

The Implementation of Muslim Family Law in Nigeria, Somalia, and Ghana: A Comparative Study

Dede Andi, Oyo Sunaryo Mukhlas, Siah Khosyi'ah.

UIN Sunan Gunung Djati Bandung, UIN Sunan Gunung Djati Bandung, UIN Sunan
Gunung Djati Bandung
dede.andi@gmail.com

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Abstract

Nigeria, Somalia, and Ghana are countries with distinct demographic compositions of the Muslim population: approximately 51% in Nigeria, 99% in Somalia, and 19.9% in Ghana. Each jurisdiction demonstrates diverse legal characteristics in the regulation of Muslim family law. This study aims to analyze the regulatory framework and the effectiveness of Muslim family law in these three jurisdictions. The research employs a descriptive-analytical method with a normative juridical approach. Data were obtained through a library-based examination of statutory provisions and relevant literature, and subsequently analyzed qualitatively. The findings indicate that the Federal Government of Nigeria has delegated authority to twelve northern states to regulate Muslim family law in accordance with Islamic law. Nevertheless, state involvement remains relatively minimal, as implementation is largely entrusted to local religious authorities, most of whom adhere to the Maliki school. In Somalia, the state assumes a dominant role through the codification and modernization of Islamic family law as embodied in the 1975 Family Law. By contrast, in Ghana, Muslim family law is regulated under the Mohammedan Marriage Ordinance (Cap 129 of 1951); however, the regulation is not comprehensive, with the state granting Muslim communities autonomy to observe Islamic law as a form of living law within society. The effectiveness of Muslim family law thus requires a balance between clear and comprehensive legal substance, robust institutional structures, and a legal culture supportive of its implementation.

I. Introduction

Islam constitutes a religion with a comprehensive legal system that regulates diverse aspects of human life, including family law. Family law occupies a fundamental position in shaping the social structure of Muslim societies. It governs essential matters of individual life, such as marriage, divorce, child custody, and inheritance. As an integral component of *sharīʿa*, family law is not merely regarded as a set of private rules; rather, it also carries a public dimension, given its direct implications for social order. The Qurʾān explicitly underscores the obligation of Muslims to adhere to divine law, as reflected in Q.S. al-Nisāʾ (4:59) and Q.S. al-Māʾidah (5:49), which command believers to adjudicate their affairs in accordance with God's ordinances. Within the framework of the modern state, the enforcement of Islamic family law does not function in isolation but rather interacts with other legal systems, including customary law and national legislation. This dynamic is particularly evident in three African jurisdictions—Somalia, Nigeria, and Ghana—each reflecting a distinct demographic and legal configuration. Somalia, with nearly 99 percent of its population identifying as Muslim, incorporates Islamic family law as an integral part of its positive legal order.

Nigeria, with a Muslim population of approximately 51 percent, exhibits a pluralistic legal system wherein Islamic law, customary law, and statutory law (rooted in common law) coexist and interact, especially in the northern regions dominated by Muslims. By contrast, Ghana, where Muslims constitute about 19.9 percent of the population, faces a specific obstacle: Islamic family law is applied only within a limited scope and remains overshadowed by the predominance of customary and national legal frameworks. Several previous studies have explored Islamic family law systems in individual countries, albeit in a fragmented manner. For example, Abdulmumini Oba (2013) examines how local custom (*urf*) shapes the judicial practice of Islamic family law in Northern Nigeria (Oba, 2013). Likewise, Afiful Huda's (2020) study on Somalia emphasizes the implementation of Islamic family law, focusing on the interaction between normative prescriptions and social practices (Huda, 2020). In contrast, Nor Mohammad Abdoeh's (2019) research on Ghana highlights the position of the Muslim minority and the challenges they encounter in seeking legal recognition (Abdoeh, 2019b).

However, systematic comparative studies that analyze the role of the state, the distinctive features of the law, and the enforceability of Islamic family law across these three jurisdictions remain relatively scarce. This study therefore seeks to address this gap by examining how Islamic family law is accommodated within national legal systems that reflect different demographic configurations of Muslim populations. Such a comparison is expected to provide a more comprehensive understanding of the dynamics, challenges, and opportunities surrounding the application of Islamic family law in Africa, particularly in Somalia, Nigeria, and Ghana.

Based on this background, the article is guided by two central research questions:

1. What are the regulatory frameworks of Muslim family law in Nigeria, Somalia, and Ghana?
2. How effective is the implementation of Muslim family law in these three countries?

A comparative study of three countries with different proportions of Muslim

populations provides a unique lens for understanding the relationship between the state, religion, and family law. This research critically analyzes the degree of state involvement in the formulation and regulation of family law for Muslim citizens, as well as the ways in which Muslim communities in each country implement Islamic law in their everyday family life. This approach not only highlights the differences in legal regulations and policy frameworks but also uncovers the broader social, political, and cultural dynamics that influence the application of Islamic law within the domestic sphere. By comparing the legal contexts and religious practices in a Muslim-majority country, a country with a significant Muslim minority, and a country with a small Muslim population, this study aims to identify distinctive patterns of interaction between religious norms and state policies.

2. Research Method

This research adopts a qualitative methodology utilizing a descriptive-analytical approach, which systematically describes the research object based on the collected data or samples. The study employs a normative juridical approach by examining relevant statutory regulations and legal doctrines applicable to Muslim family law in Nigeria, Somalia, and Ghana. Data were collected through a literature review, which involved the examination of primary legal sources such as legislation, as well as secondary sources including academic books and peer-reviewed journals relevant to the research topic. The data were then analyzed using a qualitative approach and presented in a systematically structured narrative.

3. Results and Discussion

Muslim Family Law in Nigeria

a. Legal System

Nigeria is a federal republic consisting of 36 states (Wikipedia, n.d.-b). It has one of the largest Muslim populations in Africa, with approximately 51 percent of its population adhering to Islam—a figure that continues to grow. As of 2023, it is estimated that around 115 million Nigerians are Muslims (Wikipedia, n.d.-a). Nigeria follows a tripartite legal system comprising common law, customary law, and Islamic law (Sharia) (Adegbite, 2023). The legacy of British colonialism introduced the common law system, which serves as the foundation of Nigeria's national legal framework, particularly in general matters of criminal and civil law. Meanwhile, customary law remains active within local communities and is recognized by the state for regulating family and inheritance matters in accordance with the traditions of various ethnic groups.

The Constitution of the Federal Republic of Nigeria 1999 serves as the supreme legal authority and the principal reference for the country's national legal system. This constitution explicitly guarantees every citizen the right to freedom of religion, including the right to profess, practice, and propagate their faith freely. This provision provides a legal basis for the northern states of Nigeria—where the majority of the population is Muslim—to implement Sharia law as part of their personal law system. Furthermore, the constitution authorizes these states to establish and operate Sharia Courts with jurisdiction over family matters such as marriage, divorce, inheritance, and guardianship (Federal Republic of Nigeria, 1999). Out of Nigeria's 36 states, 12 northern states with

Muslim-majority populations have established Sharia courts since 1999 and have integrated the Sharia legal system into their administrative governance. These states include Zamfara, Kano, Sokoto, Katsina, Bauchi, Borno, Jigawa, Kebbi, Yobe, Kaduna, Niger, and Gombe (Wikipedia, n.d.-e). The Sharia Courts in these 12 states are fundamentally different from Nigeria's conventional legal system. These courts issue rulings based on Islamic law, derived from the Qur'an and Hadith, whereas the conventional courts apply common law or statutory law. The jurisdiction of the Sharia Courts is limited to matters governed by Islamic law, including personal status issues such as marriage, divorce, inheritance, and other family-related matters (Naija Scholar, n.d.).

The majority of Nigerian Muslims follow the Maliki school of jurisprudence, and its doctrines heavily influence the application of Islamic law, particularly in family law areas such as marriage, divorce, and inheritance (Oba, 2013). According to Janeko's research, Nigeria remains one of the countries that continues to apply traditional fiqh (Islamic jurisprudence) as a foundational legal reference and seeks to implement it comprehensively across various aspects of human life. In Nigeria, Islamic law is understood in a literal and textual sense, in accordance with the religious texts (Janeko, 2017). However, as a former British colony, Nigeria's legal system is not solely shaped by Islamic law but also by English colonial law and indigenous customary law. The coexistence of these three legal systems—Islamic law, common law, and customary law—frequently results in jurisdictional overlaps and conflicts, particularly in the application of family law.

b. Marriage

Marriage in Nigeria is categorized into three main types: statutory marriage, customary marriage, and Islamic marriage. Each form of marriage is based on distinct normative foundations, procedural requirements, and legal implications (Advocates, n.d.).

1. Statutory Marriage.

Statutory marriage in Nigeria is governed by national law through the *Marriage Act* 2004 and the *Matrimonial Causes Act* 2004. These statutes recognize only monogamous unions, meaning that a man may be legally married to only one woman at any given time. The solemnization of a statutory marriage must comply with several administrative requirements, including:

- Being conducted in a licensed place of worship or at a civil registry office;
- The issuance of a public notice within a prescribed period, serving as a preventive measure against legally defective marriages (such as bigamy);
- A minimum marriageable age of 21 years, or, for those below this age, the requirement of parental consent;
- Official registration by the state, resulting in a marriage certificate with full legal effect at the national level.

From a legal perspective, statutory marriage affords a relatively high degree of legal protection to both spouses and to children born within the marriage. Such protection encompasses the right to maintenance, inheritance rights, the legal status of children, and access to civil court proceedings for dispute resolution in cases of divorce

2. Customary Marriage

Customary marriage refers to unions conducted in accordance with the traditions and cultural norms of Nigeria's numerous ethnic communities. Nigeria is home to hundreds of ethnic groups, each with its own set of customary legal principles that govern marriage formation and the associated legal consequences. Key features of customary marriage include (Nwogugu, 2014) :

- The state grants legal recognition to customary marriages, as long as they align with the customs of the relevant community.
- Polygamy is generally permitted, allowing a man to marry multiple wives in line with customary norms.
- The marriage typically involves rituals such as the payment of a bride price to the bride's family, traditional ceremonies, and communal acknowledgment of the union.

While customary marriages are legally recognized, the protections they afford tend to be more limited than those provided under statutory law. For example, in the case of disputes, resolution is often sought through traditional institutions such as customary courts or elders' councils, unless the couple has voluntarily registered the marriage under the statutory system.

3. Islamic Marriage

Islamic marriage is prevalent in northern Nigeria, where the majority of the population practices Islam. This form of marriage is governed by Islamic legal principles derived from the Qur'an, Sunnah, and juristic interpretations—particularly those of the Maliki school, which dominates the region.

The main characteristics of Islamic marriage in Nigeria include:

- It is a contractual union (*nikah*) that requires the consent of both parties (the groom and the bride's guardian) and the presence of two upright male witnesses.
- The payment of a *mahr* (dower) to the bride is a necessary condition for the validity of the marriage.
- Polygamy is permitted, with a limit of four wives, provided the husband is able to act justly, in accordance with Qur'anic prescriptions.
- Islamic marriages are recognized within the Nigerian legal system, especially in states that have formally adopted Islamic law into their legal frameworks.
- Marriages are registered at a Sharia Court.
- There is no strictly enforced minimum age for marriage under Islamic law, although this varies by region and legal interpretation

c. Polygamy

Polygamy in Nigeria has deep historical roots, particularly in the northern regions where the majority of the population adheres to Islam. However, certain Christian communities and indigenous societies also practice polygamy. Nigeria is estimated to have the fifth-highest prevalence of polygamy worldwide, with approximately 28% of the population living in polygamous unions—ranking behind only Burkina Faso, Mali, Gambia, and Niger—amounting to an estimated 40 million people in such marriages (Wikipedia, n.d.-d). Under Nigeria's statutory legal framework, polygamous marriages are not legally recognized; an individual who is already formally married is prohibited from entering into another marriage. Contracting a second marriage while still bound by a valid union with the first spouse constitutes the criminal offense of bigamy. Offenders are

subject to prosecution under the Criminal Code (applicable in Southern Nigeria) or the Penal Code (applicable in Northern Nigeria) (Ochem & Emejuru, 2017). By contrast, under both customary law and Islamic law, polygamy is recognized and widely practiced. In some indigenous communities, it is regarded as an integral part of cultural tradition and is often undertaken without any limitation on the number of wives. Consequently, Nigeria may be classified as a jurisdiction with a relatively permissive approach to polygamy, where regulation is largely left to individual choice and established fiqh principles, with minimal state intervention (Janeko, 2017).

d. Divorce.

In the Islamic legal system applicable in northern Nigeria, divorce is governed by the principles of Sharia, particularly those of the Maliki school of jurisprudence. The most common forms of divorce include *ṭalāq* (repudiation by the husband), *khulu'* (divorce initiated by the wife in exchange for compensation), and *fasakh* (annulment of a marriage by a court on lawful grounds such as cruelty or neglect). Among these, *ṭalāq* is the most prevalent and may be effected without the wife's consent. The Sharia Courts have jurisdiction to adjudicate divorce proceedings between Muslim parties. They also exercise authority over other matters within Islamic family law, including child custody (*ḥaḍānah*), spousal and child maintenance, inheritance (*farā'id*), wills (*waṣīyyah*), charitable endowments (*waqf*), and inter vivos gifts (*hibah*). This jurisdiction underscores their role as specialized judicial bodies responsible for enforcing Islamic personal law in accordance with the Maliki school, which predominates in the region. Within the broader scope of Islamic civil law (*mu'āmalah*), the Sharia Courts also have jurisdiction to disputes arising from commercial transactions, loans, leases, and breaches of contract. Such cases are adjudicated based on *fiqh* principles, including contracts deemed defective or voidable due to fraud, misrepresentation, or uncertainty (Rights, 2002).

e. Inheritance Law in Nigeria

Nigeria's inheritance law system is pluralistic, reflecting the country's diverse cultures, religions, and legal systems. Broadly, there are three main systems governing inheritance and succession: statutory law, customary law, and Islamic law. Each system has its own principles and procedures for distributing the estate of a deceased person (Nigeria, n.d.).

a) Inheritance under Nigeria's Statutory Law.

Inheritance under the national statutory legal system in Nigeria is governed by the Wills Act and the Administration of Estates Laws. Generally, there are two types of inheritance under Nigerian statutory law:

1. Testate Succession

If a person dies leaving a valid will, the distribution of their estate follows the provisions stated in that will. Nigerian law grants the testator the freedom to decide how their assets will be distributed. A will is a legal document detailing how a person's property—and in some cases, debts—will be managed after their death. A will may be supplemented by a document called a *codicil*, which contains amendments or additions to the original will. For a will to be legally valid, it must be in writing, signed by the testator, and witnessed by two individuals.

2. Intestate Succession

If a person dies without leaving a valid will, their estate will be distributed

according to statutory law, customary law, or Islamic law, depending on the deceased's religion, cultural background, and place of residence (Nigeria, n.d.).

b) Inheritance under Customary Law

Customary law plays a significant role in communities that retain traditional social structures and values. With over 250 ethnic groups in Nigeria, inheritance practices under customary law vary widely among groups such as the Igbo, Yoruba, and Hausa. In many customary communities—particularly among the Igbo—inheritance tends to be patriarchal, with male children, especially the eldest son, receiving the largest share of the estate. In some cases, women are excluded from inheritance altogether, although modern trends show a gradual shift in the interpretation of customary norms (Nwogugu, 2014).

c) Inheritance under Islamic Law

Inheritance distribution under Islamic law is applied in predominantly Muslim regions, especially in northern Nigeria. This system prescribes very specific inheritance rules based on the Qur'an and Hadith. Each heir is entitled to a fixed share, such as two parts for a son compared to one part for a daughter. In addition, Sharia law grants inheritance rights to specific relatives, including parents, spouses, and, in certain circumstances, grandchildren (Adebayo, 2012).

Muslim Family Law in Somalia

a. Legal System

Somalia is a federal republic located in the Horn of Africa, administratively divided into several autonomous states under the authority of the Federal Government of Somalia. Following the collapse of the central government in 1991 due to civil war, the state structure disintegrated. However, since 2012, Somalia has adopted a Provisional Constitution that establishes a parliamentary system of government, with executive powers vested in both the President and the Prime Minister. The central government's authority, however, remains limited—particularly in regions such as Somaliland and Puntland, which have declared de facto self-governance (Menkhaus, 2014). The vast majority of Somalia's population—estimated at around 99%—are Sunni Muslims. The dominant school of Islamic jurisprudence is the Shafi'i madhhab, which is deeply rooted in the religious practices and social life of Somali society. This school plays a central role in shaping unwritten legal norms observed by local communities, particularly in the resolution of disputes through Sharia-based mechanisms.

Somalia's legal system is pluralistic, consisting of three principal components: customary law (*xeer*), Islamic law (Sharia), and statutory law. *Xeer* remains highly influential in resolving disputes, especially inter-clan matters and minor criminal offenses, with an emphasis on compensation and reconciliation. Islamic law is extensively applied in matters of family, inheritance, and morality. The formal statutory legal system, meanwhile, is being reconstructed by the federal government with international assistance, though its effective implementation faces major challenges, including limited institutional capacity and ongoing security concerns (Farah, Mohamed; Forbes, 2017). The 2012 Constitution of Somalia explicitly stipulates that Islamic Sharia is the primary source of national law, as set forth in Article 2(3), which states that no law may be enacted if it contravenes the principles and general objectives of Sharia. This provision establishes Sharia as the fundamental basis for regulating various aspects of societal life, including

family law, which governs marriage, divorce, child custody, maintenance, and inheritance. In practice, Somali family law is primarily influenced by the Shafi'i school of jurisprudence, while also incorporating customary law (*xeer*), resulting in a complex system of legal pluralism. In 1972, the Somali government initiated a program of family law reform as part of its national policy agenda. A special commission was established to draft a new family law statute. This reform culminated in 1975 with the enactment of the Somali Family Law (Law No. 23 of 1975). Abdisalem Syeikh Hussain, the then Secretary of State for Judicial and Religious Affairs, led the drafting process in collaboration with President Siad Barre. The primary objective of the legislation was to eliminate the dominance of customary law, which the Barre administration regarded as an obstacle to its political agenda. The statute significantly curtailed the role of clans in administering justice and enforcing customary sanctions, including abolishing traditional clan rights over land, access to water, and the management of agricultural resources.

The Somali Family Law No. 23 of 1975 comprises 173 articles regulating key aspects of family life, organized into four principal areas. First, provisions on marriage and divorce, including marriage contracts, prohibited degrees of kinship (*mahram*), polygamy, the minimum age for marriage, prohibited forms of marriage, the authority of marriage guardians, annulment of marriage, dowry (*mahr*), maintenance obligations, divorce procedures (*talāq*), declaration of spousal death, and the waiting period (*'iddah*). Second, regulations concerning children and maintenance, covering the roles and responsibilities of fathers and mothers, child custody, and child support obligations. Third, matters relating to guardianship, supervision and agency, education and legal representation, and the protection of individuals lacking legal capacity or living with disabilities, including provisions on death and adoption. Fourth, the distribution of property, setting out rules on wills and their conditions, revocation and acceptance or rejection of wills, permissible objects of bequest, principles of inheritance, heirs' shares, impediments to inheritance, and other concluding provisions

b. Marriage

Article 4 of the Somali Family Law No. 23 of 1975 defines marriage as a contract (*'aqd al-nikāh*) between a man and a woman who enjoy equal rights and bear equal obligations, with the purpose of establishing a family as the fundamental unit of society. The marriage must be solemnized in the presence of a judge or an authorized official from the Ministry of Justice and Religious Affairs and must be registered with the district court within fifteen days of its conclusion (Article 5). The minimum legal age for marriage is eighteen years for both men and women; however, a woman who has reached the age of sixteen may contract a marriage with the consent of her guardian (*walī*) and the authorization of the court under specific circumstances (Article 16 and Article 17). The essential requirements for a valid marriage include the mutual declaration of offer and acceptance (*ijab* and *qabul*) by both parties, the presence of two adult witnesses of sound mind, and the absence of coercion, intoxication, or mental incapacity.

c. Divorce

Pursuant to Article 36 of the Somali Family Law No. 23 of 1975, divorce may only be effected through judicial proceedings. In such cases, the court is first obliged to attempt reconciliation between the husband and wife. If mediation fails to achieve a settlement, the divorce may proceed; however, the court is authorized to pronounce *talāq* only once in

a single hearing. The grounds for granting a divorce, as set forth in Article 43, are as follows: (1) either spouse suffers from a specific illness that impedes the normal course of marital life; (2) the husband or wife has left the marital home without notice for a minimum of four years; (3) persistent and unresolved marital disputes that prevent the realization of domestic harmony; and (4) the husband's impotence or the wife's infertility.

Furthermore, Article 15 provides that a husband is prohibited from remarrying his former wife after divorcing her three times, unless she has lawfully married another man, consummated the marriage, subsequently divorced, and completed her *'iddah* period. Violation of this provision by the first husband is punishable by a criminal sanction of up to six months' imprisonment or a fine of 1,000 Somali shillings.

d. Family Maintenance

The statute stipulates that both the husband and the wife must jointly bear the responsibility for meeting household expenses. Article 29 stipulates that each party has an equal obligation to contribute to the family's economic needs, proportionate to their respective capacities and incomes. In the event of divorce, assets acquired during the subsistence of the marriage (*community property*) shall be equally divided between the spouses.

e. Child Custody

Article 69 prescribes that parental responsibility for the care and upbringing of children shall continue until a son reaches the age of ten and a daughter reaches the age of fifteen. Upon attaining these ages, the parents' legal obligation to provide for the child's maintenance is deemed to have ceased, and the child is expected to attain economic self-sufficiency. However, where specific circumstances impede such independence, the court is empowered to extend the custody period until the child reaches the age of eighteen. Furthermore, Article 114 stipulates that adoption is accorded the same legal status as the biological parent-child relationship (*nasab*), thereby conferring upon the adopted child the same rights and obligations as those of a biological child. These include the right to inherit as well as the duty to honor and show filial respect to the adoptive parents.

f. Polygamy

Pursuant to Article 13 of *Family Law* No. 23 of 1975, polygamy is permissible in Somalia but only with the written authorization of the court. A man may enter into a polygamous marriage solely upon proof of a *sharī'ah*-based justification, namely, the wife's infertility, her suffering from a chronic illness that prevents her from fulfilling her marital duties, her imprisonment for a period exceeding two years, or her absence from the marital home without the husband's consent for more than one year.

g. Wills and Inheritance

Article 141 affirms that a testamentary disposition (*waṣīyyah*) in favor of a legal heir (*warith*) is valid only if it is consented to by all other heirs. A bequest to a non-heir must not exceed one-third (1/3) of the estate unless the heirs give their consent. Article 159 sets out the persons entitled to inherit, namely, the surviving spouse (husband or wife), children and grandchildren (male or female), father, grandfather, mother, grandmother, and siblings (whether full, paternal, or maternal). The shares of each heir are regulated in Articles 160 to 164 of *Family Law* No. 23 of 1975. The Somali system of succession is based on the principles of Islamic inheritance law (*farā'id*), albeit with certain modern modifications. For instance, Article 161 provides that if the sole heir is a son or a daughter,

that heir is entitled to the entirety of the estate; if there is more than one child, the estate shall be divided equally between them regardless of gender. The same principle applies where the heirs consist solely of grandchildren, whether male or female.

Muslim Family Law in Ghana

a. Legal System

Ghana is a republic with a presidential system of government, in which the president serves concurrently as both the head of state and the head of government, operating within the framework of a two-party democratic system (Wikipedia, n.d.-c). The 1992 Constitution of Ghana, serving as the supreme source of law, expressly provides for the separation of powers among the executive, legislative, and judicial branches, while guaranteeing freedom of religion and recognizing legal pluralism, including customary law and religious law, insofar as they are not inconsistent with the Constitution (Constitution of the Republic of Ghana, 1992). While the majority of Ghana's population is Christian, Muslims constitute a significant minority. According to the 2021 population census, approximately 19.9% of Ghana's population of over 30 million are Muslims (Service, 2021). The Muslim community is predominantly concentrated in the northern regions and in certain urban centers in the south. The vast majority of Ghanaian Muslims are adherents of Sunni Islam, with the Mālikī school of jurisprudence serving as the predominant *madhhab*. The sizeable Muslim presence has led to the state's recognition of Islamic law in matters of private law, particularly in the fields of family relations and inheritance.

Ghana's legal system is a mixed legal system that incorporates elements of English law (*common law*), customary law, and religious law, including Islamic law. While *common law* provides the primary foundation of the judiciary, both customary law and Islamic law are afforded scope within the sphere of personal status law, particularly with regard to marriage, divorce, inheritance, and child custody (Abdoeh, 2020). Customary courts and Sharia courts do not operate as separate judicial institutions; however, Islamic and customary norms may be applied by judges in the regular courts when invoked by the parties and when consistent with applicable law. Muslim family law in Ghana functions within the broader framework of a pluralistic legal system comprising state law, customary law, and Islamic law. Within the Muslim community, family law is grounded in the principles of Islamic *sharī'ah* as interpreted under the Mālikī school, which is recognized as a form of *living law*, despite the absence of comprehensive codification in national legislation. The State recognizes this system through the Mohammedan Marriage Ordinance (Cap. 129) of 1951, as well as through the registration regime for customary and religious marriages under the Customary Marriage and Divorce (Registration) Law, 1985 (PNDCL 112) (Abdoeh, 2019a).

b. Marriage

Section 6 of the Mohammedans Ordinance (Cap. 129) requires that every Muslim marriage in Ghana be registered within one week of its solemnization. Those required to be present at the registration are the groom, the bride's guardian (*wali*), two witnesses, and a Muslim imam duly licensed by the government. The imam must declare that the marriage is valid under Islamic law, after which the registration is effected by the District Commissioner. The essential validity requirements for marriage under this Ordinance

conform to Islamic law, namely the presence of an offer and acceptance (*ijab* and *qabul*), a lawful guardian (*wali*), two witnesses, and a dowry (*mahr*). Although Cap. 129 does not expressly prescribe a minimum age for marriage, in practice reference is made to the Children's Act 1998 (Act 560), which explicitly provides that any person under the age of eighteen is considered a child and shall not be married. Nevertheless, child marriage persists in certain communities, including among Muslim populations in the northern regions, where it is often justified on the basis of tradition and religion. The Government of Ghana, in collaboration with various civil society organizations, has undertaken initiatives to educate the public and enforce the law with a view to preventing early marriage (UNICEF, 2020).

c. Divorce

Divorce (*ṭalāq*) is regulated under Part 5 of the Ordinance, which provides that every Muslim divorce must be registered within one month of its pronouncement. The registration must be attended by the man who pronounced the *ṭalāq*, the bride's guardian (*wali*), two witnesses, and a licensed Muslim imam. The imam must affirm that the divorce is valid under Islamic law, after which the District Commissioner completes the official registration process. Section 8(10) provides that if registration is not effected within the prescribed period, the court may grant leave to register the divorce within an additional one-month period. A divorce is recognized under national law only if it has been duly registered, and the divorce certificate constitutes admissible legal evidence in court proceedings. A divorced woman is entitled to maintenance (*naḥāqah*) during the *'iddah* period and to *mut'ah*, in accordance with applicable Islamic norms. The rights of children, including maintenance and custody, may be determined through family consultation or, in the case of a dispute, by a court decision.

d. Polygamy

The Mohammedan Marriage Ordinance (Cap. 129) does not explicitly regulate the practice of polygamy; however, it implicitly permits it within the framework of Islamic law. A Muslim man may contract more than one marriage, provided that the previous marriage has been duly registered and that the subsequent marriage is recorded in accordance with the procedures set forth in Cap. 129. Accordingly, the state recognizes polygamy as a legitimate aspect of Islamic legal practice, so long as it is conducted through official registration channels. There are no administrative limitations on the number of wives a man may have; nevertheless, such practice remains subject to the maximum of four wives as prescribed under Sharia.

e. Inheritance

Ghana does not have a codified body of Islamic inheritance law within its national legislation. Nevertheless, Islamic inheritance law forms part of the personal law system applicable within Muslim communities and is implemented in accordance with Sharia principles, particularly those of the Maliki school, which is predominant in the country. Within Ghana's pluralistic legal system, the state recognizes the validity of religious and customary laws, including Islamic inheritance law, insofar as they do not conflict with the provisions of the Constitution and national legislation (Refer to Articles 11 and 21 of the Constitution of the Republic of Ghana, 1992). Article 10 of the Ordinance stipulates that, where a Muslim dies and his marriage has been registered pursuant to Cap. 129, the distribution of the estate must be conducted in accordance with Islamic law. This

provision provides a strong legal basis for the application of *faraidh* (Islamic rules of succession) among Ghanaian Muslims. In practice, where an inheritance dispute arises, the court will require proof of marriage registration and will consider distribution under Islamic law, provided that it does not contravene the national constitution and the principles of justice (Offei, 1998).

Comparative Analysis of Muslim Family Law in Nigeria, Somalia, and Ghana

A comparative study of the implementation of Muslim family law in Nigeria, Somalia, and Ghana reveals that the variations in regulation across these countries are strongly influenced by the demographic composition of Muslims, the historical formation of legal systems, the dominant schools of Islamic jurisprudence, and the state's strategies in managing religious law within the framework of national legal systems. These differences give rise to three major models: centralized formal codification, decentralized legal pluralism, and minimalist recognition of religious law. Such models not only reflect the character of state-religion relations but also demonstrate the degree of state intervention in regulating the family life of Muslims.

Nigeria represents a model of decentralized legal pluralism. Under its federal constitution, the authority to regulate family law is delegated to the states. Consequently, twelve northern states with Muslim-majority populations have autonomously implemented Islamic family law based on the Maliki school. The enforcement of Sharia norms in these regions falls under the jurisdiction of state-level Sharia courts and local religious authorities. While this model allows adaptation to local needs, it also results in disparities in legal application across different regions. In contrast, Somalia applies a model of centralized formal codification through Family Law No. 23 of 1975, a product of legal reform that integrates principles of the Shafi'i school with modern approaches. This legislation requires the registration of marriages, restricts polygamy through judicial approval, and modifies inheritance rules to strengthen gender equality. The state plays a central role in enforcement through administrative mechanisms binding across the country. However, political conflict, weak bureaucratic capacity, and societal resistance have hindered consistent implementation, often preventing legal uniformity at the local level.

Ghana adopts a minimalist regulatory approach. With Muslims forming a small minority, Muslim family law is only modestly regulated through the Mohammedan Marriage Ordinance (Cap. 129) of 1951. This ordinance primarily provides administrative recognition of Islamic marriage and divorce practices, while implementation heavily depends on local religious authorities in accordance with the *living law* of Muslim communities. The absence of Sharia courts means that disputes are usually resolved through community-based mediation, with only a few cases brought before civil courts. These variations are closely linked to the demographic proportion of Muslims in each country: the larger the Muslim population, the greater the state's intervention in regulating family law. Somalia, as a Muslim-majority country, possesses both the political and social legitimacy to formally and comprehensively regulate Muslim family law. Nigeria, with a significant Muslim minority, adopts a decentralized model to accommodate its complex religious and ethnic diversity. Ghana, with a small Muslim minority, relies almost entirely on the autonomy of local religious authorities in governing

family matters, resulting in minimal state intervention. The effectiveness of the application of Muslim family law in the three countries can be analyzed through Soerjono Soekanto's theory of legal effectiveness, which posits that the enforcement of law in society is determined by three main elements: the substance of the law, the structure of the law, and the legal culture. The substance of the law refers to the existing formal rules and norms; the legal structure relates to institutions authorized to enforce the law, while legal culture encompasses the values, attitudes, and degree of public compliance with the law (Soerjono Soekanto, 2008).

In Somalia, the substance of Muslim family law is relatively clear and comprehensive. However, in terms of legal structure, weak bureaucratic capacity and prolonged political instability have undermined consistent implementation. From the perspective of legal culture, legal reforms addressing issues of gender equality often encounter resistance from the predominantly Shafi'i Muslim community. This illustrates a gap between the ideality of the legal substance and the socio-cultural realities of society. In Nigeria, the regulation of Muslim family law exhibits distinctive dynamics. The state grants twelve northern states the authority to implement Islamic law. Nevertheless, in terms of substance, state involvement in regulating Muslim family law remains limited, thereby allowing religious authorities broad discretion in interpreting and applying the law. This has resulted in disparities in legal application across regions. Regarding legal structure, Nigeria possesses several Islamic institutions, such as Sharia courts, Sharia Commissions, Zakat Commissions, and the Hisbah (Islamic police), which collectively strengthen legal enforcement. From the standpoint of legal culture, Nigerian Muslims adhere strongly to the conventional Maliki school of jurisprudence. In contrast, Ghana regulates Muslim family law only to a limited extent through the Mohammedan Marriage Ordinance (Cap. 129) 1951. Substantively, this regulation is primarily administrative in nature, recognizing only marriage and divorce under Islamic law without providing a comprehensive framework for the broader aspects of Muslim family law. In terms of legal structure, Ghana lacks a Sharia judiciary, and therefore, disputes relating to Muslim family law are predominantly resolved through community-level mediation, with only a minority of cases brought before the civil courts. From the cultural perspective, the implementation of Muslim family law is heavily influenced by local religious authorities and the *living law* that develops within Maliki Muslim communities.

Based on this analysis, the effectiveness of Muslim family law in Somalia requires the alignment of legal norms with the socio-religious values of the predominantly Shafi'i population, supported by political stability and a functioning bureaucracy. In Nigeria, effectiveness depends on harmonizing Muslim family law with national and customary law, which should be reinforced through clearer normative frameworks, both in judicial precedents and in codification. In Ghana, greater effectiveness necessitates the development of a more comprehensive legal framework for Muslim family law, including the establishment of Sharia courts capable of resolving disputes in accordance with Islamic legal principles. Overall, the successful implementation of Muslim family law hinges on maintaining a balance between comprehensive and coherent legal substance, robust institutional structures, and a supportive legal culture within society. Without such equilibrium, Muslim family law is prone to issues of juridical uncertainty, weak institutional enforcement, and diminished legal consciousness among the populace.

4. Conclusion

Based on the analysis of the Muslim family law systems in Nigeria, Somalia, and Ghana, the following conclusions can be drawn:

1. The regulatory framework governing Muslim family law in Nigeria, Somalia, and Ghana reveals significant variations, primarily shaped by the demographic configuration of the Muslim population and its consequent impact on the dynamics between religious norms and state policy.
 - Nigeria, with a relatively balanced Muslim population, reflects a decentralized model of Muslim family law. The federal government delegates authority to twelve Northern states to regulate the application of Muslim family law according to local needs. However, its implementation at the state level remains fragmented and is not comprehensively codified, as much of the regulation is left to local religious authorities adhering to the Maliki school of law.
 - Somalia, being a Muslim-majority state, formally and comprehensively regulates Muslim family law through *Family Law No. 23 of 1975*. The state plays an active role through administrative mechanisms such as the registration of marriages, restrictions on polygamy requiring judicial approval, and egalitarian modifications to inheritance law.
 - Ghana, with a Muslim minority population, regulates Muslim family law in a limited manner through the *Mohammedan Marriage Ordinance (Cap. 129) of 1951*, while much of its development occurs through *living law*. Implementation is largely delegated to local religious authorities, rendering it more cultural-religious in nature rather than legal-formal.
2. The effectiveness of the implementation of Muslim family law in the three countries also varies according to their socio-political contexts and legal-institutional frameworks.
 - Nigeria, the effectiveness of Muslim family law requires efforts to harmonize Muslim family law with national law and customary law, strengthened by clear normative regulations, either through judicial precedents or codification.
 - Somalia, the effectiveness of Muslim family law depends on the alignment of legal norms with the socio-religious values of society, which is predominantly Shafi'i, accompanied by the support of political stability and a strong bureaucratic apparatus.
 - Ghana, enhancing the effectiveness of Muslim family law requires the development of a more comprehensive legal framework, including the establishment of Sharia courts capable of resolving disputes consistently with the principles of Islamic law.

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