

FUNDAMENTALS OF A VALID MARRIAGE IN ISLAMIC LAW: AN EVALUATION OF THE MUSLIM PRACTICES IN NIGERIA

**ABDULLAHI SALIU ISHOLA* AND
MANSWAB MAHSEN ABDULRAHMAN****

It is a well-known fact that, Islamic Law (Shari'ah) is a complete code of life, which regulates every facet of human endeavours. This is more so with regards to the principles laid down under it to regulate the life of a Muslim family. Thus, for a marriage to be valid under the Shari'ah, certain requirements must be met. These requirements, though very sacrosanct, are not in any way rigid or burdensome. However, the new trend is that a lot of changes have been introduced in this 21st century to frustrate these requirements, culminating in flagrant abuse of them in various modes. This paper critically appraises the legal requirements of a valid marriage under the Shari'ah in comparison with the marriage practices among the Muslims in Nigeria. A special attention is given the pre-marriage steps laid down under the Shari'ah vis-à-vis the popular practice of pre-marriage courtship in the Western world practice has also been embraced by Muslims in the country. The newly introduced and well pronounced celebration of marriage with highly expensive ceremonies as a requirement of marriage among the Nigerian Muslims is equally assessed on the scale of Islamic Law. This study adopts the doctrinal research methodology and jurisprudentially combs all the relevant materials, textually and contextually.

I. Introduction

Right from its inception, the core target of the Islamic Islam has been on establishing a flourishing, decent and spiritually inclined family system. It undertook this task right from the beginning as a major social reform it introduced.¹ This has been further clearly entrenched in the “objectives of Islamic law” (*maqasid al-Shari'yah*)

* Lecturer, Department of Law, Kwara State University, Malere – Nigeria, *E-mail: abdullahi.ishola@kwasu.edu.ng or asishola1@gmail.com*

** PhD Candidate, Kulliyah of Islamic Revealed Knowledge and Heritage, International Islamic University Malaysia; Lecturer, Faculty of Islamic Sharia, Umma University, Kenya. *E-mail: manswaqb83@yahoo.com*

whose legislative aims include preservation of genealogy (*nasab*).² Every Muslim, men and women, has the responsibility to maintain an Islamic family that will be saved from the torments of Hell Fire in the Hereafter.³ This is why a clear guidance has been given to them on how they should go into marriage. Family is a true reflection of any larger society. There can be no organized family without a marriage.⁴ Marriage code is therefore equally a true reflection of the family system operative in any human set. This explains the preponderance, which Islam places on compliance with its marriage code for any Muslim family to be reckoned with.⁵

Islam is a total and well-packaged code of life⁶ for the Muslims in particular,⁷ and the universe in general.⁸ No aspect of life has been left by Islam unregulated.⁹ How, where, when and why they should do or avoid doing anything is clearly spelt out. To this end, the law lays down clear rules on how to marry; when to marry; where to marry; and, why to marry.¹⁰ Therefore, under the *Shari'ah*, for any marriage to be valid these rules must be adhered to.

Some Muslims in Nigeria are in the habits of disregarding compliance with Islamic rules on marriage validity in many aspects. Although this is done mostly inadvertently and ignorantly, the practice has not been without its serious adverse effects on the growth, progress, unity and development of Muslim family in the country. It is even most disheartening that this negative effect has not spared innocent issues (children) of such marriages.¹¹

When the *Shari'ah* Courts in the country¹² are called upon to pronounce on the status of such children, the ignorance of the Muslims about the implication of their reckless acts usually comes into the limelight.¹³ It is therefore of timeous relevance that the issues to be addressed in this paper are brought up at this moment in the life of Muslims in Nigeria. This will also make Muslims in other parts of the world to be alerted and check themselves whether they are deviating from the fundamentals of a valid marriage in Islam or not, in their attitudes, customary practices and all other forms, as may be relevant to them.

The aim of this paper is to expose the likely consequences of the growing disregard to the observance of Islamic rules on marriage

validity in setting up Muslim families in Nigeria. Thus, the approach, which Muslims have adopted in celebrating marriages with extravagancy and highly expensive ceremonies, which is now treated as a necessary that must be ensured before a marriage can be given a pass-mark, will be critically appraised. Also, the laxity of the Muslims by practicing the permissible pre-marriage *waiting period* in the way the western system of courtship is being observed will equally be addressed.

1.1. Scope and Approach of the Study

The Muslims in Nigeria predominantly practice Islam according to the doctrines of the Maliki School of Thought.¹⁴ And officially, the same Maliki School practice has been recognized as the applicable principle of Islamic Law in the country.¹⁵ To this end, the analyses in this paper are basically premised on the Maliki *Madhab*. Although, where necessary, this will be criticised while the perspectives of other schools will equally be considered.

This approach is adopted, and the scope of this work is limited to that extent to make this paper not merely an academic exercise, but as one with practical imports, at least about the Nigeria Muslim community.

II. Dominant Marriage Systems in Nigeria: Social and Legal Perspectives

Generally, there are three main marriage systems in Nigeria namely, Christian marriage system, Islamic marriage system and Traditional marriage system¹⁶. Another categorization stipulates these systems as religious marriage, ordinance marriage and customary marriage¹⁷. The religious marriage is further divided into Christian marriage and Islamic marriage systems¹⁸. The customary marriage was earlier referred to as the traditional marriage system¹⁹.

Both Christian marriage and Ordinance marriage have so many things in common.²⁰ Thus, except for the differences in venues of the conduct of their ceremonies respectively,²¹ it will seem to be an academic exercise or a denial of the reality out rightly to attempt emphasising a dichotomy between the duos. It is therefore safer to

stipulate the marriage systems in Nigeria as stated in the general term.²²

From the legal perspective, marriage systems in Nigeria can either be statutory marriage or customary marriage system.²³ The statutory marriage is otherwise called marriage under the Act²⁴ and its salient feature is that it is a marriage system that does not admit of more than one wife for any man that marries according to its provisions.²⁵ While it would appear that Christian marriage system has not been given any legal recognition in the country, a proper understanding of the marriage under the Act reveals no significant differences between both of them.²⁶ Hence, marriage under the Act can rightly otherwise be referred to as Christian marriage²⁷.

Customary marriage, as earlier noted²⁸, is also called traditional marriage and it follows customary laws and practices.²⁹ It is characterized with the practice whereby elders in the family and relatives usually conduct it, involving introduction by a third party and payment of dowry or bride price to be concluded with ceremonies to be witnessed by members of the community. No limit is placed on the number of wives, which a man may have under the rules of the customary marriage system in Nigeria.³⁰

There is a legal misconception in the country that customary Law marriage includes Islamic marriage system.³¹ This is without any basis. There is however now a growing awareness in the country tending towards the need for striking due differences between customary Law and Islamic Law in the discussion of any issue which the Nigerian Law generally regards as Customary Law matters.³² To this end, the Law no longer favours any intellectual exercise on any issue of law in the country, where the matter that concerns Islamic law subjects are treated along as customary law matters, except it discusses it in a way that a glaring distinction that exists between the two systems is displayed.³³ Hence, Islamic law marriage, which regulates the marriage system of the Muslims in Nigeria, cannot be properly discussed, studied and analysed under the heading of customary marriage.³⁴

III. Islamic Marriage Among Muslims in Nigeria

3.1. The Practice of the Pre-marriage Steps

The permitted pre-marriage steps under the Shariah are called *khitbah*. *Khitbah* means proposal to marry a girl and this also includes having a look at the woman to be married (*nadhbar ilal makhtubah*).³⁵ Thus, it is an exploratory process between a boy and a girl for the purpose of joining together as husband and wife.³⁶ It can be called a “waiting period” or the “interval period” between when an intention or interest of becoming husband and wife is shown by a man and a woman and when they are actually joined together legally as husband and wife.

In Nigeria, Muslims observe this “marriage waiting period” in different dimensions.³⁷ In some parts of the country, especially among those who have western education, they refer to the practice as “engagement” or “introduction”. The practice is now in observance almost in the way “courtship” is being practiced in the Western world.³⁸ It is now common for the Muslim young men and women to be going out, mingling freely and having access to each other to every length and for all intents and purposes once there is an indication that they intend getting married, which may or may not eventually be actualised. This is a very new development that became rampant not very too long ago.³⁹

For instance, *khitbah* used to take two forms among the Yoruba Muslims in Nigeria before now and the way these two forms were being observed was closely on all fours with the Sunnah stipulations. However, with the influence of the Western education, this has become obsolete and a very wide door has been opened for corruption and perversion of the pre-marriage steps permitted under the Shariah among the Muslims in Nigeria⁴⁰.

The effect of the perversion includes high rate of unwanted/forceful pregnancy out of wedlock, which usually necessitates conduct of a kangaroo *nikkah* as a cover up. Thus, the disregard for observing the *khitbah* in the proper Shariah manner is an instance of the abuse of necessities for validity of marriage under the Shariah in Nigeria. This must be addressed with all sense of urgency.

3.2. Understanding of the Muslims in Nigeria about Marriage

Muslims in Nigeria, except for very few of them, understand the conduct of marriage majorly as a cultural demand and traditional practice. They therefore tend to focus more on steps that can be taken to enrich their culture better in preference to other cultures based on the prevailing circumstances. This is why many new flavours are daily introduced to their marriage ceremonies.

With the above as their feelings about marriage, very little considerations are therefore always given to the stipulations of the Shariah in the conduct of their marriage. One would even observe that what they do when they conduct “engagement” or “introduction” is enough a ceremony to perfect a valid marriage as stipulated by the Shariah.⁴¹ But, lack of intention for that purpose renders their conduct insignificant as a valid marriage in the eyes of the Shariah. Every action is judged according to intention in Islamic law.⁴²

Thus, in order to appreciate the root of abuse of necessities for a valid marriage under the Shariah amongst the Muslims in Nigeria, which is the crust of this paper; their understanding about marriage practice must be considered. And unless that erroneous understanding is corrected, the abuse may continue to be in practice among them.

IV. Conditions of a Valid Marriage Under the Shariah

Many terms are usually adopted to describe conditions of a valid marriage under the Shariah. They include “fundamentals”, “conditions”, “ingredients”, “essentials”, “factors”, “requirements” and “necessaries”.⁴³ The legal discussion has always favoured “ingredients”, “essentials” or “necessaries”. This paper however chooses the term “fundamentals” and interchangeably with “necessaries” as an indication of the indispensability and inexplicability of those ingredients before a valid marriage can occur in the life a Muslim.⁴⁴

The necessities for a valid marriage under the Shariah have been discussed from different perspectives. The approach to be adopted here is to state that “some of these conditions pertain to the contract itself; some to the persons of the contracting parties”⁴⁵. Although this study dwells much more on the conditions that pertain to the contract itself, the fact that certain traces of abuse

have equally been identified with the conditions that pertain to the persons of the contracting parties among the Muslims in the country makes it imperative that they should be appraised before we proceed.

4.1. Marriage Conditions Pertaining to the Contracting Parties

The contracting parties are a man and a woman.⁴⁶ For each of them to be validly married to each other under the *Shari'ah*, certain conditions must be satisfied jointly and severally.

4.1.1. Conditions Pertaining to the Woman

The conditions that a woman must fulfil before she can validly be married to a man under the Shariah can be outlined as follows:

- i) She must be free from all marital bonds. That is, she must not be already validly married at the time of considering another marriage.
- ii) She must not be in a “waiting period” (*iddah*), which is the limited span of time that is to elapse before a widow or a divorcee may remarry.
- iii) She must not fall within the forbidden degrees of blood, fosterage, or affinal relationship as clearly spelt out in Q4: 22-24⁴⁷
- iv) She must be a monotheist and a follower of a divine book.
- v) She must be free from adultery and fornication for that is forbidden for the believers.⁴⁸

4.1.2. Conditions Pertaining to the Man

- i) He must be a Muslim if the woman he wishes to marry is a Muslim herself
- ii) He must not be married to up to four women at the time of contracting the marriage.
- iii) He must not be married to woman who is related to the prospective bride in any degree that forbids him from maintaining the two contemporaneously.⁴⁹

3.1.3. Observation on the Observance of the Conditions in Nigeria

Even though the woman is expected to be free from all marital bonds, some Muslim women in Nigeria do not always bother to be released legally from a marriage bond before they go ahead to contract a new marriage with another man. This is similar to ignorant disregard they equally have to considering whether they have validly completed the observance of their waiting period or not before marrying another man.⁵⁰

In relation to the requirement that she must not fall within the forbidden degrees of blood, fosterage or affinal relationship, the Muslims in Nigeria, especially the parents and families, rather additionally require that the man their daughter would marry must not fall outside their tribal-socio-ethnic group.⁵¹ This has spelt hardships on many ladies who have been denied the chances of marrying men they naturally have love for, based high religious commitment of the man.⁵² The end-result has always been a loveless relationship being foisted on these ladies in eventuality.

Similarly, young male Muslims in Nigeria no longer consider whether the woman they want to marry is a monotheist and a follower of a divine book or not. What they now give prominence to is beauty, family background, status, and level of education of the woman in question.⁵³ If one considers the divergent views of the contemporary Muslim scholars on whether the modern Christians truly qualify to be regarded as people of a Divine Book or not⁵⁴ and the situation where many pious Muslim ladies are now in dearth need of pious Muslim men to marry as husbands, a further serious analysis will need to be made on the satisfaction of this necessary in a marriage of a Muslim man to a non-Muslim woman in the contemporary Nigerian society.⁵⁵ Can a Christian woman be regarded as a monotheist and a follower of a divine book in the modern day Nigerian setting?⁵⁶ This is a question begging for answers.

On the same footing, but the worst practice in Nigeria for that matter, there is also very rampant occurrence of marriage of Muslim women to non-Muslim men in the country.⁵⁷ It is therefore obvious that this condition is no longer seriously considered by the Nigeria Muslims in their marriages.

Therefore, there is need for every considerable measure to be put in place in forms of public enlightenment and general reorientation of Muslims on the essence of fulfilment of conditions pertaining to the persons of the contracting parties before a valid marriage can be conducted under the Shariah. Much as the conditions pertaining to the contract itself must not be trivialized, these also must be respected and religiously satisfied.

4.2. Marriage Conditions Pertaining to the Contract Itself

Conditions pertaining to the contract of marriage under the Shariah are four in number⁵⁹. Some scholars argue that they are five⁶⁰. What however seems sound on the issue is that there are three basic necessities⁶¹. It has been argued that both the payment of dowry and publicity or presence of witnesses are no sacred necessities that must be fulfilled for a valid marriage to occur, but rather they are mere requirements that can be met, and their absence will only make the marriage legally irregular or religiously absurd if consummated before they are satisfied⁶².

Be that as it may, we shall focus on the extent of abuse and compliance with the following four basic ingredients of a valid marriage under the Shariah in Nigeria; namely,

- (i) Wali (that is marriage guardian)
- (ii) Witness
- (iii) Mahar (that is dowry or bride price), and
- (iv) Expression of Agreement to the marriage⁶³.

As we proceed to take and discuss them seriatim, we shall consider the principles, features and the practice mode of each of them in the country.

3.2.1. Requirement of Wali for a Valid Islamic Marriage

According to Hammudah 'Abd' al 'Ati,⁶⁴ marriage guardianship is the legal authority vested in a person who is fully qualified and competent to safeguard the interests and rights of another who is incapable of doing so independently.⁶⁵

More particularly, it connotes the authority of a father or nearest male relative over minors, insane, or inexperienced persons who need

protection and guardianship⁶⁶. For the fact that women are considered to be naturally incapable of independent reasoning on a very fundamental issue like marriage, the requirement of a marriage guardianship has been limited to them⁶⁷. A man, even if he is a minor, does not need a marriage guardian to have a valid marriage contracted⁶⁸.

In Nigeria however, one can hardly distinguish between the respect which both male and female have for this principle since a male will be particular about the consent of his parent on any marriage he wants to contract just as the female counterpart will do⁶⁹. This is to show the extent of recognition of this condition as an expedient necessary for marriage among the Muslims.

Some Nigeria Muslims do contract marriages during periods when they are on pilgrimage at Makkah. There are occasions when some Nigerian women pilgrims have had to return from Makkah claiming to have got married to another man after divorcing their previous husbands while they were there. This is very unfortunate. Those who do act as their guardians should particularly be warned against their involvement in this legally un-Islamic practice⁷⁰.

Also, Muslim women who have non-Muslim parents standing as their marriage guardians must realize that a non-Muslim is not qualified to be a *Waliy* for a Muslim woman no matter how closely related they may be⁷¹. Until this is done, Muslims in Nigeria may continue to violate these laid down principles of *Waliy* under the Shariah.

3.2.1.1 Sources of Wali: There are two sources of marriage guardianship under the Shariah. There are blood association and legal authority.⁷² Even though Shariah has arranged the order of hierarchy to be followed in assumption of the role of guardianship in marriage,⁷³ Muslims have not given full compliance to the stipulated arrangement in Nigeria.

Customarily, the practice in some parts of the country does not permit the father of a woman to be directly involved in consenting to who his daughter would marry. Heads of families usually have the say.⁷⁴ They therefore assume the role of guardianship without due regard to the most qualified person as *waliy* at a moment in time,

who is the father in most cases. In fact, it is seen absurd for the hand of a woman to be sought in marriage directly from her legal and biological father. Whoever, is the head of the family is taken and treated to be the proper person to play the role.⁷⁵ This must not continue to be in observance so that a man deriving his power of guardianship for a woman in marriage from a wrong source will not persist to play this role in the country.

Similarly, in some communities, people in authority like *Obas*, *Baaies*, *Emirs* or community leaders have arrogated to themselves the power to assume and play the role of marriage guardianship for women in their communities against their fathers. This has however received a judicial frown as an aberration and flagrant disregard to Islamic rules on hierarchy of guardianship in marriage, which must not be allowed to subsist⁷⁶. This decision is therefore very commendable.

3.2.1.2 Exercise of the power of Ijbar by Wali in Nigeria: Another issue that must be appraised for a proper understanding of abuse and compliance which the rule of waliy has been subjected to in Nigeria to be grasped is the concept of the power of *ijbar*.

Ijbar means the right of a *wali* to decide whom his daughter should marry with or without her consent⁷⁷. Only the father of the woman can exercise the power when he plays the role of *wali* on his own daughters⁷⁸. Books of Islamic Law, both in English and Arabic languages, are replete with details on categories in which a ward must fall into before the power will be properly exercised⁷⁹. What should rather interest us is the critique, which has been made on the power by Muslim scholar vis-à-vis the practice in the country.

The proponents of the power of *ijbar* have premised their position on the provision of Qur'an 4 verse 25 where Allah says: "...do marry them by permission of their folk". Its critics however contend that the verse does not apply to the marriage of free believing women, but of captives whom "the believer's right hands possess"⁸⁰. They fortified their position with a number of *ahadith* pointing to the inapplicability of power of *ijbar* in general forms under the *Shari'ah*.⁸¹

To this end, it has been argued that *Ijbar* does not have its crux in the *nass* (definitive rules of Qur'an and *Sunnah*), but rather, it is

deep-rooted in the doctrines of the Maliki School as one of the practices of Madinah on which the school places premium even over and above the express *hadith*.⁸² This informed the prominence which the concept has gained in Nigeria.

In the name of exercising the power of *Ijbar* in the country, some forms of transgression have been introduced by the Nigeria Muslims. As earlier noted, the power is exercised to deny many ladies the marriage to those they sincerely have love for. The worst part of it is the fact that this power is exercised to promote what is sternly frowned at in Islam like ethnicity and tribalism.⁸³

Therefore, Nigerian fathers should be very conscious of Allah in their exercise of power of *ijbar* on their daughters, bearing in mind that it is only a Maliki School practice, which compliance with the hadith of the Prophet has been doubted⁸⁴. It may thus not avail them that they are applying a Maliki rule at the expense of a clearer *Shari'ah* stipulation.

3.2.2. Requirement of Witness for a valid Islamic Marriage

Under the Shariah, secret marriage is completely outlawed. Anything that will hide the marriage of a man to a woman is not permitted⁸⁵. It is for this reason that it has been stipulated that a Muslim marriage must be witnessed for it to have the sanction of the Law. What is intended by witness of the marriage, is the presence of at least two upright male Muslims at the time when the marriage is being concretized⁸⁶. This is gleaned from the Qur'an provision⁸⁷ and the *hadith* of the Prophet when he said:

*No valid marriages save with a Wali and two witnesses.*⁸⁸

The requirement of witnesses has informed the practice of celebration of marriage in order to ensure its publicity.⁸⁹ This is also the custom and popular practice in Nigeria among the Muslims. While it is not here contended that marriage must be publicized widely, what Muslims have however introduced into their marriage ceremonies require some reflections. This is as it affects what they expend on it; how they conduct themselves during it and the number of days they spend in marking it.

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Nigeria Muslims usually celebrate their marriage ceremony with gait and pageantry, although according to the individual's means⁹⁰. In some parts of the country, the ceremony takes so long a period that exceeds the limit of days permitted by the Prophet for such celebration⁹¹. For the particular necessity required to correct them on this error, the hadith putting a limit of maximum of two days stipulates as follows:

*Narrated Ibn Mas'ud (R.A): Allah's messenger (SWA) said: 'the food of the first day is a duty, that on the second day is a Sunnah, the third day is a show-off and whoever makes a show-off of what he does, Allah will disclose (disgrace) him (in the Hereafter)'*⁹²

How can one therefore explain the practice of celebration of marriage ceremonies for a week among the Muslims in the light of the above *hadith*? It will be improper to consider it normal rather than as an abuse of satisfaction of the requirement of witness and publicity in their marriage. This must be addressed in due course.

Similarly, many doors have been opened for different atrocities in the course of celebrating marriages in Nigeria among the Muslims. Most noticeable is the fact that no significant attention is being paid to ensuring segregation of sexes on the occasion⁹³. What excuses will anyone have before Allah (swt) when he is responsible for this kind of occurrence just because a marriage is being celebrated? The suggestion here is for the Muslim scholars in the country to take up the task of addressing the issue on different occasions.

It is noteworthy that the prominence, which the Muslims in Nigeria have given to marriage celebration, if it is for the purpose of publicity as it applies under the Shariah, is rather uncalled for. This is not however to suggest that it is doubtful that publicity is necessary even to the point that it is desirable that a good number of people should witness the making of the offer by the *Wali* while the suitor gives his acceptance⁹⁴. The point is that the way marriage is being celebrated by the Muslims in Nigeria should be assessed and all alien practices to the *Shari'ah*, which have been introduced, should be expunged⁹⁵. Only when this is done will they be complying with the Shariah requirement of witness in their marriages.

3.2.3. *Requirement of Mahr for a valid Islamic Marriage*

Mahr, also called *Sadaq*, *Nihlah* or *Ijar*, refers to the sum of money not less than a quarter of dinar or three dirham or its equivalence paid by a suitor during or after solemnization of a marriage between him and the prospective wife to legitimize his matrimonial authority⁹⁶. The legal source of stipulation of *Sadaq* as a condition of marriage validity under the Shariah is the Qur'an and hadith⁹⁷. However, for the purpose of this paper, perversions, which Muslims in Nigeria do make in relation to its treatment will be focused on.

To start with, some of the conditions that govern payment, disposal and ownership of the *sadaq* are not properly respected in the country. There is a practice where a father would purport to give out his daughter in marriage free of *Sadaq*.⁹⁸ This act is regarded as a very highly meritorious act on the part of the father. But the question here is: who is entitled to the *Sadaq*: the father or the daughter? The position of the *Shari'ah* on this is to the effect that,

*A marriage in which Sadaq is not paid is void. It should be dissolved before the consummation. But if the marriage has been consummated the husband shall be made to effect the payment of the Sadaq agreed to during the solemnization of the marriage.*⁹⁹

It therefore follows that the practice of giving out daughters in marriage free of *Sadaq* or where the *Wali* will make its payment is just a mere abuse of the rule of *Mahr* as a necessary for a valid marriage under the *Shari'ah*. Those who engage in it must be cautioned or else they will continue to indulge in an act that contradicts clear provisions of the *Shari'ah*.

The Nigerian Muslims must realize that *sadaq* is a right due to the woman by legal provisions of the Qur'an and the Sunnah.¹⁰⁰ The *Wali*, whoever he is and whatever may be his status, has no power to write it off.¹⁰¹ The rule ought to be observed in accordance to the stipulations.

Similarly, it is significant for them to realize that dowry is the entitlement of the bride herself; she is the owner of it, not the *Wali* or any other person¹⁰². This is a divine injunction, not a custom; she alone therefore has the right to it and only she may dispose of it as

she pleases¹⁰³. It must be quickly added that, “whatever a man adds to the dower during the solemnization of *nikah* is part of *sadaq*”¹⁰⁴ and “whatever lawful things that the customs take as dower form part of *sadaq*”.¹⁰⁵

Taking the above into consideration, the Muslim practice in Nigeria, which does not regard what the customs take as part of *sadaq* is questionable. The situation where what the husband also adds during the solemnisation is not treated as the right of the wife will equally have to be checked. *Sadaq* is a very essential element for validity of marriage under the *Shari'ah*, Muslims must therefore desist from abuse of it in the stated manners and other similar modes not discussed in this paper¹⁰⁶.

3.2.4. Requirement of Expression of Agreement to the Marriage

This is known as *seegah* and it refers to the expression of offer of marriage by the *Wali* and its acceptance by the prospective husband.¹⁰⁷ It has been observed that the *Wali* usually makes the offer by saying: “I give the hand of X to Y in marriage on so much amount of money as *sadaq*” while the suitor would say “I accept the offer or I am pleased with the offer”¹⁰⁸.

In another perspective, it is the family of the suitor that will formally ask for the hand of the girl for their son and the *Wali* of the bride formally agrees¹⁰⁹. This is the practice prevalent in Nigeria.

The requirement of offer and acceptance has a linkage with free consent of the parties to the union¹¹⁰. But, since under the Maliki School, it is the father who has the right to conclude marriages on behalf of his infant sons and virgin daughters, the consent of the parties is presumed in the country once the offer and acceptance is concluded between the two families.

With this background, the initial offer that is normally expressed and exchanged between the suitor and the prospective wife is therefore not the proper offer and acceptance (*Ijab and Qabul*) required for validity of marriage under the *Shari'ah*. The appropriate mode of making the offer and acceptance, which has been in good compliance with in the country must therefore not be neglected.

4. Projection on the Future of Islamic Family in Nigeria

A concerned mind will feel seriously worried about the future of Islamic family in Nigeria, considering the attitude, which the Muslims now have towards it.¹¹¹ Many Muslims in Nigeria now want to identify with the western civilization.¹¹² Marriages are being celebrated in a manner that is antithetical to the Islamic ethics and practice of marriage. Hope is almost lost on a viable flourishing future for Islamic family in Nigeria except for the emergence of some new generations, conscious minds, who are now daily striving to safeguard their religion of Islam.¹¹³ Therefore, the present situation of things in Nigeria with regard to Muslim marriage and family should be a matter of concern to all conscious Muslims minds throughout the world.

More sadly, Muslims are increasingly losing focus on the need for them to bring up their children in an Islamic manner. The educated elites no longer bother about Islamic rules of *Hijab*.¹¹⁴ This therefore places the future of the Islamic family in Nigeria at a very risky position. In the time to come, would Muslims in Nigeria still be able to see any difference between mode of marriage validity and celebration in Islam and that of the Western world? Would prominence not be giving to the West against Islam?

4.1. Recommendations

The problems facing Muslims in Nigeria with regards to compliance with necessities for validity of marriage under the Shariah are manifold and the effects of their abuse are so far reaching that something very urgent needs to be done to put it into check. Thus, lasting solution to the problems of abuse of necessities for validity of marriage under the Shariah, which has become rampant in Nigeria require a decisive and practical approach. Some of the actions required are discussed in what now follows.

4.1.1. Enlightenment Campaigns

Muslims should be seriously enlightened about the need to comply with Islamic necessities for a valid marriage under the Shariah in the conduct of their marriages. They should be educated about the already existing derailment from that path. The identified areas of derailment

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should be exposed. The enlightenment should be tactically done through various means of communication available in the country. It should be directed towards achieving a positive impact¹¹⁵.

4.1.2. Massive Education on Distinction between Customs and Religion

Since the impression of Muslims in Nigeria about marriage is that of a cultural conduct, there is need for them to be educated on the distinction between custom and religion. Many of them are not aware that Islam is supposed to be a binding code to regulate every facet of their endeavours and not just matters restricted to the mosque. Therefore, educating them on this issue is worthwhile.

4.1.3. Serious Cautions to the Educated Muslim Elites

The perversion of necessities for Islamic marriage validity in Nigeria is most common with the so called educated families in the country. They are the people who will want to celebrate their marriages in a way that befit the standard of persons of the caliber¹¹⁶. Most of the activities, which they do include in their wedding programmes, are usually design to depict their status in life¹¹⁷. Little consideration are usually given to Islam. Therefore, they must be seriously cautioned against this aberration if the abuse of the necessities must be practically addressed.

4.1.4. Establishment of Bureau of Islamic Affairs (Family Matters Division)/ Ministry of Religion (Islamic Department)

The problems of the Muslim in Nigeria have deferred solutions because they lack an organised means to address them. This has equally extended to their family issues, which include marriage. It is expedient that as non-Muslims have the means through which they do attend to their family matters in an organized manner in the country¹¹⁸, the Muslims should equally be accorded a similar opportunity in due course. To this end, it is strongly suggested that a Ministry of Family and Islamic Affairs should be established with the powers to attend to problems of Muslim citizens, with particular reference to ensuring institutionalization of an ideal Islamic family in the country, where abuse of necessities for validity of marriage will not be outlawed.

4.1.5. Unification of Islamic Groups on a Common Islamic Family Goal

There are many Islamic groups and organizations in the country.¹¹⁹ Their forum can be a very good avenue to address the issue of abuse of necessities for validity of marriage that has become rampant in the country; all of them should work together as a united forum with a united goal. Their goal should be establishment of an ideal family in the country. Their members should be well groomed and influenced to be the champions of this laudable end.

Conclusion

The flaws in the Muslim system of marriage in Nigeria which has informed flagrant abuse of the basic necessities for validity of marriage under the *Shari'ah* are not unconnected with either a total absence or ignorance of the objectives of the principles of Islamic marriage, faults in their applications or introduction of principles which are not compatible with Islamic ethics and practice of marriage¹²⁰. The noticeable defects are therefore attached to *sadaq*, dowry, publicity and the practice of power of *ijbar*¹²¹.

Thus, this paper has appraised the way these are being practiced in Nigeria. What this paper has disclosed is the fact that unknown to the Muslims in Nigeria, many marriage have been conducted without due fulfilment and satisfaction of the basic necessities for their validity under the *Shari'ah*.

Therefore, in order to guide against continued observance of the marriage system among the Nigeria Muslims in this way, the observations and suggestions that have been put forward in this paper should be necessarily considered and put into execution. In no time this is done will abuse of necessities for validity of marriage under the *Shari'ah* become a thing of the past while compliance with them will take a lead as the practice in the country.

Notes

1. This will be appreciated if one carefully studies what used to be the practice in the pre-Islamic period. For a concise study of Islamic family system and the pre-islamic practices, see Hammudah Abd al-'Ati, *The Family Structure in Islam* (Islamic Publications Bureau 1982) 19–48.

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2. For a study on the objectives of Islamic law, see Hanifah Haydar Ali Tajuddin, 'General Concept of Islamic Law and Its Sources' in Adnan Trackic and Hanifah Haydar Ali Tajuddin (eds), *Islamic Banking & Finance – Principles, Instruments and Operations* (2nd edn, The Malaysian Current Law Journal Sdn Bhd 2016) 50–55.
3. See Qur'an 66 verse 6.
4. See MA Ambali, *The Practice of Muslim Family Law in Nigeria* (3rd edn, Princeton & Associates Publishing Co Ltd 2014) 215; M. A. Ambali, *The Practice of Muslim Family Law in Nigeria (Second Edition)* (2nd edn, Tamaza Publishing Company Limited 2003) 168.
5. For instance, the Prophet recognised compliance with the requirement of publicity in marriage as a marked difference between what is permitted (*nikkah*) and what is forbidden (*zinah*). See Mahamud bn Hameel, *Tuhfatul 'Arusi Al-Zawaju Sa'id Fil Islam Minal Kitab Was-Sunnah* (Maktabatul Safa 2002) 87.
6. See 'Abdur Rahman I. Doi, *Shari'ah: The Islamic Law* (Seventh Pr, A S Noordeen 2007) i. Abdur Rahman I. Doi, *Shariah: the Islamic Law* (Ta Ha Publishers, 1984) p. i.
7. See Qur'an 3 verse 164.
8. See Qur'an 34 verse 28; Qur'an 2 verse 257; Qur'an 22 verses 23-24.
9. See Qur'an 6 verse 38.
10. Circumstances when marriage may be *haram*, *mandub* or *wajib* are explained in the books of Islamic Law. See Ambali 189–190; Sayid Sabiq, *Fiqhu Sunnah*, vol 2 (Maktabah Darul Tarath) 10–11. For a clear understanding of the principles of *hukm taklifi* (the defining rule) under which human acts and conducts are variously categorized into *haram*, *mandub* etc., see Abdullahi Saliu Ishola and Isa Olawale Solahudeen, 'Dynamism of Islamic Law: Al-Hukm At-Taklifi in Perspective' (2005) 1 AL-BURDAH Journal of Arabic and Islamic Studies 40.
11. The facts and subsequent Judgment of the Court in the case of *Fatimoh Asabi v. Alhaji AbdulKadir Oba*, 2001 Kwara State Sharia Court of Appeal Annual Report, Pp10-27 aptly illustrates this. A full reading of the case is worthwhile and recommended.
12. These include Area Courts and Shariah Courts of Appeal. For a recent and wide study of the mode of administration of justice in the courts,

- see Abdulmumini Adebayo Oba, 'The Sharia Court of Appeal in Northern Nigeria: The Continuing Crisis of Jurisdiction' (2004) LII The American Journal of Comparative Law 859.
13. This is usually the case when the issue before the Court involves paternity of the child. See *Fatima Igbo and Anor V Baba Ogun*, 1997 *Kwara State Sharia Court of Appeal Annual Report*, Pp 133-134.
 14. See Abdulmumini Adebayo Oba, supra note 10 at 878-879; M. A Ambali, supra note 3 at 16-20.
 15. This has been done constitutionally, statutorily and judicially. See Section 14, Shariah Court of Appeal Law, Cap 49, Laws of Northern Nigeria, 1963; *Alhaji Ila Alkamawa V Alhaji Bello and ANOR* (1998) 6 SCNJ 127 at 136; *Abdulsalam V Salawu* (2002) 6 SCNJ, 388 at 396.
 16. This is a categorization that is of common knowledge in the country and it is also representative of the majorly recognised religions there. See Jimoh A. A and Nasiru S. O, "Man and His Social Environment" (unpublished Lecture Note on S.O.S 113 for students of the Kwara State College of Education, Ilorin, Nigeria) undated, p7.
 17. Dayo Ogunniyi and H.O.N Obili, *Spectrum Social Studies for Junior Secondary Schools*, Book 1 (Spectrum Books Limited, Ibadan, 2000) p16.
 18. Ibid p16.
 19. Ibid p 17
 20. For instance exchange of ring and non permissibility of marriage to more than one wife.
 21. While Christian marriage takes place in Church, Ordinance marriage takes place at Marriage Registry or Court.
 22. That is, as Christian marriage, Islamic marriage and Traditional marriage system.
 23. See E.I. Nwogugu, *Family Law in Nigeria*, Revised Edition. (Heinemann Educational Books Nigeria Plc, 1974) Chapter 2, Pp22-65.
 24. It was first made in 1863 via the Marriage Ordinance No.10 of 1863. It is now Marriage Act, Cap 218 Laws of the Federation of Nigeria (L.F.N), 1999. See also its sister statute on the same subject matter, Matrimonial Causes Act, Cap 220, L.F.N, 200.

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25. See Section 33 (1) of the Marriage Act and Section 3 (1), Matrimonial Causes Act, supra note 22. See also E.I Nwogugu, supra note 22 at 25; *Obele Iniya V Obele* [1973] 1 NMLR 155; *R V Princewell* [1963] NNLR 54; *Craig V Craig* [1964] LLR 96.
26. The provisions of both Marriage Act and Matrimonial Causes Act are codifications of Common Law principles of marriage. See E.I Nwogugu, supra note 22 at 22. It is noteworthy that Common Law has been given judicial recognition as Christian Law. See *Bowman V Secular Society Ltd* [1917] AC 406. It must also be noted that the consensus among the Muslim writers in the country is that Common Law is Christian Law and any issue that is catered for under the Common Law is basically for the benefits of the Christian citizens of the country. See Ibrahim Sulaiman, "The Shari'ah and the 1979 Constitution" in Syed Khalid Rashid (e.d), *Islamic Law in Nigeria (Teaching and Application)* (Islamic Publications Bureau, Lagos, 1986) pp52-74; A. A Oba, "An Ideological Discourse and Literature Review on Islamic Law in the Nigerian Legal System" in (2004) 12 *IIUMJ* 163 at 169; Abdul Lateef Adegbite, "Sharia in the Context of Nigeria", in *The Sharia Issue: Working Papers for Dialogue* (A Committee of Concerned Citizens, undated) pp68-69; A. A Oba, "Common Law is Christian Law", in *Asirat* (Muslim Students Society, A.B.U. Kongo Campus, Zaria, Vol. 1 No 1, 2002, pp10-12; Abdullahi Saliu Ishola "Rights of the Dead under the Shariah in Nigeria" in *At-Tabib Vol. 1 No 9, February, 2006* (Association of Muslim Health Students, College of Medicine, Ilorin) p39; Abdullahi Saliu Ishola, "Right to Privacy Under the Shariah in Nigeria" in *Al-Bayaan* (Muslim Students Society of Nigeria, University of Ilorin, Ilorin) No. 5, August, 2006, pp28-30.
27. During a private discussion with a Christian colleague recently, he found it difficult to distinguish between the two systems of marriage for me. This is typical of every other Christian in the Country. Thus, it always looks very strange to them to see a Muslim subjecting himself to the Act for his marriage even though the Act permits the Muslim to so do.
28. See supra note 15.
29. Dayo Ogunniyi and H.O.N Oboli, supra note 16 at 17.
30. Ibid at 17.
31. See for instance the view of E.I Nwogugu, supra note 22 at 58.

32. See Abdullahi Saliu Ishola, "Human Rights, the West and Islamic Law: A Case for Dichotomy" in *Al-Masha: Journal of Law and Religion* Vol. 3 (Nigeria Association of Muslim Law Students, University of Ilorin, Nigeria, 2003-2006), Pp206-219; M. A Ambali, supra note 3 at 16-20.
33. This can be appreciated with the rate at which Christian writers in the Country are expressing their views in favour of this position. See A.D Badaiki, *Development of Customary Law* (Lagos: Tiken Publishers, 2001) pp 11-12; J. M Elegido, *Jurisprudence* (Ibadan: Spectrum Books, 1994) pp137 n. 34, 137-138.
34. Hon. Justice Wali, JSC, made a very forceful pronouncement on aberration inherent in treating Islamic Law as customary Law in the country in the case of *Alkamawa v. Bello*, supra note 13, at 136.
35. See Masud A. Taiwo, *Marriage under the Shariah and Yoruba Custom* (private publication, Abeokuta, Nigeria, 2001) p9; A Rhman I Doi, *The Cardinal Principles of Islam* (Islamic Publications Bureau, 1972) p177.
36. Masud A. Taiwo, supra note 34 at 9.
37. This depends on the part of the country in question and the tribe in consideration. For the practices among the Muslims in the Northern part and Souther part of the country, see Abdur Rahman I. Doi, *Islam in Nigeria* (Gaskiya Corporation Limited, Zaria, 1984) pp 97, 141 and 179; And, for a concise account of a complete marriage procedure in Islam, see Abdur Rahman I. Doil, *The Cardinal Principles of Islam*, supra note 34, pp 177-180.
38. See Masud A. Taiwo, supra note 34 at 9-10. This is contrary to the type of boy-friendship and girl-friendship that used to occure in the olden days among them. See further, Abdur Rahman I. Doi, *Islam in Nigeria*, supra note 36 at 98.
39. This is a legacy of distortion which colonialism left among the Muslims before it finally took its dishonourable exit on the eve of 1st October, 1960 from the country. It is equally a manifestation of Western influence on the Nigeria Muslims.
40. See Masud A. Taiwo, supra note 34, at 9-10.
41. It will involve both the man and the prospective wife, their parents, publicity and lots of money spending as much as they would have expended during the celebration of the actual marriage.

42. This is because intention matters in whatever a Muslim does. This is expressed in the Arabic legal maxim: *Al-Umuru Bi Maqasidiha* (Every act shall go with its intent). See Abdul Rahaman bn Nasir Al-Sa'riy, *Qawaidu Fiqhiyyah*, first edition (Maktabah Islamiyah, 2001)p 13; Al-Sheikh Ahmad bn. Al-Sheikh Muhammad Zurqa, *Sharihu Qawaidu Fiqhiyyah*, six edition (Darul Qalam, 2001)p47. See further M. O. A. Abdul, *The Selected Traditions of Al-Nawawi*, Book 4 (Islamic Publications Bureau, Lagos, Nigeria, 1974) p18.
43. See M.A Ambali, *supra* note 3 at 147; Hammudah Abd al 'Ati, *supra* note 1 at 60; E.I. Nwogugu *supra* note 22 at 59.
44. This means that in the absence of any one of them, validity of such marriage may be questionable.
45. See Hammudah Abd al 'Ati, *supra* note 1 at 60.
46. A man cannot be married to a fellow man and neither can a woman be married to same sex in Islam. Both lesbianism and homosexuality are two practices that have no base in Islam. They are capital offences which carry death sentences respectively. See Isa Adeniyi, *Zina: Islamic Perspectives on Adultery and Fornication* (Salsabil Associates, Lagos, 2002) pp 45-49. For a well articulated study of what purpose marriage is meant to serve in Islam, which informed the regulations which Islam places on how sexual urge should be satisfied (sexual urged is recognized in Islam via Quran 30 verse 41), see Ganiyat Popoola, "Marriage: The Cure for *Zina*" in *Al-Maslaha*, *supra* note 31, Vol 2, 1999-2003, pp200-205; Abdulmumini A Oba, " Sex(or Sexuality) Education in Islam and the Western World" in *Al-Maslaha*, *supra* note 31, Vol. 3, 2004-2006, pp186-204; N. M Usman, "Taming the Beast of *Zina*" in *Al-Maslaha*, *supra* note 31, Vol. 3, 2004-2006, pp236-243. And, for the psychological import of this Islamic arrangement stated to be "to safeguard us from becoming homosexuals and lesbians", see Sheikh Abdullah Faisal, *Natural Instincts (Islamic Psychology)*, (Darul Islam Publishers Ltd, London, 1417 A.H), first edition, pp32-33.
47. "And do not marry women whom your fathers married except what has already passed. It was indeed obscene, hateful and an evil way. (22) Forbidden to you in marriage are: your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's sisters, your sister's daughters, your wet nurse, your 'sisters' by nursing, your wives mothers, your step daughters under your guardianship born of your wives with whom you have consummated - if you did not

consummate then there is no sin upon you, the wives of your blood sons, two sisters at the same time, except for that which has already passed. Verily, Allah is Forgiving, Merciful. (23) And those already married except those whom your right hand possesses (through capture). Allah's ordinance upon you. And allowed for you are all besides these if you seek them with your property seeking chastity not fornication..."

48. See Hammudah Abd al 'Ati, supra note 1 at 61.
49. Ibid, p62.
50. This is typical of *Kul'u* divorce where the woman is the initiator of the divorce and not the husband. See *Mama Ahmadu V. Ahmadu Mayaki Yunusa, 1999 Kwara State, Shariah Court of Appeal Annual Report, p 78-79.*
51. This is contrary to the Islamic position on tribalism, which Islam seriously frowns at. More so the emphasis of the Prophet is on religion as the factor to be considered in marriage and not tribe. Therefore, Muslim parents should not give priority to ethnic affinity in agreeing to the marriage of their daughter to any man. The Prophet's Farewell Address equally discouraged this kind of practice. See The Institute of Islamic University, Islamabad, *Three Important Addresses of the Holy prophet (SAW)* (Hamdard National Foundation (Palestine) Karachi) pp 14-20.
52. Many Educated Muslim Ladies grasped the understanding of Islam to the point that ethnicity is secondary to them in the choice of a spouse. Religion is of the optimum consideration to them. This is why they do encounter problems with their parents whose level of understanding is lower.
53. For instance, some young Muslims will prefer a well-educated non-Muslim lady to an averagely educated Muslim lady in marriage, even though the position of Islam on what matters most in the matter of marriage and other general matters of life is clear – i.e. religion and Allah's consciousness. See Qur'an 2 verse 221 and Qur'an 49 verse 13.
54. See AbdurRahman I Doi, supra note 5 at 133-138. For a detailed study of traits which make some Muslim scholars see the modern Christians not as people of divine book, see Idrees Kayode Olusola, *The Bible, the Qur'an and Godhead* (Mizan Associates, Lagos, 2002)

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and Idrees Kayode Olusola, *Shariah: An Analytical Treatises on Christian Misrepresentation* (Mizan Associates, Lagos, 2002).

55. See Idris Sa'adudeen, "Inter-Religious Marriage: Why Do they Happen and the Significance" in *At-Tabib* Vol. 1 No 9, February, 2006, (Association of Muslim Health Students, College of Medicine, Ilorin) pp 22-23; Idrees Kayode Olusola, *Shari'ah: An Analytical Treatise on Christian Misrepresentation*, supra note 52 at 49.
56. See Idris Sa'adudeen, supra note 53 at 23; Qur'an 2 verse 221.
57. This is mostly common among the Muslims in the Southern part of the country where they perceive nothing wrong in subjecting religious matters to customs. Their slogan, as expressed in Yoruba language is: *Awa yio soro ilewa, esin kan ope kawa mon soro awa yio soro ilewa* (meaning; *we will observe our customary rites, no religion shall deny us observance of our traditional rites*). For a study of the situation of Shariah in that part of the country, see A. A Oba, " Sharia in Yoruba Land", in *The Emirate Spring, Vol. 1 No. 2 February, 2001* (Ilorin Emirate Students Union, University of Ilorin, Ilorin, Nigeria,)pp30-31.
58. See Hammudah Abd al 'Ati, supra note 1 at 60.
59. See Abi Bakr bn Hasan Al-Kasnawy Al-Kasarawy, *Badru Zawjayni Wanufahru-l-Haramain* (Daru-l- Fikr) undated, p52; AbuBakar Jabir Al-Jazairy, *Minhaj-l-Muslim* (Darul-Fikr, 1999) first Edition, p 334
60. Abi Bakar bn. Hasan, supra note 57 at 52.
61. Ibid, p62.
62. The court has even held that absence of dowry does not render marriage incurably defective. See *Fatimoh Agbeke V. Aiyelagbe Afon, 1998 Kwara State Court of Appeal Annual Report p 85*.
63. See *Mrs. Ramota Omotayo Adisa V. Abdulkarim Alabi, Adisa, 2004 Kwara State Shariah Court of Appeal Annual Report, p135, Holding 1*; AbuBakar Jabir Al-Jazairy, *Minhaj-l-Muslim* (Darul-Fikr, 1999) first Edition, p 334. See also Muhammad Bin Asim Al-Andalusi, , Bello Muhammad Daura (transl) (Centre for Islamic Legal Studies, Ahmadu Bello University, Nigeria, 1989)p33 verse 334.
64. Supra note 1.
65. Ibid, p70.
66. See M.A. Ambali, supra note 3 at 147.

67. Hammudah Abd al 'Ati', supra note 1 at 71
68. See Hammuda Abd al 'Ati', supra note 1 at 71, M.A. Ambali, supra note 3 at 147; Abi Bakr bn. Hasan, supra note 56 at 58.
69. See the emphasis placed on the parents consent for a valid marriage in the case of *Fatima Igboo and Anor V. Baba Ogun, 1997 Kwara State Shariah Court of Appeal Annual Report, p 137.*
70. This is of personal knowledge and observation of the writer. The writer is opportune to be aware of this occurrence in the country through previous contact and relation with some husbands affected.
71. See M.A Ambali, supra note 3 at 147.
72. Ibid, p147. See also *Ndamazhi Audu Yafazhi and Anor V. Nndazuma Audu, 1998 Kwara State Sharia Court of Appeal Annual Report, p 132 Holding iii.*
73. This order is expected to be strictly respected. Where this is violated, the marriage may be rendered null and void and every effort that goes into it will be in futility. See *Muhammad Abubakar V. Hadizah Muhammad and Anor, Appeal No: KWA/SCA/CV/AP/24/29* (unreported) cited in M.A Ambali, supra note 3 at 149-151
74. See an account of the practice among the Yoruba Muslims in the country in Abdurrahman I Doi supra note at 141-143.
75. This depicts the practice of the Yoruba Muslims as well. See Abdur Rahman I. Doi, supra note 36 at 71. It is also similar to what operates in Ilorin where hands of women are usually customarily sought in marriage from the head of the family rather than fro the father himself. This is being departed fro by the educated elites.
76. See supra note 69; *Muhammmad Abubakar V. Hadizah Muhammad and Anor*, supra note 69.
77. See M.A Ambali supra note 3 at 151.
78. Ibid p 151.
79. These include M.A Ambali, supra note 3 at 151; Hammudah Abd al 'Ati', supra note 21 at 80-85; Abu Bakar bn Hassan, supra note 56 at 58-62; Sayid Sabiq supra note 9, at 85
80. See M.A. Ambali, supra note 3 at 152-154.
81. Ibid at 153. See however the position in Sayid Sabiq, supra note 9 at 85.

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82. M.A Ambali supra note 3 at 154.
83. For the level of at which this is rampant in the country, a warning has been given against continuation of its observance in the country. See particularly the reaction of Masud A. Taiwo, supra note 34 at 15.
84. M. A Ambali, supra note 3 at 154.
85. See Abu Bakar bn Hassan, supra note 56 at 64; Mahamud bn Hameel, supra note 56 at 287.
86. See Abubakar Jabir Al-Jazairy, supra note 82.
87. See Qur'an 65 verse 2
88. See Abubakar Jabir Al-Jazairy, supra note 82.
89. See Hammuddah Abd al 'Ati, supra note I at 60
90. See Abdurrahman I. Doi, supra note at 97
91. For instance, among the Hause /Fulani Muslims in the country, "The marriage ceremony is a week long diffair starting on a day and ending on the next Thursday" see supra note 86 at 97
92. See Al-Hafiz ibn Jajar Al-Asqalan, *Bulugh Al-Marami* (transi) (Dar-us-Salam Publications, Riyadh-Saudi Arabia) undated, Hadith 896 p 368.
93. For a detailed study of the position of Islam in forbidding free mixing and mingling of sexes, see Muhammad Iqbal Siddiqi, *Islam Forbids Free Mixing of Men and Women* (private publication, undated). At page 38, he observes: "The free intermingling of both the sexes has led to countless illegal acts, illegitimate babies, abortions and vast venereal infections in the European countries and American—Islam being the divine religion cannot allow its followers to tread the path of immorality and immodesty. Both the sexes are ordained to be righteous and virtuous". The Muslims who host people over night for wedding celebration run fowl of due compliance with this Islamic moral standard. Such occasions have equally served as forum for meetings of men and women who are unlawful to each other to indulge in unlawful sexual interactions.
94. See M.A Ambali, supra note 3 161
95. This also includes the wrong practice of making the payment of bride price a public matter rather a secret affair that should be mainly between the husband and the wife. See Masud A. Taiwo, supra note 33 at 21.

96. See M.A Ambali, supra note 3 at 162.
97. See Qur'an 4 verse 24.
98. See M.A Ambali, supra note 3 at 164.
99. See M.A Ambali, supra note 3 at 164.
100. See Hammudah Abd al 'Ati, supra note 1 at 65.
101. See M.A Ambali, supra note 166. The rule is "And unto thee with whom you desire to enjoy marriage, you shall give the dowers due to them..." See Qur'an 4 verse 24; Qur'an 33 verse 50.
102. See M.A Ambali, supra note 166.
103. See Hammudah Abd al 'Ati, supra note 1 at 65.
104. See *Bilikisu Olori Olopa V Uthman Olori Ologbo, 1997 Kwara State Sharia Court of Appeal Annual Report, p 67 Holdings (i) and (ii). Afusatu Adelodun V. Sulaiman Ali Agan, 1997 Kwara State Sharia Court Of Appel Annual Report, p99.*
105. Ibid
106. For example, the act of making payment of *sadaq* a subject of publicity. It has been posited that "it is strictly an affair between the husband and wife; it should not be announced or made public-either at the marriage contract session or during the Walimot Ceremony". See Masud A. Taiwo, supra note 34 at 15.
107. See M.A Ambali, supra note 161.
108. Ibid.
109. See B. Aisha Lemu, *Islamic Studies for Senior Secondary Schools, Book 2 and 3* (Islamic Education Trust Minna, Nigeria, 1990) p173.
110. See Mashud A. Taiwo, supra note 34 at 11-14.
111. This is apparent from the way some parents have reacted to the use of Hijab by their daughters. Many parents would rather appreciate and encourage their daughters to dress in an unIslamic mode like putting on male dress or dressing naked.
112. For example, a very highly placed and respected retired Muslim Justice of a Superior Court of Record once advised the Muslim female students to go and comply with the Nigerian Law School Dress Code, which requires them to take dinners bare headed rather than asking him to

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relax the rule which he was in a position to do. . This is a great blow, which Western Civilization has dealt on the Muslims in the country.

113. It is for this struggle that many of them have established Islamic Nursery and Primary School where Muslim children can be brought up with sound Islamic faith. This effort is highly commendable.
114. Their problems with *Hijab* are so enormous that they can withdraw or withhold their consent to the marriage of their male children to Muslim ladies who use *Hijab*. Examples abound on this as an occurrence in the country.
115. Such means include Friday Sermon, mass media, both print and electronic and occasions of marriage celebration itself.
116. For example, there is case where a father insisted on the extension of the date fixed for the marriage ceremony of his son on the ground that celebrating it on a particular fixed date will not commensurate with his status in the society in terms of level low expenses that would be involved at that moment.
117. For the fact that a programme called “Reception”, which is full of unislamic activities like public hugging and kissing of the couple, dancing and uncontrolled intermingling of sexes, is seen as an activity identified with the “educated, exposed and civilized” families, many parents who had western education will not feel satisfied except the wedding programme includes “Reception” .
118. For example, Christians in the country do have their marriage registered in the court registry, which is a way by which their family is made organized.
119. The politically and officially recognised among them are: the Supreme Council for Islamic Affairs (SCIA) and The Jamaatul Nasir Islam (J.N.I). Others that may be mentioned here include the Muslim Students Society of Nigeria (MSSN) , the Nigeria Association of Muslim Law Students (NAMLAS), Nasiru Laihi-l-Fatih (NASFAT), Fatihu Qareeb QAREEB).
120. See M. A Ambali, *supra* note 3 at 168.
121. *Ibid*.