

# THE CENTRE OF ISLAMIC LEGAL STUDIES

In zwangloser Folge erhalten an dieser Stelle Institutionen, die für die Entwicklungspolitik und Entwicklungsforschung von Bedeutung sind, Gelegenheit zur Selbstdarstellung. Diesmal geben wir dem Center of Islamic Studies, Ahmadu Bello University in Zaria, Northern Nigeria, das Wort.

## Introduction

For several decades the administration of justice in Northern Nigeria<sup>1</sup> was entrusted to a huge network of al kalis<sup>2</sup> courts. Those courts exercised jurisdiction in civil, criminal and family law matters. The law which they applied was Islamic law as interpreted by the Maliki School. The judges who manned those courts were at the beginning graduates of Kuranic Schools with a fairly thorough knowledge of Maliki law. In many cases the al kali's office was hereditary and there are a number of families in Northern Nigeria carrying the name of al kali on account of the fact that a succession of al kalis was produced by that family. The al kalis were judges in the Muslim traditional sense. In addition to their judicial functions they played fairly important religious and social roles in their communities.

In 1947, the British Colonial administration started a program of formal training for al kalis by opening a Law School at the Kano School for Arabic Studies. Admission to the Kano School for Arabic Studies was by selection from amongst those who had completed their Kuranic School and possessed good knowledge of Islamic religion and Arabic. In the School itself they received thorough instruction in classical Arabic, ibadat (Muslim religious institutions), some fiqh, logic etc. At the end of their training some were selected to join the Law School and the rest were trained as teachers. The training in the Law School lasted for a period of four years and covered all aspects of Islamic law including penal law and transactions.

When Northern Nigeria stopped applying Muslim penal law and adopted in 1960 a Penal Code based on that of the Sudan, the need to revise the training given to al kalis at the Kano Law School became apparent. The Code was a secular western style code written in English. The decisions interpreting its sections and the authoritative annotations were all in English. The Law School in Kano was in no way equipped to handle the common law training in criminal law that was required. The students themselves knew no English. Matters were further complicated by the promulgation of Criminal and Civil Procedure Codes which the al kalis' courts were directed to follow and in which they therefore needed training. As a result of these difficulties the Law School was closed down in 1962. In order to equip those already on the Bench with some knowledge of the Penal Code and the Procedure Codes, the Northern Region Government mounted crash programmes at the Law Department of the Institute of Administration in Zaria for groups of 50-70 al kalis at a time. This was called the Basic Judicial Training course. It covered a period of three months and led to a certificate. Instruction was entirely in Hausa and largely because of the needs of this course a Hausa version

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1 The inhabitants of this part of the Federal Republic of Nigeria are more than thirty millions, the vast majority are Muslims and Hausa speaking. This part of the country is now referred to as the six Northern States.

2 The word al kali is a variation of the Arabic word al Kadi meaning judge.

of the Penal Code was prepared. Four batches were taken each year and within the first four years the vast majority of al kalis had been through the basic course. To provide training for potential al kalis, court registrars and court clerks who may one day sit on the Bench were admitted to the course. An advanced Judicial Training course for those who had attended the basic course was also introduced to act both as a refresher course and to add to the basic elementary knowledge acquired in the basic course.

### Thinking About the Future

The closure of the Kano Law School meant that the main source of supply for the type of al kali needed for Northern Nigeria no longer existed. There was a very small number of people coming from al Azhar in Egypt or who had received private training, but these were far from being enough in numbers to satisfy the increasing need for adequately trained al kalis. The government started to draw on those who had been to the Teacher's training section of the Kano School for Arabic Studies. But there was also a limited supply of those. The type of al kali needed was a person with very thorough knowledge of Maliki law, with sufficient knowledge of Arabic to be able to refer to the original sources of that law, adequate knowledge of the Penal Code and Procedure Codes and, to crown all this, an unimpeachable character which would make him acceptable as a religious and social leader of his community. None of the institutions existing at the time was in a position to produce this type of al kali.

### Establishing The Centre of Islamic Legal Studies

It was rather fortunate that at the time the search for a suitable training institution for al kalis was going on, Professor Noel Coulson, Professor of Islamic law at the School of Oriental and African Studies, University of London, was Dean of the Faculty of Law at Ahmadu Bello University in Zaria. Consultations between him and members of the judiciary and the Ministry of Justice in Northern Nigeria resulted in the acceptance of the idea put forward by him to establish at the Institute of Administration in Zaria a Centre for Islamic Legal Studies. It was envisaged that the main function of this centre would be the training of al kalis according to the specifications that may be agreed between the Faculty of Law and Ministry of Justice. The Centre came into existence in 1966 and took over the judicial training courses and started very ambitious research projects aiming at the collection and preservation of decisions of al kalis' courts, translating into Hausa or improving the translation of the codes that were used in al kalis' courts, collecting non-case legal material relevant to Maliki law etc. The Centre also started publishing the *Journal of Islamic and Comparative Law*<sup>3</sup>, as its official research organ. A course leading to a Diploma in Islamic Legal Studies was started in 1969 with a view to providing the sort of training required by the Ministry of Justice for the al kalis.

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<sup>3</sup> This was first called *Journal of The Centre of Islamic Legal Studies*.

## A Clearer Definition of Goals and Functions

In April 1971, the building which was to house the Centre was completed and furnished at a cost of about \$ 150,000. The greater part of this was contributed by the Governments of the six Northern States of Nigeria<sup>4</sup>. The willingness with which the money was given as well as the keen interest with which the activities of the Centre were followed by the Law Officers of the six Northern States illustrated very clearly the importance of the Centre to Northern Nigeria and the high hopes entertained in relation to it.

In anticipation of the completion of the physical facilities of the Centre, its estimates were separated from those of the Law Faculty, its teaching, research and administrative staff were more clearly earmarked and its students began to enroll as Centre of Islamic Legal Studies Students. The supervision of the academic activities of the centre was vested in the Dean of the Faculty of Law, whereas administrative supervision was vested in the Director of the Institute of Administration.

The occasion of the inauguration of the Centre was considered an appropriate one to define more clearly the objectives of the Centre in the fields of judicial training and academic research and scholarship. These can be summarised as follows:

1. The main object of the Centre, at the local level, is to attempt to satisfy the man-power needs for adequately trained al kalis for the six Northern States through the medium of new courses, leading to certificates, diplomas and other appropriate academic awards, as well as refresher and short-term training courses for those already in the service.
2. To collect and preserve the Islamic and customary legal heritage of the six Northern States with a view to providing essential data for law reform within the North as well as an important source material for research.
3. To encourage and promote studies and research in Islamic Law by instituting post-graduate or other qualifications.
4. To encourage and promote comparative studies between Islamic law and other laws.
5. To attract scholars from other parts of the world and especially from other West African countries and to encourage them through the provision of research facilities to help transform the Centre from a purely local institution into an institution having a more universal character and using its facilities to the maximum to provide services for a whole community of nations rather than for just the Northern part of the Federal Republic of Nigeria.

It was also emphasised on that occasion that in all its activities the Centre would have to work very closely with the Ministries of Justice of the Northern States. This made sense since the current training and research activities of the Centre are geared to meet the needs of those states. There may be no need for close consultation, however, in relation to research which is purely academic.

The significant development which one notices in this redefinition of aims and objectives is that what was started as a purely local centre serving a very limited

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<sup>4</sup> In 1968, Nigeria was divided into 12 states, six of which were carved out of what used to be the Northern Region of Nigeria. Each of these states has its own Commissioner for Justice and together they form a body of Law Officers which meets regularly to consider common problems.

training function, started to be looked upon as a centre catering for and attempting to fulfill regional and universal goals, in the areas of training, research and scholarship. As a first step towards achieving that end the Centre made a very impressive start in building its library acquisitions and in the course of less than two years its book holding grew from a few hundred to more than six thousand volumes. These included all the basic source material on Islamic law written in Arabic, English and French as well as everything written on the subject in Hausa. An attempt is being made to acquire all other worthwhile titles in the three languages and an annual budget of U \$ 7.500 has been set for that purpose for the next four years. A good number of books dealing with African customary law as well as the basic legislation and law reports of most States within West Africa, both Francophonic and Anglophonic, have been acquired.

The Centre has the following staff establishment:

1. One Associate Professor, carrying the title of Principial Tutor,
2. Two Assistant Professors, carrying the title of Senior Tutors,
3. Four Tutors and one Assistant Tutor and
4. Two Instructors.

There is a full time research fellow, whose function is to promote the research activities of the Centre, an administrative officer who is in charge of the day-to-day running of the Centre and an assistant librarian for the Centre Library.

At present the Centre runs the following courses:

1. A three-year diploma in Islamic Legal Studies. Admission to this course is restricted to the nominees of the Ministries of Justice of the Northern States of Nigeria. Candidates must be well versed in Arabic and Islamic religion and must be able to read, understand and speak English sufficiently to be able to follow the Penal Code and other codes. The languages of instruction in this course are Arabic, English and Hausa.
2. A four-month Advanced Judicial Training course. This is an in-service training course for those who had already attended the basic training course.
3. A three-month Basic Judicial Training course. This again is an in-service training course for the personnel of al kalis' courts.

Instruction in the last two-mentioned courses is in Hausa for Hausa speakers and in English for those who do not speak Hausa. The student population of the Centre is just over one hundred.

The centre publishes the Journal of Islamic and Comparative Law, every six months and attempts to attract interested scholars from all over the world to subscribe articles. The distribution of the Journal outside Nigeria is handled by Wildy and Sons of London.

The courses which the Centre hopes to start shortly include:

1. A one year diploma course in Islamic legal studies. This would be a post graduate course open to all those who have degrees in law or in Islamic studies.
2. A two-year Master's course either in Islamic law or in comparative law. To be admitted to this course, candidates would have to be in possession of a degree in law or Islamic studies.

3. Doctorate courses in Islamic law and comparative law. Those seeking admission to this course must have a Master's degree relevant to the research area they wish to investigate.

In all these courses effort will be exerted to obtain candidates from outside Nigeria. For this purpose the Centre is preparing booklets in Hausa, English, Arabic and French publicising its activities and defining the nature and extent of its training and research interests. The Centre is becoming increasingly aware of the fact that because there are very few Centres like it in the world, it has a very good chance of developing into the leading research Centre in Islamic law in Anglo-phonetic and Francophonic Africa as well as one of the best in the world.

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