

NIGERIA¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated as at 27 July 2022)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncodified? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or</i></p>	<p>Section 15(2) of the Constitution prohibits discrimination on several basis including sex in order to actively encourage national integration.²</p> <p>Section 42 of the Constitution provides for freedom from discrimination in the law or any executive and administrative actions on several basis including sex.³</p> <p>Section 17(3)(h) of the Constitution commits the State to</p>	<p>In the case of ABDULKAREEM VS. L.S.G¹² the court gave a proper interpretation of Section 42 of the Constitution of Nigeria 1999 to the effect that refusal to allow women to wear Hijab will amount to discriminating against them on the grounds of their religion</p> <p>In MGBODU V. MGBODU¹³, UDOGWU</p>	<p>Nigeria ratified CEDAW without any reservations.¹⁸</p> <p>The Government of Nigeria in its 1997, 2003, 2006 and 2016 reports to the CEDAW Committee:¹⁹</p> <ul style="list-style-type: none"> ● Explained 	<p>Where the equality rights are violated by a party, e. g husband, the other party (wife) may go to court by the following procedure:</p> <p>Petition to family court, or High court, sharia court or customary Court (as the case may be), for Restitution of</p>	<p>According to the 2016 UNDP Human Development Report, Nigeria ranked 152 on the UNDP Human Development Index and was not ranked on the UNDP Gender Inequality Index.²³</p> <p>According to Nigeria's 2013 Demographic and</p>

¹ This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Nigeria country table, we would also like to thank Cassandra Rasmussen from Harvard Law School, and Mufulliat Fijabi for their inputs in its preparation. This table was last updated in August 2022 as part of the Campaign for Justice in Muslim Family Laws, we would like to thank Mariam Marwa- Abdu Esq for the recent update.

² Section 15(2) of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

³ Section 42 of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

¹² (2006) ALLFWLR Pt 850 Page 1101

¹³ (2018) LPELR – 43770 (CA)

¹⁸ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹⁹ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/7-8 (1997), p. 62; Nigeria State party report, U.N. Doc. CEDAW/C/NGA/4-5 (2003), para. 16.3; Nigeria State party report, U.N. Doc. CEDAW/C/NGA/6 (2006), p. 100; Nigeria State party report, U.N. Doc. CEDAW/C/NGA/7-8 (2016), paras. 14.1-14.2,

²³ <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

UNDP, "Human Development Report 2016", Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

<p><i>are there different codified laws for different sects within Islam? If uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<p>direct its policy towards ensuring that the evolution and promotion of family life is encouraged.⁴</p> <p>Sections 262(2) and 277(2) of the Constitution mandate the <i>Shari'ah</i> Courts of Appeal of the Federal Capital of Abuja and of any other state in Nigeria that requires such a court, respectively, with the appellate and supervisory jurisdiction over Muslim personal status matters e.g. validity or dissolution of a marriage, family relationship, the guardianship of an infant and inheritance.⁵</p> <p>There are 36 states in Nigeria and one Federal Territory (Federal Capital Territory of Abuja). The 36 states are commonly divided into Northern (19 states) and Southern states (17 states).⁶ Muslims form</p>	<p>V. ODOGWU¹⁴ ALSO TABANSI VS. TABANSI¹⁵. From the above authorities, the courts are of the position that equal right of spouses in marriage are on the following considerations;</p> <ol style="list-style-type: none"> Custody of children before dissolution of marriage Custody of children after dissolution of marriage Inheritance and succession Settlement and acknowledgment <p>When deciding on</p>	<p>that three types of marriages are recognised in Nigeria: (i) civil marriages; (ii) customary marriages; and (iii) Muslim marriages;</p> <ul style="list-style-type: none"> Acknowledges that this tripartite system legal system that 	<p>Marriage (conjugal rights)</p> <p>Divorce etc if in the high court.²²</p>	<p>Health Survey, about 19% of households in Nigeria are headed by women.²⁴</p> <p>Twelve Northern states in Nigeria have <i>Shari'ah</i> Penal Codes.²⁵ There is a bill in process that aims to expand the jurisdiction of the <i>Shari'ah</i> courts in federal capital territory to include criminal laws.²⁶</p>
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⁴ Section 17(3)(h) of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

⁵ Sections 262(2) and 277(2) of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

⁶ The 19 Northern states are Adamawa, Bauchi, Benue, Boru, Gornbe, Jigawa, Kadanu, Kano, Katsina, Kebbi, Kogi, Kwara, Nasarawa, Niger, Plateau, Sokoto, Taraba, Yobe and Zamfara. The 17 Southern states are Abia, Akwa Ibom, Anambra, Bayelsa, Cross River, Delta, Ebonyi, Edo, Ekiti, Enugu, Imo, Lagos, Ogun, Ondo, Osun, Oyo and Rivers.

¹⁴ (1992) NWLR Pt. 215

¹⁵ (2009) 12 NWLR Pt. 1155

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²⁴ National Population Commission of Nigeria and ICF International, "Nigeria Demographic and Health Survey 2013", Table 2.8, p. 19,

<http://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>

²⁵ Ikenga K.E. Oraegbunam, "Sharia Criminal Law, Islam and Democracy in Nigeria Today", (New Journal of African Studies, 8, 2011), p. 192,

<https://www.ajol.info/index.php/og/article/viewFile/71768/60724>

²⁶ News Wire NGR, "A Bill Seeking to Upgrade Sharia Law Across Nigeria Passed Second Reading," *News Wire NGR*, 25 May 2016,

<http://newswirengr.com/2016/05/25/a-bill-seeking-to-upgrade-sharia-law-across-nigeria-passed-second-reading/#>

	<p>the majority population in the Northern states. As such Muslims laws and practices that govern Muslim marriages and family relations are mainly applied in these states. Eighteen of the 19 Northern states have <i>Shari'ah</i> Courts of Appeal with the remaining one state (Benue) sharing a <i>Shari'ah</i> Court of Appeal with another state (Plateau).⁷</p> <p>Nigeria does not have codified laws relating to Muslim marriages and family relations. These areas are governed by a combination of <i>Shari'ah</i> principles, Nigerian customary practices and judicial precedents.⁸With Sunni Muslims of the Maliki School being the majority of Muslims in Nigeria, generally, the rules of Maliki jurisprudence (<i>fiqh</i>) apply in Muslim personal status matters.⁹</p>	<p>matters within its jurisdiction, the <i>Shar'iah</i> Court of the Federal Capital of Abuja bases its decisions on (i) Islamic law of the Maliki schools as customarily interpreted at the place where the trial at first instance took place, (ii) applicable statutory laws; and (iii) the Principle of natural justice, equity and good conscience.¹⁶</p> <p>According to the government of Nigeria, judiciary has been playing an important role in protecting the rights of women and children in the field of marriage and family relations through</p>	<p>recognises three types of marriages have led to various manifestations of discrimination in terms of the age of marriage, consent of parties and parental consent, polygamy, divorce rights, health implications such as female genital</p>		
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⁷ Philip Ostien and Albert Dekker, "Sharia and National Law in Nigeria", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 578, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

⁸ Philip Ostien and Albert Dekker, "Sharia and National Law in Nigeria", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 585-586, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; Information obtained from Nigerian advocate, February 2017

⁹ E.I. Nwogugu, "Family law in Nigeria", (HEBN Studies in Nigerian Law, Third Edition, 2014), p. 76; Philip Ostien and Albert Dekker, "Sharia and National Law in Nigeria", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 585, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; Baobab, "Women's Access to Justice and Personal Security in Nigeria: A Synthesis Report", 2002, p.3, <http://gsdrc.ids.ac.uk/docs/open/ssaj33.pdf> Eighteen of the 19 Northern states have *Shari'ah* Courts of Appeal. Benue shares a *Shari'ah* Court of Appeal with Plateau.

¹⁶ Section 13 of the Sharia Court of Appeal (Federal Capital Territory) Act (1960), [http://resources.lawscopeonline.com/LFN/SHARIA_COURT_OF_APPEAL_ACT_CAP.550_L.F.N.\(FEDERAL_CAPITAL_TERRITORY\).htm](http://resources.lawscopeonline.com/LFN/SHARIA_COURT_OF_APPEAL_ACT_CAP.550_L.F.N.(FEDERAL_CAPITAL_TERRITORY).htm)

	<p>Despite the equality guarantee under Sections 15(2) and 42 of the Constitution, uncodified Muslim personal laws in Nigeria provide for a marital framework based on ‘reciprocal’ or ‘complementary’ rights (as opposed to ‘equal’ rights) between the two spouses, whereby in return for maintenance and protection from her husband, a wife is expected to obey him. It has also led to harmful practices such as:¹⁰</p> <ul style="list-style-type: none"> • Legal protection of wife abuse under Section 55(1)(d) of the Penal Code that is applicable in the Northern states in Nigeria is perpetuated in the <i>Shari’ah</i> Penal Codes which provide that “Nothing is an offence which does not amount to the infliction of grievous hurt upon any person and which is done [...] by a husband for the purpose of correcting his wife”; 	<p>judicial activism.¹⁷</p>	<p>mutilation and inheritance rights.</p> <p>In its 2006 report to the CEDAW Committee, the Nigerian government explained further that harmonisation of the complex tripartite system of Nigeria “is a Herculean task.” However, collaborative efforts are being undertaken in that direction.²⁰</p> <p>In its 2016 report to the CEDAW</p>		
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¹⁰ Pascale Fournier et al, “En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia”, (Amsterdam Law Forum, 3:2, 2011), p. 112, <http://amsterdamlawforum.org/article/viewFile/213/405>; Philip Ostien and Albert Dekker, “Sharia and National Law in Nigeria”, in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 586-587, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria, “Promoting Women’s Rights Through Sharia in Northern Nigeria”, 2005, pp. 8, 14-17, http://www.ungei.org/sr/bv/files/dfid_promoting_womens_rights.pdf

¹⁷ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/7-8 (2016), para. 14.6, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²⁰ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/6 (2006), p. 130, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<ul style="list-style-type: none"> • The practice of treating wives as near servants and burden them with heavy domestic and other responsibilities either because it is taken for granted that women bear such responsibilities or because husbands fear being branded as a dominated husband (<i>mijin hajiya</i>); and • The practice of exclusion and seclusion whereby husbands exclude their wives from household decision-making and restrict their wives' movements (<i>purdah</i>). <p>Marriage and family relations of Nigeria's non-Muslims are governed either by civil law or customary laws and practices.¹¹</p>		<p>Committee, the Government of Nigeria informed that the Nigerian Law Reform Commission has been tasked with harmonising the laws regarding marriage and family relations and redress related existing "offensive" legal provisions such as Section 55(1)(d) of the Penal Codes of Northern Nigeria. Among progress made include the development of a draft model law that makes it mandatory to register all customary and Muslim marriages.²¹</p>		
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¹¹ Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 112, <http://amsterdamlawforum.org/article/viewFile/213/405>; Ayesha Iman, "Working within Nigeria's Sharia Courts", (Human Rights Dialogue 2.10, Violence Against Women, 2003), https://www.carnegiecouncil.org/publications/archive/dialogue/2_10/articles/1053.html#:pf_printable

²¹ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/7-8 (2016), paras. 14.3-14.4, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<p>Minimum and equal legal age for marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>Generally, there is no specified minimum legal age for marriage for Muslim females and males in Nigeria.²⁷</p> <p>Section 21 of the Child Rights Act (CRA) provides that the minimum age for marriage is 18 for females and males.²⁸ The CRA, being a national level law, requires the formal adoption by the individual states for it to be domesticated at state level.²⁹ Only 23 of the 36 states have domesticated the CRA in their respective states. Of these 23 states, 16 are Southern states and seven Northern states.³⁰</p> <p>NB: In addition, The minimum age to get married in Islam wasn't stated in the Qura'an and also it is not stated in the doctrine of Islam;</p>	<p>Under Islamic Law, the criterion for marriage is not age but maturity.</p> <p>The Personal Status Law of Muslims 1991 allows the marriage of a girl from puberty. Ten years old can be married with judicial authorization.</p> <p>Therefore, there are no specific age limits for marriage under the Islamic Law, once it is shown that the girl has attained maturity with evidence of such maturity she can be said to be of marriageable age³¹.</p> <p>Same applies to the male child.</p>	<p>The Ministry of Women Affairs and Social Development launched a national strategy to end child marriages in November 2016. It seeks to reduce child marriage by 40% by 2020, and end the practice entirely by 2030.³²</p>	<p>Various sources suggest a very high prevalence of child marriages in Nigeria:</p> <ul style="list-style-type: none"> • According to UNICEF's State of the World's Children 2016 report, 43% of women aged 20-24 in Nigeria were first married by 18 and 17% by 15;³³ • According to an NPR interview, in Northern Nigeria, close to 50% of girls are married before the age of
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²⁷ E.I. Nwogugu, "Family law in Nigeria", (HEBN Studies in Nigerian Law, Third Edition, 2014), p. 76

²⁸ Section 21 of the Child's Rights Act (2003), http://www.africanchildinfo.net/cir/Legislation%20Per%20Country/Nigeria/nigeria_children_2003_en.pdf

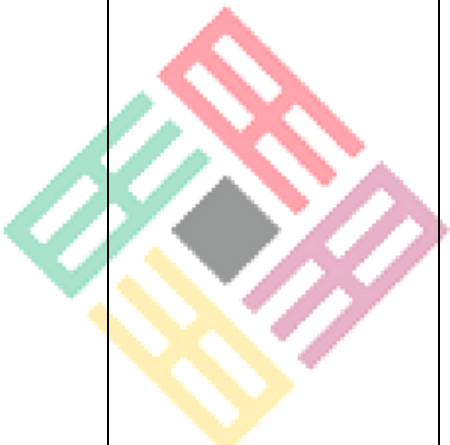
²⁹ Section 4, Part II of Second Schedule of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en; UNICEF, "Child rights Legislation in Nigeria", *Fact Sheet*, 2011, p. 2, https://www.unicef.org/nigeria/Child_rights_legislation_in_Nigeria.pdf

³⁰ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/7-8 (2016), Table 2.1, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Chineme Okafor, "Failings of Child Rights Law", *THISDAY*, 10 March 2017, <https://www.pressreader.com/nigeria/thisday/20170310/282080571636307>

³¹ Quran 4 vs 59. The Quran did not stipulate a particular age in which a person can get married, it simply states that a person can get married in as much as he is intellectually and monetary prepared

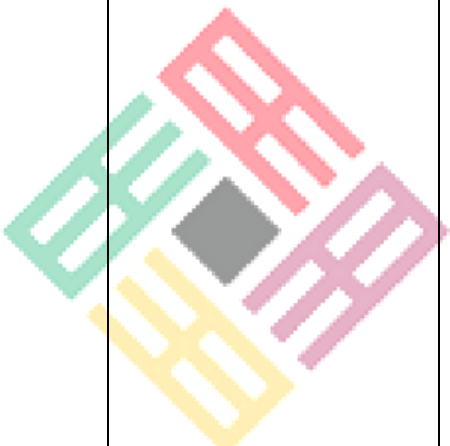
³² Girls Not Bride, "Nigeria", *Child marriages around the world*, <http://www.girlsnotbrides.org/child-marriage/nigeria/>

³³ UNICEF, "The State of the World's Children 2016", Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

	<p>Allah elucidated this in fourth Ayah of suratul Tolaq.</p>				<p>16,³⁴</p> <ul style="list-style-type: none"> • According to Voices for Change, in the North, girls generally marry between 12 and 15, if not younger;³⁵ • According to the Nigerian government in its 2003 report to the CEDAW Committee, the marriage age prevalent in Southern Nigeria is between 18 and 21 while in the North, it is between 12 and 15. Also, in the North, girls of ages as low as nine, depending on the age of attainment of
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³⁴ NPR, "In Nigeria, Many Girls Are Married And Divorced Before Adulthood", *Weekend Edition Sunday*, 29 June 2014, <http://www.npr.org/2014/06/29/326669368/in-nigeria-many-girls-are-married-and-divorced-before-adulthood>

³⁵ Ejiro J.Otipe-Igbuzor, "Analysis of the Structural and Systemic Causes of Gender Inequality in Nigeria", *Voices for Change*, 2014, p. 11, <http://www.v4c-nigeria.com/wp-content/uploads/2014/09/Study-3-Analysis-of-Structural-Systemic-Causes-of-Gender-inequality-in-Nig-.pdf>

					<p>puberty, are given out in marriage. The age of men too is as low as 15 years.³⁶</p> <p>According to UN World Marriage Data 2015, the average of first marriage among Nigerian females fell slightly from 21.5 in 2008 to 21.2 in 2013 and among males, from 28.5 in to 28.6 during the same period.³⁷</p> <p>According to the 2013 Nigeria Demographic and Health Survey:³⁸</p> <ul style="list-style-type: none"> • 23% of women aged 20-49 had their first sexual intercourse by 15 and 53% by 18;
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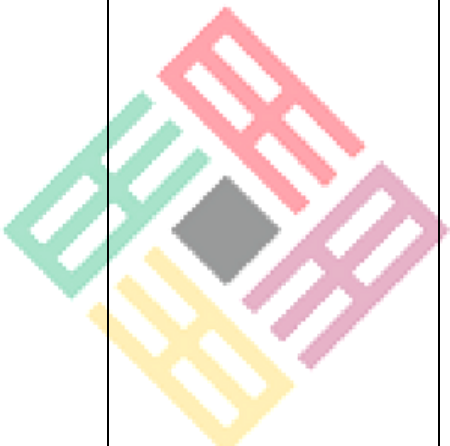
³⁶ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/4-5 (2003), para. 16.5, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

³⁷ United Nations Population Division, "World Marriage Data 2015", <https://esa.un.org/ffps/Index.html#/maritalStatusData>

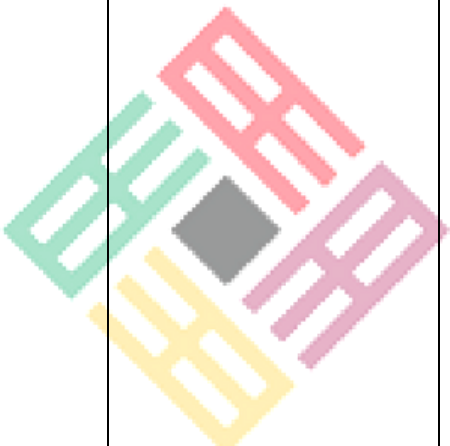
³⁸ National Population Commission of Nigeria and ICF International, "Nigeria Demographic and Health Survey 2013", Tables 4.5, 5.9, pp. 59, 77, <http://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>

					<p>and</p> <ul style="list-style-type: none"> • 7% of women aged 20-49 had given birth by 15 and 32% by 18. <p>According to civil society and media reports, factors that contribute to the high prevalence of child marriage in Nigeria include:</p> <ul style="list-style-type: none"> • Poverty, poor access to education and strong social and religious traditions;³⁹ • Lack of legal protection. Most of the states with a high prevalence of child marriage have yet to adopt the CRA. These
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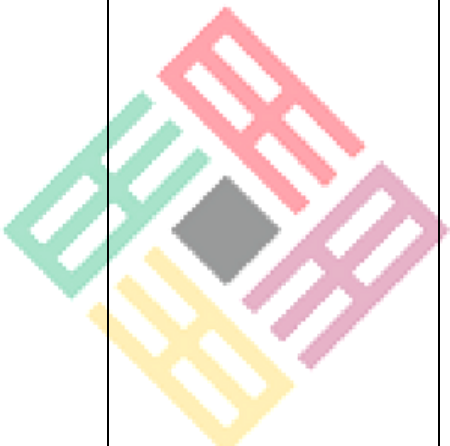
³⁹ Girls Not Brides, "Nigeria", *Child marriages around the world*, <http://www.girlsnotbrides.org/child-marriage/nigeria/>

					<p>states are reluctant to domesticate the law because they do not want to be tied down by any age limit for marriage. Feminist groups however are encouraging these states to, at the very least, require that girls must have completed their secondary or high school level education before they may marry if these states do not wish to explicitly state a minimum legal age for marriage.⁴⁰ According to a response to an information request by the Immigration and Refugee Board of</p>
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⁴⁰ Information obtained from Nigerian advocate, February 2017

					<p>Canada, some in northern Nigeria engage in <i>daurin aure</i>, in which a girl may go to school until she completes her education and before the consummation of marriage;⁴¹ and</p> <ul style="list-style-type: none"> • Lack of political will to implement change. For instance, in 2013, a recommendation by Nigeria’s Constitutional Review Committee to delete a clause contained in Section 29 of the Constitution on the renunciation of citizenship that states “any woman who is married shall be
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⁴¹ Immigration and Refugee Board of Canada, “Nigeria: Forced marriage under Islamic Law”, *Responses to Information Requests*, 17 March 2006, <https://www.justice.gov/sites/default/files/eoir/legacy/2013/12/18/NGA100418.E.pdf>

					<p>deemed to be of full age” was not adopted following a heated debate in the senate and public demonstrations that were centred on the issue of whether the deletion of the clause would imply that the minimum age for marriage is 18 (Section 29 provided that a citizen must be of full age in order to renounce his or her citizenship and clarified that full age means over 18) hence purportedly contravene <i>Shari’ah</i> as well as discriminate against Muslim women as they would be considered “of age” once they are married. The ultimate decision by the senate to</p>
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					retain the clause has been considered by many as an implicit acceptance of early marriage. ⁴² Incidentally, one of the more vocal senators have been alleged to have engaged in practice of child marriage. ⁴³
<p>Women's consent to marriage</p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it</i></p>	<p>A prospective bride who has attained puberty and has married at least once must consent to her subsequent marriage. However, it is generally understood that based on the rules of Maliki <i>fiqh</i>, a father has the right to conclude a marriage on behalf of a virgin daughter of any age even if it is against her will. Consequently, <i>ijbar</i> marriage of a prospective</p>	<p>For Maliki communities, a biological father has the power of <i>ijbar</i> (courts may refer to Bulugul Marami, Fighus Sunnah Vol. II p. 260). However, the <i>wali</i> cannot compel his daughter to marry a man suffering from contagious diseases (such as leprosy), insanity, or</p>	<p>In OSAMWONYI VS. OAMWONYI⁵⁰ Here, the Supreme Court held that consent is not basic but fundamentally either to a</p>	<p>There is no standard marriage Muslim contract in Nigeria.⁵¹</p> <p>The registration of Muslim marriages is not mandatory in most states. Jigawa State is an exception in that under Section 14(1) of the</p>	<p>According to the Minister of Women Affairs and Social Development, nearly 65% of children below 18 were forced into marriage in the Northern region.⁵³</p> <p>According to an</p>

⁴² OECD Development Centre, "Nigeria", *Social Institutions and Gender Index*, 2014, p. 2, <http://www.genderindex.org/country/nigeria>; Middle East Research Institute, "Nigerian Women's Rights Activist Funmi Falana Slams Senate For Not Taking A Stand Against Child Marriage, *MEMRI Special Dispatch No. 5403*, 12 August 2013, <https://www.memri.org/reports/nigerian-womens-rights-activist-funmi-falana-slams-senate-not-taking-stand-against-child>

⁴³ Middle East Research Institute, "Nigerian Women's Rights Activist Funmi Falana Slams Senate For Not Taking A Stand Against Child Marriage, *MEMRI Special Dispatch No. 5403*, 12 August 2013, <https://www.memri.org/reports/nigerian-womens-rights-activist-funmi-falana-slams-senate-not-taking-stand-against-child>; BBC, "Nigerian senator Sani denies marrying ,girl of 13, *BBC*, 30 April 2010, <http://news.bbc.co.uk/2/hi/africa/8651043.stm> (1972) LPELR 2789 SC.

⁵¹ Ikenga K. E. Oraegbunam and Benson O. S. Udezo, "Women's Rights in Matrimonial Jurisprudence under Islamic Family Law in Nigeria: A Need for Reform", (*Journal of Religion and Human Relations*, 1:4, 2012), p. 105, <http://www.ajol.info/index.php/jrhr/article/viewFile/86984/76761>

⁵³ NAN, "Worried about prevalence of child marriage in Northern Nigeria, Government moves to stop practice," *Premium Times Nigeria*, 21 November 2016, <http://www.premiumtimesng.com/news/top-news/216659-worried-prevalence-child-marriage-northern-nigeria-government-moves-stop-practice.html>

<p><i>advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>bride who has not attained puberty or who has never been married is not prohibited in Nigeria.⁴⁴</p> <p>The consent of a woman is not only important in marriage but also mandatory thus, marriage conducted without the consent of a woman is voidable which the woman may regularise or revalidate same.</p> <p>See Abdulkadir Orire (2007) Sharia Misunderstood Legal System.</p>	<p>reproductive problems. Case law is clear that <i>ijbar</i> cannot be enforced for adult women, and the courts generally accept a variety of circumstances that overrule the possibility of <i>ijbar</i>, including where the woman earns some money herself.⁴⁵</p> <p>Some marriages have been annulled on the grounds that they were concluded without the woman's consent. For example, in <i>Haja Kaka and Zama Bukma</i> in Borno in 1991, the wife was able to dissolve the marriage because her consent was not sought before the marriage</p>	<p>potentially polygamous union such as customary Marriage (muslem marriage)</p>	<p>Marriages (Expenses Control) Law, district and village leaders must maintain a marriage register.⁵²</p>	<p>academic research, although some court cases have nullified forced marriages for lack of consent, women's and girls' consent is rarely sought in practice.⁵⁴</p> <p>According civil society and media reports, among the adverse consequences of forced marriages, which is said to be most prevalent among girls who have not been to school or reached puberty, include high maternal mortality and morbidity, illiteracy and other</p>
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⁴⁴ Abdulrashid Lawan Haruna and Awwal Ilyas Magashi "Human rights approach to reproductive health in Islam: Appraising Women's Rights to Husband and Family Planning", (Journal of Islamic Law Review, 11:1, 2015), pp. 7-8, <http://www.serialsjournals.com/serialjournalmanager/pdf/1470648339.pdf>; E.I. Nwogugu, "Family law in Nigeria", (HEBN Studies in Nigerian Law, Third Edition, 2014), p. 76; Ikenga K. E. Oraegbunam and Benson O. S. Udezo, "Women's Rights in Matrimonial Jurisprudence under Islamic Family Law in Nigeria: A Need for Reform", (Journal of Religion and Human Relations, 1:4, 2012), pp. 101-103, <http://www.ajol.info/index.php/jrhr/article/viewFile/86984/76761>; Immigration and Refugee Board of Canada, "Nigeria: Forced marriage under Islamic Law", *Responses to Information Requests*, 17 March 2006, <https://www.justice.gov/sites/default/files/eoir/legacy/2013/12/18/NGA100418.E.pdf>; Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria, "Promoting Women's Rights Through Sharia in Northern Nigeria", 2005, pp. 10-11, http://www.ungei.org/srgbv/files/dfid_promoting_womens_rights.pdf

⁴⁵ Musawah, "CEDAW and Muslim Family Laws: In Search of Common Ground", 2012, p. 33, http://www.musawah.org/sites/default/files/CEDAWMFLReport2012Edition_1.pdf

⁵² E.I. Nwogugu, "Family law in Nigeria", (HEBN Studies in Nigerian Law, Third Edition, 2014), pp. 78-79

⁵⁴ Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 112, <http://amsterdamlawforum.org/article/viewFile/213/405>

		<p>consummation.⁴⁶</p> <p>In <i>Karimatu Yakubu v. Alhaji Paiko</i>, a 19-year-old woman applied for an annulment on the grounds that her father had given her in marriage without her consent. Initially the <i>Shari'ah</i> Court of Appeal upheld the marriage, claiming that under the Maliki school, her father had power over her marriage because she had been a virgin. (i.e. not previously married). However, when the case went to the Court of Appeal, the decision was reversed on the grounds that, because the father had dissuaded her from marrying one suitor and asked her to pick between two others, he</p>			<p>skills, unemployment, poverty and wife abuse:⁵⁵</p> <p>According to information on the ground, Muslim marriage contracts do not often take the form of a formally written marriage contracts.⁵⁶</p>
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⁴⁶ Ayesha M. Imam, Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", *BAOBAB*, 2005, p. 66, [http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf)

⁵⁵ NAN, "Worried about prevalence of child marriage in Northern Nigeria, Government moves to stop practice," *Premium Times Nigeria*, 21 November 2016, <http://www.premiumtimesng.com/news/top-news/216659-worried-prevalence-child-marriage-northern-nigeria-government-moves-stop-practice.html>; Immigration and Refugee Board of Canada, "Nigeria: Forced marriage under Islamic Law", *Responses to Information Requests*, 17 March 2006, <https://www.justice.gov/sites/default/files/eoir/legacy/2013/12/18/NGA100418.E.pdf>; Kieran Corcoran, "Divorced at 14: How thousands of Nigerian girls are forced into marriage only to be thrown out and end up with no education and no hope", *Mail Online*, 29 June 2014, <http://www.dailymail.co.uk/news/article-2673817/Divorced-14-How-thousands-Nigerian-girls-forced-marriage-thrown-end-no-education-no-hope.html>

⁵⁶ Information obtained from Nigerian advocate, February 2017

		<p>had given her independence to choose and had therefore lost his power of <i>ijbar</i>.⁴⁷</p> <p>In 2010, the High Court of Sokoto threw out a case in which a 26-year-old woman claimed that her father had forced her to marry Zamfara State Senator Sahabi when he knew she was engaged to another man. The court stated that it could not intervene and that it was a matter for an Islamic court.⁴⁸</p> <p>The marriage contract in its most basic form reflects the couple's consent to the union without duress and is signed in the presence of competent witnesses⁴⁹.</p>			
Women's capacity to enter into marriage	Regardless of her age, a prospective bride requires the	In the case of Karimatu Yakubu vs. Alh. Paiko,		Where a woman is not married, her	According to BAOBAB, a

⁴⁷ Muhammed Tawfiq Ladan, "A Handbook on Sharia Implementation in Northern Nigeria: Women and Children's Rights", 2005, pp. 16-17, http://leads-nigeria.org/uploads/2479_File_SHARIA%20IMPLEMENTATION%20IN%20NORTHERN%20NIGERIA.pdf

⁴⁸ AAP, "Court Rejects 'Forced Marriage' Case Against Zamfara Senator", *Agencia Angola Press*, 23 October 2010, http://www.angop.ao/angola/en_us/noticias/africa/2010/9/42/Court-Rejects-Forced-Marriage-Case-Against-Zamfara-Senator.d26213f3-81ae-4f00-80d6-b33418707057.html

⁴⁹ Jamal Badawi, *The Status of Women in Islam, Al-Ittihad*. (1971)Vol. 8 No. 2 Citing Ibn Hanbali No. 2469 Ibn Maja No. 1873.

<p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her martial rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>consent of a marital guardian (wali) to enter into marriage based on Maliki fiqh.⁵⁷ The wali must be her father or a male relative.⁵⁸</p>	<p>the Shariah court of Appeal in Minna, Niger State held that, a woman can approach the court to seek permission to marry where her father refuses to consent to her marriage without genuine reason for withholding consent.</p> <p>In the above case, a woman approached the court consequent upon her father's refusal to consent to her marriage, the court the appointed the emir to be her wali⁵⁹,</p>		<p>father is her wali.</p> <p>If the woman is divorced or a widow, her son, father or brother can be her wali, but preferably her son, reason being that, it is believed that her son is the closest person to her.⁶⁰</p>	<p>woman's right to negotiate for dower (<i>mahr</i>) is frequently downplayed or hidden, and women are often convinced that it is more spiritual to ask for little or nothing.⁶¹</p>
<p>Polygamous marriages</p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous</i></p>	<p>A Muslim man may marry up to four wives at one time. There is no legal requirement for him to seek the permission of the court or his existing wife or wives to enter into</p>	<p>Courts have upheld equal treatment between wives in certain cases. For example, in <i>Falmata Kundali v. Awana Zarami</i> in 1994 (Case No 27/94,</p>	<p>Zamfara state was the first to legislate polygamy which occurred on January 7,</p>	<p>As a general rule, a Muslim man may marry up to two, three or four⁶⁶. But if he fears that he</p>	<p>According to Nigeria's 2013 Demographic and Health Survey, 33% of marriages in Nigeria are</p>

⁵⁷ Abdulrashid Lawan Haruna and Awwal Ilyas Magashi "Human rights approach to reproductive health in Islam: Appraising Women's Rights to Husband and Family Planning", (Journal of Islamic Law Review, 11:1, 2015), pp. 6-7, <http://www.serialsjournals.com/serialjournalmanager/pdf/1470648339.pdf>

⁵⁸ E.I. Nwogugu, "Family law in Nigeria", (HEBN Studies in Nigerian Law, Third Edition, 2014), p. 76

⁵⁹ Muhammed Tawfiq Ladan, "A Handbook on Sharia Implementation in Northern Nigeria: Women and Children's Rights", 2005, pp. 16-17 http://leads-nigeria.org/uploads/2479_File_SHARIA%20IMPLEMENTATION%20IN%20NORTHERN%20NIGERIA.pdf

⁶⁰ Pechawar Islamicus, "Legal Capacity of Muslim Women Regarding Marriage" Jan-June 2017 Vol. 8 Page 28.

⁶¹ Ayesha M. Imam, Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", *BAOBAB for Women's Human Rights*, 2005, p.42, [http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf)

⁶⁶ Quran 4 vs 3

<p><i>marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>a polygamous marriage.⁶²</p> <p>A man does not need permission from his wife before marrying another woman⁶³. <u>"O Prophet why did you prohibit yourself from what Allah has made lawful for you, seeking the approval of your wives? And Allah is forgiving and merciful"</u></p> <p>With the above provision of the Quran, it is clear that a man does not need the approval or consent or permission from his wife or wives before getting another wife or wives.</p>	<p>Uje Area Court 2) the court upheld one wife's suit for equal maintenance and gifts with her co-wife.⁶⁴</p>	<p>2000. Gombe state has been the most recent state to provide for civil polygamy legalizing it on December, 14, 2001.⁶⁵</p> <p>As for the southern region of Nigeria, which is mostly composed of Christians, polygamy marriage has not been legally introduced, attempts to introduce shariah thereby legalizing</p>	<p>will not be fair to all his wives in the same measure, then one by way of an exception to the general rule.</p>	<p>polygamous. The survey also found that:⁶⁷</p> <ul style="list-style-type: none"> • Women in the Northern states were more likely to report having co-wives than women in the Southern states; • Older women were more likely than younger women to have co-wives. For instance, 42% of married women aged 45-49 reported having
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⁶² Ikenga K.E. Oraegbunam, "Sharia Criminal Law, Islam and Democracy in Nigeria Today", (New Journal of African Studies, 8, 2011), p. 105, <https://www.ajol.info/index.php/og/article/viewFile/71768/60724>; Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 112, <http://amsterdamlawforum.org/article/viewFile/213/405>; Ayesha M. Imam, Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", *BAOBAB*,2005, p.42, [http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf)

⁶³ Quran 66 vs. 1

⁶⁴ Ayesha M. Imam, Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", *BAOBAB*,2005, pp.51-52, [http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf)

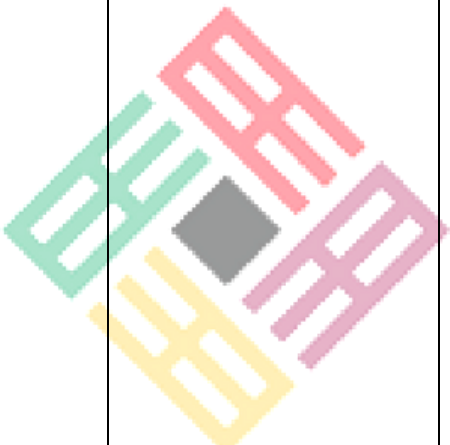
⁶⁵ Ikenga K. E. Oraegbunam & Benson O. S. Udezo. Women's Rights in Matrimonial Jurisprudence under Islamic Family Law in Nigeria: A need for Reform (New Journal of African Studies, 8, 2011), Page 106.

⁶⁷ National Population Commission of Nigeria and ICF International, "Nigeria Demographic and Health Survey 2013", Tables 4.2.1, p. 55, <http://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>

		<p>polygamy in Oyo state, Kwara state, Lagos state and several other states, yet all unsuccessful.</p> <p>As at 2009, there has yet to be any debate of introducing a measure that would allow for civil polygamous marriages to be recognized in the entire country of Nigeria, letting the legislation play out on a state by state basis rather than introducing a nationwide measure that would allow for civil polygamous marriages to be recognized in the entire country of Nigeria, letting</p>	<p>co-wives, as compared with 25% of women aged 20-24;</p> <ul style="list-style-type: none"> • Rural women were more likely to report having co-wives than urban women (22% versus 39%); • Women living in poorer households were more likely than women living in richer households to have co-wives. For instance, 46% of women living in households in the lowest wealth quintile reported having co-wives, as compared with 15% of women living in households in the highest quintile;
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			<p>the legislation play out on a state by state basis rather than introducing a nationwide measure.</p>		<p>and</p> <ul style="list-style-type: none"> • Lower educated women were slightly more likely to report having co-wives than higher educated women. For instance, 46% of married women with no education reported having co-wives, as compared with 14% of women who has attained secondary or higher education. <p>According to civil society reports and academic research:⁶⁸</p> <ul style="list-style-type: none"> • Some Muslim communities
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⁶⁸ Ikenga K. E. Oraegbunam and Benson O. S. Udezo, "Women's Rights in Matrimonial Jurisprudence under Islamic Family Law in Nigeria: A Need for Reform", (Journal of Religion and Human Relations, 1:4, 2012), p. 105, <http://www.ajol.info/index.php/jrhr/article/viewFile/86984/76761>; Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 112, <http://amsterdamlawforum.org/article/viewFile/213/405>; Ayesha M. Imam, Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", *BAOBAB*, 2005, pp. 12-13, [http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf)

					<p>encourages polygamy, almost to be point of mandating the practice;</p> <ul style="list-style-type: none"> • The unequal treatment of wives is the prevailing norm in a polygamous marriage. <p>According to media reports, the Emir of Kano, the second most influential Muslim leader in Nigeria, has announced that there will soon be a law which would stop men from taking more than one wife if they did not have the means to support them.⁶⁹</p> <p>According to information on the</p>
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⁶⁹ Africa News, “Poor men to be legally barred from polygamy – Emir of Kano”, *Africa News*, 20 February 2017, <http://www.africanews.com/2017/02/20/poor-men-to-be-legally-barred-from-polygamy-emir-of-kano/>; Anthony Ogbonna, “Law to ban polygamy: There’s a connection between polygamy, poverty, terrorism – Emir of Kano”, *Vanguard Nigeria*, 20 February 2017, <http://www.vanguardngr.com/2017/02/law-ban-polygamy-theres-connection-polygamy-poverty-terrorism-emir-kano/>

					ground, temporary marriage is not practiced in Nigeria and is culturally frowned upon. ⁷⁰
<p>Divorce rights</p> <p><i>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced</i></p>	<p>There are four main ways in which Muslims can seek for divorce in Nigeria:⁷¹</p> <ul style="list-style-type: none"> • <i>Unilateral repudiation of the marriage (talaq)</i>: This can only be initiated by the husband unless he has delegated this right to his wife. The wife does not need to return her dower (mahr); • <i>Divorce by mutual consent of the husband and wife (mubarat)</i>: This is usually 	<p><i>Shari'ah</i> court cases have found that the compensation in <i>khul'</i> divorce cases should not be more than the original value of the dower (<i>mahr</i>) received or promised at marriage. For example, in <i>Babajo vs. Dontsho</i>, the <i>Shari'ah</i> Court of Appeal found that the maximum the wife should pay her husband is the amount of the <i>mahr</i> she had</p>	<p>The Government of Nigeria in its 1997 report to the CEDAW Committee explained that the same opportunity is given to both spouses to terminate a marriage when it no longer serves its purposes and</p>	<p>Registration of Muslim divorces are not mandatory except in Jigawa State (under Section 14(1) of the Marriages (Expenses Control) Law, district and village leaders must maintain a divorce register).⁹⁰</p> <p>The assigning of the husband's right to repudiation (<i>talaq</i>) to</p>	<p>According to information gathered by the Immigration and Refugee Board of Canada and civil society reports:⁹⁴</p> <ul style="list-style-type: none"> • <i>Talaq</i> divorce is the most common form of Muslim divorce in Nigeria. Due to its informal character, it is often abused by a husband to the

⁷⁰ Information obtained from Nigerian advocate, February 2017

⁷¹ Baobab, "Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria", *BOABAB Legal Literacy Leaflet No. 2*, <http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf>; Immigration and Refugee Board of Canada, "Nigeria: Divorce Laws and Practices among Muslims", 7 November 2012, https://www.ecoi.net/local_link/232040/340619_en.html; Muhammed Tawfiq Ladan, "A Handbook on Sharia Implementation in Northern Nigeria: Women and Children's Rights", 2005, pp. 78-79, http://leads-nigeria.org/uploads/2479_File_SHARIA%20IMPLEMENTATION%20IN%20NORTHERN%20NIGERIA.pdf

⁹⁰ E.I. Nwogugu, "Family law in Nigeria", (HEBN Studies in Nigerian Law, Third Edition, 2014), pp. 78-79

⁹⁴ Immigration and Refugee Board of Canada, "Nigeria: Divorce Laws and Practices among Muslims", 7 November 2012, https://www.ecoi.net/local_link/232040/340619_en.html; BAOBAB, Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria, p. 5, <http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf>; Ejiro J.Otive-Igbuzor, "Analysis of the Structural and Systemic Causes of Gender Inequality in Nigeria", *Voices for Change*, 2014, p. 13, <http://www.v4c-nigeria.com/wp-content/uploads/2014/09/Study-3-Analysis-of-Structural-Systemic-Causes-of-Gender-inequality-in-Nig-.pdf>; Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria, "Promoting Women's Rights Through Sharia in Northern Nigeria", 2005, pp. 18-21, http://www.ungei.org/srgbv/files/dfid_promoting_womens_rights.pdf

<p><i>required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>initiated by the wife and decided by a court. However, if both husband and wife wish, they can agree to it between themselves, or with their guardians (<i>walis</i>). Whether the wife needs to return the <i>mahr</i> depends on the agreement of the parties;</p> <ul style="list-style-type: none"> • <i>Divorce following the payment of compensation by the wife to her husband (khul')</i>: This is initiated by the court. The wife need not give a reason for wanting the divorce. Where there is dispute over the compensation amount, the sum will be decided by the court; • <i>Court-decided divorce (tafriq or faskh)</i>: This is usually initiated by the wife on the grounds of 	<p>received, which in this case was N100, and that to demand for more was unjust and amounted to promoting immorality.⁷²In addition, in cases involving long-term marriages, the wife is usually required to pay only a "token amount," in addition to court fees she pays as the initiator of the divorce.⁷³</p> <p>Examples of court-decided divorce cases include the following:⁷⁴</p> <ul style="list-style-type: none"> • In <i>Yahaya vs. Adama Salusy</i>, the wife called witnesses to prove lack 	<p>has turned into an unbearable burden. The husband can bring about the dissolution of marriage in three different ways, namely <i>talaq, ila</i> and <i>zihar</i> and similarly, the wife can terminate the marriage by three ways: (i) repudiation of marriage in exchange for material compensation (<i>khul'</i>); (ii) divorce by way of the</p>	<p>his wife is usually agreed upon at the time of the marriage contract, either in writing or with two witnesses present.⁹¹</p> <p>Position of the law as regards the dissolution of marriage through the process of <i>Khu'lu</i>. "The established position of the law under Islamic law is to the effect that since <i>khul'i</i> is based on the principle of offer and acceptance, the divorce takes place the moment the</p>	<p>detriment of wives;</p> <ul style="list-style-type: none"> • The husband's delegation of his lateral right to divorce to his wife is something almost "unknown" in Nigeria; • Women often resort to <i>khul'</i> divorce even where they may have good grounds to seek for a court-decided divorce. This could be due to their lack of awareness that in
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⁷² Baobab, "Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria", *BOABAB Legal Literacy Leaflet No. 2*, p. 5 <http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf>

⁷³ Immigration and Refugee Board of Canada, "Nigeria: Divorce Laws and Practices among Muslims", 7 November 2012, https://www.ecoi.net/local_link/232040/340619_en.html

⁷⁴ Baobab, "Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria", *BOABAB Legal Literacy Leaflet No. 2*, p. 6 <http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf>

⁹¹ Baobab, "Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria", *BOABAB Legal Literacy Leaflet No. 2*, p. 5 <http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf>. See also Immigration and Refugee Board of Canada, Nigeria: Divorce Laws and Practices among Muslims (2012), https://www.ecoi.net/local_link/232040/340619_en.html.

	<p>violation of marriage terms and arbitrated by the court. Valid grounds for divorce include: (i) the husband's failure to provide maintenance; (ii) 'defect' on the part of husband or wife; (iii) prolonged absence of a spouse; (iv) injury or discord between wife and husband; (v) failure to provide sexual satisfaction; and (vi) refusal of the husband to enable the wife to undertake her religious obligations. If the court grants a divorce for any of these reasons, the wife does not have to make any payment to the husband or reimburse the <i>mahr</i>.</p> <p>There are also several levels of revocability of divorce in Islam. If a client approaches a practitioner claiming the divorce is revocable the best course of action is to consult an Islamic scholar. This can be a complicated question that will likely require an Islamic scholar to listen to both sides and make a determination.</p> <p>DIVORCE RIGHT :</p>	<p>of provision of food or adequate medical care. The <i>Shari'ah</i> Court of Appeal, Kano, affirmed the divorce;</p> <ul style="list-style-type: none"> • In the case of <i>Aisha Umar</i>, the wife complained to the Area Court 1, Sokoto, that her husband had left her for two years and three months. She produced witnesses and was granted the divorce; • In <i>Luba Mamaman vs Tukur Ibrahim</i>, the wife complained to the Area Court, Sokoto that her husband often verbally abused her father and accused her of committing adultery. The husband protested against the divorce. Finally, the <i>Shari'ah</i> Court of Appeal ruled that the wife could have 	<p>husband's delegation of his authority to divorce his wife (<i>tafwid</i>); or (iii) by option of puberty i.e. a minor who was married to her husband, could upon attaining majority, opt out or affirm the marriage.⁸⁹</p>	<p>mutual agreement is reached and it is not deferred. Indeed, such a divorce is final on the basis that a bilateral agreement cannot be unilaterally rescinded⁹². See the unreported case of Kachalla Vs Kachalla Suit No. FCA/K/85/82 Court of Appeal, Kaduna Division is instructively significant to note, that the husband should not be allowed to use khul'u as a punitive instrument of oppression or punishment in a situation where a marriage has irreconcilable differences and has broken down</p>	<p>the case of a court-decided divorce, they do not have to pay compensation to their husband, or because of delays in the judicial system or proceedings, in which case a wife would rather pay her husband than wait; and</p> <ul style="list-style-type: none"> • The lengthy process and costly procedure of seeking divorce places women in a vulnerable position.
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⁸⁹ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/2-3 (1997), p. 64, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>
⁹² (1991) 1 NWLR (Pt. 167) 356/365.

	<p>Divorce in Islam has taken a variety of forms and some are initiated by the husband while some are initiated by the wife. The main legal tradition categories are talāq (divorce), khul'u (repudiation), mutual divorce, oaths and judicial divorce. Historically the rules divorce were governed by sharia. (Suratu-talāq :vs 1).</p> <p>whenever khul'u occur the wife is expected to return all what the husband has spent on her</p>	<p>the divorce on the grounds of cruelty and destruction of property. The Area Court, Zaria, granted the divorce;</p> <ul style="list-style-type: none"> • In the case of <i>Modu Fugurambe vs. Amina Alirambe</i>, the wife complained that her husband was 'not her match sexually' to the Lamisula Area Court 11, Maduguri. Eventually she swore on the <i>Qur'an</i> that her complaint was true, and the marriage was dissolved; • In the case of <i>faja Kaka v. Zama Bukma</i> in Borno State, the marriage was dissolved at the request of the wife on the grounds that her consent was not sought before the marriage was consummated.⁷⁵ 		<p>irretrievably. Thus, in khul'u proceedings, the husband should not be allowed to make burdensome, cumbersome and unwholesome demand as compensation for the release of the wife.</p> <p>In Islamic law, when khul'i is in issue, the duty of the Court includes the conduct of an examination in the nature and mode of the husband's request for payment on the basis of khul'u. In this regard, the wife should not be made to face difficulties, be put at a disadvantage or inconvenience, thereby imposing an element of compulsion or severity on her, as a result of the prohibitive nature of</p>	
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⁷⁵ Ikenga K. E. Oraegbunam and Benson O. S. Udezo, "Women's Rights in Matrimonial Jurisprudence under Islamic Family Law in Nigeria: A Need for Reform", (Journal

		<ul style="list-style-type: none"> • In <i>Balaraba Magaji Shika v. Magaji Isa Giwa</i>, a wife sought divorce on the grounds that the husband constantly accused her of immorality even when she went to her parents' home. He demanded N30,000 as payment, even though her dowry had only been N500, and the court required her to pay N10,000; • In <i>Indo Ibrahim v. Danladi</i>, the <i>Shari'ah</i> Court of Appeal, Jos, held that marriage expenses should not be considered part of the dowry for the purpose of <i>khul'</i> payments, and should be viewed instead as gifts.⁷⁶ 		<p>the amount demanded by the husband. Indeed, the monetary sums of money which are claimable are those connected with the essentials of marriage. Thus, it is not all the amount or items which a husband donated to or expended on his wife that are refundable in <i>khul'u</i> divorce, but only what is strictly permissible. Even at that, such a claim is subject to proof in accordance with the established standards of Islamic law. According to the teachings of Islam, men are protectors of women. Hence, Islamic law does not approve of attitudinal disposition which is untoward, unwholesome and somewhat</p>	
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⁷⁶ of Religion and Human Relations, 1:4, 2012), p. 108, <http://www.ajol.info/index.php/jrhr/article/viewFile/86984/76761>
Muhammed Tawfiq Ladan, "A Handbook on Sharia Implementation in Northern Nigeria: Women and Children's Rights", 2005, p. 18, http://leads-nigeria.org/uploads/2479_File_SHARIA%20IMPLEMENTATION%20IN%20NORTHERN%20NIGERIA.pdf

		<p>● In <i>Fatimah Aliyu and Jilia</i> in Sokoto in 1988, a wife had her marriage dissolved on grounds of lack of maintenance.</p> <p><i>USAINI</i> v. <i>ABDULLATIF</i>⁷⁷ Principle</p> <p>In order to avoid the doing of cruelty against a marriage partner, the Sharia has provided a mechanism for ending such a relationship, thus: a) Talaq or unilateral repudiation of the wife by the husband; b) Divorce by mutual consent, i.e. Khul'i; c) Divorce by judicial decree. The first method of divorce, supra, is applicable where the husband has aversion for the wife. The second method of divorce is applicable where the wife</p>		<p>oppressive to women, talk less of a wife. This is more so, because when a man takes a woman as a wife, he is enjoined to treat her with affection and compassion⁹³. It is both legal and logical that in Islamic law, when peaceful co-existence has taken flight between parties as a married couple, the ideal antidote to be administered or applied in order to protect the highly rated institution of marriage, is to dissolve the marriage. It is instructively significant to note, that under Islamic law, pronouncement of talaq - divorce is the right of a man to initiate the dissolution of a marriage contract</p>	
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⁷⁷ (2017) LPELR-44609 (CA)

⁹³ See Quran. 2: 229 and 231. Quran. 4: 19; 34 and 129.

		<p>has a vision for the husband. The third is by the operation of the law whereby the Court will try to find out who among them (husband and wife) has aversion for his or her partner and is reluctant to use the mechanism of divorce vested in him or her to end the marriage. In such a case the Court will proceed to use the mechanism vested in the party at fault to end the marriage in issue, and such divorce will become final by operation of law. For instance, where the wife is the one who has aversion for her husband the law allows for compulsory Khul'i whereby it (the Court) will order for a refund of the marriage payments and dissolve the union⁷⁸. Similarly, where the husband is the one who has aversion for the wife</p>		<p>with due regard to all the relevant injunctions of Allah thereon. Similarly, al-khul'u is the equal right of a woman to initiate and demand for dissolution of her marriage. However, such a drastic step is expected to be taken when she can no longer cope with the discharge of her marital obligations to the husband; putting into consideration all the injunctions of Allah in respect thereof. Indeed, a woman who seeks release from her husband is not obliged to give the reason(s) for her action or request. It is left to her conscience as a matter between her and Almighty Allah. Under Islamic law, once divorce through khul'u has been agreed upon,</p>	
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⁷⁸ See the book of FIQHU SUNNAH Vol. 2, Page 252.

		<p>but has refused to utilize the divorce mechanism vested in him under the Sharia law, here, the Court will order him to divorce the wife by the process of Talaq⁷⁹. Also if it becomes difficult for the wife to prove cruelty by producing witnesses but investigation conducted by the Court revealed that it is rather the husband who has aversion for the wife and instead of him to divorce her by Talaq, he decides to use the Khul'i as a punitive instrument, in such a situation, the Sharia law allows the Court to order for a divorce without the payment of any compensation by the wife to the husband⁸⁰.</p> <p>Now, in the instant case before us, it is a fact that the respondent could not</p>		<p>the union of the couple ceases to exist. The issue of settlement with regard to whatever is agreed upon or determined as compensation for the release or separation is a different thing entirely.</p>	
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⁷⁹ Supra.

⁸⁰ Supra. Vol II Page 252

		<p>prove her claim of cruelty being meted against her by the appellant, however, there is circumstantial evidence showing that her husband has aversion for her as is evidenced by the following factors, thus..."</p> <p>The lower Court in its answers to the posers, continued, stated and I quote: "In a nutshell what is meant here is that, the refusal of the husband to utilize the method of divorce provided for him by the Sharia law in the instant case, provided an avenue for the lower Court to step in to do what is just by invoking the divorce mechanism which should have been used at the right time by the appellant to divorce the respondent. In this wise, our answer to the first poser, supra, is that the position taken by the lower Court to dissolve the marriage without the</p>			
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		<p>payment of any financial compensation is appropriate. On the second poser as to whether the authority cited by the lower Court in support of its decision is appropriate? Our response here is that it is not the appropriate authority⁸¹. She said authority cited above is in respect of the gift made during betrothal by a suitor. The position of law is that, such present should not be returned if the suitor withdraws, but they should be returned if she withdraws. Therefore the right authority in support of the decision of the Court is the one which appeared above thus: Thus, having considered the facts of this appeal, we are satisfied that the lower Court was right in dissolving the marriage without ordering the</p>			
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⁸¹ Supra. Page 28

		<p>respondent to pay any financial compensation to the appellant. In the circumstances of this case, the decision of the lower Court and all orders made by it is hereby affirmed. In the light of the foregoing, this appeal fails and it is dismissed⁸². After all is said and done, I must say that I am satisfied with the approach adopted by both the trial upper Sharia Court as well as the lower Court. Both Courts have duly satisfied the procedural requirements laid down under Islamic law for resolving seemingly intractable cases, such as the instant case. I have duly perused the record of appeal placed before us. Indeed, I have given a holistic look at all that transpired before the trial USC, inclusive of the turns and</p>			
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⁸² Section 10 of the Sharia Court of Appeal Law, 1960 and Section 6(2) of Sharia Courts of Appeal Law, 2000

		<p>twists thereat. The same goes with regard to the proceedings before the lower Court. Without mincing words or much ado, I am of the firm viewpoint, that the lower Court adopted the correct approach and had recourse to the relevant principles of Islamic law, and they have been correctly applied to the facts of this case and the issues raised in the grounds of appeal filed before it. Indeed, the said lower Court in resonating details, showed the basis/fulcrum for its decision which to my mind, is unassailable. The lower Court, in the given circumstances and facts of the instant case, was in the right when it affirmed the decision of the trial USC. As such, there is no valid need for this Court to interfere with its decision. In this regard, the issue raised</p>			
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		<p>for determination in this appeal and as reframed above, is resolved against the appellant and in favour of the respondent⁸³."</p> <p>BIBILARI v. BIBILARI⁸⁴</p> <p>Whether cruelty is one of the grounds set out under Section 15 (2) of the Matrimonial Causes Act for divorce; what Court should consider in considering what constitutes cruelty</p> <p>"Cruelty is not one of the grounds set out under S. 15 (2) of the Matrimonial Causes Act for divorce; it remains however, one of the old grounds for divorce. A Court can hold that a marriage has broken down irretrievably on the ground that one spouse has been proved</p>			
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⁸³ Per MASSOUD ABDULRAHMAN OREDOLA, JCA (Pp 13 - 23 Paras A - A)
⁸⁴ (2011) LPELR-4443 CA

		<p>to be guilty of cruelty to the other.</p> <p><i>UGBOTOR v. UGBOTOR⁸⁵</i></p> <p>Principle MATRIMONIAL CAUSES - *CRUELTY IN MARRIAGE* - What amounts to cruelty as a ground for dissolution of marriage "A marriage could be said to have broken down irretrievably if it can be established that one spouse had been guilty of cruelty towards the other. No reasonable spouse will be expected to share a state of affairs with other spouse who has been very cruel to her. Section 15(2) (c) of the Matrimonial Causes Act, which deals with this point, provides:- "The Court hearing a petition for a decree of dissolution</p>			
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⁸⁵ (2006) LPELR-7612 CA

		<p>of a marriage shall hold the marriage to have broken down irretrievably if, but only if, the petitioner satisfied the Court that since the marriage, the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent. In ATKINS VS. ATKINS⁸⁶ where Collins J in affirming the right or duty of the Court to intervene on behalf a husband or wife in cases of cruelty observed at page 638 thus: - "It is not necessary, as it is obvious, in order to bring about the state of things that there should be violence. One knows that dropping water wears the stone. Constant nagging will become intolerable, and through in the course of married life you may be able to point to no single</p>		
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⁸⁶ (1942) 2 A.E.R 637,

		<p>instance which could possibly be described as, in common parlance, 'a row' yet nagging may be of such a kind, and so constant, that it endangers the health of the spouse on which it is inflicted." I bear in mind that foreign authorities are no longer binding on our Courts; the above dictum being that of a High Court Judge in England has no effect on our Courts; but like the judgments of the superior Courts of England, it could be of some persuasion. Our Supreme Court gave approval to this quotation when in WILLIAMS VS. WILLIAMS⁸⁷ where Idigbe J.S.C. (of blessed memory) reasoned thus:- " ... the conduct of the respondent must be of such a character as is likely to cause or produce</p>		
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⁸⁷ (1966) 1 ALL NLR 36,

		reasonable apprehension of, danger to life, limb or health (bodily or mental) on the part of the petitioner." It therefore seems to me from the above dicta that the essence of cruelty in law, to ground the dissolution of a marriage, it must be a conduct, which is grave, and serious coupled with injury or a reasonable apprehension of injury (physical or mental) to health. ⁸⁸			
<p>Women's financial rights after divorce</p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman's role as wife and mother recognised as contribution to the</i></p>	<p>Generally, upon divorce, a woman is only entitled to financial maintenance during the waiting period after the divorce (<i>iddah</i>). The <i>iddah</i> period is generally three months, unless she is pregnant, in which case she is entitled to maintenance only until the baby is</p>	<p>Fathers may be prosecuted for the failure to provide financial support for his children⁹⁷</p>	<p>In BAOBAB's 2005 women's Right in Muslim Law indicates that women may keep property and goods owned before</p>	<p>Depending on the length of marriage whether intercourse occurred or not or if any kids are involved, either husband or wife, the husband may be required to provide a</p>	<p>According to information gathered by the Immigration and Refugee Board of Canada and civil society reports, in practice:¹⁰³</p> <ul style="list-style-type: none"> • Whether by their

⁸⁸ Per PIUS OLAYIWOLA ADEREMI, JCA (Pp 7 - 9 Paras C - C)

⁹⁷ Abubakar Aajam vs. Hauwa Haladu, in 1995 (Case No 62/95).

¹⁰³ Immigration and Refugee Board of Canada, "Nigeria: Divorce Laws and Practices among Muslims", 7 November 2012, https://www.ecoi.net/local_link/232040/340619_en.html; Ayesha M. Imam, Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", BAOBAB, 2005, p. 73, [http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf); Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria, "Promoting Women's Rights Through Sharia in Northern Nigeria", 2005, p. 23, http://www.ungei.org/srgbv/files/dfid_promoting_womens_rights.pdf

<p><i>acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut'ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>born.⁹⁵</p> <p>Following a divorce, fathers remain responsible for the financial maintenance of their children.⁹⁶</p>	<p>Case of AISHATU ABDULLAHI VS ABDULLAHI SHAIBU⁹⁸</p> <p>TUNDE BALOGUN VS BILIKIS SAMBO⁹⁹</p> <p>MAYAKI & ANOR V. NDA¹⁰⁰</p> <p>The basic principle of Islamic law of Divorce: effect of marriage within the period of IDDAH</p> <p>SANUSI V. AMINU¹⁰¹ In this case, the court held that in Islamic law the sum of money or items which are regarded as claimable are the ones</p>	<p>marriage.</p> <p>However, there is a concept of division of nassets accumulated during the marriage, as all property accumulated during the marriage belong to the husband, unless registered jointly or under the woman's name alone.</p>	<p>monthly maintenance support for the children to ensure their wellbeing. Unlike the American laws, where the couple split assets earned during marriage, Islamic law does not entitle a wife to a split of the husband's assets at divorce.</p> <p>Although, upon divorce, Islamic law recommends that divorced wife be given a parting gift known as muta'h.</p>	<p>own choice or not, women generally do not remain in their husband's home after the divorce and forfeit any support; and</p> <ul style="list-style-type: none"> Enforcement of child maintenance payments is difficult. As such, whether the father pays child maintenance depends very much on the disposition of the father.
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⁹⁵ BAOBAB, "Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria", *BOABAB Legal Literacy Leaflet No. 2*, p. 7 <http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf>; Immigration and Refugee Board of Canada, "Nigeria: Divorce Laws and Practices among Muslims", 7 November 2012, https://www.ecoi.net/local_link/232040/340619_en.html; Pascale Fournier et al, "Engendering Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 112, <http://amsterdamlawforum.org/article/viewFile/213/405>

⁹⁶ Baobab, "Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria", *BOABAB Legal Literacy Leaflet No. 2*, p. 7 <http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf>; Immigration and Refugee Board of Canada, "Nigeria: Divorce Laws and Practices among Muslims", 7 November 2012, https://www.ecoi.net/local_link/232040/340619_en.html

⁹⁸ KWS/SCA/AP/LP/05/2016

⁹⁹ KWS/SCA/CV/AP/IL/13/2015

¹⁰⁰ (1992) LPELR-14659 CA

¹⁰¹ (2017) LPELR-44604 CA

		<p>which are proximate with the basic requirement of marriage, any other one in form of gift are not claimable in the case of Khu'lu Divorce (Set me free).</p> <p>See <i>also</i> NGBODOBE VS. DUBRARE¹⁰²</p>			
<p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p>	<p>A mother has priority right over the custody of her daughter until she marries and her son until he reaches puberty based on Maliki <i>fiqh</i>.</p> <p>A mother may lose custody of her child if she may lose her right to custody, and the next female relation on the mother's side (her mother, her sister, etc.) takes custody.¹⁰⁴</p>	<p>In ARABI VS. MUSA¹⁰⁵ ALSO ALKAMAWA VS. BELLO</p> <p>The court state clearly that CUSTODY OF CHILDREN SHOULD BE UNDER THE CARE OF THE MOTHER</p> <p>Also in the case of ALABI V.ALABI¹⁰⁶ the court stated as follows: "under Islamic Law, the custody of a child under Islamic marriage is generally</p>	<p>The Government of Nigeria in its 1997 report to the CEDAW Committee explained that at the dissolution of Muslim marriages, the interests of the child is paramount in</p>	<p>An in depth study of Islamic law reveals that there is no verse in the Holy Quran on custody of minors, but the classical Muslim jurists have referred to the verse of fostrage (Ayat al Radha'at) which says that " the mother should breast feed their infants for two</p>	<p>According to information gathered by the Immigration and Refugee Board of Canada and civil society reports, in practice:¹¹²</p> <ul style="list-style-type: none"> • Most women are forced to give up custody of their children immediately upon

¹⁰² (1997) LPELR-6257 CA

¹⁰⁴ Immigration and Refugee Board of Canada, "Nigeria: Divorce Laws and Practices among Muslims", 7 November 2012, https://www.ecoi.net/local_link/232040/340619_en.html

¹⁰⁵ (2017) 5 SQNR (PT. 11) AT 402 PARAS C-A,

¹⁰⁶ (2008) ALL FWLR (PT. 418)245@262 PG 298 PARAS D-E

¹¹² Immigration and Refugee Board of Canada, "Nigeria: Divorce Laws and Practices among Muslims", 7 November 2012,

https://www.ecoi.net/local_link/232040/340619_en.html; Ayesha M. Imam, Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", *BAOBAB*, 2005, p. 72, [http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf); Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria, "Promoting Women's Rights Through Sharia in Northern Nigeria", 2005, p. 22, http://www.ungei.org/srgbv/files/dfid_promoting_womens_rights.pdf

<p>Applicable CEDAW Provision Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>		<p>granted to a mother, unless there is compelling reason not to do so even where the mother in one reason or the other cannot carter for her child, custody is given to her relation and not the relation of the father” In <i>Jatau v. Mamman Hajiya</i>, the Shari’ah Court of Appeal of Bauchi state upheld the custody rights of the mother to her four-year-old daughter, and in <i>Jumai Yaqub and Adamu Idah</i>, and in the Shari’a court of appeal in Kogi, the court upheld a mother’s right to her male child and his maintenance.</p> <p>OKIDE v. OKIDE¹⁰⁷ Principle MATRIMONIAL CAUSES - CUSTODY OF A CHILD - *Factors to be considered and used in determining the issue of custody of children in matrimonial proceedings*</p>	<p>custody related matters.¹¹⁰</p>	<p>complete years. Therefore, through Iqtada al Nass, it is inferred that in the years of infancy the right of upbringing and Fostering the child remains with the mother.</p> <p>However, in the light of Hadith and decisions of the Holy Prophet Mohammad (S.A.W) on the case brought before him on child custody, three principles have been laid down while deciding the custody of a child.</p> <p>Firstly, the mother possesses priority right of child custody so long as she does not remarry.</p> <p>Secondly, in a situation where both parents profess different religions,</p>	<p>divorce because the father will not pay maintenance. The father then decides where and with whom the children shall live;</p> <ul style="list-style-type: none"> • Where a mother who has custody of her children, but remarries, the father often takes the child from his or her mother regardless of age; • Increasingly, though still rarely, a mother will fight for custody and guardianship and has been known to get it. • A report obtained from BAOBAB for women’s Human
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¹⁰⁷ (2020) LPELR-49989 CA

¹¹⁰ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/2-3 (1997), p. 64, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

		<p>"...As was rightly submitted by the learned Counsel to the Appellant and going by the dictum of Kolawole, JCA in Oyelowo vs. Oyelowo¹⁰⁸ the court in coming to a decision as to what is in the best interest of the children of a marriage that is the subject matter of a divorce suit as provided in Section 71(1) of the Matrimonial Causes Act, 1970 whereby the Courts are enjoined in dealing with questions of custody, welfare, advancement or education of children of the marriage; to regard the interest of the children as paramount consideration.</p> <p>in Odogwu vs.</p>		<p>custody of the child should go to that parent who follows the religion of Islam.</p> <p>Lastly, when the child has gone past the years of minority (7) years he will be given an option to choose between both parents.</p> <p>According to the Maliki school of thought, a mother has the right to her son's custody till he is able to speak clearly and the daughter till her marriage¹¹¹.</p>	<p>Rights,¹¹³ indicating that it is possible for a mother to lose custody of her children following a divorce if she lives more than 48 kilometers away from the father's residence, if she is seen to be living an immoral life or if she neglects the child.</p>
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¹⁰⁸ (1987) 2 NWLR (Pt.56) 239 at 351 paragraphs F-H.

¹¹¹ Aayesha Rafiq "Child Custody in Classical Islamic Law and Laws of Contemporary Muslim World (An Analysis) International Journal of Humanities and Social Science (2014) Vol. 4 No. 5 Page 269

¹¹³ BAOBAB, "Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria", *BOABAB Legal Literacy Leaflet No. 2*, p. [7http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf](http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf)

		<p>Odogwu¹⁰⁹ where the court stated that "Welfare of a child is not the material provisions in the house - good clothes, food, air-conditioners, television, all gadgets normally associated with the middle class, it is more the happiness of the child and psychological development. While it is good that a child is brought up by complementary care of the two parents living happily together, it is psychologically detrimental to his welfare and ultimate happiness and psychological development if material care, available, is denied him. A decree of divorce or of nullity of marriage must not be made absolute, and a decree of judicial separation must not be granted unless the Court is satisfied that arrangements have been made for the welfare of every child of the family. Welfare of the child is of</p>			
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¹⁰⁹ (1992) 2 SCNJ (Pt.II) 357 at 373 lines 17-20 See also (1992) LPELR-2229 (SC) at pages 30-31, paragraphs C-B:-

		paramount consideration if possible the Court could consult the child's wishes in considering what order ought to be made.			
<p>Guardianship of Children</p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A father has priority right over the guardianship of his children.¹¹⁴</p>	<p>In ODUCHE V. ODUCHÉ¹¹⁵, the court said that “in proceedings related to custody, guardianship, quality advancement or educational qualification of a marriage, the court shall regard the interest of these children as paramount consideration as subject thereto”</p> <p>WHEN DECIDING THE ISSUE OF CUSTODY, the trial Judge may exercise a judicial discretion and in exercising that judicial discretion he should take the following factors into consideration. These are:</p> <ol style="list-style-type: none"> 1. The ages of the children 		<p>According to the principles of established Muslim law, father is considered to be the child's natural and legal guardian because upon him is the responsibility of nafaqa of his child.</p> <p>The father's right to act as guardian of a child is an independent right and is given to him underneath the substantive law of Islam¹¹⁶.</p>	<p>The main role of a legal guardian under the Islamic law is to act in the child's best interest.</p>

¹¹⁴ Immigration and Refugee Board of Canada, “Nigeria: Divorce Laws and Practices among Muslims”, 7 November 2012, https://www.ecoi.net/local_link/232040/340619_en.html; Baobab, “Divorce: The Dissolution of a Marriage in Muslim Personal Law in Nigeria”, *BOABAB Legal Literacy Leaflet No. 2*, p. 7 <http://www.nigerianlawguru.com/articles/family%20law/DIVORCE%20-%20THE%20DISSOLUTION%20OF%20A%20MARRIAGE%20IN%20MUSLIM%20PERSONAL%20LAWS%20IN%20NIGERIA.pdf>

¹¹⁵ (2005) LPELR-5876 CA

¹¹⁶ Allamah Muhammad Jawad Maghniyyah “Marriage According to the Five Schools of Islamic Law” (1997) Vol. 5 Islamic Culture and Relations Organizations Page 28.

		<ol style="list-style-type: none"> 2. The education of the children 3. The welfare and general upbringing 4. The arrangement made for their accommodation 5. The conduct of the parties to the marriage <p>In deed the interest of the children had at all times be of paramount consideration</p>			
<p>Family Planning</p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>Abortion is strictly prohibited by law, except when it is necessary to save the pregnant woman's life</p>	<p>Islamic law is considerably liberal concerning abortion, which is dependent on the following:</p> <ol style="list-style-type: none"> a. The threat of harm to mothers b. The status of the pregnancy before or after ensoulment (on the 120th day of gestation) c. The presence of foetal anomalies that are incompatible with life. <p>The Maliki school of</p>	<p>The Government of Nigeria has developed a Family Planning Blueprint (Scale-Up Plan) 2014-2018 that has the overarching goal of increasing women's use of family planning services (contraceptive</p>	<p>Legal Method for Family Planning Thus, we understand that abstinence from insemination as a method of contraception is not forbidden under certain circumstances, though it may not provide ample satisfaction to both parties. Therefore, modern harmless</p>	<p>According to World Bank data, the total fertility rate decreased from 6.4 children per woman in 1960 to 5.6 in 2015.¹¹⁹</p> <p>According to Nigeria's 2013 Demographic and Health Survey:¹²⁰</p> <ul style="list-style-type: none"> • The median birth interval in Nigeria is 31.7 months,

¹¹⁹ World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

¹²⁰ National Population Commission of Nigeria and ICF International, "Nigeria Demographic and Health Survey 2013", Tables 5.5, 7.2, 7.4, 7.13.1, pp.73-74, 91-92, 95-96, 106-107, <http://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>

		<p>thought states that abortion is permissible at the request of both parents for up to 40 days with legitimate cause. This is principally prohibited from day 40 onward¹¹⁷.</p>	<p>prevalence rate to increase from 15% in 2014 to 36% in 2018), thereby contributing to the reduction of maternal mortality by 75% and infant mortality by 66% across Nigeria by 2018.¹¹⁸</p>	<p>methods such as contraceptive pills are quite lawful, provided these methods are performed in the individual cases which require contraception. Family planning, like any other emergency institutions such as divorce and polygamy, may be exercised in special circumstances. It should be borne in mind that not every method of family planning is acceptable by Islam. Any method that kills the fetus at any of its stage in the mother's womb is considered a crime in the sight of Allah, and therefore is absolutely forbidden. The only method</p>	<p>with 23% of children being born less than 24 months after their siblings;</p> <ul style="list-style-type: none"> • 16% of married women have an unmet need for family planning services, with 12% having an unmet need for spacing and 4% an unmet need for limiting of children; • 15% of married women are using a method of contraception, with 10% of women using a modern method; • Knowledge of at least one method of family planning
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¹¹⁷ Aminu Ibrahim Adamu "Position of Islam on Family Planning and the Use of Contraceptives by the Muslim Women" International Journal of Strategic Research in Education, Technology and Humanities (2018) Vol. 5 No. 1 Page 109.

¹¹⁸ Federation Government of Nigeria, "Nigeria Family Planning Blueprint (Scale-Up Plan)", 2014, http://ec2-54-210-230-186.compute-1.amazonaws.com/wp-content/uploads/2015/09/CIP_Nigeria.pdf

			<p>permissible is that which prevents pregnancy, provided such prevention does not taken place after the unity of the man's sperm with the woman's ovum and that such a control is 30 not practiced as a general rule. In order to distinguish between the prevention of pregnancy which may be permissible and the suppression of the original cell that is forbidden, we should bear in mind that the prevention of pregnancy may either affect the woman's ovum alone or the man's sperm alone, not both combined. It is medically stated that a normal woman produces one ovum monthly. If this ovum is prevented from being united with the</p>	<p>is quite high (85%) among married women in Nigeria.</p> <p>According to the Guttmacher Institute, in spite of Nigeria's restrictive abortion laws, abortion is very common in Nigeria and mostly done in secret. About 40% of those abortions run into complications serious enough that a medical professional should be seen (but often isn't).¹²¹</p>
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¹²¹ Guttmacher Institute, "Fact Sheet: Abortion in Nigeria", 2015, <https://www.guttmacher.org/fact-sheet/abortion-nigeria>

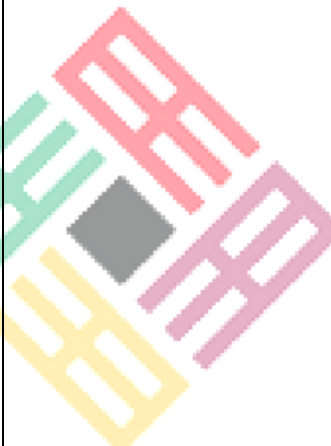
				man's sperm, there will be no pregnancy during the course of purity. The man's sperm will die spontaneously if it does not find any ovum to unite with. Contraceptive pills taken by women give that effect. This is just an example of the lawful system of family planning. Its legality is organized only because its contraception does not cause the killing of a fertilized cell in any of its stages.	
<p>Personal rights of spouses</p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman</i></p>	<p>Section 35(1) of the Constitution provides that no person shall be deprived of his or her personal liberty.¹²²</p> <p>Section 41(1) provides that, every Nigerian is entitled to move freely throughout Nigeria and to reside in any part of the country.¹²³</p> <p>Section 3 commits the state to</p>	<p>In the case of Zainab Oluwatosin Imam vs. Muhammed Isiyak Imam¹²⁹, the Shariah Court of Appeal, Kaduna held that even upon marriage, a woman is required to continue to answer the name of her father, not that of her husband.</p>	<p>The Government of Nigeria has asserted a policy of encouraging women to pursue an education and works to assist in development</p>	<p>Under Islamic Law, the consent of a husband is mandatory for a woman to work, choose a profession, leave the house etc, this extends to even seeking the consent of her husband to go visit her parents.</p>	<p>According to Nigeria's 2013 Demographic and Health Survey:¹³¹</p> <ul style="list-style-type: none"> • 71% of married Nigerian women were employed at the time of the

¹²² Section 35(1) of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

¹²³ Section 41(1) of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

¹²⁹ Unreported Suit No. SCA/KAD/192/2021 where the court stated that, nothing stops a woman from using her maiden name even in marriage.

¹³¹ National Population Commission of Nigeria and ICF International, "Nigeria Demographic and Health Survey 2013", Tables 15.1, 15.2.1, 15.4.1, 15.6.1, 15.7.2, pp. 280-282, 285-286, 289, 295-296, <http://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>

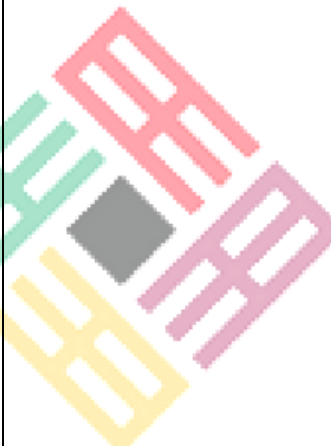
<p><i>protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>direct policies to provide equal opportunities to all Nigerians to secure adequate means of livelihood and suitable employment.¹²⁴</p> <p>Despite the constitutional provisions stating otherwise, the personal rights of Muslim women can potentially be restricted for reasons that include:</p> <ul style="list-style-type: none"> • The recognition that the husband as the decision-maker in the marriage and family;¹²⁵ • The requirement for a woman to obey her husband or risk losing her financial maintenance;¹²⁶ • The practice of exclusion and seclusion whereby husbands exclude their wives from household decision-making 		<p>efforts. This contradicts the tradition of seclusion (<i>purdah</i>), still practiced by many women, particularly in northern Nigeria.¹³⁰</p>	<p>Upon marriage, a woman does not answer the name of her husband, it is the name of her father, in this case, her maiden name is what she will continue to answer for the rest of her life.</p>	<p>survey;</p> <ul style="list-style-type: none"> • 70% of married women earning cash made independent decisions on how to spend their earnings • 82% of married women aged 15-49 do not own a house while 85% do not own land; among women who do own assets, 4% and 5% of women own a house and land by themselves, respectively; • 31% of married women participate either alone or
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¹²⁴ Section 3 of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

¹²⁵ Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria, "Promoting Women's Rights Through Sharia in Northern Nigeria", 2005, p. 15, http://www.ungei.org/srgbv/files/dfid_promoting_womens_rights.pdf

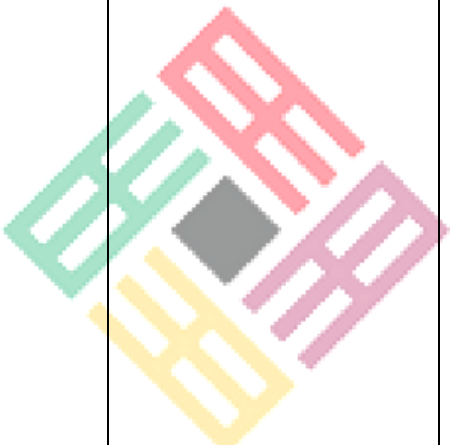
¹²⁶ Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 112, <http://amsterdamlawforum.org/article/viewFile/213/405>

¹³⁰ Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 112, <http://amsterdamlawforum.org/article/viewFile/213/405>

	<p>and restrict their wives' movements (<i>purdah</i>);¹²⁷</p> <ul style="list-style-type: none"> • While a woman can own property (including landed property) without the consent of the husband, she cannot legally dispose of it without her husband's consent.¹²⁸ <p>The wife has financial rights over her husband, which are the mahr (dowry), spending and accommodation. While the husband's right over his wife includes the obligations of obedience, honour and respect ,not going out of the house except with the husband's permission.</p>				<p>jointly with their husband in making decisions pertaining to their own healthcare, major household purchases, and visits to their family or relatives; and</p> <ul style="list-style-type: none"> • 35% of women aged 15-49 accept at least one reason as a justification for wife beating. Women are most likely to agree that if a wife goes out without telling her husband, it justifies wife beating (25%). <p>According to World Bank data, female labour force</p>
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¹²⁷ Philip Ostien and Albert Dekker, "Sharia and National Law in Nigeria", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 586-587, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria, "Promoting Women's Rights Through Sharia in Northern Nigeria", 2005, pp. 8, 14-17, http://www.ungei.org/srgbv/files/dfid_promoting_womens_rights.pdf

¹²⁸ Ayesha M. Imam, Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", *BAOBAB*, 2005, pp. 81-82, [http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf); Ejiro J. Otiye-Igbuzor, "Analysis of the Structural and Systemic Causes of Gender Inequality in Nigeria", *Voices for Change*, 2014, p. 20, <http://www.v4c-nigeria.com/wp-content/uploads/2014/09/Study-3-Analysis-of-Structural-Systemic-Causes-of-Gender-inequality-in-Nig-.pdf>

					<p>participation increased from 39% in 1990 to 48% in 2016.¹³² During the same period, male labour force participation rate decreased from 75% in to 64%.¹³³</p> <p>According to the 2016 UNDP Human Development Report.¹³⁴</p> <ul style="list-style-type: none"> • 65% of females aged 15-24 are able to read and write a short simple sentence as compared to 80% of males in the same age group; and • 71% of women are satisfied with their freedom of choice as compared to 65%
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¹³² World Bank, “Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)”, <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

¹³³ World Bank, “Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)”, <http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>

¹³⁴ UNDP, “Human Development Report 2016”, Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

					of men. According to a civil society report, in northern Nigeria, women still frequently require their husbands' permission to travel, and some Muslim Hausa women must be accompanied by their husbands. ¹³⁵
<p>Inheritance rights</p> <p><i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo</i></p>	<p>Generally, inheritance rights between women and men are unequal. In many instances, for example in the case of siblings, a woman is entitled to half the share of a man based on the rules of Maliki <i>fiqh</i>.¹³⁶</p> <p>However, a Muslim can expressly choose make a will under the Wills Act and exclude Islamic law from governing her or his estate upon death.¹³⁷</p>	<p>In <i>Yunusa v. Adesubokan</i>, a Muslim father chose to make a will under the Wills Act of 1873. One son (who was given much less than the others) sued, arguing that the will was contrary to Maliki Law. Ultimately, the Supreme Court held that any person, Muslim or not, may make a will under the Wills Act of</p>	<p>The Government of Nigeria in its 1997 and 2003 reports to the CEDAW Committee explained that upon her husband's death, a Muslim wife has a share</p>	<p>Under Islamic Law, there is no procedure to address the inequality in law of inheritance between a man and woman, reason being that, this is a law provided for in the Holy Quran, same cannot be altered, changed or modified.</p>	<p>According to civil society reports and academic research, in practice:¹⁵⁰</p> <ul style="list-style-type: none"> • Daughters and particularly wives, are frequently deprived of their inheritance rights, especially in terms of land and

¹³⁵ Ejiro J.Otipe-Igbuzor, "Analysis of the Structural and Systemic Causes of Gender Inequality in Nigeria", *Voices for Change*, 2014, p. 21, <http://www.v4c-nigeria.com/wp-content/uploads/2014/09/Study-3-Analysis-of-Structural-Systemic-Causes-of-Gender-inequality-in-Nig-.pdf>

¹³⁶ Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (*Amsterdam Law Forum*, 3:2, 2011), pp. 113-114, <http://amsterdamlawforum.org/article/viewFile/213/405>

¹³⁷ Muhammed Tawfiq Ladan, "A Handbook on Sharia Implementation in Northern Nigeria: Women and Children's Rights", 2005, p. http://leads-nigeria.org/uploads/2479_File_SHARIA%20IMPLEMENTATION%20IN%20NORTHERN%20NIGERIA.pdf

¹⁵⁰ Ejiro J.Otipe-Igbuzor, "Analysis of the Structural and Systemic Causes of Gender Inequality in Nigeria", *Voices for Change*, 2014, p. 16, <http://www.v4c-nigeria.com/wp-content/uploads/2014/09/Study-3-Analysis-of-Structural-Systemic-Causes-of-Gender-inequality-in-Nig-.pdf>; Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (*Amsterdam Law Forum*, 3:2, 2011), pp. 113-114, <http://amsterdamlawforum.org/article/viewFile/213/405>; Ayesha M. Imam,

<p><i>their inheritance in favour of their mother upon the death of their father?</i></p> <p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>NB: Islamic Inheritance jurisprudence is a field of Islamic jurisprudence that deals with inheritance, a topic that is prominently dealt with in the Qur'an. It is often called Mīrāth.</p> <p>In general, under the Quran a man takes double the share of a woman. Sons take two times the share of daughters. If there are two or more daughters, their share is 2/3 of the estate. - When a man dies leaving a wife and children, the widow receives 1/8 of the net estate¹³⁸.</p>	<p>1873 and dispose of their estate under that act in any manner they choose.¹³⁹</p> <p>Under <i>Apatire v. Akande</i>, the court held that Islamic law will not be applied to a person's estate if it can be inferred from his conduct that he intends to be bound by another law (in this case, by leaving legacies to his sons, it was implied that he meant to be bound by received English law).¹⁴⁰</p> <p>AMUSAN & ANOR v. OLAWUNI¹⁴¹ Principle CUSTOMARY LAW - YORUBA NATIVE LAW</p>	<p>in his estate.¹⁴⁸</p>	<p>God directs you as regards your children's inheritance, to a male, a portion equal to that of two female¹⁴⁹</p>	<p>property;</p> <ul style="list-style-type: none"> • In some communities, including some Muslim communities, women are also considered part of a man's property to be inherited by male relatives upon the death of their husbands; • In 2007, the Chronic Poverty Research Centre reported that in Nigeria only 27.8% of widows inherited majority
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Mufuliat Fijabi and Hurera Akilu-Atta, "Women's Rights in Muslim Laws: A Resource Document", *BAOBAB*, 2005, p. 77,

[http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20\(2\).pdf](http://www.weldd.org/sites/default/files/Women's%20Rights%20in%20Muslim%20Laws%20English%20(2).pdf)

¹³⁸ Suratul nisaa :chap 4 Hadith :Sahih bukhari book 80

¹³⁹ Muhammed Tawfiq Ladan, "A Handbook on Sharia Implementation in Northern Nigeria: Women and Children's Rights", 2005, pp. 12-13, http://leads-nigeria.org/uploads/2479_File_SHARIA%20IMPLEMENTATION%20IN%20NORTHERN%20NIGERIA.pdf

¹⁴⁰ Muhammed Tawfiq Ladan, "A Handbook on Sharia Implementation in Northern Nigeria: Women and Children's Rights", 2005, p. 13, http://leads-nigeria.org/uploads/2479_File_SHARIA%20IMPLEMENTATION%20IN%20NORTHERN%20NIGERIA.pdf

¹⁴¹ (2001) LPELR-6976 CA

¹⁴⁸ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/2-3 (1997), p. 65; Nigeria State party report, U.N. Doc. CEDAW/C/NGA/4-5 (2003), para. 16.3, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁴⁹ Quran 4:11

		<p>AND CUSTOM* - *Whether females can inherit the properties of their parents under Yoruba customary law* "The other point is issue No (5) which is whether or not the respondent has established and proved his right to inherit the farmlands in dispute under Yoruba Native Law and Custom of inheritance which he relied upon for the success of his case? The issue deliberates on female inheritance of property. The property of Orebiyi and Jacob Makinde inherited by Agoremilekun a female and only surviving child of Orebiyi and the only uterine sister of Jacob Makinde. The plaintiffs/respondents held that the farmlands were lawfully inherited by the plaintiff's mother</p>			<p>of assets;¹⁵¹</p> <ul style="list-style-type: none"> • There is a strong belief that it making a will is not permissible in Islam.
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¹⁵¹ OECD Development Centre, "Nigeria", *Social Institutions and Gender Index*, p. 3, 2014, <http://www.genderindex.org/sites/default/files/datasheets/NG.pdf>

		<p>Agoremilekun after her uterine brother Jacob Makinde died childless. Can Agoremilekun inherit the property of her father Orebiyi and her brother - Jacob Makinde who died without any surviving issue? Under Yoruba customary law it is the children of the deceased whether male or female who are entitled to succeed to the deceased's family property on death intestate to the exclusion of other relatives.</p> <p>ADESEYE V. TAIWO¹⁴², TAIWO V. TAIWO¹⁴³LOPEZ V. LOPEZ¹⁴⁴, LARIS V. BANKOLE¹⁴⁵SULE V. AJISEGIRI¹⁴⁶.</p> <p>Agoremilekun was entitled to inherit any</p>			
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¹⁴² 1 FSC 84.
¹⁴³ 3 FSC 80
¹⁴⁴ 5 NCR 43
¹⁴⁵ 1 WLR 83
¹⁴⁶ 13 NCR 146

		landed property declared to be that of her father Orebiyi or to such rights as their immediate parents had in family property. Where a deceased died with no issue and the parents survive him, the parents are favoured, if the parents are not alive then the brothers and sisters. Agoremilekun could inherit the land and permanent crops of her brother Makinde who died childless. The land and permanent crops are heritable by her own children ¹⁴⁷ ."			
<p>Violence against women in the family</p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of</i></p>	<p>Section 17(2) of the Constitution states that the sanctity of the human person must be recognised and human dignity maintained and enhanced.¹⁵²</p> <p>The Violence Against Persons</p>	<p>There is no doubt that Nigerian Islam, albeit by human positive law allows the chastisement of wives.</p> <p>Sharia Penal Code</p>	<p>The Government of Nigeria in its 2006 report to the CEDAW Committee explained that</p>	<p>Only the High Court of the Federal Capital Territory has jurisdiction to hear and grant applications (including restraining</p>	<p>According to Nigeria's 2013 Demographic and Health Survey:¹⁶³</p> <ul style="list-style-type: none"> • Overall, 25% of married women

¹⁴⁷ Per OLUFUNLOLA OYELOLA ADEKEYE, JCA Pp 29 - 31 Paras F - C

¹⁵² Section 17(2) of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

¹⁶³ National Population Commission of Nigeria and ICF International, "Nigeria Demographic and Health Survey 2013", Table 16.9, 16.1.4, p.314, 321, <http://dhsprogram.com/pubs/pdf/FR293/FR293.pdf>

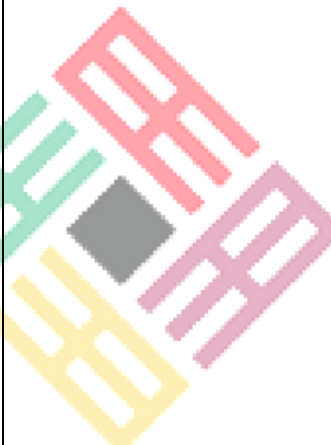
<p><i>sexual assault and violence that affect a woman's mental health which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p>	<p>(Prohibition) Act 2015 ('VAPP') criminalises a whole wide range of acts of domestic violence (defined as "any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health or well-being of any person") including:¹⁵³</p> <ul style="list-style-type: none"> • Spousal battery (Section 19); • Female circumcision or genital mutilation (Section 6); • Forceful ejection of a spouse from home (Section 9); • Forced financial dependence or economic abuse (Section 12); • Harmful traditional widowhood practices (Section 15); • Abandonment of a spouse and/or children (Section 16); • Harmful traditional practices (Section 20); • Harmful uses of chemical substance on another (Section 	<p>Law of Zamfara state 2002, provides that " nothing is an offence which does not amount to the infliction of grievous hurt upon any person and which is done by a husband for the purpose of correcting the wife"¹⁵⁹</p>	<p>there is a recommendation to repeal Section 55(1)(d) of the Northern States Penal Code Law which endorses wife battery as chastisement and equates the relationship of husband and wife with that of a master and servant. It gives the husband license to discipline his wife by beating.¹⁶⁰</p>	<p>orders) related to VAPP (2015).¹⁶¹</p> <p>The VAPP also requires a police officer at the scene of a violent incident or to whom a report of violence have been made to: (a) assist victims of violence to file complaints; (b) provide or arrange safe transport for victims to safe places; (c) provide or arrange transportation for the victim to the nearest hospital or medical facility to treat any injury; (d) explain the rights and remedies to the victims under VAPP; (e) explain the right to lodge a criminal complaint in addition to remedies under VAPP; and (f) accompany the victim home to</p>	<p>aged 15-49 reported having experienced emotional, physical and/or sexual violence from their spouse at least once, and 19% reported having experienced one or more of these forms of violence in the past 12 months;</p> <ul style="list-style-type: none"> • 19% of married women aged 15-49 reported having experienced emotional violence from their spouse at least once, and 15% reported having experienced such violence within the 12 months prior to
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¹⁵³ Violence Against the Persons (Prohibition) Act (2015), <http://www.refworld.org/docid/556d5eb14.html>

¹⁵⁹ Quran 2 vs 233, where the Quran figuratively urges men in relation to their wives that " women are your fields, go then into your fields whence you please

¹⁶⁰ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/6 (2006), p. 101, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

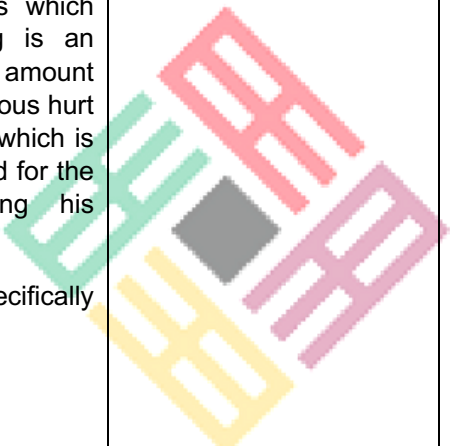
¹⁶¹ VAPP (2015), Section 27, <http://www.refworld.org/docid/556d5eb14.html>.

	<p>21);</p> <ul style="list-style-type: none"> • Forced isolation and separation from family and friends (Section 13); • Depriving persons of their liberty (Section 10); and • Incest (Section 25). <p>Section 47 of VAPP provides that the Act applies only to the Federal Capital Territory of Abuja.¹⁵⁴ Thirteen out of 36 states in Nigeria have passed similar legislation.¹⁵⁵</p> <p>The Penal Code applicable in all Northern states and the Criminal Code applicable all Southern states as well as the <i>Shariah</i> Penal Codes applicable in some Northern states contain general prohibitions that are applicable to domestic violence such as rape, sexual assault, assault, battery and abduction with the intention of forcing a woman to marry or</p>			<p>collect personal belongings.¹⁶²</p>	<p>the survey;</p> <ul style="list-style-type: none"> • 14% of married women aged 15-49 reported having experienced physical violence from their spouse at least once, and 9% reported having experienced such violence within the 12 months prior to the survey; • 5% of married women aged 15-49 reported having experienced sexual violence from their spouse at least once, and 4% reported having experienced such violence within the 12 months prior to
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¹⁵⁴ Section 47 of the Violence Against the Persons (Prohibition) Act (2015), <http://www.refworld.org/docid/556d5eb14.html>

¹⁵⁵ Chinedu Anarado, "Why Nigeria's Violence Against Persons (Prohibition) Act is only the beginning", *Ventures Africa*, 15 June 2015, <https://venturesafrica.com/why-nigerias-new-violence-against-persons-prohibition-act-is-only-the-beginning/>

¹⁶² VAPP (2015), Section 32(1), <http://www.refworld.org/docid/556d5eb14.html>

	<p>rape.¹⁵⁶ However:</p> <ul style="list-style-type: none"> • The Penal Code and the <i>Shari'ah</i> Penal Codes applicable in the Northern states accords legal of wife abuse under Section 55(1)(d) of the Penal Code and the relevant provisions of the <i>Shari'ah</i> Penal Codes which provide that “Nothing is an offence which does not amount to the infliction of grievous hurt upon any person and which is done [...] by a husband for the purpose of correcting his wife”;¹⁵⁷ • Marital rape is not specifically criminalised.¹⁵⁸ 			<p>the survey;</p> <ul style="list-style-type: none"> • Among married women who had experienced spousal violence (physical or sexual) in the past 12 months, 29% reported experiencing physical injuries; and • A sizeable number of abused women in Nigeria do not seek assistance from any source for violence they have experienced. 45% of women never sought help and never told anyone about the violence they have
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¹⁵⁶ Section 220-285 the Penal Code (Abuja) (1960), http://oceansbeyondpiracy.org/sites/default/files/Nigeria_Penal_Code_Act_1960.pdf; Section 300-372 of the Criminal Code (1916), <http://www.wipo.int/edocs/lexdocs/laws/en/ng/ng025en.pdf>; Olanweraju Olamide, “Territorial Jurisdiction in Nigerian Criminal Law”, *The Jet Lawyer*, 30 March 2016, <http://www.djetlawyer.com/territorial-jurisdiction-nigerian-criminal-law/>; Philip Ostein, “Sharia Implementation I Northern Nigeria”, (Nigeria: Spectrum Book, Vol. III, 2007), pp. 203, 209-216, http://www.sharia-in-africa.net/media/publications/sharia-implementation-in-northern-nigeria/vol_3_5_chapter_3_part_IV.pdf

¹⁵⁷ Philip Ostein and Albert Dekker, “Sharia and National Law in Nigeria”, in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 586-587, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

¹⁵⁸ Section 282(2) of the Penal Code (Abuja) (1960), http://oceansbeyondpiracy.org/sites/default/files/Nigeria_Penal_Code_Act_1960.pdf; Section 6 of the Criminal Code (1916), <http://www.wipo.int/edocs/lexdocs/laws/en/ng/ng025en.pdf>

					<p>experienced.</p> <p>According to Voices for Change:¹⁶⁴</p> <ul style="list-style-type: none"> • 1/3 of Nigerian women have experienced female genital mutilation; • 44% of divorced, separated, or widowed women have experienced violence since age 15; • Police commonly dismiss domestic violence as a “family affair”; and • Demeaning and often violent widowhood practices are still prevalent.
Nationality rights	A Nigerian man may pass his nationality to his non-Nigerian	The law on nationality rights is determined by	The Government of		

¹⁶⁴ Voices for Change, Analysis of the Structural and Systemic Causes of Gender Inequality in Nigeria (2014), p. 7, 15-16, <http://www.v4c-nigeria.com/wp-content/uploads/2014/09/Study-3-Analysis-of-Structural-Systemic-Causes-of-Gender-inequality-in-Nig-.pdf>

<p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>wife.¹⁶⁵ However, the law does not specifically provide for a Nigerian woman to confer her nationality to her foreign husband.</p> <p>A Nigerian mother or father may pass their citizenship to their children.¹⁶⁶</p>	<p>the law that is peculiar to every country¹⁶⁷.</p>	<p>Nigeria in its 2016 report to the CEDAW Committee acknowledged that the law does not provide for a Nigerian woman married to a foreigner to transmit citizenship to her spouse by reason of marriage and informed that the matter is under review.¹⁶⁸</p>		
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¹⁶⁵ Section 26(2) of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

¹⁶⁶ Section 25 of Nigeria's Constitution (1999), https://www.constituteproject.org/constitution/Nigeria_1999.pdf?lang=en

¹⁶⁷ Chapter three of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

¹⁶⁸ Nigeria State party report, U.N. Doc. CEDAW/C/NGA/7-8 (2016), paras. 2.7-2.8, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

ACCESS TO JUSTICE (please include sources to information as much as possible)

SYSTEM	PROCEDURES	CHALLENGES FOR WOMEN	GOOD PRACTICES IN COURT SYSTEM
<p>How are Muslim family law (i.e. marriage and family related) cases administered in your country? (E.g. Do you have a Quazi/Kadhi court system, family courts or civil courts?)</p> <p>In Nigeria, there are no family courts saddled with the responsibility of entertaining family matters or issues e.g divorce, maintenance, custody etc.</p> <p>The courts saddled with the requisite jurisdiction and powers to entertain family related matters as stated above are the customary courts¹⁶⁹, High courts¹⁷⁰ and Shariah Courts¹⁷¹, which in this instance can be regarded as the civil courts.</p> <p>In Islam, the appropriate court with the requisite powers and jurisdiction to entertain family related matters is the Shariah Courts of the state where one or all the parties are resident.</p> <p>How many courthouses/court rooms around the country that administer Muslim family law cases?</p> <p>The court houses/ court rooms that administer Muslim family law cases are the Shariah courts of</p>	<p>Are the procedures pertaining to family matters (e.g. divorce, maintenance etc) are defined in the family law and/or are there guidelines/policies available for judges/Kadhis?</p> <p>Be it statutory, customary or Islamic marriage, there are laid down procedures which must be followed as regards divorce, custody of a child or children, maintenance etc. judges or Kadis are not allowed to derogate from these procedures which are expressly laid down in either the custom and tradition under which the marriage was conducted, marriage Act and Matrimonial causes Act¹⁷⁸ and Rules¹⁷⁹ and the Holy Quran, Sunnah or Hadiths of the Holy Prophet Mohammad (S.A.W). Although judges and Kadis are</p>	<p>What are some key challenges that Muslim women face in accessing justice on family law matters?</p> <p>The challenges faced by Muslim women either in prosecuting or defending family related matters in courts cannot be over emphasized, amongst these challenges are , lack of funds to procure the services of a lawyer to represent them bearing in mind the fact that most of these Muslim women and not gainfully employed, another challenge which is related to our justice system is the length of time it will take before these women eventually get Justice, sometimes they are even denied justice, as justice delayed is justice denied, another challenge is gender insensitive judges, this could be as a result of absence of judges who are specifically positioned to handle family related matters.</p>	<p>Are there any good practices, procedures or policies that you would like to share pertaining to how courts in your country deal with family law cases?</p> <p>(E.g. prioritising certain types of cases, timely delivery of decisions, clear procedure, etc)</p>

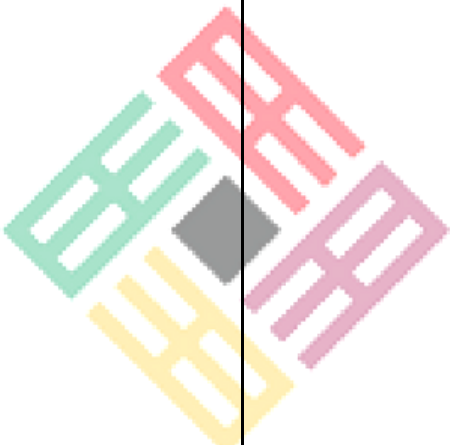
¹⁶⁹ Where the marriage was conducted under the native law and custom of the woman
¹⁷⁰ Where the marriage was contracted under the statute.
¹⁷¹ Where the marriage was conducted under Islamic law.
¹⁷⁸ No. 8, 1970
¹⁷⁹ 1983.

<p>the state where any of the parties are resident.</p> <p>This court is created by the law of the state house of Assembly of the state. Same is presided over by the Khadi.</p> <p><i>If civil or Kadhi courts - what cases are handled by what courts?</i></p> <p>The Shariah courts are saddled with the responsibility of entertaining matters on Islamic law, be it family related issues, criminal matters, civil matters etc</p> <p><i>How many Muslim family law-related judges? Are there women working within the court system as judges/marriage registrars e.t.c?</i></p> <p>There are women working within the court system as judges and even as marriage registrars.</p> <p>However, in the Shariah courts, there are no women working as Khadis, presiding over a shariah court.</p> <p><i>Do lawyers represent clients?</i></p> <p>Lawyers do certainly represent clients in muslim family related matters. Although, a person can be seen to be representing him or herself for one reason or the other. Free legal aid are often available for persons who for one reason or the other cannot afford to pay a lawyer for filling or legal professional fees.</p> <p>Mandatory assignment to Legal Aid¹⁷²</p>	<p>allowed to exercise their discretionary powers in certain situations depending on the circumstances surrounding the case.</p> <p><i>In general practice do judges/Kadhis follow procedures?</i></p> <p>The procedures laid down in either the Matrimonial causes rules, Act or even the Holy Quran or Sunnah are to be followed by judges or Khadis in determining cases before them. The said procedures are not made as a matter of fashion rather they are to be followed.</p> <p>How much judicial discretion do judges/Kadhis have over marriage and family matters?</p> <p>Judges and Kadis are allowed to exercise their discretionary powers in certain situations depending on the</p>	<p><i>(E.g. lack of accessibility, costly, bad procedures, delayed processes, gender insensitive judges, etc?)</i></p>	
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¹⁷² See http://www.legalaidcouncil.gov.ng/index.php?option=com_content&view=article&id=143%3Alegal-aid-innigeria&catid=43%3Alatest-news&Itemid=60 (last visited on September 4, 2015).

<p>Legal aid provided by the LAC ranges from rendering legal services through consultation, advice, or representation in court. The LAC guarantees the provision of such services through either the salaried lawyers staffed in the LAC's offices or private practitioners. If an application for legal aid is approved, the LAC may make referrals to private legal practitioners, whose names are registered on panels of practitioners maintained by the LAC and who receive a nominal fee. Lawyers who are willing to assist persons seeking legal aid are entitled to be included on the panel, unless the LAC has good reason for excluding them.</p> <p>Unmet Needs and Access to Legal Aid Legal aid provision in Nigeria is extremely limited. In an interview in August 2013, the Director-General of the LAC, Mrs Joy Bob-Manuel, stated that there are not enough lawyers to meet the increasing need for free legal services in the country. The council only had 280 lawyers, a number that was grossly inadequate to cover all the 36 states of the federation and the Federal Capital Territory.¹⁷³ Further reasons for the LAC's seeming ineffectiveness include inadequate funding, lack of publicity, inadequate information on access to justice, delays in investigating crime by the police, prison congestion, delays in the administration of justice, lack of empowerment of LAC to provide legal aid in respect to certain categories of persons and in respect to certain matters and the limited scope of eligibility for such aid.</p>	<p>circumstances surrounding the case.</p> <p>Are there appeal processes?</p> <p>Where one of the parties is not satisfied with the outcome or judgment of the court, such an individual has the right of an appeal to either Customary Court of Appeal, Court of Appeal or the Shariah court of Appeal, this right to appeal is clearly guaranteed in the 1999 Constitution of the Federal Republic of Nigeria (as amended).</p> <p>There are clear procedures laid down before the right to appeal can be exercised, one of those procedures is that the right to appeal must be exercised within a particular time as stipulated by the rules guiding the trial court.</p>		
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¹⁷³ See <http://www.mynewswatchtimesng.com/legal-aid-council-decries-shortage-lawyers/#sthash.KFrHnMBN.dpuf> (last visited on September 4, 2015)

<p>Funding levels are so poor that some lawyers on the panel have done legal aid work free of charge because it has not been worthwhile to claim the nominal fee.¹⁷⁴</p> <p>In particular, LEDAP's Indigent and Human Rights Defense Program¹⁷⁵ aims to provide free legal assistance to indigent remand prisoners. It also provides legal assistance to indigent victims of human rights violations, other than those caused by the prison remand system. Through this, the project aims to reform state-level criminal justice administration. Some of the program's objectives include:</p> <p>(i) depopulating the prisons through legal support and release; (ii) improving lawyers' skills and expertise; and (iii) publishing The Prosecutor Magazine to help criminal justice practitioners.</p> <p>PART II –LEGAL AID ADVICE¹⁷⁶</p> <p>Section 8. (1) The grant of legal aid, advice and access to justice shall be provided by the Council in 3 broad areas, namely, Criminal Defence Service, Advice and Assistance in Civil matters including legal representation in court and Community Legal Services subject to merits and indigence tests for the parties.</p> <p>(2) The Council, shall establish, maintain and develop a service known as the Criminal Defence Service for the purpose of assisting indigent</p>			
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¹⁷⁴ See <http://www.mynewswatchtimesng.com/legal-aid-council-decries-shortage-lawyers/#sthash.KFrHnMBN.dpuf> (last visited on September 4, 2015)

¹⁷⁵ See <http://www.insightonconflict.org/conflicts/nigeria/peacebuilding-organisations/ihrhl/> (last visited on September 4, 2015). See <http://ledapnigeria.org/programmes/rule-of-law-and-access-to-justice/> (last visited on September 4, 2015).

¹⁷⁶ See Section 8 (1) Part II (Scope of Legal Aid and Access to Justice) of the Legal Aid Act 2011

persons involved in criminal investigation or proceedings specified in the Second Schedule to this Act, access to such advice, assistance and representation as the interest of justice requires.

(3) The Council shall establish and maintain a service to be known as the Civil Litigation Service for the purpose of assisting indigent persons to access such advice, assistance, and representation in court where the interest of justice demands, to secure, defend enforce, protect or otherwise exercise any right, obligation, duty, privilege interest or service to which that person is ordinarily entitled under the Nigerian legal system.

(4) Legal Aid shall also be granted in respect of any breach or denial of any such right, obligation, duty, privilege or service and the Council shall be responsible for the representation before any court or tribunal for such civil matters.

(5) Legal Aid shall consist, on terms provided by this Act, of-

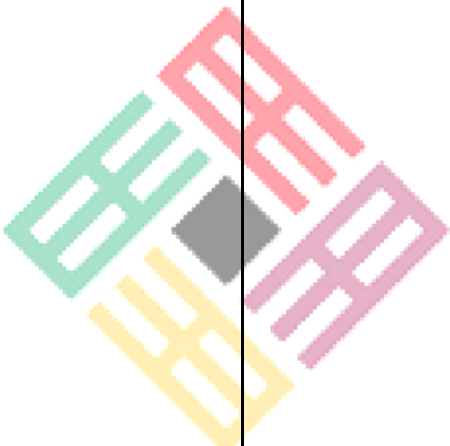
(a) the assistance of a legal practitioner including all such assistance as is usually given to by a private legal practitioner in the steps preliminary or incidental to any proceeding;

(b) representation by a legal practitioner including all such assistance as is usually given to by a private legal practitioner before any court; and

(c) Such additional aid (including advice) as may be prescribed.

(6) Where regulations made provide for Legal aid, provision shall be made therein to the effect that persons shall not be given legal aid in connection with any such proceeding unless he shows to the satisfaction of the Director-General

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<p>or other person authorized by the Council that he has reasonable grounds for taking, defending or being a party thereto, and may also be refused legal aid if it appears unreasonable that he should receive it in the particular circumstances of the case.</p> <p>(7) The Council shall establish, maintain and develop a service known as Community Legal Service for the purpose of promoting individual services and in particular, for ensuring that individuals have access to services that effectively meet their needs.</p> <p>Community Legal Services for the purpose of this section means –</p> <p>(a) the provision of general information about the law and legal system and the availability of legal services;</p> <p>(b) the provision of assistance; in preventing or settling or otherwise resolving disputes about legal rights and duties;</p> <p>(c) the provision of assistance in enforcing decisions by which such dispute are resolved;</p> <p>(d) the provision of assistance in financial support and rendering; and</p> <p>(e) the provision of assistance with regards to claims against public authorities, private organizations and individuals:</p> <p>Provided that the Director-General shall reserve the right to set the limit of such assistance.</p> <p>(8) Every person authorized by the Council to exercise the functions relating to Community legal Service shall do so in such a manner as to –</p> <p>(a) promote improvement in the quality of services provided for the benefit of those</p>			
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<p>who need them; (b) ensure that the services provided in relation to any matter are appropriate having regard to its nature and importance; and (c) achieve a swift and fair resolution of disputes in order to avoid the necessity of a protracted court proceeding¹⁷⁷</p>			
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¹⁷⁷ See Section 8 (2-8) Part II of the Legal Aid Act 2011(Scope of Legal Aid and Access to Justice)