic for Nigerian Universities to teach Laws which, apart from being obsolete even in England, are of no application to the sociological and cultural orientation of Nigerians*³¹

And he then submitted:

*It is our view that such imperial laws should no longer form part of the Nigerian Legal System and therefore not taught in our Faculties of Law*³²

The vision of the Late Justice T.O. Elias, as to the type of Lawyers Nigeria needs has been frustrated. According to him:

*The Nigerian lawyer of tomorrow will need to be educated to appreciate the value of a liberal training which inculcates a spirit of enquiry and analysis informed by a sense of obligation to his society.*³³

The imparting of legal education is even based not on the ever changing common law applicable in England. Dr. Beita Yusuf, one-time member of the Federal Law Reform Commission condemned the then current wave of crime in Nigeria and blamed it on the ill-conceived substitution of our indigenous legal system to a system

modelled after the British legal principles. He then remarked:

*What is therefore urgently needed is a critical appraisal of our legal education and a vigorous re-orientation of our judicio-legal machinery. In particular our legal rules, principles and procedures have to be reformed to reflect our social realities.*³⁴

The reference in this above quotation to “a critical appraisal of our legal education to reflect our social realities” means nothing but an incorporation of Islamic Law into the context of our legal education. This is because, Islamic Law is the core and kernel of social laws of the vast constituents of this society.

Apart from the relevance of Islamic law to our great society, it can only be seen as a cheer display of ignorance from a legal mind to ignore the study of the most unique legal system the world has ever known and appreciated. Even those who do not profess it, but have studied it with a certain care, hold it in great esteem.³⁵

Schacht, with all his bias against Islam, admitted that the *Shari'ah* is one of the most important bequest which Islam has transmitted to the civilized world. He acknowledged that its study enabled one to appreciate the full range of possible legal phenomenon.³⁶

Despite the above testimony of the orientalist, the sixteen Nigerian Universities that offer Law have systematically ignored the teaching of Islamic Law in their curricula of law faculties except five. They are A.B.U. Zaria, Bayero University, Kano, Usman Danfodio University, Sokoto, University of Maiduguri; and University of Ilorin.³⁷ Lagos State University, Ojo and

University of Abuja are making some effort to incorporate Islamic Law into their law faculties' curricula.

Most lamentable is the attitude of National Universities Commission (NUC), in its attempt to introduce minimum academic standards to all disciplines in our university system, it intentionally omit the LL.B. programme with specialization in Islamic Law or the Combined programme of Islamic Law and Common Law. Could it be said that N.U.C. is unaware of the existence of such programmes since 1975 in A.B.U Zaria and in Bayero University, Kano, since 1978, and so on? The failure of law faculties in the south to map out a meaningful integration of customary law into their curricula can only be attributed to the lack of interest of the indigenous law professors. In the sixties, at the Universities of Ife and Lagos some expatriate law professors started nascent works of integrating the various customary laws into the English common law.³⁸ If these works had not been allowed to die, something meaningful would have come up by now. The lack of compatible customary system to counterbalance Islamic system in the North is not enough reason to oppose the progress and advancement of Islamic law. Such an act is a disservice to the nation and to the humanity as a whole. Could this group say that the study of Islamic Law is socially irrelevant and academically undesirable? What answer could they offer for the successful outgrowths of LL.B. Programmes with specialization in Islamic Law and the (Combined Hons) Islamic Law and Common Law? The graduates of these LL.B. programmes compete favourably and with flamboyant success against their counterparts in LL.B. (Common Law) programme. Perhaps, the group intend to produce 'regional Lawyers' who are ignorant of social laws of other "regions". Will this be a promotion of national integration? Is this a way to realize a dream of

having one day, a Nigerian common law as proposed by legal giants such as late Justice T. O. Elias and the late Justice Aguda? The situation calls for urgent reflection and change of attitude for the betterment of legal education and legal profession as a whole in this country.

Our lawyers become more aware of the Nigerian and Muslim world social realities by studying Islamic Law. We have witnessed the exodus of our medical personnel to Muslim and Arab world in search of green pasture. Who knows when the service of our legal trainees would be needed in such parts of the world? After all, *Shari'ah* represents the personal law of about a billion Muslims all over the world including Nigeria. The LL.B. (Common Law) programme has not made its graduates better lawyers than their counterparts of the Combined Islamic Law and Common Law or with specialization in Islamic Law programmes. Rather, the counterparts perform better where the common law lawyers are made handicapped. For the interest of the humanity, nation and the students themselves, Islamic Law should be taught to all Nigerian Law students and particularly in those Nigerian Universities which up till now, tend to ignore it.

5.0. NUC Approved Minimum Academic Standards in Law Versus Islamic Law Courses.

In pursuance of section 10 of Decree No. 16 of 1985 as incorporated in the NUC (Amendment) Decree No. 49 of 1988 which states:

To lay down minimum standards for all Universities in the Federation and to accredit their degrees and other academic awards after obtaining prior approval therefore through the Minister from the

*President, Commander-in-Chief
of the Armed Forces; provided that the
accreditation of degrees and other
academic awards shall be laid down and
approved by the commission from time to
time*

the NUC published in July 1989 what it considered “Approved Minimum Academic Standards in Law.” It asserts that the final objective of the exercise, is to ensure that all academic programmes being taught in Nigerian University system are accredited³⁹. If this assertion is to be taken seriously, we need to ask: “Why is it possible for NUC to forget LL.B. Programme with specialization in Islamic Law which has been in existence fourteen years before the publication of its Minimum Academic Standards in Law?” Does it want us to believe that such an LL.B. Programme and the likes have been discredited by the same publication? Surprisingly the accreditation panels’ visitation of NUC on the so called Approved Minimum Academic Standard documents which omitted these Islamic Law oriented programmes had carried out two visitations to all Faculties of Law in Nigeria, and the third is about to commence. The outcome of these visitations was very favourable to these programmes. Was it an unintended natural justice that overwhelmed the panel twice? Were they shy to face the reality and review their documents to cover all existing and tested Law programmes in Nigerian Universities? The success of these LL.B. Programmes, i.e. LL.B. (Hons.) Islamic Law and LL.B. (Combined Hons.) Islamic and Common Law, is persistently growing in output and in size. The number of the Faculties of law that offer such degrees has risen to five and others are in the making. With ever-growing success of this worthwhile freshness in curriculum

development, the NUC will have to correct its lukewarm attitude towards these LL.B. Islamic Law oriented programmes.

Another point of indecision is the fact that NUC enumerates Department of Islamic Law among the six departments that a Faculty of Law may establish, but it only allots an optional law course of 8 Credit Units to it. Is this an oversight? How can a department exist on an optional Law course of 8 Credit Units? The NUC should provide answers to these questions.

The NUC programme of LL.B. is said to have been designed to ensure that the graduate of law will have a clear understanding of the place and importance of law in society. One may ask: Does the Common Law (Hons) give the graduate of law a clear understanding of the place and importance of law in our society? The efficacy and relevance of various rules of law in our society are found in Islamic Law not Common Law. Common Law remains an alien imposition on our society. If law should be taught as it exists at any given moment, Islamic Law should be given its proper precedence in the legal education of our law students for its relevance to the prevailing social and political systems of our community. And until this is done, the various social, economic and political conflicts in our society will continue to defy solutions.

The earlier four Faculties of Law that offer either LL.B. (Hons) Islamic Law or LL.B. (Combined Hons) Islamic and Common Law had responded to the NUC Programme. It was resolved at the 4th Annual Conference of the Nigerian Association of Islamic Law Teachers held between 19th – 21st March, 1990 that the heads of Islamic Law Departments of A.B.U. Zaria, Bayero University, Kano, Usman Danfodio University, Sokoto, and University of Maiduguri should meet to standardize the Islamic Law courses in preparation for the National

Universities Commission Minimum Academic Standards Accreditation Panel's visit. They met on the 13th of April 1990 and deliberated on the objective of Islamic Law Courses; Compulsory Islamic Law Courses; Elective Islamic Law Courses; and Course Division.

The move from a league of Islamic Law Teaching Faculties deserves encouragement from all sincere academia and the Muslim populace in general. In the face of all obstacles and sidelining which they are suffering from legal education machinery in the country, they have not been found wanting in the performance of their duties as sincere academia, pursuing a glorious cause for the promotion and development of our indigenous legal system.

As much as we have said about the effort so made we should not be deluded by this brave move from these pioneers of Islamic Law in Nigerian Universities, least we fall into the same mistake of accepting the dictates of the legal education machinery in the field of curriculum, personnel, and other irrelevant intricate conditionalities that it may impose upon the teaching of Islamic Law or its personnel.

On the curriculum of LL.B. Hons (Islamic Law) we ought to remember that Islamic Law represents a universal legal system.

We should remember that we intend to produce graduates that will be able to compete with their counterparts all over the world . It is not enough to graduate those that may be capable of handling local legal problems whereas they may be incapable of performing favourably at the international fora. For this reason, we should compare our curriculum with others' in Islamic world where Islamic Law is well grounded. I have chosen

Faculties of *Shari'ah* of one of the universities of the following countries: Saudi-Arabia, – Islamic University of Madinah; Egypt – Al- Azhar University, Cairo; Morocco – Al-Qurawiyyin University, Fez; Sudan – Omduruman Islamic University. In a treatise like this, it is impossible to give full details of course-contents,⁴⁰ instead course requirements which have bearings with Islamic law teaching alone, shall be mentioned, this is necessary because there are many courses which are complementary only, but included in the curricula of the teaching of Islamic Law in Nigeria and in Arab countries as well.

First year of LL.B. Programme of 5 years represents preliminaries for legal education in Nigeria. The *Shari'ah* courses there are: Introduction to *Shari'ah* and Arabic. In Arab countries, LL.B. in Islamic Law is conducted in Arabic language. Thus, proficiency in the language is a pre-requisite for admission into the programme and its studies continue throughout the study of *Shari'ah*.

LL.B. 2ND YEAR

UNIVERSITIES	Application of <i>Shari'ah</i> in Nigeria	Qur'an and Hadith (Ayat and Ahadith al-Ahkam)	Arabic	Jurisprudence (Fiqh)	Principles of Jurisprudence (Usul al-Fiqh)	Islamic comparative jurisprudence	Foreign language (English)	Memorizing of Holy Quran	Science of prophet's Tradition	History of Islamic Legislation	Qur'anic Jurisprudence	Research Methodology
Nigerian Universities (Dept. of Islamic Law)	1	2	3	4	5	6	7	8	9	10	11	12
Y	Y	Y	Y	N	N	N	N	N	N	N	N	N
Saudi – Arabia Islamic University of Madinah	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Egypt Al-Azhar University, Cairo	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Morocco Al-Qurawiyyin University, Fes	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sudan Omdurman Islamic University	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

Course No 2 and Course No 11 are similar in nature but the contents and scope of each one of them are widely diversified. The contents of Course No 11 are by far more comprehensive than Course No 2 because these Universities provide primary references as textbooks for their students.

KEYS:

Y = Yes
N = No

LL.B. 3RD YEAR

UNIVERSITIES	Mu'amalat (Contracts; Agency and Commercial Laws)	Islamic Law of Crime and Tort	Arabic	Jurisprudence (Fiqh)	Principles of Jurisprudence (Usul)	Islamic Comparative Jurisprudence	Foreign Language (English)	Quranic Jurisprudence	Memorizing of Holy Qur'an	Fiqh al-Sunnah	Al-Ahwal al-Shakhsyiah	Al-Hadith	Research Methodology
	1	2	3	4	5	6	7	8	9	10	11	12	13
Nigerian Universities (Dept. of Islamic Law)	Y	Y	Y	N	N	N	N	N	N	N	N	N	N
Saudi – Arabia Islamic University of Madinah	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
Egypt Al-Azhar University, Cairo	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Morocco Al-Qurawiyyin University, Fas	N	N	N	Y	Y	N	Y	Y	N	Y	Y	Y	N
Sudan Omdurman Islamic University	N	N	Y	Y	N	Y	Y	Y	Y	N	Y	N	N

Course No 1 and Course No 2 are parts of Course No 4 and Course No 6

KEYS:

Y = Yes
N = No

LL.B. 4th YEAR

UNIVERSITIES	Islamic Family Law	Mirath, Wasiyyah and Waqf	Islamic Laws of Property, Company, Banking and Insurance	Jurisprudence (Fiqh)	Principles of Jurisprudence (Usul al-Fiqh)	Quranic Jurisprudence	Arabic Language	Islamic Comparative jurisprudence	Foreign language (English)	Memorizing of Holy Qur'an	Research methodology	Fiqh al-Sunnah	Legal- and Political Studies	Study of Hadith
Nigerian Universities (Dept. of Islamic Law)	1 Y	2 Y	3 Y	4 N	5 N	6 Y	7 N	8 N	9 N	10 N	11 S	12 N	13 N	14 N
Saudi – Arabia Islamic Uni. of Madinah	Y	N	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Egypt Al-Azhar Uni. Cairo	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N
Morocco Al-Qurawiyyin Uni., Fas	Y	N	N	Y	N	Y	N	Y	Y	N	N	Y	Y	Y
Sudan Omdurman Islamic University	Y	Y	N	Y	Y	Y	N	Y	Y	Y	N	N	N	N

- Courses No 2 and No 3 are parts of courses No 4 and No 8.
- Course No 11 with symbols 5 is taught by some departments like Department of Islamic Law, B.U.K.

KEYS:

Y	=	Yes
N	=	No
S	=	Some

LL.B. 5th YEAR

UNIVERSITIES	Principles of Jurisprudence (Usul al-Fiqh)	Murafa'at (Law of Procedure and Evidence)	Islamic Labour Law	Islamic International Law	Islamic Administrative Law	Jurisprudence (Fiqh)	Quranic Jurisprudence	Arabic Language	Islamic Comparative Jurisprudence	Foreign Language (English)	Memorizing of Holy Qur'an	Research Methodology	Fiqh al-Sunnah	General Legal Methodology	Hadith	Mirath (Law of Succession)	Project
Nigerian Universities (Department of Islamic Law)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
	Y	Y	E	E	E	N	N	N	N	N	N	N	N	N	N	N	Y
Saudi – Arabia Islamic University of Madinah	Y	N	N	N	N	Y	Y	Y	Y	N	Y	N	Y	N	Y	Y	Y
Egypt Al-Azhar University, Cairo	Y	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N
Morocco Al-Qurawiyyin University, Fas	N	N	N	N	N	Y	Y	N	Y	Y	N	N	Y	N	Y	N	N
Sudan Omdurman Islamic University	Y	N	N	N	N	Y	Y	N	Y	Y	Y	N	N	N	N	Y	N

- Courses No 2, 3, 4, and 5 are parts of Course-contents of Courses No 6 and No 9.
 - Courses No 3, 4, and 5 are Elective Courses.

KEYS:

Y = Yes
 N = No
 E = Elective

From this breakdown, we can vividly compare courses requirements for Nigerian LL.B. (Hons) Islamic Law and LL.B. (Combined Hons) Islamic and Common Law with the LL.B. (Hons) Islamic Law in these countries. Without going into details of course–contents of each course, it is patent that the Departments of Islamic Law in the country have more courses to add to their curriculum before their graduates can compete favourably with graduates of Arab countries. Nevertheless, I am not in doubt that our graduates will fare well with their counterparts in the Western World. But we aim for the best for our graduates, for the betterment of the nation. With recent re-introduction of the Application of Islamic Criminal Law in the newly created *Shari'ah* Courts in some States of the Federation of Nigeria, the nation is in need of well trainees of pure *Shari'ah*.

It is high time to have a special programme for *Shari'ah* free from intrusion of the common law. *Shari'ah* legal system is capable to be independent of common law, and it can sustain itself without borrowing anything from British style common law as it has done in the past. The common law has failed worldwide and the quest for alternative is in increment. There is no alternative rather than *Shari'ah* that has withstood the tests of all eras and epoches. The future of this legal system is brighter and very promising as Allah has promised in His Book.

6.0 Academic Personnel for the Teaching of Islamic Law:

Once upon a time, there were Faculties of Law in the country without any bearing of Islamic Law whatsoever. The LL.B. Programme in Nigeria, by then, was Common Law based, which gave no room for the development of any indigenous legal system. Islamic legal system which was once the major competent indigenous

system for the dispense of justice was relegated to native law and bartered away with 'repugnancy clause'. It was replaced with imposed English notions of justice as if there was no single indigenous value-judgement of justice and equity. Then, an idea of introducing an LL.B. Programme with specialization in Islamic Law, was conceived. Amidst huge opposition a baby was born in Ahmadu Bello University, Zaria in 1975 to be known as LL.B. (Hons) Islamic Law. Some Faculties of law followed suit with better offerings, and by now we have LL.B. (Hons) Islamic Law and LL.B. (Combined Hons) Islamic and Common Law, in five Nigerian Universities.

The academic personnel for these two programmes were first recruited from outside the country mostly from countries like Sudan and Pakistan. These expatriates constituted the first group of academic staff for the teaching of Islamic Law courses. They were themselves graduates of Faculties of *Shari'ah* of their various countries and some of them were judges in *Shari'ah* courts. The expatriates from Pakistan and India had some limitations, for they suffered the same thing we suffered from the colonialism. They preferred to teach Islamic Family Law and Islamic Law of Property. These are the major subjects taught to them during their undergraduate days. Other subjects are subsidiaries or not taught at all.

The second recruitment for the teaching of Islamic Law in Nigerian Universities comes from indigenous graduates from the Departments of Islamic Law in Nigeria and Nigerians who graduated from Faculties of *Shari'ah* of Arab countries' Universities. These graduates are the main resources for the sustenance of these two LL.B. Programmes, especially in the face of austerity and economic distress in the country. The first group of

academic personnel has already left the country searching for new green pasture.

The third recruitable group for the teaching of Islamic Law, are few graduates of Arabic and Islamic Studies in Nigerian Universities. These graduates include some of those who have excelled themselves in the study of *Shari'ah* before they found their ways to the universities for the study of Arabic and Islamics. They are renowned as local mallams before they obtained university degrees. This group can be legalistic in their approach. After all many of the Qadis of *Shari'ah* courts in the country, are men of this calibre. But the situation warrants a great caution. The selection from this group cannot be based only on their Arabic or Islamic Studies qualifications. Thus, every candidate has to be selected on his own merit after a display of an unequivocal expertise in the areas of Islamic Law.

The 1999 Constitution has exempted the scholars of pure Arabic and Islamic Studies from the circle of Islamic Law personnel. Section 275 (3) (a) (b) of the Constitution states:

A person shall not be qualified to hold office as a Kadi of the *Shari'ah* Court of Appeal of a State unless:-

- (a) he is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has obtained a recognised qualification in Islamic Law from an institution acceptable to the National Judicial Council; or
- (b) he has attended and has obtained a recognised qualification in Islamic Law from an institution approved by the

- National Judicial Council and has held the qualification for a period of not less than ten years; and
- (i) he either has considerable experience in the practice of Islamic Law, or
 - (ii) he is a distinguished scholar of Islamic Law.

There are also, few local mallams who are experts in *Shari'ah* and competent to teach courses of Islamic Law but they are hindered for lack of medium of communication, i.e. English Language, or lack of paper qualifications. Thus, they are not recruitable.

7.0 **The BL (*Barrister-at-law*) Conditionality for Academic Staff of Islamic Law:**

It is well known that a person is not eligible to be a legal practitioner in Nigeria until he is qualified as a Barrister-at-law. This is in line with the Legal Practitioners Act, 1975 which defines a legal practitioner as “a person entitled in accordance with the provisions of this Act to practice as a Barrister or as a Solicitor, either generally or for the purpose of any particular office or proceedings.”

Section 2 (1); Section 6 (1); and Section 4 (1) of the same Act provide the systematic procedures to make such a person to be entitled to be called to the Bar. Section 5 of the Legal Education (Consolidation) Act 1976 provides that:

- A person shall be entitled to have a qualifying certificate issued to him by the Council stating that he is qualified to be called to the Bar if;
- a- He is a citizen of Nigeria; and
 - b- He has, except where the Council otherwise directs, successfully completed a course of

practical training in the Nigerian Law School which lasted for a period fixed by the Council as an academic year.⁴²

Going by the history of Legal Education and admission to practice, the Unsworth Report published in October, 1959 recommended that “Nigeria should establish its own system of legal education to meet the needs of the country and also the establishment of the Nigerian Law School to provide for practical training in the works of a Barrister and Solicitor.”⁴³ Consequently, the Council of Legal Education with its arm for practical training, i.e. Nigerian Law School, was established in 1962. In pursuance of its functions, i.e. practical training, Nigerian Law School admits students who have obtained a Law Degree of an approved University. It states in its Regulations for Admission and Training, *inter alia*, as follows;

*For the purpose of such approval, the Council will have regard to the contents of the course leading to the degree with a view to ensuring that the subjects taken and the depth covered are such that will provide the minimum basic knowledge of the law as is required to enable a student to derive maximum benefit from the Nigerian Law School course, and ultimately to set up legal practice in Nigeria.*⁴⁴

In order for the Nigerian Law School to perform its functions of training the potential legal practitioners, with full commitment and devotion, it detached itself from all purely academic courses and assigned such courses to the universities.⁴⁵

From the foregoing, it is clear that Nigerian Law School has relieved itself from courses of purely academic nature. It therefore, devotes itself for the purpose of which it is established. National Universities Commission is empowered 'to lay down minimum standards for all universities in the Federation and to accredit their degrees and other academic awards' as in Section 10 of Decree No. 16 of 1985 as incorporated in the NUC amendment Decree No. 49 of 1988. In July, 1989, NUC published Approved Minimum Academic Standards in Law. Under 3.1: Qualifications for Academic Staff Appointments and Promotions; it states, *inter alia*, to wit:

(a) Criteria for Direct Appointment:

The following shall be the qualifications for direct appointments to the post of lecturers and assistant lecturers:

- (i) For Assistant Lecturership: to be appointed an Assistant Lecturer in Law, a candidate must hold a good honours degree in Law and be called to the Nigerian Bar.,
- (ii) For Lecturership: to be appointed a lecturer, a candidate must possess the qualifications of an Assistant Lecturer plus, at least, a Master Degree in Law. In all cases set out above, a candidate who had his legal education outside the Common Law World must furthermore prove that he has had a good exposure to the Common Law and its approach to problems.⁴⁶
In the absence of such an exposure, a candidate trained in non-Common Law Country cannot be entrusted with the teaching of the core courses that make up the Common Law.⁴⁷

Before we go on for discussion, sub-section (a) (ii) requires ‘a good exposure’ to the Common Law and its approach to problems’. The term ‘good exposure’ is abstract and it gives room for unlimited interpretations. Perhaps it will be wise to borrow a leaf from Nigerian Law School whose personnel had participated in formulating the AMAS itself. In its objectives of the course, it is stated:

*The course is designed, first to supply the necessary background to Nigerian Law which is lacking in the case of Students from Law Institutions outside Nigeria, and second, and more importantly to provide a systematic practical training which is necessary for a fused legal profession.*⁴⁸

It went on to divide the course into two parts, i.e. Part I and Part II. In essence, Part I is designed for graduates of Law Institutions outside Nigeria, while Law graduates of Nigerian Universities are exempted from its subjects. In conclusion, Nigerian Law School asserts, under programmes for Law Graduates from Non-Common Law Institutions, as follows:

- (a) Common-Law Graduates who have been teaching Law for five years and above in a faculty of Law in Nigeria University would be exempted from the Part I course.
- (b) Graduates from Non-Common Law Jurisdiction who have taught a Law in a faculty of Law in a Nigeria University for ten (10) years and above would also be exempted from the Part I course. They should go straight to the Bar Part II course.⁴⁹

The possible inference from the objectives of the course and the exempted from the Part I course is that the necessary background to Nigerian Law, which is lacking in the case of students from outside Nigeria, has been compensated for, with five years of teaching (in case of graduates of Common-Law Jurisdiction) and ten years of teaching (in case of graduate of Non Common Law Jurisdiction) in a Faculty of Law in a Nigerian University. Thus, a good exposure has been achieved by either of the two ways. Either by undertaking Part I course or by teaching for five or ten years, as the case may be, in a Law Faculty of a Nigeria University.

With this simple and logical inference from both the criteria of NUC and Nigerian Law School, we can determine who are eligible for appointment into Faculty of Law, if no prejudice is meant for certain categories of graduates of Law. Even, in the absence of 'a good exposure to the Common Law' the graduates from non-Common Law country should only not to be entrusted with the teaching of the core courses that make up the Common Law. The Islamic Law graduates are not eager to teach any common Law course not to talk of the so-called core courses. Why then, is the hullabaloo? The rumour that BL. has been made a criterion for the teaching of Islamic Law in a faculty of Law in a Nigeria University, is a very dangerous attempt and a contempt of the Muslim populace in the country. Nigerian Law School in its course of practical training has nothing of relevance to Islamic Law. Even with the newly introduced course on Islamic Law of Evidence and Procedure, the contents of the course is below what our combined Honours (Islamic and Common Laws) Degree offer to students at undergraduate level. One may then ask: What has a graduate of

Islamic Law to gain from such training? I pray the matter remains a rumour.

It should be recalled that academic appointment as law lecturer and private practice at the bar are at arm's length with the promulgation of Decree No 34 1984⁵⁰ cited as the Regulated and Other Professions (Private Practice Prohibition) Act. Section 1 of the Act provides that no public officer shall engage in or continue to engage in private practice in or in connection with any scheduled profession. Since the professions of law and teaching were scheduled in the Private Practice Prohibition Act, it was assumed that the Act disqualified law lecturers from practising as barristers and solicitors in private employment while being lecturers on full-time employment.⁵¹ Thanks for the Exemption Order of 1992 which provides that "a public officer engaged in the practice of law as a full-time law lecturers is hereby exempted from the provisions of the Regulated and other Profession (Private Practice Prohibition) Act."⁵²

In fact, as a matter of convention, law lecturers see themselves as public officers even before the Private Practice Prohibition Act of 1984. It was uncommon to see law lecturers engaging in private practice. Thus, some who choose to be law lecturers did not bother much about obtaining BL. for it is for the sole purpose of practice. They went straightly for lecturing without enrollment to Law School. We have many who have done so and that did not hinder their progress as law lecturer to rise to the highest post of their careers as professors in law, as well as to hold the highest office of their various faculties of law as Deans. The permission that the Exemption Order gave to law lecturers to practise has been over-stretched. Some even conceived it as if it is an obligation to engage in

private practice. They are more of legal practitioners than law lecturers. They exploit the unawareness of their employers of other legislations that prohibit them from private practice. For instance, Rule 2 (b) of the Fifth Schedule 1999 Constitution provides:

Without prejudice to the generality of the foregoing paragraph, a public officer shall not..

- (a) except where he is not employed on full-time basis, engage or participate in the management or running of any private business, profession or trade but nothing in this sub-paragraph shall prevent a public officer from engaging in farming.”⁵³

The only safe haven is to seek for a total exemption from all legislation that restrict their private practice.

Another most unfortunate thing, is the attitude of some of our Grand Kadis, who have been affected by the malady of this rumour thus, they have read the provision of the Constitution, section 275 subsection (3) (a) adjunctively with (b) and make (a) to supercede (b).⁵⁴ Thus, a criterion of being called to Bar is emphasized in the appointment to the post of Kadi of *Shari'ah* Courts of Appeal. One may wonder whether the draftsman did not know what the word “or” stands for. Whoever betrays his faith and his gifted knowledge after reaching the peak of his career in life should prepare for his abode in the Day of Resurrection. Every Grand-Kadi of *Shari'ah* Courts of Appeal has a divine responsibility, and that is, the promotion of *Shari'ah*, its teaching and application, in a very conducive atmosphere. If he fails he is accountable for his failure in this world and in the hereafter. May Allah save all of us from His wrath.

Any introduction of B.L. as one of the criteria for appointment of Islamic Law lecturer or Kadi of *Shari'ah* Courts of Appeal should be seen as a persecution of *Shari'ah* and Islam as a whole. After all, the so-called common law is nothing but Christian Law brewed from British House of Lords 'made up almost exclusively of bishops and lay peers'.⁵⁵

8.0. **Conclusion:**

We have seen how a vital objective of the N.U.C. exercise either by design or by accident, has been eroded. As the then Executive Secretary, Professor Idris A. Abdulkadir puts it, as follows:

*The final objective of the exercise, of course, is to ensure that all academic programmes being taught in Nigerian University system are accredited.*⁵⁶

Islamic Law Courses are one of the vital academic programmes being taught before the conception of the whole exercise. Could it be an oversight, or a handwork of Devil to eliminate Islamic Law Courses from the accreditation? How can one reconcile the theory stated in the General Philosophy and Fundamental Principles of Curriculum Development for the Commission and its implementation by the same Commission? The philosophical and objective theory states:

In the formulation of the curriculum presented, care has been taken to ensure that law will be taught as it exists at any given moment and that our students will be comparative in their approach to legal studies, bearing in mind that there are many system of law-Statutory Law,

*Common Law, Customary Law and Islamic Law – concurrently in operation.*⁵⁷

When the AMAS covered all other systems of law mentioned adequately, it omitted Islamic Law System and put it under Optional Law Courses with a maximum of 8 Credit Units including tutorials. And as it is captioned an ‘Introduction and the Historical Background’, what benefit can a student derive from such a scanty review of a system that governs the acts of majority of the citizenry and dominates 70% of the cases in the judiciary?

We must be conscious of the stronghold which alien legal system has on our legal system and legal education, and take bold steps to free Nigeria from domination by a foreign legal system. Indigenous legal system, i.e. Islamic and Customary Laws, must be brought out from the abyss of disrespect in which they have now found themselves and placed on the pedestal of reverence and respectability where they properly belong. This is the only way that the search for social justice can be crowned with success. It is also the only way to achieve a basic revolution in the society through our legal education and legal system.

As we develop and capitalize on the new technologies, we should be cautious of our roots, traditions and values at the centre of our civilizations. We have ventured much and have risked losing our identity and that is the reason why we are facing serious social problems such as moral bankruptcy and family disintegration, violence, crime, drug addiction and unemployment. We should imbibe in our students, a sense of our rich history and our valued heritage. We should also

hold on to the bright side of our lives represented by our traditions.

9.0. **Recommendations**

We have exposed the laxity of our machinery for legal education. Their failure to undertake a profound review of the institutions' roles and objectives in relation to problems of social change and development aggravated the situation and compounded the problems. They then treat law as an independent, self-contained, established discipline. Most of the actors in the machinery are more English than Briton. They are properly fit for the picture that Ibn Khalidun described in his *Muqqaddimah* where he stated:

The vanquished always want to imitate the victor in his distinctive characteristics, his dress, his occupation and all his other conditions and customs. The reason for this is that the soul always sees perfection in the person who is superior to it and to whom it is subservient. It considers him perfect either because it is impressed by the respect it has for him or because it erroneously assumes that its own subservice to him is not due to the nature of defeat but to the perfection of the victor, if that erroneous assumption fixes in the soul it becomes a firm belief.⁵⁸

I have occasions to interact with some of these people who felt proud of what you are sympathizing for them. To them a white man is a perfect man and he ought to be emulated at all costs. This makes our task more cumbersome. It reminds me the definition of *Jahilun Murakkabun*, as our *Mallams* used to tell us, It means, “a

person that does not know a thing and he does not know that he does not know it” The correction of such a person will take an age. Nevertheless, the society must be free from the hold of these people. The yoke must be broken for the betterment of all and sundry. Thus, the following recommendations are suggested:

1. Most of the persecution of the indigenous laws are done through legislature, so the real answer to the problems lies in legislative remedies. There is need to separate the indigenous laws from the yoke of the common law. Islamic Law should also be separated from the customary laws and be given the deserved paramountcy in all aspects of Muslim life. The legislature should ensure that it is administered in its proper forms. This entails changes of all extraneous laws that hinders its application and administration. With recent development in the country on the application of criminal aspect of Islamic Law and the creation of the new *Shari'ah* courts in almost all the Northern States of the Federation. Islamic Law ought to be allowed to assume its proper place as a distinctive legal system as it was before the imposition of English style common law.
2. The Faculties of Law in the country ought to display a sincere appreciation and awareness of the values of the society they are established to serve. This is a call for astute ascertainment of indigenous laws and effective dissemination of the outgrowth of the research. If these Law Faculties should discharge the responsibilities thrust on them with all sincerity, they must first look inward before they look outward, for 'charity begins at home'. We cannot be boasting of our links with overseas legal institution

when we have severed our links with Nigerian society that founded us.

3. The academic programme of our Law Faculties must be considerably expanded and varieties ought to be introduced. A separate programme of *Shari'ah*, independent of Common Law Courses is a suitable and overdue variety to be introduced into our Law Faculties. The Nigerian Law School, can hold up to its Common Law for it has nothing of relevance to *Shari'ah*. *Shari'ah* Legal System should insist on a separate design suitable training school for its own legal practitioners. Mr. Vice-Chancellor, I am assuring you that if permission is given to set up a pure *Shari'ah* programme as a discipline in this our citadel of learning, it will be a self-sustainable programme because every sincere Muslim desires it for his upliftment both spiritually and worldly. It is a discipline of multi-dimensions with concrete practical insights, leading to an intelligent appraisal of the world around us as a universal legal system. In fact, nothing globalizes than *Shari'ah*, in the past, present and in the future to come.
4. Customary Law, as a distinct law of our land, different from common law and Islamic Law must be given its deserved attention. It affects all of us for we are people of values. And these values emanate from our customs. Serious and sincere research must be conducted into various matters for the purpose of codification to save it from erosion. We should not hesitate to recommend to the appropriate legislature, the abolishment of any unsavoury customary practice. Any thing less than this will retain the Customary Law in its

disadvantageous position and with times, we become people of no custom and no value-judgment as the white want us to be.

5. From the kind of society and a world empowered by advanced science and technology, there is need for the cultivation of a broad perspective for our students. Globalization and interdependence, with all their attending problems create world crisis that demands the availability of the capable people. These students must be educated to the true task of lawyering in the grand manner when they meet the stringent demands of a professional career.

6. The revival of *Shari'ah* criteria of evaluation of people to be appointed to the bench is a paramount before the Judiciary could regain its lost glory and relevancy to the society it intends to serve. The to the society it intends to serve. The criteria are based on piety, simplicity of living, sincerity, courage and commitment to justice. Materialism and all form of loyalism except for the cause of Allah and His *Shari'ah* are to be shunned off. Judges of *Shari'ah* courts should not be made subordinate to judges with a different training.

7. In order to ameliorate the dearth of text books on *Shari'ah* in English Language the Universities that offer *Shari'ah* courses should establish a bureau that will be translating into law books or writing them from Arabic sources into English. The Bureau should also conduct research in *Shari'ah* contemporary issues with special reference to Africa and to Nigeria in particular.

8. The students should be advised and encouraged to study Arabic which will enable them to consult primary sources of *Shari'ah*.

10. ACKNOWLEDGEMENTS

All praises belong to Almighty Allah who established the *Shari'ah* for the benefit of mankind. Any time I reflect back on my venture into studying of *Shari'ah* study I cannot resist saying "*al-Hamdu-lillah Rabbil-`alamin*". Apart from my father and, of course, my teachers and co-students, I did not receive any single encouragement from other quarters. While many of our colleagues (co-students) fell victims of temptations, few of us were made stronger by the will of Allah to sail through the hurdles with success. Among this few are Dr. Iyasa Ade Bello, a senior lecturer of *Shari'ah* at Lagos State University, Ojo, Lagos and Dr. Yusha`u Sodiq, an Associate Professor at Texas Christian University, Texas, USA. *Laka li-hamdu, ya Allah, `ala mannika wa ni`amika alaina.*

To you, my father, I dedicate the glory of today to become a cold spring wetting your soul and making it rest in a perfect peace and mercy of Allah till the Day of Resurrection. My gratitude also goes to my late mother for her support for me in the pursuit of *Shari'ah*.

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