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CHAPTER Fourteen

INTRODUCTION TO ISLAMIC LAW IN NIGERIA

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Introduction

Islamic Law is one of the sources of Law in Nigeria.[1] It is otherwise known as Shariah. The word Shariah can be construed in both linguistic and legal senses. In its Linguistic sense Sharia is an Arabic word which means the path that leads to the spring where drinking water is fetched. In its legal sense it means the ordinances (rules and regulations) ordained by Allah (God) for His creatures so that they may be submissive to His will and strive to attain justice on earth in order to meet His pleasure in the hereafter.

JURISPRUDENTIAL BASE AND ORIGIN OF ISLAMIC LAW

From Jurisprudential point of view, Law is construed either from positivistic sense or from point of view of the Natural School of thought. Law could also be construed from point of view of other schools of thought like Sociological, Realist and Historical Schools of thought among others.

From the point of view of John Austin, a proponent of positivism, law is that rule which is made by man and is backed up by sanction.

On the other hand, Thomas Acquinas[2] who is of the Natural School of thought pointificated that Law is divisible into Lex eterna (eternal law); Lex Divina (Divine Law); Lex Humana (Human Law)' and Lex Naturalis (Natural Law). This can be further broadly categorized into two namely; Human Law and Natural law (i.e. Lex eterna, Lex Divina[3] and Lex Naturalis). While the English law represents the former category, Islamic law falls into the latter category. Under Islamic law, it is only God who can establish the intricate network of interrelationships and roles, mutual rights and obligations and the attendant rewards and punishments on the basis of absolute standings of justice. It is also believed that man lacks the capacity to fully comprehend this intricate network, therefore he lacks the capacity of determination of

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1 Other sources of law in Nigeria are: customary law, the received English law comprising common law of England, Equity and statutes of general application, Local Statutes, case Law e.t.c.

2 Olatoye, K.A.: Law Lecturer, Faculty of Law, Lagos State University.

2 Adaramola F. (2003) Basic Jurisprudence, Lagos: Raymond Kunz Communications, 2nd Edition

3 E.g. Quran or Bible

absolute standard of justice. Man himself requires divine guidance to determine standard of justice and it is this divine guidance that is known as Shariah.

The Shorter Encyclopedia of Islam [4] described Sharia as the "the path to be followed and the Cannon law of Islam.' Islam as Joseph Schacht puts it is a religion of action rather than belief. Therefore in explaining the term Canon law further, the argument asserting the theological foundations of the concept of Islamic law is advanced simply, to stress that the law's source is divine will and not human reason[5].

SOURCES OF ISLAMIC LAW

Islamic law or Shariah has principal/Primary sources and secondary sources while their Principal/Primary sources are the Quran and the Sunnah; the Secondary Sources include, Ijma, Qiyas, Ijtihad, Istihsan, Istishab and Urf..[5b].

THE HOLY QURAN.

The first and the chief primary source of Sharia (Islamic Law) is the Holy Quran. It is the final authority for both religion and the laws governing all Muslims in their individual and Social behaviours. The Quran has been described in several ways such as; Al-Huda (the guidance for mankind); Al-Dhikr[6] (constant reminder; AL-Hikmah[7] (Divine words of wisdom); and AL-Furgan[8] (the criterion to choose between the truth and the falsehood). The Quran provides a Code of Conduct for every believer. Jurists have recorded about 500 Quranic verses which have legal provisions[9]

The Quran is divided into 114 chapters and contains 86,430 words and 3, 23, 760 letters of the Alphabet. It has a total number of 6,666 verses. The Quran is divided into 30 convenient parts (Juz) and is further divided into 60 sub-parts (Hizb).

The Quran was revealed piecemeal within a period of 22 years, 2 months, and 22 days according to the needs of time and to provide solutions to the problems which came

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4 Gibb, H.A.R and Kramers, J.H; Shorther Encyclopedia of Islam.

5 Mohammed Khalid Masud, Islamic Legal Philosophy Islamic Research Institute- Islamabad (Pakistan) 1977, P.6.

5b For the purpose of this essay, only the basic sources shall be discussed.

6 Quran 21:50

7 Quran 65:6

8 Quran 25:1

9 Ambali M.A. The practice of the Muslim Family Law in Nigeri, Zaria Tamaza publishing Company Ltd, Second Edition, 2003, P.4.

before the prophets of God, Muhammad (peace of God be on Him). The first revelation of the Quran[10] began on the 15th night of the month of Ramadan in the 41st year of the Prophet's life in the cave of Hira while the last verse of the Quran[11] was revealed on the 9th Dhul Hijjah in the 10th year of Hijra, the 63rd year of the Prophet's life.

THE SUNNAH

The second chief source of Islamic law (Sharia) is the Sunnah. There are about 4000 Prophetic pronouncements stipulating legal decisions or judgments. Sunnah is the sayings, deeds and the silent approvals of the Holy Prophet of God. It is also known as Hadith. It is sometimes referred to as the "Hidden revelation" (Wahy Khafi)[12]. The entire life of the Holy Prophet (peace be on him) whatever he did or said was according to the teachings of the Quran therefore his actions became emulable as far as all principles elucidated in the Quran are concerned. However, while the Quran gives the primary legal principles, there are many practical matters where guidance is required but details of which is not explicitly provided in the Quran. In such cases, recourse is had to the usages, teachings and actions (i.e. Sunnah) of the Prophet.

While the Prophet was alive, his teachings and deeds served as direct guidance for the nation of Islam. Every case that came up to the companions for decision had to be referred either to the Holy Quran or to some Judgments or Saying of the Holy Prophet which judgments or sayings therefore obtained a wide reputation. After his death, these sayings were collected from the Sahaba, the companions of the Prophet. There arose a class of followers who made it their own business to investigate and hand down the minutest details concerning the life of the Prophet. From this grew the Science of Hadith through which the traditions collected became subject to selection and standardization. Traditions were recorded according to their subjects and the subject matters were arranged under the headings of law books. About six of such collections were made in the third century of Islam and they gained general approval amongst the latter generations till date. The six books of hadith containing various traditions of the Holy Prophet are:

1. The Sahih of Al-Bukhari (d. 256 A.H= 870 A.D)
2. The Sahih of Muslim (d. 261 A.H. = 875 A.D)
3. The Sunan of AbuDaud (d. 275 A.H. = 888 A.D)
4. The Sunan of Ibn Majah (d.279 A.H. = 887. A.D)
5. The Jami of al-Tirmidhi (d. 279 A.H. = 892 A.D)

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10 Quran 96:1

11 Quran 5:3

12 Doi, I.A; Shariah the Islamic law, London, Ta Ha publishers, 1984 /1404 H, P.45.

6. The Sunan of al-Nasai (d. 303 A.A. = 915 A.D)

In preparing the foregoing collections, a critical technique of selection was used to distinguish authentic traditions from the weak ones. For example, Bukhari examined 600,000 traditions of which he accepted only 7, 397 using the test of authenticity (isnad and Matn) to Shift the Chaffs from the grains.

By this, the hadith has come to supplement the Quran as a source of the Islamic Law. This traditions of the Prophet are important in the development of Islamic legal system and jurisprudence. The Holy Quran itself advocates, in chapter 59 verse 7, the acceptance of Hadith as a source of law in Islamic Legal System.

IJMA

Ijma means the consensus of opinion of the jurists on various Islamic matters. The use of Ijma as a source of law has backing in the holy Quran itself in chapter 4 verse 114[13]. There are two broad kinds of Ijma, the first being the consensus of the companions of the Prophet in solving any problem after the death of the holy Prophet and there was no express provision of the Quran or Hadith (Sunnah) dealing with the issue. The second kind is the Consensus of the jurists in dealing with a problem on which the Quran and Sunnah are silent and there is no Ijma of the companions.

Ijma could also be divided into three categories namely; the Verbal consensus of opinion (Ijma al-Qawl), the consensus of opinion on an action (Ijma al-Fil) and the silent consensus (Ijma al Sukut) Ijma could also be sub-divided into the regular consensus of opinion (Ijma al Azimah) and the irregular consensus of opinion (Ijma-al-Rukhsah). For example if an issue is raised and all the jurists assent to it by voicing out their approval or disapproval, the consensus of opinion is said to be verbal and regular. If an issue is raised and none of the jurists say anything, the consensus is said to be silent and irregular. However, under Islamic law both of the consensus (verbal or silent) are valid legally.

Nonetheless, no matter the type of consensus, Ijma must be based on the understanding of the Quran and the Sunnah. Healthy consultation (Shura) and the use of juristic reasoning are normal preliminaries for arriving at a binding Ijma[14].
Most jurists agree that only an express Ijma is binding. The Hanafi school of thought jurist consider silent consensus of jurists as a binding consensus provided certain conditions are met. These conditions are that the silent jurists are well acquainted with

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13 See also Quran chapter 4 verse 59. There is also the saying of the holy Prophet that says ***"My people can not agree on error"***.

14 Doi, Abdrahman, Op, cit; P.66.

the issue and that reasonable time has passed after the issue came up to enable other jurists have sufficient time for research and analysis.

Once an Ijma is founded on the provisions of the Quran and the Sunnah, it can no longer be repealed by any subsequent consensus, but if the Ijma is merely, based on public interest (Masalih al-Murslah) it may be repealed if emerging public interest so demands.

QIYAS

Qiyas means the individual juridical opinion of jurist derived from analogical deductions. Linguistically, Qiyas means comparison i.e. an opinion a jurist arrives at on the basis of the principles of analogical deduction based on the similarity between a matter in which there is express provision in the Quran and Sunnah and another matter on which the Quran and Sunnah are silent. For example the same provision of Quran that prohibits drinking of alcohol justifies the prohibition of taking of Cocaine. Also the same provision of hadith/sunnah which allows the use of coitus interruptus justifies the use of some modern devices such as condom used in a legitimate way as both are meant for preventing pregnancy by married couples.

The four components of Qiyas are

1. Asl – the root to which analogy is made (i.e. the original provisions in the Quran and Sunnah)
2. Far' – the Branch for which analogy is made (i.e. the new matter for which solution is sought)
3. 'Illa – the basis or reason for which analogy is made.
4. Hukum – the judgment to which the analogy normally leads.

IJTIHAD

Ijtihad means an extra effort or an exercise to arrive at the jurist's own judgment, having taken into consideration all the general knowledge of Islamic law possessed by him. It is a process by which the jurist exercises his reasoning to arrive at a logical conclusion on a legal issue in order to advance solution for new problems not expressly regulated before.

For any jurist to exercise Ijtihad he must possess requisite qualities. Such a person known as al-Mujtahid) must be knowledgeable and well versed in the Quran, the Sunnah, Figh and usul-al-figh (Islamic jurisprudence); he must also be well acquainted with the principles of Ijma and Qiyas and the conditions thereof. In addition to the foregoing, he must be a pious and law abiding Muslim; he must be

just, reliable, trustworthy and pure from iniquitous practices; and he must be free from all heretical influences.

HISTORY OF ISLAMIC LAW (SHARIA) IN NIGERIA

Generally the three basic laws operating in Nigeria today are the customary law, Islamic Law and the English law. The application of Islamic law in the geographical boundary now called Nigeria dates back to 11th century when in 1086 AD, the ruler of Kanem Empire called Hume and also known as Abdul Jalil applied Islamic laws in his court. For upward of eight centuries Islamic principles continued to dominate both private lives and governance in the empire.

By sixteenth century during the reign of Mai Idris Aloma (1580-1617), far reaching political reform in form of reinforcement of Islamic Laws, customs & practices was carried out.

Upon the advent of the colonial administration, Islamic law was reckoned with as is evident in the opening paragraph of the preface to the translation of Mkhtasar into English by F. H. Ruxton on the order of Lord Lugard in 1914 thus:

> *"The advantage to be gained by knowing something of the law of the people we govern is self-evident, especially when, as in the case of Muhammadan countries, it is the law that has moulded the people, and not the people of the law. Again, whereas in the Northern provinces of Nigeria, it has been the policy of government to rule indirectly through the native administration, knowledge of Muhmmdan Law is more than ever necessary, giving use, as it does, clue to many acts, and supplying the mainspring for many motives, which otherwise we should fail to understand. The more we can grasp the inward significance of motives and acts, the more sympathetically, and therefore the more efficiently we shall be enabled to administer Muhammedan people[15]".*

Islamic Law in Northern Nigeria during the colonial rule was classified under native law and custom as echoed by professor J. N. D Anderson in the introduction to Islamic law in Africa thus:

> *"When we turn to West Africa we find that it is unequivocally and exclusively as native law & custom that Islamic law is more extensively followed and*

[15] Ruxton, F., H (1916 1978 reprint), preface of Maliki Law, Lucac & Company, London

enforced in northern Nigeria than anywhere else in the world outside Arabia[15b]"

According to section 2 of the High Court Law, native law and custom include "Moslem Law"[16]. Such was the position until the recent decision of the supreme court in the case of Usman v Umaru[17]which held that Islamic Law is distinct system of law operable in Nigeria and is different from customary law because while customary law is unwritten, Islamic law is evidenced in writing in the Quran and Hadith.

By and large, except where the colonial administration believed that Islamic Law was repugnant to their home system, Shari'ah retained its jurisdiction over all criminal and civil matters throughout the colonial era in Northern Nigeria. It made it a point of duty that all the agents of the administration should learn and understand Islamic law because it was indispensable for efficiency, good and just administration. Lugard's political memoranda revealed.

> *"It is very essential for Political Officers in Provinces where there is a considerable Muslim population, to have some knowledge of Muhmmadan Law, both in order that their supervision of the Native Courts may be intelligent and effective, and in order that they may know how to :Observe and enforce native law and custom" in Civil cases which come before Provincial Courts..." and that "The administration of Muslim law is modified by the local law and custom in Pagan Districts, provided that by so doing the judge does not directly oppose the teaching of the Qur'an*[17b]"

While Islamic Law was predominantly applied in the Northern part of Nigeria, there is historical evidence that it flourished well in some parts of the Southern Nigeria. For example it was applied in Ede, Iwo, Epe and Lagos at certain periods by some rulers. This position is probably supported by the supreme Court in Khairie Zaidan v Fatimah Khalil Mohssen (Warri High Court) thus:

> *"The uncontradicted evidence throughout the whole case in the trial court is that the Muslim Law that is applicable is the same everywhere, whether in Lebanon or in Nigeria or elsewhere. For Muslims in any part of the country to*

[15b] Anderson J. N. D.; Islamic Law in Africa, Frank cass and company Limited,. London, 1970, P.3
[16] High Court Law (Cap 49) Vol. II, The laws of Northern Nigeria, 1963
[17] (1992) 7 NWLR Pt. 254
[17b]Ibid. P 172

insist in any court of law on Islamic law as his or her personal law is more a matter of law and right than religious consideration[18]"

The Various constitutions of Nigeria have provided for the application of Islamic Law at one State or the other. For example the 1999 constitution provides in section 275-277 for the establishment and jurisdiction of Sharia Court of appeal. This shall be treated in detail under various courts having jurisdiction on the application and enforcement of Islamic law.

COURTS HAVING JURISDICTION ON APPLICATION AND ENFORCEMENTOF ISLAMIC LAW IN NIGERIA

The various courts having jurisdiction over Islamic related matters are the native courts later known as Area Courts, the Sharia court of appeal, the Court of Appeal and the Supreme Court.

AREA COURTS

Before 1967, the vast majority of the cases coming from the native court in the Northern Nigeria were decided on the principles of Islamic Law. The Area Court Edict in 1968 replaced the native courts with Area Courts which exercised jurisdiction on such matters of Islamic law on which the native law hitherto exercised jurisdiction. While area court judges who are learned in Islamic law (Alkali) sit as sole judges in predominantly Muslim Areas, the area court judges who apply local native law sit in panel of two or three judges and operate outside areas of Muslim concentration. Appeals from the Area Courts go to either the Sharia Court of Appeal or the High Court of Justice of the State. The appeals are classifiable into: Civil matters on family law, Other civil matters other than family law cases, Criminal matters and causes.

Right from 1979 to date, the Jurisdiction of Sharia Courts of Appeal has been restricted to the Muslim Family Law matters while appeals on other civil matters other than family law cases and criminal matters go to the High Courts for determination. Recently on 8 August 1999, Zamfara State Government reversed the trend when it enacted the Sharia Court (Administration of Justice and Certain Consequential Changes) Law. The Law empowered the grass root Sharia Courts to apply Islamic Law in all family, civil and Criminal matters and appeals from them to go to the Sharia Court of Appeal. The Zamfara initiative was followed by number of

[18] CF Ambali M. A, The practice of Muslim family law in Nigeria, OP. cit; P. 30.

states with predominantly Muslim populations such as Sokoto, Niger, Kebbi, Katsina, Borno and Yobe. Other sister states, with modifications, are Kaduna and Taraba.

SHARIA COURT OF APPEAL

There are both the Sharia Court of the state and that of the Federal Capital Territory. Generally, the jurisdiction of Sharia court of appeal covers any dispute on marriage contracted in accordance with Islamic Law (Nikah), its dissolutions guardianship of the children (hadanat), endowment made by Muslim individuals or organizations which are not registered under land perpetual succession Act (waqf), gift made by Muslim (hibah) and succession (meerath). It also exercises jurisdiction over the proceedings where all the parties, Muslims or not, have "by writing under their hand requested the court that hears the case in the first instance to determine that case in accordance with Moslem Law[19].

Sharia Court of Appeal of each of the Northern States participates in the State's High Court of Justice's Civil Appellate sessions to hear and determine other civil matters other than family law by virtue of sections 62-63 of Cap. 49 of the laws of Northern Nigeria which says:

> *"The High Court shall have jurisdiction to hear appeals (other than appeals in respect of matters which are the subject of the jurisdiction of the Sharia Court of Appeal from Grade and Grade A limited Native Court and provincial Courts.*
>
> *In the exercise of its jurisdiction under Section 62 the High Court shall be constituted of three member two of whom shall be judges of the High Court and one of whom shall be a judge of the Shari Court of Appeal*[20]

The essence of this arrangement was that the vast majority of the civil cases coming from the Native Courts are decided on the principles of Islamic law, hence a Kadi participate in the appeal to ensure the relevance and correct application of Islamic Law.

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[19] Ibid. section 11 (e) Sharia Court of Appeal Law (CAP 122)
[20] Ibid. Section 62-63, High Court Law, (CAP 49).

As I mentioned earlier, there are Sharia court of Appeal at both the state level and the Federal capital territory. Cursory look at the 1999 constitution, sections 275-279 and sections 260-264 will elucidate further on this assertion.

The constitution of the federal republic of Nigeria 1999, provide on the Sharia court of appeal of a state as follows: 275- (1) There shall be for any State that requires it a Sharia Court of Appeal for that state.

2.) The Sharia Court of Appeal of the State shall consists of –

a) A grand Kadi of the Sharia Court of Appeal and

b) Such number of kadis of the Shari Court of Appeal as may be prescribed by the House of Assembly of the State.

276 (1) The appointment of a person to the office of the Grand Kadi of the Sharia Court of Appeal of a state shall be made by the Governor of the State of the recommendation of the national Judicial council, subject to confirmation of such appointment by the House of Assembly of the state.

(2) The appointment of a person to the office of a Kadi of the Shari court of Appeal of a state shall be made by the governor of the state on the recommendation of the National Judicial Council.

(3) Person shall not be qualified to hold office as a Kadi of the Sharia Court of Appeal of a state unless.

a) He is a legal practitioner in Nigeria and has been so qualified for period of not less than ten years and has obtained a recognized qualification in Islamic law from an institution acceptable to the National Judicial Councils; or

b) He has attended and has obtained a recognized 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

(4) If the office of the Grand Kadi of the Sharia Court of Appeal of a state is vacant or if a person holding the office is for any reason unable to perform the functions of the office, then until a person has been appointed to and has assumed the functions of that office, or until the person holding the office has

resumed those functions, the Governor of the State shall appoint the most senior Kadi of the Sharia Court of Appeal of the state to perform those functions.

(5) Except on the recommendation of the National Judicial Council, an appointment pursuant to subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment, and the Governor shall not re-appoint a person whose appointment has lapsed.

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

(2) For the purpose of subsection (1) of this section, the Sharia Court of Appeal shall be competent to decide –

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

b) Where all the parties to the proceedings are Muslims, any question of Islamic personal law regarding a marriage, including the validity or dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;

c) Any question of Islamic personal law regarding *wakf*, gift, will or succession where the endower, donor, testator or deceased person is a Muslim;

d) Any question of Islamic personal law regarding an infant, prodigal or person of unsound mind who is a Muslim or the maintenance or the guardianship of a Muslim who is physically or mentally infirm; or

e) Where all the parties to the proceedings, being Muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

279. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any law, a Sharia Court of Appeal of a State shall be duly constituted if it consists of at least three Kadis of that Court.

279. Subject to provisions of any law made by the House of Assembly of the State, the Grand Kadi of the Sharia Court of Appeal of the State may make rules regulating the practice and procedure of the Sharia Court of Appeal.

The same constitution provides for the Sharia Court of Appeal of the Federal Capital territory, Abuja as follows:

260. – (1) There shall be a Sharia Court of Appeal of the Federal Capital Territory, Abuja.

(2) The Sharia Court of Appeal of the Federal Capital Territory, Abuja shall consist of –

a) A Grand Kadi of the Sharia Court of Appeal; and

b) Such number of Kadis of the Shari Court of Appeal as my be prescribed by an Act of the National Assembly.

261. – (1) The appointment of a person to the office of the Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja shall be made subject to confirmation of such appointment by the Senate.

(2) The appointment of person to the office of a Kadi of the Sharia Court of Appeal shall be made by the President on the recommendation of the National Judicial Council.

(3) A person shall not be qualified to hold office as Grand Kadi or Kadi of the Shari Court of Appeal of the Federal Capital Territory. Abuja 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 recognized qualification in Islamic law from an institution acceptable to the National Judicial Council; or

b) He has attended and has obtained a recognized 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 twelve years; and

i) He either has considerable experience in the practice of Islamic law, or

ii) He is distinguished scholar of Islamic Law

(4) If the office of the Grand Kadi of the Sharia Court of Appeal is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been

appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, the President shall appoint the most senior Kadi of the Sharia Court Appeal to perform those functions.

(5) Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

262. – (1) The Sharia Court of Appeal shall, in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law.

(2) For the purpose of subsection (1) of the sections, the Sharia Court of Appeal shall be competent to decide. -

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

b.) Where all the parties to the proceedings are Muslims, any question of Islamic personal law regarding a marriage, including the validity or dissolution of an infant;

c.) Any question of Islamic personal law regarding a *wakf,* gift, will or succession where the endower, donor, testator or deceased person is a Muslim;

d.) Any question of Islamic personal law regarding an infant, prodigal or person of unsound mind who is a Muslim or the maintenance of the guardianship of a Muslim who is physically or mentally infirm; or

e.) Where all the parties to the proceedings, being Muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

263. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any Act of the National Assembly, the Shari Court of Appeal shall be duly constituted if it consists of at least three Kadis of that Court.

264. Subject to the provision of any Act of the National Assembly, the Grand Kadi of the Sharia Court of appeal of the Federal Capital Territory, Abuja, may make rules for regulating the practice and procedure of the Shari Court of Appeal of the Federal Capital Territory, Abuja.

THE COURT OF APPEAL

Appeal on Islamic matters lies from the Sharia Court of Appeal to the court of Appeal. Under section 237 (2a &b) the court of appeal shall consist of a president of the court of appeal and such number of justices of the court of Appeal not less than forty nine of which not less than three shall be learned in Islamic personal law and not less than three shall be learned in customary law, as may be prescribed by an Act of the National Assembly.

THE SUPREME COURT

Since the supreme court exercises appellate jurisdiction on matters from the court of appeal, all appeals from the court of appeal on Islamic matters lie to the supreme court. Consequently the supreme court of Nigeria is the final arbiter on disputes to which Islamic law is applicable[21].

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[21] See sections 230-236 of 1999 constitution.

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