CHAPTER - 8
FUTURE OF IMARTE SHARIA

"Let me say the technique of progress"

"It is the endeavour"

"Let me say the cause of decline"

"It is feast and feastivity"
1. INTRODUCTION:

Keeping in view of the activities of Imarate Sharia, one has to look into its bright future. But there is no rapport between Courts and Imarat, so its legitimacy may be at stake. It is a social organisation. It works to assist the Court and Government as a non governmental organisation (NGO) but still it is to be considered as defacto court and may be described parallel to the state organisation. The moment it receives recognition form the Parliament or from the Assembly it will be defacto as well. However, till such recognition is granted by the above Courts and bodies, its verdict should have the recommendatory and persuasive value before the Courts while deciding the cases before them. Any way as we know that the function of any organisation makes that alive and popular. In order to see the future of Imarat let me discuss its functioning and achievements. The activities of Imarat may be discussed under the following heads.

2. ACTIVITIES OF IMARATE SHARIA:

(1). SOCIAL WORK:

   I) WORK IN RIOT AFFECTED AREAS
   II) WORK IN FLOOD AFFECTED AREAS
   III) WORK IN EARTHQUAKE AFFECTED AREAS
   IV) WORK FOR WIDOWS
   V) ESTABLISHMENT OF HOSPITALS AND ASSISTANCE TO THE PATIENTS.

(2). WORK FOR MUSLIMS

   I) PROTECTION OF RELIGIOUS BELIEVES (IMAN)
II) PROTECTION FROM CONVERSION
III) CAMPAIGN AGAINST DRUG ADDICTION AND ALCOHOL
IV) CAMPAIGN AGAINST TILAK
V) PROPAGATION OF ISLAM
VI) CONSTRUCTION OF MOSQUES.

(3). WORK IN THE FIELD OF EDUCATION
(4). POLITICAL ACTIVITIES
(5). WORK IN THE LEGAL FIELD
(6). INTERNATIONAL ACTIVITIES
(7). PUBLIC OPINION REGARDING IMARATE SHARIA

1. SOCIAL WORK:
(I) WORK IN RIOT AFFECTED AREA:

In the riots of Belabilaspur, Sugauli, Chatia and Rafla etc. Imarate Sharia sent its workers and helped the riot affect Muslims. The concocted and false cases, against the persons, were fought by Imarat. In this way Muslims regained the confidence in that area¹.

In Betia in 1927 there was preplanned riot. The armed miscreants entered in an area of Muslims and looted hundreds of shops and houses. Some shops were torched after looting and 12 persons were killed and hundreds grievously hearted. A. M. Sajjad himself reached there and remained for 6 months. The cases were fought by Imarat and 15 miscreants were punished for 4 to 10 years imprisonment. Muslims were awarded 50 thousand rupees as compensation, which was taken from miscreants. Due to this bold act no miscreant could dare to involve in the riot for a long time².

² Ibid. p. 207.
miscreants. Due to this bold act no miscreant could dare to involve in the riot for a long time.

In Samarwara of Muzaffarpur one Muslim was killed and lacs of properties worth lacs of rupees of Muslims were looted. Imarat assisted in the riot affect village and perusal of cases were made by Imarat.

In 1946 there was worst scene of riot in Bihar. Nearly 40 thousands Muslims were killed in that riot. Imarate Sharia invited several leading personalities of both the communities including M.K. Gandhi and assisted the affected assistance and persons for their rehabilitation.

In Darbhanga there was riot at the occasion of Idul Azha. Imarat sent its assistance in time and helped with affected persons.

In 1937 there were several riots during congress ministry. Imarate Sharia prepared a detailed report and provided legal and monetary assistance to the affected persons. For this, Naya Gaon of Muzaffarpur and Gaya may be cited.

After the independence there were series of communal riots all over India. Sita Marhi, Akhla Ranchi, Basand, Sursand, Calcutta, Raurkela, Jamshedpur, Ahmadabad, Bhinri, Tinu Ghat, Hazaribagh, Awapur, Kharayan,Pathra, and several other cities and places were affected. The Imarat assisted them financially and legally.

Thus we wee that Imarat has played a dominant role in ameliorating and rehabilitation of the people affected by the man made. But after independence there is no such type of activity. Despite the fact that one, who will do this type of social service, will be having bright future.

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2 Ibid. p. 207.
3 Ibid.
4 Ibid. p. 223
5 Ibid. p. 207
6 Ibid. p. 225
(II) WORK IN FLOOD AFFECTED AREAS:

Imarte Sharia provides assistance to the flood affected people. In Purnea in 1987 there was unprecedented flood in the Gangas in which thousand of villages of that area were inundated. The Imarat sent its assistance in Orissa where there was typhoon and natural disaster in at least 15 districts in 1999. The Imarat sent its assistance with their men to distribute that properly.

Thus these are the works which will provide the bright future to the Imarat.

(III) WORK IN EARTH QUAKE AFFECTED AREAS:

In 1934 there was major earthquake in Bihar in which districts Munger, Darbhanga, Muzaffarpur, Champaran and Saran were worstly affected. A. M Sajjad himself along with others reached there and assisted them. More than one lac rupees were distributed to the affected people. Imarte Sharia proposed to assist each and every person by dividing the village or town in units. One unit was responsible to build the houses of other unit and in this way, without cost, rehabilitation programme was successfully completed.

There were several earthquakes in the country between 1934 and 1974, but the book of Miftahi that is an authentic work on the subject does not contain the detail of the assistance provided by Imarat Sharia. Rather it is the only published material regarding the achievements of Imarat Sharia. Any way there is a chart in the corridor of Imarat Sharia that it has helped the earthquake affected persons. Thus in the earthquakes of Darbhanga (1987) to Hilly districts of U.P. in 1999, Maharashtra (Usmanabad & Latur) 1994, it has assisted the persons.
In this way the Imarate Sharia fulfills the work of an Imarat and this will certainly provide better future to it.

(IV) WORK FOR WIDOWS:

In India there was tradition that widows should not marry. Muslims were also affected by this tradition and particularly Muslims of Bihar and Orissa were following this tradition. Imarate Sharia started a crusade against this and mass contact was made. In this way the evil tradition was rooted out.

Naturally one who does this type of social welfare work is praise worthy and in future, it will be remembered happily.

2. WORK FOR MUSLIMS:

(I) PROTECTION OF RELIGIOUS BELIEF:

Before the establishment of Imarate Sharia in 1921 the religious belief of Muslims was shaken due to lack of knowledge. Imarate Sharia declared a crusade against this and started teaching by mass contact. Nearly twelve thousands villages, towns and cities were targeted and 29137 persons swore not to leave salat 6853 persons left the dualistic believes, 6508 person who were keeping Idols in their houses and keeping churki resolved to leave this traditions.

In 1926 onwards in Champaran and Gorakhpur Imarat concentrated upon milkmen Gaddis. It sent its workers and their names like Mahadev, Rambilas and Shiva Rati etc and women Bhagminia, Sita, Daropadi etc were changed with Muslim traditional names in Arabic and Persian. In this way the Imarat has worked as custodian of Muslim faith and belief.

8 (1) Miftahi 'Imarat Sharia' P 212
9 Small portion of hair is kept extra large
10 Miftahi P 212
(II) PROTECTION FROM CONVERSION:

In 1925 *Shuddhi Sangathan* movement was started. This was the time when *khilafat* movement was going on. Since Congress was working with *Khilafat* Movement, Muslim leaders were avoiding to highlight this point in order to consolidate and strengthen *Khilafat* Movement. But Imarate Sharia did not care for political gain. It started a mass contact. Muslims of *Bhant* tribe and other Muslims in Chapra and Gorakhpur etc. were helped. In Hazaribagh, where nearly eleven hundred Muslims were converted from Islam were re-entered into Islamic fold by the worker of Imarate Sharia. Imarat actively participates and persuades the converts to re-embrace Islam as it used to do before independence.

Definitely the Muslims will be happy and indebted to Imarat. But after independence these activities are lessen. Mr. Miftahi who writes in detail the achievements of Imarat himself says that after independence the activities are lessen due to change in circumstances.

(III) CAMPAIGN AGAINST ALCOHOLIC USE:

In different areas of Bihar, Muslims were addicted to alcoholic use. Imarate Sharia sent its workers who convinced 74,374 Muslims not to use the alcoholic products. The number shows that how effective the campaign was. So there is need to get it continued. The drug addicts are increasing day by day and it may affect the society severely. So Imarat must own this responsibility to make mass campaign against alcoholic use as well as against drug addiction.

(IV) CAMPAIGN AGAINST TILAK AND EXTRAVAGENCE IN MARRIAGE:

In India there is tradition of a gift from bride side to bridegroom before the marriage. This system was also started amongst

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11 Ibid. p. 202
12 Ibid. 199
Muslims. Imarate Sharia is working tirelessly against this system. Although the response is positive but still this system is continued. There is also tradition of extravagancy in marriage. There is competition amongst the persons for food and other arrangements in relation to marriage. Which is adversely affecting the interest of Muslim Society in general and poor in particular who can not afford such extravagance. Imarate Sharia is fighting against these things. In the course of discussion the Qazis of Imarate Sharia have also observed several times that extravagancy in marriage is not allowed in Islam and it must be checked otherwise the progress of the society will be stagnant. Especially dowry is to be avoided as it is a Shajare Mamnua.

(V) PROPAGATION OF ISLAM:

In Champaran district, (there was a caste known as) Dom were involved in heinous crimes. The British Government settled them at one place and handed them over to Salvation Army for propagating Christianity. Having seen this Imarate Sharia sent its propagators who had effectively done their job and most of them became Muslims.

In 1920 to 30 there was propagation for Islam and hundreds of non-Muslims embraced Islam. In that period thousands of pamphlets and handbills were distributed by Imarat.

As it has been discussed in chapter one that Imarat is the need of the Islamic life likewise the propagation is back-bone of Islam. So it is under religious duty to do this to which it is unable.

It is submitted that Imarat is trying to do in this direction but some improvement can be expected in future. However due to difficult

\[13\] Ibid. p. 246
\[14\] It is an Arabic word which literally means prohibited tree. This phrase has been derived from the Holy Quran (S 2 A 35 S 7 A 19, 20,22) where Allah (SWT) had asked Adam (AS) not to go under a prohibited tree or eat its fruits.
\[15\] Miftahi p203

312
situation and peculiar circumstances it has become very difficult to propagate Islam amongst non-Muslims.

(VI) CONSTRUCTION OF MOSQUES & MADARSAS/MAKTABS:

In Gorakhpur, where four hundred Gaddis were reconverted in Islam, Imarat built several Mosques and Maktabs for them17.

In Champaran district where Gaddis were concentrated by Arya Smajis, several Mosques and Maktabs were built18. In the same District where Domes embraced Islam were also provided a constructed Mosque by Imarat Sharia19. Thus in this field its services are laudable.

3. WORK IN THE FIELD OF EDUCATION:

Apart from Maktabs Imarat Sharia has started the technical education also. There is registered trust for this namely Imarat Sharia Education and Welfare Trust. This trust has established six institutions in Patna20, Darbhanga21, Champarna22, Purnea23, Madhubani24 and Raur Kela25. The Imarat gives technical education for Ifta26 and Quza27 also. For this there is Scheme of scholarship to 50 students every year. The Imarat has established a Board of Madarsas. This board affiliates the Madarsas and provides the syllabi. This board is known as Wifaqul Madaris.

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16 Ibid. p. 199  
17 Ibid pp. 200-201  
18 Ibid.  
19 Ibid.  
21 Imarat Mujibia Technical Institute Mahdauli, Darbanga.  
22 Reyaz Industrial Training Institute Sathi, Champarn.  
23 Imarat Technical Institute Gulab Bagh, Purnea  
24 Al Falah Technical Training Centre Gua Pokhar Bahwara, Madhubani.  
25 Technical Institute Raor kela Orissa.

26 It is an education for expertise in fiqh and religious Verdict (Fatwa)  
27 It is an education for expertise in Judicial Field.
This is a very good work and a large number of persons appreciate it. But for Wifaqul Madaris there is a criticism that it recommends books of RSS brand. Out of five years the *fiqh* is taught three years while *Hadith* is only two years. There is no training of *tafsir* explanation of Holy Quran or expertise in *Hadith*. It is suggested that the suitable steps may be taken to introduce these in the syllabi of Wifaqul Madaris.

4. POLITICAL ACTIVITIES:

In 1937 there was election for Assemblies. Imarate Sahria took notice and passed a resolution that it will support that party which will seek guidance in the religious matters from it. In case no party comes for alliance a performa of resolution for individual candidates will be issued. Who will resolve, according to the performa only that candidate will be supported by the Imarat. Ahrar Party and United Party both consisting of Muslims did not come for alliance. So A.M. Sajjad founded a third Muslim party i.e, Muslim Independent Party, which secured the highest percentage of votes as well as seats in the Muslim constituencies. It was this party which formed the ministry. The performa of resolution was as under-

"I solemnly resolve:

1. That I shall oppose all those Bills presented to amend or effect the Muslim law. I shall seek guidance in the said Bills from Imarte Sharia and Jamate Ulamae Hind (JUH). I shall abide by the advice of Imarate Sharia and JUH in the said Bills."
2. That I shall support all those Bills presented for liberating the country and economic liberation provided the Bills do not contradict the Islamic principles.

3. That I shall not do any act, which is illegal or immoral for vote politics."

4. A.M. Sajjad was of the opinion that it is not wise to depart from election. He considered the Assembly as means to get the religious liberty. Whenever Bills were to be presented before 1940 he was anxious for religious liberation particularly about the Imarat. He wrote letters to leaders, to include Imarat in the list of fundamental rights. He further told that if it is not possible, there must be a post of Nazir to look after the matters of Imarat. But after independence there is no effective guidance of Imarat in this field. The great thinker and philosopher Allama Iqbal says, “Judaho Din Syasat Se to Rah Jati hai Chengezi”: if there is no religion in politics there is barbarism and Chengism. So Imarat should provide the guidance.

5. WORK IN THE LEGAL FIELD:

Imarate Sharia opposed the agricultural income tax upon waqf property. Congress party did not pay heed but A.M. Sajjad issued the whip to those members who had filled up the Performa of resolution. As a result waqf property was exempted from agricultural income tax. Apart from this the Muslim waqf Bill was also minutely scrutinized. It suggested certain measures that were incorporated in the Bill. Later on in 1937 that Bill became the Act. Dissolution of Muslim Marriage Bill was

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28 Miñahi pp. 214 - 215

315
also prepared by Imarate Sharia and published in the papers, which were seriously taken, by JUH and Muslims and the matter was passed by the Parliament.

In 1939 a Bill was prepared by Imarate Sharia, proposing the post of Nazarate Umoore Sharia but it could not be passed\(^{31}\).

In 1939 the congress ministry presented a Bill regarding dowry in which dower was also prohibited but Imarate Sharia worked tirelessly and Muslims were not subjected to the Act\(^{32}\).

Regarding Muslim Personal Law, Imarate Sharia is regularly supporting its cause. In 1969 in a seminar in A.M.U., the then Ameere Shariat presented a research paper\(^{33}\), which was accepted and appreciated by the scholars. Again in 1972 at Deoband Imarate Sharia supported its cause\(^{34}\). In 1972 there was Personal Law Convention and from that day a permanent body was constituted\(^{35}\). In 1973 in Hyderabad the Personal Law Board passed its constitution and its services are done accordingly.

In 1929 Sharda Act was passed in which Personal law of Muslims was affected. Imarate Sharia resented and rallied against that. It also said that if that Act was not taken back there would be civil disobedience from Muslims\(^{36}\), consequently Muslims were exempted from that. It is regretted that now a days in religious affairs Imarate Sharia is not so active as it used to be previously.

\(^{30}\) Miftahi p. 215
\(^{31}\) Ibid. 221
\(^{32}\) Ibid. 224
\(^{33}\) Ibid. 239
\(^{34}\) Ibid. 240
\(^{35}\) Ibid. 242
\(^{36}\) Ibid. p. 209

316
6. INTERNATIONAL ACTIVITIES:

(I) OTTOMAN EMPIRE & IMARATE SHARIA:

There was a movement in India to save the Ottoman Caliphate. Imarate Sharia took part in that and a heavy amount was remitted for furthering the cause of Khilafat.

(II) PALESTINE & IMARAT SHARIA:

In 1930 Imarate Sharia rallied against Balfore Scheme. All over Bihar and Orissa the processions were reported against that. The 19th Jan. 1936 was observed as Palestine day. All over the country there were processions rallies and special Doa in Juma prayer. Again when Palestinians were prey of the dirty Schemes of Britishers on the 1st Friday of September 1937, the entire Muslims of India led rallies and processions and made speeches on the call of Imarate Sharia.

(III) BENGALDES & IMARATE SHARIA:

When there was civil war in Bangladesh after its independence, Imarat Sharia sent letters to Mujibur Rehman the then P.M. of Bangladesh and Ms. Indira Gandhi the then P.M. of India on 2nd February 1972. In Mujibur Rehman’s letter there was demand for protection of non-Bengalis residing in Bangladesh. For this a delegation was offered to look after the situation and to help them. In the letter of Indira Gandhi there was appeal to use her influence for the welfare of non-Bengalis residing in Bangladesh. These things are good and bold but it must be continued.

7. PUBLIC OPINION REGARDING IMARATE SHARIA:

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37 Ibid.p.210
38 According to this scheme British and U.S. Govts planned to divide Palestine and to establish a Jewish State.
39 Miftahi.p.236
The best way of judging any organization is the opinionnaire, questionnaire and survey method. I had made a survey with regard to the functioning of Imarate Sharia, amongst general public (Muslims of Bihar), Beneficiaries of Imarat, Islamic Scholars (Ulema), Lawyers, Persons Associated with Imarate Sharia and the result is noted below.

(I). RESPONSE OF GENERAL PUBLIC:

The view of general public about Imarate Sharia is much encouraging. But at the same time there is need to take lessons from that. 49% of the masses are of the view that govt. supports the Imarat while 46% are of the view that govt. doesn’t support it. Only 5% are of the view that they are not in a position to say any thing. Those who were of the view that government supports it say that govt. accepts the decision of Quza of Imarat. Some of them say that not only govt. supports it by accepting its decisions but also helps with police force whenever it is in need. Others are of the view that govt. provides monetary help along with acceptance of its decisions. While some view that the way of help of govt. is money in the form of aid. However some persons are of the view that they are unable to specify the way of help of the govt. Those who were of the view that govt. does not support Imarat, when asked about its continuance, they said that it is the right of the Muslims. However some of them say that the smooth functioning of the Imarat and Quza may be treated as passive support of the government. The procedure of the institution of the case in Quza is not known to the most

\[\begin{align*}
\text{Appendix II (b)}
\end{align*}\]

\[\begin{align*}
31\% \\
5\%
\end{align*}\]
of the persons. 85% persons are of the view that Qazis working in Imarat Sharia are competent enough to try and provide solution to the issues arising in the case filed there; while 10% are silent and 5% reply negatively. About procedure of reference of the cases to the Qazis, there is demand from 59% persons to make it known in the general public. 36% persons say that there is no need to refer the cases to the Qazis while some are silent. About the advocates 59% persons are of the view that there is no need of advocates in Imarat Sharia. However, 13% persons are of the view that compromises made through advocates. The response about compromise whether the date should be postponed if there is chance of compromise, shows that 100% persons are fearful about litigation. The case may be that after litigation the tension is not lessens between the parties (as one will win and other will lose), which causes enmity. The persons respond an important question whether the regular Court (District Court or Lower Courts) should postpone its hearing if the matter goes to the Qazi Court. 62% persons are of the view that it should be so. While in the reverse case, 51% views are not like that. About the advice of the advocates in the referring the matter to the Shariat Court, 69% views are negative. They say that it is the matter of the prestige for the advocates and their profession. However a 29% of advocates have favoured the recommendation of personal law matters to the Qazis.

On the Question that why persons go to Shariat Court the 49% response was that due to religious feeling. However, the other responses were-

1) Due to religious feeling, speedy and chief redressal of cases – 12%

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46 15%
47 62%
48 Appendix II (b) Question No. 10 only 55% cases are tension free after judgment.
ii) Monetary saving - 12%

iii) Cannot say - 12%

43% response about the reasons of avoidance of Imarate Sharia, by the persons was due to difference of School of thought followed by:

i) Lack of confidence in Imarate Sharia - 37%

ii) Lack of enforcement agency - 15%

iii) Vested interest of the persons - 5%

About this the Assistant secretary of the Imarat Shari'a says that it is false to say that persons avoid the Shariat Court. But we see that only thirty percent of the respondents are aware of the functioning and use of Imarate Sharia through Ulema. So the Ulema of other schools must be influencing the litigants. About the implementing agencies 51% of the persons are of the view that it is not effective while 44% persons treat it effective. About the establishment of Shariat Court the unanimous response is that it is the right of the Muslims. About the role of the Shariat Court 74% opinion favours its functioning. While 15% are critics and rest are silent. 74% opinions say that the establishment of Shariat Court has lessen the burden of the Regular Court. About the awareness campaign the majority of the persons are not aware with the propagators of Imarat Shari'a. About the liking of the works of the Imarat 31% responses are in favour of Quza followed by:

i) Educational facilitation programme - 25%

ii) Reformation programme - 17%

iii) Relief work - 16%

iv) Establishment of hospitals - 6%

Appendix II (c)
However 5% persons dislike the working of Imarat About the assistance to the Imarat 59% persons assist it monetarily. The percentage of the assistance is less as the local collectors of assistances do their job quickly. About the impact of the Imarat Sharia 97% response is positive.

(II). RESPONSE OF DISPUTANTS/BENEFICIARIES:

Since the Question is made for the beneficiaries naturally they would have referred the case earlier. One who has once referred his case naturally new the procedure to file the case in the Shariat Court. While in general public 38% persons are aware with the procedure of filing the case. The parties have been encouraged to go to Shariat Court by the persons. Mostly the questionnaire is filled up by the persons who have won the case.

80% litigants are satisfied with the functioning of the Shariat Court. We see that general public have favoured the compromise. But 80% disputant are of opinion that adversary's attitudes has caused the continuance of litigation instead of compromise. The questionnaire has not been filled by those who have reached at compromise. The response that why persons attended/referred their cases was –

i) Religious factor - 36%
(ii) Time factor - 26%
(iii) Monetary factor- 19%
(iv) Due to fear to face the Regular Court – 14%

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50 Appendix II (B)
51 100% of Appendix II (B) 1(1)
52 Ibid. 2(1)
53 Ibid. 69% 2(2)
54 Ibid. 87% 5(1)
In 55% cases tension between the two parties were lessen after the decree as the response of questionnaire 10 shows. The time taken by the Shairat Court is very less. 47% response to the question number 11 of the questionnaire shows that the most of the cases are decided within a year. However 32% cases are decided after one year. About the advice to go to Shariat Court the questionnaire shows that for 34% persons the known agency is of Ulema. Here again the Imarat’s agents have failed as only 3% persons are aware with their endeavor. In the matter of faith 87% of the persons have popular faith. But 53% of the persons, who have referred their cases to the Imarat, were not previously aware that Qazi can dissolve the marriage on certain grounds. On the future litigation, if any, 79% of the litigants are of the view that they will prefer Shariat Court. While a section of them say that they will decide it at the proper time. About the satisfaction with Qazis 83% persons are satisfied. Since 66% of the litigants are winners they have accepted the decisions due to this followed by –

i) Religious factor - 19%

ii) Social pressure - 11%

iii) Easy process - 4%

The last question is less responded as most of the persons have won their cases. Those who responded say that they have accepted the decisions while 4% have abused the Qazis.

Thus we see that the persons are fed up with the advocates and established judicial systems and satisfied with the functioning of Imarate Sharia which is a positive sign of the proper functioning of the Institution.
III. RESPONSE OF LAWYERS AND JURISTS:

The questionnaire regarding Imarate Sharia was filled up by fifty advocates and law teachers. Most of them were knowing the steps taken by Imarat to run the Shariate Court. They were of the view that the authority is only custom because the rule of Quran & Tradition is not prevailed in India. However 40% of the advocates were of the view that since the Shariat Court accepts only personal law matters or property matters, there is no any contradiction with the rules of adjudication in India. The 78% response was religious factor, when they were asked about the reference of the cases. However 16% lawyers were of the opinion that it is due to monetary reason followed by time factor was 7%. About the working of Shariat Court 56% advocates were satisfied. But about recommendation 71% advocates do not recommend as sources of decisions of Shariat Court are of secondary nature rather than primary one. This view is more reflected in their choices in question number ten, 53% advocates and legal experts are of the view that the extra legal procedure is applied there. Even in eleven numbers where there was open space for suggestions for the better functioning of Imarate Sharia the unanimous legal procedure is recommended for is improvement. Any way the majority opinion is that the Shariat Court provides better justice than the Regular Courts in the matter of the personal law.

About the role of advocates in referring the cases to the Shariat Court 67% response was that they could play a significant role as the

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55 96% Appendix II C 1(1)
56 Ibid. 2(2)
57 As there is no legal sanctity of Shariat Court
58 67% Appendix H C 6(1)
matter firstly go to them. About the role of judges, they are of the opinion that they can play more significant role than advocates because their recognition will make the persons go there (Imdarate Sharia). On the question whether they are satisfied with the functioning of Shariat Court only 34% answer was in affirmative. The reason of dissatisfaction is discussed earlier. The opinion is almost unanimous about the reduction of arrears that the Quza system has lessen the load of the Regular Courts. About the time they were of the opinion that two years time will be taken by Shariat Court. It seems that they are confirm that their access makes the process delayed. About the value of the decision of the Shariat Court the unanimous response is that the judgement is just like an award. The reply against the allegation that the judgement of Imarate Sharia is not just and that is an eye wash the 69% of the persons were of the opinion that the allegation is false and the Judgements are very just, cheapest, less time consuming and having the authority of the Holy Quran and the traditions. The unanimous view about the Shariat Court is that it is alternative system in India. Again 43% opinions say that they will suggest the measures for better functioning. In the last but not least the 69% of the advocates and the academicians are of the view that the decision of the Shariat Court should be recognized and given the weightage at par with the decision of the Regular Courts.

(IV). RESPONSE OF PERSONS ASSOCIATED WITH IMARATE SHARIA:

The employees have responded about the authority of Shariat Court that Quran & Hadith gives the authority. About the less reference

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59 87% Appendix II C 8(1)
of the cases 7% are not ready to accept that cases are less referred. However 60% are of the view that it is due to unawareness of the person. About the steps to increase the number of cases 50% employees are of the view that general awareness campaign is needed about Imarat and Quza. However there is no problem of confidence as question numbers 2(2) and 3(2) show. But response to question number 13(3) of general public shows that 37% people are not satisfied. About awareness campaign 14% employees are silent while 6% say that there is no awareness campaign. However, 80% employees say that there is awareness campaign -

1. In the masses 44%
2. In the Ulema 13%
3. In the influencial person 17%
4. There is campaign but not active 6%

The response to the question number 18 of the general public and question number 12 of disputants show that there might be awareness campaign but not active. About the right of the Muslims, the view of the employees is unanimous that it is right of the Muslims to establish the Shariat Court for their personal law matters and its establishment will provide the practical aspect of the same. The unanimous view also shows that Imarat will help the preservation of the Muslim Culture in India. 81% persons are of the view that the rule of natural justice is followed in Imarate Sharia. When they were asked about the general view whether the established system has failed to provide quicker justice and at cheaper rate. 94% persons responded in affirmative. About the acceptance of the cases the response was as under-

1. Civil 33%

66 In chapter 8 the data are collected from Imarate Sharia.
2. Criminal 0%
3. Matrimonial 63%
4. Others 4%

Mostly the cases are related to matrimonial institution. About the limitation over the Qazi, 75% employees working in Imarate Sharia say that Qazi’s hands are some time tightened; otherwise he could have done some more effective work for justice. About the lessening of the burden of the Court, 94% view is in affirmative. About the rules & procedure of Imarate Shaia 50% view is about Abu Hanifa(Rah). 25% persons say that the rules accepted by 4 Schools of Sunnis are applied here. 6% are of the view that rules accepted by Abu Hanifa (Rah) and Shafayee (Rah) are applied there. 13% say about Abu Hanifa (Rah) and Malike (Rah) while other 6% are of the view that the rule of four Imams minus Ibne Hambal(Rah) is applied there. About the reason of reference of the cases to the Shariat Court 65% persons say that it is due to religious belief. 16% say that reference are made due to monitory reasons while equal number holds the view that it is the time factor. However 3% say that reason is other than those mentioned above. About the cooperation of the Muslims 94% view is that Muslims cooperate Imarate Sharia. About the method and measures of execution of the decrees 78% are of the view that they use the religious pressure. However, 22% say about social pressure. About the difference of School (Maslaks) that whose rule is applied either of plaintiff or have defendants. The unanimous response was that established rule of the Imarate Sharia is applied. In the question whether the decision of the Shariat Court is recognized and accepted by the Regular Courts. 75% workers say yes while 13% say no followed by
13% who are silent. It shows that the workers are not aware with the true position of the Imarat. But the last response that the recognition will make the Shariat Court fully effective, 81% view is affirmative. It means those who responded question number 18 are ambiguous. One may say that recognition is not clearly asked in the Question number 18, but with due regard question number 16 may be referred that those persons hold the view that they adopt either religious pressure or the social pressure to execute the decision of the Shariat Court. Thus it is clear that they are not clear whether the decision of the Shariat Court is recognized by the Regular Courts.

(V). RESPONSE OF ISLAMIC SCHOLARS (ULEMA)\(^\text{61}\):

Muslim treats their Ulema as the backbone of their religious life. Arun Shourie\(^\text{62}\) the former editor of 'The Indian Express' newspaper and presently the Cabinet Minister in Central Govt., writes that Ulema have much sway over the Muslim masses in India. They (Ulema) say that to lead an Islamic life it is necessary to establish the Imarat. But they are divided over Imarate Sharia. 50% of them say that Imarate Sharia is fit to be cited as the practical shape of Imarat. But 21% are of the view that it may be partially cited as it contains the lacunas. While 25% of them say that it can never be cited, as it has nothing to do with the institution of Imarat. About the method of adjudication of Shariat Court 59% Ulema are satisfied, 9% are partially satisfied while 27% are not satisfied. About the establishment of separate Shariat Court to the different Schools of thought 57% Ulema are responding negatively. While 38% of them

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\(^{61}\) The detail of this questionnaire is enclosed as Appendix ii E infra, where 50 Ulema of Bihar of different schools are contacted who filled the questionnaire. The result is base upon those questioners.

\(^{62}\) World of Fatawas.
support it. About the competence to adjudicate the matter of all the Schools together the Hanafi, Maliki, Shafeyee and Hambali by one Qazi the response are affirmative.

About the adoption of the rules of other Schools by Qazis. 95% response is yes but some of them put the condition that the rule must be in consonance with the Holy Quran & the Tradition. About the case law the opinion divided equally. Fifty percent Ulema are of the view that the case law should not be followed as the case may be wrongly decided. While other half are of the view that the case law may be serve as precedent. But no one says that it is a duty of the Qazi to follow it. About the authority on the basis of which the cases are decided, 54% Ulema are of the view that the Qazis should mention the authority of the Holy Quran and the Tradition. 32% say that the reference of Schoolbook is enough while 14% of them say that there is no need to mention the source or authority. In the matter of avoidance of the Regular Courts 79% Ulema say that it is better to avoid the same. The reason of avoidance is differently described. 20% say that the judges are not aware with Islamic rules. 15% say that it is not possible to get proper justice from Regular Courts. 8% are of the view that there is provision of this in the Indian system. 23% say that Qazis are well aware with Islamic rules so they can provide better justice than the judges. This is also corroborated by the views of the advocates. While 13% are of the view that it is prevented in Islamic system to go to the non-Muslim judges. About the Ameers of Imarat Sharia 66% Ulema are of the view that they have done enormous services, 5% are of the view that they have done nothing new, while 29% say that they are unable to comment over this. Again the previous questions (No. 5 & 6) are repeated in Question number 12 to which 55% responded affirmatively. 9%
well aware with Islamic rules so they can provide better justice than the judges. This is also corroborated by the views of the advocates. While 13% are of the view that it is prevented in Islamic system to go to the non-Muslim judges. About the Ameers of Imarat Sharia 66% Ulema are of the view that they have done enormous services, 5% are of the view that they have done nothing new, while 29% say that they are unable to comment over this. Again the previous questions (No. 5 & 6) are repeated in Question number 12 to which 55% responded affirmatively, 9% negatively 5% are silent and rest put certain conditions. However 9% are shocked as they are talked about (schools) Maslak.

8. QUESTIONNAIRES:

(1). QUESTIONNAIRE FOR THE PERSONS ASSOCIATED WITH IMARATE SHRAIA, REGARDING SHARIAT COURT (UNDER IMARATE SHARIA) & IMARATE SHARIA, BIHAR.

1. The authority of the Shariat Court in India is derived from ?
   (i). Custom 0%
   (ii). Holy Quran & Hadith 100%
   (iii). Qazi Act 1860 0%
   (iv). Constitution of India 0%

2. The reason of less reference of cases to the Qazi is ?
   (i). Parties are unaware about Qazi Court. 60%
(ii). Lack of initiative by advocates. 7%
(iii). Disbelief in the working of Qaza. 0%
(iv). Due to difference of thoughts. 7%
(v). Any other 26%

3. What step would you like to suggest increasing the number of reference of cases to the Qaza.

(i). General awareness about Imarat & Qaza 50%
(ii). Development of confidence building measures in the working of Imarat. 0%
(iii). Initiative of the advocates/lawyers. 6%
(iv). Any other. 31%
(v). No need 6%

4. Whether there is any campaign to make the awareness about Imarat?

(i) In the masses 44%
(ii) In the Ulema 13%
(iii) In the influential persons 17%
(iv) No 6%

5. Will Imarat help in realization of religious rights of Muslims?

(i) Yes 100%
(ii) No 0%

6. Will Imarat help in preserving the Muslim culture in India?

(i) Yes 100%
(ii) No 0%
7. Whether Imarate has brought any attitudinal change in outlook of the Muslims?
   (i) Yes 81%
   (ii) No 6%
   (iii) Can't say 13%

8. Is the idea that the process of decision making of Imarat & Quza is based on rule of natural justice?
   (i) Yes 81%
   (ii) No 6%
   (iii) Can't say 13%

9. Is it fact that persons believe that Nyaya Panchayats at village level and Regular Courts at different levels have badly failed to provide justice within reasonable time and made it difficult to have justice at cheaper rate.
   (i) Yes 94%
   (ii) No 0%
   (iii) Cannot say 6%

10. We accept the cases related to.
    (i) Civil 33%
    (ii) Criminal 0%
    (iii) Matrimonial 63%
    (iv) Any other 4%
11. Is it true that the hands of Qazi are sometimes tightened by the limits of the circumstances?

(i) Yes 75%
(ii) No 12%
(iii) Can't say 13%

12. Do you think that the Imarat has eased the burden of the Regular Courts?

(i) Yes 94%
(ii) No 6%
(iii) Can't say 0%

13. Imarat's source of guidance is?

(i) Quran, Hadith, Ijma, Qayas accepted by Imam Abu Hanifa 50%
(ii) Accepted by Imams Malik, Shafeyee and Hambal 25%
(iii) Accepted as Ahle Hadith 0%
(iv) Other than this 25%

14. The persons refer their cases due to?

(i) Religious belief 65%
(ii) Less expense 16%
(iii) Quick disposal 16%
(iv) Any other reason 3%

15. Whether the parties/Muslims cooperate with Imarat in resolving the case?

(i) Yes 94%
16. What is the method of execution of decision of Qazi?

(i) Social pressure 22%
(ii) Religious pressure 78%
(iii) Other than this 0%

17. If parties are of different schools of thought which school is preferred in decision.

(i) Plaintiff's School of thought 0%
(ii) Defendant's School of thought 0%
(iii) Established rule of Imarate Sharia. 100%

18. Is the decision of Shariat Court recognised by Regular court?

(i) Yes 75%
(ii) No 13%
(iii) Can't say 12%

19. Do you feel that recognition & sanction will make the Shariate Court more effective?

(i) Yes 81%
(ii) No 19%
1. Do you think that Govt. supports Imarat and Quza system?
   (i) Yes 49%
   (ii) No 46%
   (iii) Can’t say 5%

2. If supports what is the way ?
   (i) Allowing it to continue. 15%
   (ii) Acceptance of the decisions. 31%
   (iii) Police help whenever they want. 5%
   (iv) Monetory help. 5%
   (v) Can’t say 3%

3. Do you know the procedure of filling the case?
   (i) Yes 38%
   (ii) No 62%

4. Do you think that Qazis are competent to decide the matter of personal law?
   (i) Yes 85%
   (ii) No 5%
   (iii) Can’t say 10%

5. Do you think that Qazis are to be referred every case of Muslims?
6. Should the advocates of the disputants be allowed to argue case before the Qazi Court?
   (i) Yes 59%
   (ii) No 36%
   (iii) Can’t say 5%

7. What opportunity ought to be provided to the disputant to establish their case before the compromise is arrived at?
   (i) Arguments of the advocates 13%
   (ii) Arguments of the parties 54%
   (iii) Arguments of the witnesses 23%
   (iv) Any other 10%

8. Should the date be sometimes postponed in case of the possibility of future compromises?
   (i) Yes 100%
   (ii) No 0%

9. Should the Regular Court postpone the hearing of matter is heard in Shariat Court?
   (i) Yes 62%
   (ii) No 31%
   (iii) Can’t say 7%
10. Vice-versa.
(i) Yes 49%
(ii) No 51%

11. Do you think that advocates advise to institute the case in Regular Courts rather than Shariat Court?
(i) Yes 28%
(ii) No 69%
(iii) Can't say 3%

12. Why persons used to go to Shriate Court?
(i) Due to speedy redressal. 12%
(ii) Due to monetary saving. 12%
(iii) Due to religious feeling. 49%
(iv) Due to easy process. 15%
(v) Can't say 12%

13. Why some persons avoid to go to Shariat Court?
(i) Due to lack of coercive agency 15%
(ii) Due to difference of School of thought 43%
(iii) Due to lack of confidence in Shariat Court 37%
(iv) Vested interest 5%

14. Do you think that the implementing agencies of the Shariat Court are effective?
(i) Yes 44%
(ii) No 51%
15. Do you think that establishment of Shariat Court is right of Muslims?

| (i)   | Yes     | 100% |
| (ii)  | No      | 0%   |

16. Do you think that the role of Shariat Court is merely confined a propaganda value rather than dispensation of justice?

| (i)   | Yes     | 15%  |
| (ii)  | No      | 74%  |
| (iii) | Can’t say | 11%  |

17. Do you feel that the establishment of Shariat Court has lessened the burden of Regular Courts?

| (i)   | Yes     | 74%  |
| (ii)  | No      | 20%  |
| (iii) | Can’t say | 6%   |

18. By which means you become aware with Shariat Court?

| (i)   | By Noqaba | 8%   |
| (ii)  | By Local Alim | 30%  |
| (iii) | By Disputants | 10%  |
| (iv)  | Other than this | 52%  |

19. Which thing of Imarat do you like? (order of preference)

| (i)          | Educational facilitation programme. | 25% |
| (ii)         | Hospitals                            | 6%  |
(iii) Relief work 16%
(iv) Quza work system 31%
(v) Reformation programme. 17%
(vi) Dislike 5%

20. How much %age you send to Imarat?
(i) Of gift %
(ii) Of zakat %
(iii) Of sadaqh %
(iv) Charm Qurabni %

21. Do you think that Imarate Sharia has put an impact on social and religious life of Muslims?
(i) Yes 97%
(ii) No 3%
1. Are you aware of the steps taken by the Imarate Sharia to run Shariat Court?
   (iii) Yes 96%
   (iv) No 4%

2. The Shariat Court & Imarat of Bihar gets the authority from?
   (i) Holy Quran & Hadith 40%
   (ii) Custom 60%
   (iii) Qazi's Act 0%
   (iv) Indian Constitution 0%

3. Why persons refer their cases to the Shariat Court?
   (i) Due to religious factors 78%
   (ii) Due to Monetary reasons 15%
   (iii) Due to quick disposal 7%

4. Have you a popular faith in the functioning of Shariat Court?
   (i) Yes 56%
   (ii) No 44%
5. Do you favour referring of Muslim all personal Law cases to the Shariat Court?
   (i) Yes 29%
   (ii) No 71%

6. Do you think that Shariat Court can deliver better justic than the Regular Court (in personal law matters) ?
   (i) Yes 67%
   (ii) No 33%

7. What role can a lawyer play in getting a matter referred to the Shariat Court?
   (i) Very significant role 67%
   (ii) Less significant role 29%
   (iii) Insignificant role. 4%

8. What role can a judge of the Regular Court play to refer the cases of the Shariat in Court?
   (i) Very significant 87%
   (ii) Less significant 2%
   (iii) Insignificant 11%

9. Are you satisfied with the functioning of Shariat Court?
   (i) Yes 34%
   (ii) No 53%
   (iii) Can't say 13%
10. If you are not satisfied what are the reasons of dissatisfaction?
(i) Improper selection of Qazis 0%
(ii) Extra legal procedure 53%
(iii) Lack of sanction 5%
(iv) Non recognition by Courts. 28%
(v) Due to difference on ideological basis. 14%

11. Would you like to suggest any thing for the better functioning of Quza System under Imarate Sharia ?
(i) Legal Procedure should be strictly followed 52%
(ii) Without sanction it would be ineffective 23%
(iii) Without recognition of the Court it will lose its importance 25%

12. Do you feel that the functioning of Shariat Court have reduced the Court’s arrears in Bihar?
(i) Yes 91%
(ii) No 9%

13. How much time Shariat Court is taking in deciding the matters?
(i) Less than one year 44%
(ii) One year 38%
(iii) More than one but less than two years 18%

14. The decisions of Shariat Court are just like decisions of ?
(i) Regular Court 0%
15. Do you think that the role of Shariat Court is merely confined to a propaganda value rather than dispensation of justice?

(i) Yes 31%
(ii) No 69%

16. Is it an example of an alternative of dispute resolution?

(i) Yes 100%
(ii) No 0%

17. Would you like to suggest any effective measure to the Qazis to resolve the disputes?

(i) Yes 43%
(ii) No 57%

18. The dejure position of decision of Shariat Court regarding personal law matters should be?

(i) Equal to Regular Courts 69%
(ii) Like award of arbitrator 31%
**QUESTIONNAIRE FOR ISLAMIC SCHOLARS (ULEMA) REGARDING SHARIAT COURT (UNDER IMARATE SHARIA) & IMARATE SHARIA, BIHAR.**

1. Do you feel that establishment of Imarat is necessary for Islamic life in India?
   - (i) Yes 100%
   - (ii) No 0%

2. Is Imarate Sharia fit to be cited as a practical shape of Islamic concept of Imarat?
   - (i) Fully 50%
   - (ii) Partially 21%
   - (iii) Never 25%
   - (iv) Can’t say 4%

3. Are you satisfied with the method of adjudication of Imarate Sharia?
   - (i) Yes 59%
   - (ii) To some extent 9%
   - (iii) No 27%
   - (iv) Can’t say 5%

4. Is it appropriate to establish separate court for different schools of thought?
   - (i) Yes 38%
   - (ii) To some extent 57%
   - (iii) No 5%
5. Is a Qazi competent to adjudicate the matter of other School of thought than Qazi?
   (i) Yes 95%
   (ii) To some extent 5%

6. Is Qazi authorized to adopt the rule of other Schools of thought in emergency?
   (i) Yes 95%
   (ii) To some extent 0%
   (iii) No 5%

7. Should a Qazi follow the case law?
   (i) Yes 50%
   (ii) No 50%

8. In deciding the issues, the Qazis should?
   (i) Mention that from which Hadith and/or Ayat of the Holy Quran they deduce the rule. 54%
   (ii) Mention that from which School book they deduce 32%
   (iii) No need to mention 14%

9. Is it better to avoid the Regular Courts by Muslims?
   (i) Yes 79%
   (ii) No 21%
10. Why one should avoid Regular Court for personal law matters?

(i) Judges are not aware with Islamic rules. 20%
(ii) It is not possible to get justice properly in Regular Courts. 15%
(iii) There is provision in Indian law. 8%
(iv) Qazis are well aware with Islamic rules so they can provide better justice. 23%
(v) Sunnah prevents Muslims to go in an un-Islamic court. 13%

11. What is your opinion about Amir of Imarate Sharia?

(i) They have done enormous services. 66%
(ii) They have done nothing new. 5%
(iii) Cannot say. 29%

12. Is Qazi authorising to give verdict according to other School of thought?

(i) Yes 55%
(ii) Yes, if that is in accordance with Quran & Hadith 13%
(iii) No but only Quran and Hadith 9%
(iv) No 9%
(v) Can't say 5%
(vi) It is bad to talk about Schools 9%

13. Do you think that in certain cases the intervention of Qazi is necessary otherwise the matter will not be treated as resolved in the eyes of Islam?

(i) Yes 100%
(ii) No 0%
QUESTIONNAIRE FOR BENEFICIARIES, DISPUTANTS OF SHARIAT COURT (UNDER IMARATE SHARIA), REGARDING SHARIAT COURT (UNDER IMARATE SHARIA), & IMARATE SHARIA, BIHAR.

1. Have you ever referred your case to the Shariat Court?
   (i) Yes 100%
   (ii) No 0%

2. Do you know the procedure to file the case in Shariat Court?
   (i) Yes 100%
   (ii) No 0%

3. Did your advocate ever encourage you to refer your cases to Shariat Court?
   (i) Yes 17%
   (ii) No 83%

4. Did you feel the need of service of the advocate in Shariat Court?
   (i) Yes 4%
   (ii) No 96%

5. Was the decision in your favour?
   (i) Yes 87%
   (ii) No 13%

6. Are you satisfied with the functioning of Shariat Court?
7. What were the reasons, which finally created obstacles in not arriving at the compromise in your case?

(i) Attitude of opponent. 78%
(ii) I did not want 13%
(iii) Lack of Imaratc Sharia 0%
(iv) Can't say 9%

8. What were the reasons, which helped you and your adversary to reach at a compromise and finally dispose off the cases?

i) Quick disposal
ii) Advisory submission
iii) Any other

9. Why did you refer attended your case in Shariat Court?

i) For quick disposal 26%
ii) Due to absence of fee 19%
iii) Due to fear to face regular court 14%
iv) Due to religious feeling 36%
v) Can't say 5%

10. Has the tension between you and your adversary lessended and relationship improved after the settlement in shariat court?

(i) Yes 55%
(ii) No 45%
11. How much time was taken by Shariat Court to settle your case?

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<tr>
<th>Option</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>i) Less than one year</td>
<td>47%</td>
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<tr>
<td>ii) One year</td>
<td>32%</td>
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<tr>
<td>iii) More than one year</td>
<td>21%</td>
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12. Who suggested you to go to Shariat Court?

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<th>Option</th>
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<tr>
<td>i) Naqib of Imarat,</td>
<td>3%</td>
</tr>
<tr>
<td>ii) Alim of my area</td>
<td>34%</td>
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<tr>
<td>iii) Inner conscience</td>
<td>26%</td>
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<td>iv) Any other</td>
<td>37%</td>
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13. Have you popular faith in working of Imarate Sharia?

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<th>Option</th>
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<tr>
<td>i) Yes</td>
<td>87%</td>
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<tr>
<td>ii) No</td>
<td>13%</td>
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14. Are you aware that Qazi can dissolve the marriage if there is reasonable ground?

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<tr>
<td>i) Yes</td>
<td>47%</td>
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<tr>
<td>ii) No</td>
<td>53%</td>
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15. Now which court you will prefer?

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<th>Option</th>
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<tr>
<td>i) Shariat Court</td>
<td>79%</td>
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<tr>
<td>ii) Regular Court</td>
<td>15%</td>
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16. Are you satisfied with the Qazis of Shariat Court?
(i) Yes 83%
(ii) No 17%

17. Why have you complied the orders of Shariat Court?
  i) Due to social pressure 11%
  ii) Due to easy process /order 4%
  iii) Due to religious feeling 19%
  iv) Other than this. 66%

18. What was your reaction when you lost the case or when judgement was delivered against you?
  i) Challenged the decision in Regular court 0%
  ii) Challenged the decision in Shariat Court 0%
  iii) Abused the Qazi 4%
  iv) Accepted the decision 13%