

WOMEN'S INHERITANCE RIGHTS UNDER ISLAMIC LAW IN NIGERIA: BETWEEN RELIGIOUS NORMS, CUSTOMARY PRACTICES, AND ADR REMEDIES

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Abstract

Despite the clear provisions of Islamic law guaranteeing women's rights to inheritance, many Muslim women in Nigeria are routinely denied their lawful entitlements. This denial is often perpetuated by patriarchal customs, cultural misinterpretations of Islamic injunctions, and institutional barriers that hinder access to formal justice. Traditional litigation processes are frequently inaccessible or unsuitable for women seeking redress, while alternative dispute resolution (ADR), particularly sulh (Islamic mediation), remains underutilized as a tool for resolving inheritance disputes in a gender-sensitive manner. This paper interrogates the gap between Islamic legal prescriptions and the lived realities of Muslim women in Nigeria regarding inheritance. It aims to: (i) examine the normative framework governing female inheritance rights under Islamic law; (ii) identify the socio-cultural and legal challenges inhibiting enforcement of those rights; and (iii) assess the potential of ADR, especially faith-based mechanisms, in promoting fair and equitable dispute resolution. The paper adopts a qualitative methodology, drawing on doctrinal analysis of Islamic jurisprudence and Nigerian legal instruments, as well as field-based insights from interviews with scholars, practitioners, affected women, and community mediators. The paper contends that an inclusive and culturally grounded ADR framework can serve as a viable pathway for actualising Muslim women's inheritance rights in Nigeria, and calls for reforms to integrate Islamic principles of justice with accessible, gender-responsive dispute resolution mechanisms.

Keywords: ADR, Inheritance disputes, Women, Muslims, Islamic Law

1. Introduction

Inheritance rights are a fundamental aspect of socio-economic justice and legal identity, particularly for women in Muslim communities. Under Islamic law, women's rights to inherit are not only divinely mandated but clearly articulated in the Qur'an, which states: "*For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much—an obligatory share.*"¹ Despite such explicit provisions, many Muslim women in Nigeria are routinely denied their rightful entitlements. This denial is often justified through patriarchal interpretations of Islamic texts, cultural resistance to female inheritance, and systemic challenges in enforcing women's legal rights.² Nigeria's legal landscape is characterised by plural legal systems, comprising statutory law, customary law, and Islamic law, all of which operate concurrently.³

While Sharia is formally applied in civil matters such as marriage and inheritance in several Northern states, even thus, societal and cultural barriers often undermine women's inheritance

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¹ Qur'an 4:7.

² Chirwa, Danwood Mzikenge, 'Toward Revitalising Economic, Social, and Cultural Rights in Africa' [2002] (10) (1), *Human Rights Brief* 14-17, 25.

³ Azizat Omotoyosi Amoloye-Adebayo, 'Islamic Law, The 1999 Constitution and the Challenges of Interfaith Relations in Nigeria' [2018] (3)(1), *Journal of Islam in Nigeria* 33 – 46.

rights.⁴ In Southern Nigeria, the situation is more complex; Sharia has no official recognition in civil matters, and customary norms frequently discriminatory tend to dominate inheritance proceedings, further marginalising Muslim women.⁵ Litigation is rarely a viable option for most women due to financial constraints, lack of legal awareness, cultural intimidation, and the slow pace of judicial processes.⁶ In response, alternative dispute resolution (ADR) methods especially *sulh* (Islamic mediation), have gained attention as potentially effective mechanisms for resolving inheritance disputes in a culturally grounded manner.⁷ However, their application remains inconsistent and underdeveloped, and questions persist about whether such informal mechanisms truly deliver justice to women in patriarchal settings.⁸

This paper investigates the intersection of Islamic law, customary practice, and ADR in the enforcement of Muslim women's inheritance rights in Nigeria. It aims to examine the normative scope of these rights, explore the structural and socio-cultural challenges to their enforcement, and assess whether ADR particularly *sulh*, can offer a fair and accessible route for resolving inheritance disputes involving Muslim women.

2. Conceptual and Theoretical Framework

Understanding the complexities surrounding Muslim women's inheritance rights in Nigeria requires a clear conceptual foundation rooted in both Islamic jurisprudence and socio-legal theory. In Islamic law, the rules of inheritance are governed by *Fara'id*—a detailed system of fixed shares outlined primarily in Surah An-Nisa of the Qur'an and elaborated upon by classical jurists.⁹ These rules entitle women to specific portions of an estate whether as daughters, mothers, wives, or sisters and they are not granted arbitrarily but as a divine right.¹⁰ Importantly, the rationale for differential shares between male and female heirs is rooted in the Islamic legal framework of financial responsibility (*nafaqah*), where men are obligated to maintain the family, thereby justifying their comparatively larger shares.¹¹ However, the practical application of *Fara'id* in Nigeria is often distorted by the intersection of Islamic norms with entrenched customary practices and patriarchal interpretations.¹² In many Muslim communities, especially in rural areas, cultural norms supersede religious law, with practices such as disinheriting women, denying widows their shares, or substituting Islamic rules with ethnic traditions.¹³ These deviations are frequently justified by

⁴ O. C. Eze, *Human Rights in Africa: Some Selected Problems*. (Lagos, Nigerian Institute of International Affairs, 984).

⁵ O. Anyanwu, 'Enforcing the Shari'ah in Nigeria: Women, Justice, and the Muslims Collective Conscience' [2009] 26(3), *American Journal of Islam and Society*, 24–40.

⁶ Muhammed Tabiu, 'Towards a Strategy for Protection of Women's Rights under Sharia in Nigeria' (Keynote address delivered at the two-day conference on Women's Rights and Access to Justice under the Sharia in Northern Nigeria Organized by WACOL, Abuja, 25-28 Feb. 2003)

⁷ A. Muhammad and Others 'Alternative Dispute Resolution (As-Sulh) as a Principle of Islamic Legal System on Marriage Conflicts Among Muslim Ummah' [2023] 9(1), *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman*, 185-200.

⁸ Hauwa Ibrahim, *Practicing Shariah Law: Seven Strategies for Achieving Justice in Shariah Courts* (Chicago, American Bar Association 2012) 89–94.

⁹ Qur'an 4:11–12; 4:176

¹⁰ M. Uddin, Provisions of the Rights of Inheritance in Special Circumstances in the Muslim Law: An Overview [2021] (12) *Beijing Law Review*, 205-214

¹¹ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (3rd edn, Ilmiah Publishers 2003) 295.

¹² G. Ahmad and J. Abdulmajeed, 'An Examination of the Implementation of Islamic Law of Inheritance in Yoruba Land' [2025] (12)(1), *International Journal of Multidisciplinary Comparative Studies: Special Edition*, 191-196

¹³ Rafatu AbdulHamid, 'Islam and Cultural Interferences in the Lives of the Nigerian Women' [2014] (4) (17) *Research on Humanities and Social Sciences*, 74-79.

invoking local customs or manipulated religious rhetoric that subordinates women's entitlements to male authority.¹⁴ As a result, many Muslim women, though aware of their religious rights, remain structurally dis-empowered to claim them.

ADR, and specifically *sulh* (Islamic mediation), emerges as a culturally sensitive means of resolving such disputes without resorting to adversarial litigation.¹⁵ *Sulh* is an Islamic principle derived from both the Qur'an and Sunnah, promoting reconciliation, compromise, and restoration of social harmony.¹⁶ When properly applied, it can be a powerful tool for ensuring women's rights in inheritance disputes, especially within communities where formal court processes are viewed as alien or antagonistic. However, the potential of *sulh* remains limited by the dominance of male mediators, informal procedures that lack accountability, and widespread ignorance of Islamic legal entitlements.¹⁷ This paper adopts a theoretical framework that draws from Feminist Legal Theory and Legal Pluralism. Feminist legal theory provides a lens to interrogate how law, religion, and culture intersect to marginalise women in ostensibly rights-based systems.¹⁸ Legal pluralism, on the other hand, helps situate the co-existence of multiple normative systems; Islamic, customary, and statutory within Nigeria's legal landscape, highlighting the complexities and contradictions that shape women's access to justice.¹⁹ By combining both perspectives, the study aims to provide a nuanced understanding of how women's inheritance rights are constructed, contested, and (potentially) enforced through ADR in a pluralistic society.

3. Legal and Normative Basis for Women's Inheritance Rights

The inheritance rights of women in Nigeria are shaped by a complex legal structure that includes Islamic law, common law, and customary practices. While both Islamic law and common law provide legal recognition for women's rights to inherit, the normative enforcement and social acceptance of these rights remain deeply contested due to entrenched patriarchal structures and divergent interpretations of legal texts.²⁰ Under Islamic law (Sharī'ah), women are granted specific rights to inheritance as stipulated in the Qur'an. The foundational verses in Surah al-Nisa' (4:7, 4:11–12, and 4:176) detail the shares allocated to both male and female heirs. According to these provisions, a woman may inherit as a daughter, wife, mother, or sister. For instance, a daughter is entitled to half the share of a son, and a wife may inherit one-quarter of her deceased husband's estate if they have no children, or one-eighth if children are present.²¹ Islamic inheritance law reflects a balance between equity and familial responsibility, assigning differential shares not based on gender inequality but on financial responsibilities attributed to males under Islamic social order.²² These rights are deemed divinely ordained and are not subject to human discretion, a

¹⁴ Ibrahim Doi Abdur Rahman, *Shariah: The Islamic Law* (London, Ta-Ha Publishers 1984) 312.

¹⁵ Adamu Abubakar Muhammad and Others 'Alternative Dispute Resolution (As-Sulh) as a Principle of Islamic Legal System on Marriage Conflicts among Muslim Ummah' [2023] 9(1) *FITRAH Jurnal Kajian Ilmu-ilmu Keislaman*, 185-200.

¹⁶ Qur'an 49:9–10; Sahih al-Bukhari, Book 49, Hadith 870

¹⁷ Hauwa Ibrahim, *Practicing Shariah Law: Seven Strategies for Achieving Justice in Shariah Courts* (American Bar Association 2012) 102–105.

¹⁸ Hilary Charlesworth and Christine Chinkin and Shelley Wright, 'Feminist Approaches to International Law' [1991] 85(4) *American Journal of International Law* 613-639, 621

¹⁹ Sally Engle Merry, *Legal Pluralism* [1988] 22 *Law & Society Review* 869-875, 871.

²⁰ Mohammad Hashim Kamali, *Shari'ah Law: An Introduction* (Oneworld Publications 2008) 135.

²¹ Qur'an 4:11–12.

²² Bernard Weiss, *The Spirit of Islamic Law* (Georgian University Press 2006) 89.

position reinforced by Qur'anic admonition against altering inheritance shares.²³ These Qur'anic verses are reinforced by Hadith literature and interpretations by classical jurists such as Imam Malik, Abu Hanifa, and Al-Shafi'i, who developed comprehensive inheritance rules (*'ilm al-fara'id*) that continue to influence contemporary Sharia courts.²⁴

In Nigeria, the application of Islamic inheritance law varies significantly across regions due to the country's plural legal system.²⁵ The 1999 Constitution guarantees freedom of religion and personal law, allowing Muslims particularly in the northern states operating under the Sharia legal framework to apply Islamic principles to personal matters, including inheritance.²⁶ The Sharia Courts of Appeal, established under Sections 275–279 of the 1999 Constitution, have jurisdiction over civil proceedings involving Islamic personal law, which includes inheritance rights.²⁷ However, the Constitution is silent on the full codification of Islamic inheritance, leaving room for inconsistencies and regional disparities in enforcement. Outside the northern Sharia jurisdictions, the enforcement of Islamic inheritance norms becomes more complex. In Southern Nigeria, especially in Yoruba and Igbo Muslim communities, Sharia is not formally recognised in civil courts.²⁸ As a result, inheritance disputes are often adjudicated under customary law or statutory probate regimes, which may not reflect Qur'anic principles.²⁹ In such cases, women's inheritance rights are frequently overridden by customary practices that exclude or limit female heirs.³⁰ This dual system creates legal uncertainty and often disadvantages Muslim women who seek to assert their religious rights in formal courts.³¹

The common law system in Nigeria, inherited from British colonial rule, provides for gender-neutral inheritance rights. The Administration of Estates Law, applicable in many states, stipulates that where a person dies intestate, property is to be distributed equally among the deceased's surviving children, irrespective of sex.³² Additionally, the Married Women's Property Act of 1882, still influential in Nigeria, recognizes a married woman's right to own and inherit property in her own name, thereby securing her independent legal personality.³³ Furthermore, the Wills Act of 1837 allows individuals to dispose of their estate by will without discrimination based on sex. These statutory provisions reflect the liberal individualism that underpins common law, in contrast to the communitarian nature of customary law systems. However, enforcement remains inconsistent due to the overlap with customary laws that often deny women inheritance rights,

²³ Qur'an 4:13–14.

²⁴ Kazi Arshadul Hoque and Muhammad Jalal Uddin and Mohammad Saidul 'Islam Inheritance rights of women in Islamic law: An assessment' [2022] 2(2) *International Journal of Islamic Thought* 45-58.

²⁵ A.O. Yekini, 'Women and intestate Succession in Islamic Law, Lagos State University, Islamic Law and Law of the Muslim World' (Research Paper Series, at New York Law School, No. 08-49, 2008)

²⁶ CFRN 1999 (as amended), s 38(1).

²⁷ CFRN 1999(as amended), ss 275–279.

²⁸ J. Ezeilo and M.T Ladan and A.A Afolabi, 'Women's Aid Collective (Nigeria), & Women Advocates Research & Documentation Centre (Lagos, Nigeria)' In WARDC (eds) *Shari'a implementation in Nigeria : issues & challenges on women's rights and access to justice* (Women's Aid Collective (WACOL) ; Women Advocates Research & Documentation Centre WARDC 2008)

²⁹ M.A Osho, 'Shariah Law and Religious Rights in a Multi-religious Society: examining its Introduction for Muslims in Western Nigeria' [2025] 14(2), *Bulletin of "Carol I" National Defense University* 128–153.

³⁰ Stanley Ibe, 'Implementing economic, social and cultural rights in Nigeria: Challenges and opportunities' [2010] (1), *African Human Right Law Journal*, 197-211, 201.

³¹ Administration of Estates Law, Laws of Lagos State 2004, s 49.

³² Married Women's Property Act 1882 (UK).

particularly in patrilineal communities in the South East and South West of Nigeria.³³ Judicial decisions such as *Ukeje v Ukeje* have declared discriminatory customary inheritance rules as unconstitutional, affirming that denying daughters the right to inherit violates Section 42 of the 1999 Constitution of Nigeria (as amended), which guarantees freedom from discrimination.³⁴ Nigeria's plural legal system comprising Islamic law, customary law, and common law creates tensions that complicate the realization of women's inheritance rights. While statutory and Islamic laws provide normative guarantees, customary law continues to exert significant influence, often to the detriment of women. The Constitution, though supreme, allows for the application of personal laws in civil matters, thereby legitimizing divergent inheritance norms.³⁵

This pluralism, while accommodating Nigeria's religious and cultural diversity, entrenches unequal outcomes. Inheritance disputes often arise where statutory rights clash with communal expectations, particularly when women assert their legal entitlements against patriarchal resistance. As such, the normative basis for women's inheritance rights in Nigeria, though legally entrenched, remains a contested space between law and culture.³⁶ Furthermore, although Nigeria is a signatory to various international human rights instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),³⁷ these instruments are rarely invoked in matters governed by personal or religious law. This legal and normative tension between religious mandates, customary systems, and international standards underscores the urgent need for mechanisms that bridge these gaps. Alternative dispute resolution (ADR), grounded in Islamic jurisprudence, may offer such a bridge by promoting both religious legitimacy and access to justice.

4. Barriers to Enforcement of Women's Inheritance Rights in Nigeria

Despite the clarity and legal authority of Islamic inheritance rules, numerous barriers hinder the effective enforcement of women's entitlements in Nigeria. One of the most significant is the entrenchment of patriarchal cultural practices that override or distort Islamic principles. In many Muslim communities, especially in rural and semi-urban areas, women are discouraged or even prohibited from asserting inheritance claims, often under the pretext of preserving family honour or unity.³⁸ These cultural attitudes are deeply rooted in customary norms that prioritize male succession and view property ownership by women as culturally inappropriate.³⁹ Even where women are nominally acknowledged as heirs, their shares are often withheld, manipulated, or redistributed informally among male relatives.⁴⁰

³³ J Clark, *Resilience, Conflict-Related Sexual Violence and Transitional Justice: A Social-Ecological Framing* (1st edn, Routledge, London 2020).

³⁴ *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1418) 384 (SC).

³⁵ CFRN1999 (as amended), ss 36(12), 275.

³⁶ Abdulmumini A. Oba, 'Religious and Customary Laws in Nigeria' [2011] 25 *EMORY INT'L L. REV.* 881-898, 890.

³⁷ Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

³⁸ Brandon Kendhammer, *Muslims Talking Politics: Framing Islam, Democracy, and Law in Northern Nigeria* (The University of Chicago Press Chicago and London 2016).

³⁹ Baderin Mashood A, 'Review of Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook' [2009], 5(1), *Muslim World Journal of Human Rights* 4-7; Nmehielle, Vincent Obisienunwo Orlu 'Sharia Law in the Northern States of Nigeria: To Implement or Not to Implement, the Constitutionality is the Question' 2004 *Human Rights Quarterly*, (26) (3) 730-759.

⁴⁰ Oba AA, 'Improving Women's Access to Justice and the Quality of Administration of Islamic Justice in Nigeria' In JN Ezeilo, MT Ladan & AA Akiyode (eds) *Shari'a Implementation in Nigeria Issues & Challenges on Women's*

Another major impediment is the misinterpretation or selective application of Islamic law. Religious and community leaders who are often male may apply Sharia selectively, reinforcing patriarchal customs while ignoring the egalitarian spirit of Islamic inheritance jurisprudence.⁴¹ In some cases, they invoke religious authority to deny women their Qur'anic entitlements, falsely asserting that female heirs are spiritually or economically unfit to manage property.⁴² These distortions reflect a lack of rigorous Islamic legal education among mediators and a tendency to conflate religious principles with socio-cultural prejudice.⁴³ Institutional weaknesses in Nigeria's legal system also contribute to the problem. Many women face procedural and logistical barriers in accessing Sharia courts or formal courts, including high legal costs, language difficulties, low legal awareness, and fear of social stigma.⁴⁴ Additionally, judges and court staff may themselves exhibit gender biases or fail to enforce judgments against powerful male family members.⁴⁵ Even in states where Sharia law is formally applied, inconsistent training of judges, limited jurisprudential resources, and absence of gender-sensitive protocols undermine effective adjudication of inheritance disputes involving women.⁴⁶ Furthermore, there is a lack of trust in formal legal institutions, particularly among women from low-income and conservative households. Many prefer to settle disputes through informal or family-based mechanisms, which are rarely impartial and tend to reinforce existing power hierarchies.⁴⁷ While ADR methods like *sulh* theoretically offer a more accessible and culturally acceptable forum, these mechanisms are frequently male-dominated and lack enforceability when agreements are violated.⁴⁸ As such, even when women opt for ADR, they often face the same discriminatory outcomes as in customary courts. These multifaceted barriers; legal, cultural, institutional, and interpretative reveal that the problem is not simply one of doctrinal inadequacy, but of structural injustice. Addressing them requires more than legal reform; it demands a transformation of both normative frameworks and dispute resolution practices in ways that empower women to exercise their rights without fear or dependency.

Rights And Access to Justice (WACOL, Enugu and WARDC, Lagos in collaboration with A.B.U Zaria with support from Heinrich Boll Foundation at Rockview Hotel, Abuja 2003) 44.

⁴¹ John Onaiyekan, 'The Sharia in Nigeria: Issues and Perspectives' [2000] (12) *BETH*, 69-87.

⁴² Hauwa Ibrahim, *Practicing Shariah Law: Seven Strategies for Achieving Justice in Shariah Courts* (American Bar Association 2012) 101-103.

⁴³ Ibrahim Doi Abdur Rahman, *Shariah: The Islamic Law* (Ta-Ha Publishers 2008) 312.

⁴⁴ Adetoun Ilumoka, 'African Women's Economic, Social and Cultural Rights: Towards a Relevant Theory and Practice' (2012) In Rebecca J Cook (eds) *Human Rights of Women: National and International Perspectives* (Philadelphia, University of Philadelphia Press, 2012) 307-325.

⁴⁵ H.O Obi & O.C Aduma, 'Contemporary Judicial Response to Women's Succession and Inheritance Rights in Nigeria: A Heave to Gender Discrimination' [2020] (1), *African Customary and Religious Law Review* 42-48.

⁴⁶ A. Christelow, 'Islamic Law and Judicial Practice in Nigeria: An Historical Perspective' [2002], 22(1), *Journal of Muslim Minority Affairs* 185-204, 190.

⁴⁷ M.A Osho, 'Shariah Law and Religious Rights in a Multi-religious Society: examining its Introduction for Muslims in Western Nigeria' [2025] 14(2), *Bulletin of "Carol i" National Defence University*, 128-153.

⁴⁸ Othman, Aida. 'And Amicable Settlement Is Best: Sulh and Dispute Resolution in Islamic Law' [2007] (21) *Arab Law Quarterly* 64-90, 78.

5. ADR as a Mechanism for Resolving Inheritance Disputes

The increasing recourse to ADR mechanisms in Nigeria reflects growing dissatisfaction with the formal legal system's inaccessibility, cost, and complexity.⁴⁹ In Muslim communities, *sulh* is a form of Islamic mediation rooted in reconciliation (*islah*) is one of the oldest and most respected means of settling personal and family disputes, including inheritance claims.⁵⁰ The Qur'an and Hadith both encourage amicable settlement of disputes, with Qur'an 49:10 stating: "The believers are but brothers, so make settlement between your brothers. And fear Allah that you may receive mercy."⁵¹ This approach emphasises communal harmony, compassion, and justice, and offers the advantage of flexibility, confidentiality, and cultural acceptability.⁵²

In practice, *sulh* allows disputing parties to resolve inheritance issues through dialogue facilitated by respected elders, imams, or community mediators, without resorting to litigation.⁵³ This model resonates with Islamic notions of justice (*adl*) and equity (*ihsan*), and when properly applied, it can serve as a viable path for women to assert their inheritance rights in a non-adversarial environment.⁵⁴ However, the practical implementation of *sulh* in Nigeria is fraught with limitations. Most informal mediators lack formal legal training and often uphold customary practices that conflict with Islamic inheritance law, particularly when it concerns female beneficiaries.⁵⁵ Moreover, the informal nature of ADR processes means that settlements are not always legally binding or enforceable, especially when one party—usually the male heir reneges on the agreement.⁵⁶ Another concern is the under-representation of women in the decision-making process. Most mediators and religious leaders are men, and women often lack the confidence or cultural permission to speak freely during proceedings.⁵⁷ In some cases, the proceedings replicate the very biases they are meant to circumvent, resulting in outcomes that reinforce gender inequality.⁵⁸ Despite these challenges, *sulh* and other ADR frameworks have significant potential to serve as culturally sensitive platforms for resolving inheritance disputes if reformed and

⁴⁹ Chidi Anselm Odinkalu, 'Poor Justice or Justice for the Poor? A Policy Framework for Reform of Customary and Informal Justice Systems in Africa' [2006] (2) *The World Bank Legal Review, Law, Equity and Development* 141–165.

⁵⁰ Othman Aida, 'And Amicable Settlement Is Best: Sulh and Dispute Resolution in Islamic Law' [2007], (21)(1) *Arab Law Quarterly*, 64–90, 82.

⁵¹ Qur'an 49:10.

⁵² Adamu Abubakar Muhammad and Ibrahim Dahiru Idriss and Adam Muhammad Ardo and Yakubu Zulaihat Muhammed, 'A Literature Review of Islamic Mediation (As-Sulh) As Mechanism for Settling Marital Dispute among Muslim Couples in Northeastern Nigeria' [2023], 5 (2), *Jurnal Bimbingan Konseling Islam* 175–190, 189.

⁵³ Abdul Hak, Nora and Khan, Hanna, The Application of Sulh in Resolving Community Disputes (Paper presentation at in 1st World Congress on Integration and Islamicisation of Acquired Human Knowledge (FWCII-2013), Prince Hotel & Residence, Kuala Lumpur., August 24, 2013).

⁵⁴ Mohammad Hashim Kamali, *The Dignity of Man: An Islamic Perspective* (Islamic Texts Society 2002) 102–103

⁵⁵ Baba Isa Sanda Benisheikh and Aisha Sandabe and Yahaya Alhaji Dunoma, Family Dispute Mediation (Sulh) in Islamic Family Law: An Overview of Its Validity and Practice [2025] (2)(1), *Journal of Customary and Religious Law*, 48–66.

⁵⁶ I. Walid, 'Dialogue and the Practice of Law and Spiritual Values: Courts, Lawyering and ADR: Glipses into the Islamic Tradition' [2001] (1) *Fordham Urban Law Journal*, 1035.

⁵⁷ Adetoun Ilumoka, 'African Women's Economic, Social and Cultural Rights: Towards a Relevant Theory and Practice' In Rebecca J Cook (eds) *Human Rights of Women: National and International Perspectives* (Philadelphia, University of Philadelphia Press, 2012) 307–325.

⁵⁸ Akpala, Ada, Sylvia, *Women's Rights are Human Rights* (Enugu: Snaap Press Ltd., 1998)24.

institutionalised.⁵⁹ There is a growing consensus among scholars and legal practitioners that empowering women to access ADR processes through legal education, gender-sensitive training for mediators, and integration with the formal legal system could dramatically improve enforcement of Islamic inheritance entitlements.⁶⁰ As such, ADR should not be viewed merely as an informal option, but as a strategic tool for realising justice in communities where litigation is often ineffective or inaccessible.

6. Empirical Findings and Case Analysis

To ground the doctrinal and theoretical claims in lived experiences, this paper conducted field-based research in selected Muslim communities across Nigeria, focusing on Kano (North West), Ilorin (North Central), and Lagos (South West). These locations were chosen to reflect regional diversity in the application of Islamic law, varying levels of Sharia court presence, and differing customary influences. Semi-structured interviews were conducted with Muslim women who had either been involved in inheritance disputes or were denied inheritance altogether, as well as with Islamic scholars, community leaders, and Sharia court officials.⁶¹

In Kano, where Sharia law is most entrenched, the application of Islamic inheritance rules is more formalised. However, findings revealed that social pressures and gender norms often prevent women from pursuing their claims. Some respondents reported being discouraged by family members or local clerics from filing cases in court, as doing so was seen as disrespectful or divisive.⁶² In one case, a widow who attempted to assert her Qur'anic share was advised by a community leader to "let the men handle it to keep peace in the family."⁶³ In Ilorin, which has a hybrid system of Sharia and customary practices, women faced inconsistencies in enforcement. While some Sharia court judges upheld Islamic principles and ruled in favour of female heirs thus, implementation was often hindered by family resistance and weak court enforcement mechanisms.⁶⁴ A Sharia court clerk admitted that, "Even when judgment is in the woman's favour, getting the family to comply is another issue entirely."⁶⁵

In Lagos, where Sharia courts have no civil jurisdiction, inheritance disputes involving Muslims were generally decided under customary or statutory law. Respondents reported that Islamic principles were rarely followed, and that female heirs were routinely excluded unless they had strong male advocates within the family.⁶⁶ Community mediators in Lagos acknowledged the role of *sulh*, but admitted that outcomes often mirrored local Yoruba customs rather than Qur'anic rules.⁶⁷ Additionally, most ADR mechanisms across the three locations lacked procedural safeguards to protect women's interests. Only in rare cases were women represented by

⁵⁹ Hauwa Ibrahim, *Practicing Shariah Law: Seven Strategies for Achieving Justice in Shariah Courts* (American Bar Association 2012) 114.

⁶⁰ A. Christelow, 'Islamic Law and Judicial Practice in Nigeria: An Historical Perspective' [2002], 22(1), *Journal of Muslim Minority Affairs*, 185–204, 190.

⁶¹ Author's field notes, interviews conducted in Kano, Ilorin, and Lagos between February and April 2025 (on file with author).

⁶² Interview with female respondent, Kano, 10 March 2025 (transcript on file with author).

⁶³ Interview with community leader, Dala LGA, Kano, 12 March 2025.

⁶⁴ Interview with Sharia Court official, Ilorin West, 18 March 2025.

⁶⁵ Interview with court clerk, Ilorin East, 19 March 2025.

⁶⁶ Interview with female heir, Agege, Lagos, 25 March 2025.

⁶⁷ Interview with Islamic mediator, Lagos Mainland, 26 March 2025.

knowledgeable advocates or allowed to participate fully in discussions.⁶⁸ A common complaint was that ADR sessions, though informal, were male-dominated and conducted in a language or style that women found intimidating.⁶⁹ The case law also reflects these empirical trends. In *Khalidu v Khalidu*,⁷⁰ the Kano Sharia Court of Appeal affirmed a daughter's entitlement to a fixed Qur'anic share, but noted that community resistance delayed the actual distribution of assets. In *Asake v Asake*,⁷¹ the Kwara State Sharia Court ruled in favour of a widow's claim but found no legal recourse when her late husband's brothers defied the court order. Such cases highlight the disjunction between legal entitlements and practical enforcement, reinforcing the need for a multi-level reform approach that strengthens both formal and informal mechanisms for dispute resolution.

7. Conclusion, Recommendations and Reform Proposals

The right of Muslim women to inherit under Islamic law is both divinely ordained and legally recognised in Nigeria's plural legal system.⁷² Yet, in practice, this right remains elusive for many, due largely to a complex interplay of patriarchal norms, customary practices, limited awareness, and weak enforcement structures.⁷³ As this study has shown, while Islamic legal texts provide for clear entitlements, the sociocultural context in which these rights are asserted often frustrates their realisation.⁷⁴ Alternative Dispute Resolution (ADR), particularly Islamic forms such as *sulh*, presents a culturally resonant and accessible mechanism for resolving inheritance disputes in a gender-sensitive manner.⁷⁵ However, the potential of these mechanisms is undermined by a lack of structure, male dominance in mediation, and inadequate legal safeguards.⁷⁶ Formal courts too, including Sharia courts, have struggled to ensure compliance with judgments that favour women's inheritance claims due to limited institutional support and prevailing societal resistance.⁷⁷ This paper concludes that a reformist and integrative approach is required, one that strengthens the legal enforceability of women's inheritance rights, enhances the procedural fairness of ADR platforms, and fosters collaboration between formal legal institutions and community-based mechanisms.⁷⁸ Central to this reform is the role of Islamic scholars and community leaders in promoting correct

⁶⁸ Adetoun Ilumoka, 'African Women's Economic, Social and Cultural Rights: Towards a Relevant Theory and Practice' In Rebecca J Cook (eds) *Human Rights of Women: National and International Perspectives* (Philadelphia, University of Philadelphia Press, 2012) 307-325.

⁶⁹ Fatima L. Adamu, 'Mediating Gender Justice: Sulh and Women's Rights in Northern Nigeria' (2020) 6 *African Journal of Islamic Law* 84

⁷⁰ *Khalidu v Khalidu* (2017) Kano Sharia Court of Appeal (unreported).

⁷¹ *Asake v Asake* (2019) Kwara State Sharia Court, Suit No. KW/SHC/31/2019

⁷² See Qur'an 4:7, 4:11-12; *Alhaji Balarabe Musa v. Alhaji Abubakar Musa* (1993) 5 NWLR (Pt 294) 510.

⁷³ Hauwa Ibrahim, *Practicing Shariah Law: Seven Strategies for Achieving Justice in Shariah Courts* (American Bar Association 2012) 49-52.

⁷⁴ Ekhator, Eghosa Osa, 'Women and the Law in Nigeria: A Reappraisal', [2015], 16(2), *Journal of International Women's Studies*, 285-296.

⁷⁵ Othman, Aida. 'And Amicable Settlement Is Best': Sulh and Dispute Resolution in Islamic Law' [2007] (21)(1) *Arab Law Quarterly* 64-90.

⁷⁶ Olanrewaju, Oluwaseun 'Gender Identity and Justice in Nigeria: An Appraisal of Women in Lagos State,' (2018), (2)(1), *The Journal of Social Encounters*, 69-80.

⁷⁷ O. Anyanwu, 'Enforcing the Shari'ah in Nigeria: Women, Justice, and the Muslims' Collective Conscience' [2009] 26(3), *American Journal of Islam and Society*, 24-40.

⁷⁸ S. Hascall, 'Legal Pluralism and Shari'ah Law' [2011] 6 (6), *Spiritual Horizons*, 51-62, 55; A. A Oba, 'Harmonisation of Shari'ah, Common law and Customary Law in Nigeria: Problems and Prospects' [2019] 35, *Journal of Malaysian and Comparative Law*, 119-146, 127.

interpretations of Qur'anic inheritance principles and challenging cultural distortions that subvert gender justice.⁷⁹

Ultimately, the full realisation of Muslim women's inheritance rights in Nigeria will depend not only on law and policy but also on a shift in societal attitudes and an inclusive approach to justice that aligns with both the letter and the spirit of Islamic law. Ensuring this alignment is critical, not only for upholding women's rights but also for preserving the integrity and relevance of Islamic legal principles in contemporary Nigerian society. To bridge the gap between Islamic inheritance law and the lived realities of Muslim women in Nigeria, a multi-pronged reform strategy is necessary. First, there must be greater legal literacy and public education on Islamic inheritance rights, particularly among women in rural and semi-urban communities.⁸⁰ Many of the women interviewed during this research were unaware of their Qur'anic entitlements, or believed that customary practices were superior to Islamic prescriptions.⁸¹ Targeted sensitisation campaigns through mosques, women's groups, and radio programmes can help demystify religious laws and empower women to assert their rights.⁸²

Second, the capacity and structure of ADR mechanisms particularly sulh must be strengthened.⁸³ Islamic mediators, community leaders, and Sharia court officials should be provided with training on gender justice, the principles of Islamic inheritance law, and human rights standards.⁸⁴ Such training will help ensure that mediators do not unintentionally perpetuate patriarchal norms under the guise of cultural or religious fidelity.⁸⁵ Furthermore, integrating women as neutral mediators or observers in ADR processes could enhance inclusivity and reduce gender bias.⁸⁶ Third, linkages between informal ADR and formal legal institutions should be institutionalised.⁸⁷ Agreements reached through sulh should be subject to legal registration or endorsement by a competent authority, such as a Sharia or Customary Court, to make them enforceable.⁸⁸ This hybrid model would preserve the flexibility of traditional mediation while ensuring legal accountability and remedy in cases of breach.

Fourth, state and federal policymakers should revisit the plural legal framework governing inheritance in Nigeria. In states applying Sharia law, clearer procedural rules and enforcement

⁷⁹ Abdullahi An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Harvard University Press 2008) 143.

⁸⁰ Hauwa Ibrahim, *Practicing Shariah Law: Seven Strategies for Achieving Justice in Shariah Courts* (American Bar Association 2012) 131.

⁸¹ Field interview with female respondent, Ilorin, 17 March 2025 (transcript on file with author).

⁸² Zakia Salime, 'Mobilizing Muslim Women: Multiple Voices, the Sharia, and the State' [2008] (28) (1) *Comparative Studies of South Asia, Africa and the Middle East* 200–211, 205.

⁸³ A. Christelow, 'Islamic Law and Judicial Practice in Nigeria: An Historical Perspective' [2002], 22(1), *Journal of Muslim Minority Affairs*, 185–204, 190.

⁸⁴ F. L. Adamu and O.J. Para-Mallam 'The role of religion in women's campaigns for legal reform in Nigeria' [2012], 22(5–6), *Development in Practice*, 803–818, 311.

⁸⁵ Ibid.

⁸⁶ S. S. Shah, 'Mediation in Marital Discord in Islamic Law: Legislative Foundation and Contemporary Application' [2009] (23) (3), *Arab Law Quarterly*, 335.

⁸⁷ S. Salim and N.A. Hak, 'Family Mediation and Sulh: An Alternative Dispute Resolution in Malaysia' [2010] (7), *International Journal of Social Policy and Society*, 40.

⁸⁸ A. Othman, 'And Amicable Settlement Is Best: Sulh and Dispute Resolution in Islamic Law' [2007], (21), *Arab Law Quarterly*, 65.

mechanisms should be introduced to give effect to judicial decisions favouring women.⁸⁹ In other states, recognition of Islamic family law principles—where voluntarily chosen by parties—should be formalised, thereby avoiding the marginalisation of religiously grounded rights.⁹⁰ Finally, Islamic scholars and religious leaders must play a more proactive role in addressing the gap between doctrine and practice. Sermons, fatwas, and religious education curricula should reaffirm the justice-oriented spirit of Islamic inheritance law and denounce distortions that disadvantage women.⁹¹ When scholars lend their authority to progressive interpretations that align with Qur’anic injunctions, it becomes easier to displace entrenched customs that undermine gender equity.

⁸⁹ M. Naeem. M and M.H Khan, ‘Alternative Dispute Resolution from the Perspective of Islam,’ [2007], (5) (1) *Acta Islamica*, 4.

⁹⁰ Ibrahim Buba, ‘Islamic Law and Plural Legalism in Nigeria: Rethinking Harmonisation’ (2021) 13(1) *Journal of Comparative Legal Systems* 33; M.M Qafish. M. M., ‘Restorative Justice in the Islamic Penal Law;; A Contribution to the Global System’[2012], (7) (1), *International Journal of Criminal Justice Science*, 49; . D. Y., Andrew ‘A Water Spring in the Desert: Advancing Human Rights within Sharia Tribunals, Suffolk,’ [2011] (35), *Transnational Law Review*, 101.

⁹¹ Abdullahi An-Na’im, *Islam and the Secular State: Negotiating the Future of Shari’a* (Harvard University Press 2008) 142.