



Islamic Perspective on the Rights of Women with Regards to Health, Marriage and Divorce

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Abstract

Over the years, Nigeria has gained the unpopular recognition globally as a patriarchal society in which the inalienable rights of women are often subjected to ridicule, extensive abuse, neglect and violations. Cultural, religious and societal norms have arguable entrenched a historical imbalance in power relationships between men and women and have titled the overall perceptions and roles of women in Nigeria. In Nigeria, it could be said that the abuse of the natural rights of a woman begins from the time of her birth and only comes to an end at the time of her death. In many part of Nigeria, particularly the north, women who are particularly prematurely and compulsorily betrothed to a man at birth are not allowed access to basic education and generally burdened with domestic household chores. These become the foundation for a lifetime of circular and absolute dependence on a man she does not know. This paper examines the nature, scope and extent of human rights protection afforded to women under Nigerian domestic laws and international law. It reflect on how key issues such as child marriage, women's property rights and female succession norms and practices affect gender justice and the protection and fulfillment of the right of women in Nigeria. Likewise, demand for and utilization of women's healthcare services, antenatal care, and facility births in northern Nigeria, and influencers of young women-seeking behaviour. The paper concludes that programs seeking to improve women's right, health outcomes in northern Nigeria should involve women's influencers to affect behaviour change, including husbands, religious leaders and others.

Keywords: Rights of Women, Health, Exclusion and seclusion, Marriage and Divorce.

INTRODUCTION

The legal framework for women's right in Nigeria is based on the constitution primarily, other local laws and international treaties relating to women ratified by the country. Nigeria is a country with very high but youthful population.^[1] Women in Nigeria constitute more than two-thirds of the country's 70% adult non-literate population. Despite the fact that the women also constitute about 49% of the total population, they are discriminated against in all spheres of governance. The marginalization of women is much more pronounced in the native laws and custom which constitutes a major aspect of the sources of Nigeria law. This issue of women's rights in Nigeria is very sensitive. Right is defined as 'A power, privilege or immunity, guaranteed under a constitution, status or decisional laws or claimed as a respect of long usage.'^[2]

There are many excellent books on the origin, extent, organization, and history of northern Nigeria already in print. Although the term "northern Nigeria" no longer has any official use and somewhat out dated now, it is currently used to describe an area which was a British protectorate that lasted from 1900 until 1914 and covered the northern part of what is now Nigeria. The protectorate spanned 660,000 square kilometres (255,000 sq. mi) and included the state of Sokoto Caliphate and parts of the former Borno Empire, conquered in 1902.^[3] The area where is now known as northern Nigeria,

¹ The World Bank in a 2009 Estimate Records the Nigerian Population to be 154, 728, 892

² Dr C.O Isiramen, Humanism and Women's Rights in Nigeria, found at <http://www.iheu.org/node/1134> (last visited on March 16th 2011)

³ "Northern Nigeria" Wikipedia, accessed on 13.09.2018

remains “abstract” to those in the south and international community, as very little is known about the region regarding the status and roles of women. The entity known as northern Nigeria is a marriage of many cultures and traditions, but Islamic cultures had been entrenched in present northern Nigeria. The main Islamization of the northern Nigeria took place by way of the Borno Caliphate, Kano and down to the Katsina, people are Islamized but kept their own language and some elements of their culture.

Sometime in 2004, a group of us from diverse backgrounds, under the banner of the centre for Islamic legal studies at ABU Zaria, felt the need to do something to improve the condition of women in the northern Nigeria. Although at the initial stage it was not clear what was to be done, it felt there was an urgent need to act, and the feelings were predicted on the following observations:

1. With the widespread conviction of many states in northern Nigeria to reform society based on Shari ‘ah, an opportunity had presented itself to improve the position of women, and to improve their means to face the challenges confronting them in this global age and ever-changing Muslim society.
2. In our society there were good and positive practices relating to women, which however, were either not publicised or were on the decline, hence the need to identify, encourage and promote such practices.
3. There was an obvious, biased, attack on Islam concerning the position of women, both within and outside Nigeria, which was highlighted with the expansion of Shari ‘a in Nigeria, and so there was a need to respond to that in a constructive way.
4. Women in northern Nigeria, like women in other societies across the world, have been subjected to practices that violate their rights, some of these violations are carried out in the name of Islam in spite of the fact that such practices are against the teachings of Islam and that the Islamic prescriptions in respect of women, if practised, can serve as a model to other societies.

Conceptual Framework

Sexual and reproductive health

The constitution of the world health organisation, which came into force on April 7, 1948, defined health “as a state of complete physical, mental and social well-being.” The writers of the constitution were clearly aware of the tendency of seeing health as state dependent on the presence or absence of the disease: so they added to that definition that an individual, if he is to be considered healthy, should not suffer from any disease. (...”and not merely the absence of disease or infirmity”).^[4] In that way, the definition of the World Health Organization simply added a requirement to the previous position that allowed to declare someone healthy if no disease could be found: the step forward that could have been taken in the conceptualization of health as a dimension of existence which can co-exist with the presence of a disease or impairment was thus not taken. Today, three types of definition of health seem to be possible and are used. The first is that health is the absence of any disease or impairment. The second is that health is a state that allows the individual to adequately cope with all demand of daily life (implying also the absence of disease and impairment). The third definition states that health is a state of balance, an equilibrium that an individual has established within himself and between himself and his social and physical environment.^[5]

Marriage and marital relationship

All of the scholars are in agreement that marriage is something recommended and called for in Islam. The religion clearly spells out how husband and wife should relate well to one another, by creating both rights and obligations for the couple. It insists that the yardstick in a marital relationship is living together in equitable terms or separation on equitable terms without harming each other (Qur’an 2:229).^[6] Some took it to the level of obligatory for those with the ability based on the prophet’s statement: “Whoever has the ability should marry for it is better in lowering the gaze and guarding one’s chastity. Whoever is not able let him fast for it is for him a restraint.”^[7]

Without doubt, marriage is part of the social agenda of Islam and the objective is to maximize marriage and to combat “single-hood” as much as possible. This means that if marriage begins decreasing for whatever reason such as exorbitant dowries, economic injustice, etc. then these evil must be combated in defence of marriage. If polygamy is neglected and not done sufficiently, this creates a number of single women and a situation which requires social effort to correct. Likewise, if polygamy is done to excess by some individuals, it will produce an excess of single men another situation which must be corrected. The raising of children must be done in such a way which promotes marriage and raises both men and women knowledgeably of their roles and duties within the family. All of this can be found in Allah’s command

⁴ Constitution of The World Health Organization. In: World Health Organization: Basic Documents. 45th ed. Geneva: World Health Organization; 2005

⁵ S. Brown et al, Health, Wealth and Wise women: the Health Implications of Gambling for Living in Melbourne’s West. Footscary: Women’s Health West, 2000

⁶ Surah al-Baqarah:229

⁷ Q24:32

to the Muslims as a whole to maximize marriage among us: “And marry off the single among you and the righteous ones among your male and female slaves. If they are poor, Allah will enrich them from His bounties and Allah is expansive, knowing.”^[8]

Divorce: the misuse and abuse of divorce

Divorced is allow in Islam but not encourage nor to be taken lightly. Divorce is the sole prerogative of the man. If a woman desires to end the marriage but the man is unwilling to do so, she must resort to *khul'*. A man should not surprise his wife with a divorce without any misdeed on her part. It is not allowed for the woman to force her husband to divorce without any misdeed or corruption on his part. The messenger of Allah (*Peace be upon him*) said: “any woman who asks her husband for divorce without any wrongdoing, forbidden to her is even the scent of paradise.”^[9]

What the *Shari'ah* says:

If a husband must divorce his wife he must adhere to the following:

- He must divorce her after her period is complete and before they have been together;
- He should pronounce only one divorce and take advantage of the period of *raj'a* during which he can easily reverse his decision;
- Do not disclose any of her secrets to anyone else; “Among the most evil people before Allah on the day of judgement is a man who shares intimacy with his wife and she with him and then exposes her secrets.”^[10]

Theoretical Framework

Women in the pre-Islamic

Women suffered great injustice and were expose to diverse kind of humiliation prior to the mission of the messenger of Allah. They were treated like material property to be disposed of at the whim of the male guardian. They were not entitled to inherit from their parents or husband. It was believed inheritance should only be granted to those who had martial abilities, like being able to ride horse, fight, and gain spoils of war as well help protect the tribe and clan territory. Since women in pagan society did not generally have these qualities, they were themselves inherited like any moveable commodity after the death of an indebted husband. If the deceased husband had adult sons from other marriages, the oldest son amongst them had the right to add her to his household, just as a son inherits other chattels of his deceased father. She was unable to leave the house of her stepson unless she paid a ransom. As general practice, men had the freedom to acquire as many wives as desired with no set limits. There was no system of law that would forbid a man from committing any injustice towards his wives. Women were forbidden to remarry if a husband divorced them.^[11]

In the pre-Islamic era, fathers commonly became extremely angry and disgraced with the birth of a female child into their family. Some considered it even an evil omen. Allah the exalted describes the father's reception of the news about the birth of a daughter:

“When one of them is informed of (the birth of) a female, his face becomes dark, and he suppresses grief. He hides himself from the people because of the ill of which he has been informed. Should he keep it in humiliation or bury it in the ground? Unquestionable, evil is what they decide.” (16:58-59)^[12]

Women were not given even the most natural of rights. For instance, eating certain type's food was allowed only for male. Allah, the exalted, records this in the Qur'an:

“And they say: what is in the bellies of these animals is exclusively for our males and forbidden to our females. But if it is (born) dead, then all of them have shares therein. He will punish them for their description...” (6:139)^[13]

Women after the message of the Prophet Muhammad (*Peace be upon him*)

In the midst of the darkness that engulfed the world, the divine revelation echoed in the desert of Arabia with a fresh, noble, and universal message to humanity: “O mankind, keep your duty to your lord who created you from a single soul and from it created its mate (of same kind) and from them twain has spread a multitude of men and women.” Q4:1^[14]. A scholar who pondered about this verse states: “it is believed that there is no text, old or new, that deals with the humanity

⁸ Surah An Nur: 32

⁹ S.A. *Sunan Abi Dawud*, A. Abdul-Khair et-tal (eds.), *Dar al-Hadith Al-Qahirah*, Hadith NO. 2226

¹⁰ A. Rahmatian, Termination of Marriage in Nigerian Family Laws: the Need for Reform and the Relevance of the Tanzanian Experience; *International Journal of Law, Policy and the Family* 1996-10, pp 281-282

¹¹ A. R. Ash-Sheha, *Women in Islam*. Pp21

¹² Surah Al-Nahl: 58-59

¹³ Surah Al-An'am: 139

¹⁴ Surah An-Nisa': 1

of the woman from all aspects with such amazing brevity, eloquence, depth, and originality as this divine decree.”^[15] The rights of women are equal to that of men but they are not necessarily identical. This difference is understandable because men and women are different in their physiological and psychological make-up.

The status of women in Islam is an issue that is pertinent in present times; both due to the divergence of cultural practices in the Muslim world from the Islamic perspective and erroneous perception of west, that Islam subjugates womenfolk. Islam, which is the complete way of life, has touched all aspects of women’s status. Islam however, more than any other religion or polity, has a deep bearing on the role and status of women. In Islam women are counterparts of men and endowed them with certain specific qualities that make it compulsory for both sexes to live together in a symbolic relationship.^[16] Now this going back to the Qur’an and Hadith has also a great importance in respect to the position and status of women in Islam.^[17] The religion of Islam also provides several moral codes for women. In public life, the women expected to play a role and endure the hardship and sufferings of life as men. In short, all matters of life women are not different from men. They have equal opportunity and can share every aspect of religious virtues, except for those areas where sexual peculiarities matter. The prophet (*Peace be upon him*) encapsulated the importance of women where he says: “Heaven lies at the feet of the mother” the importance, significance, and relevance of the mentioned statement bring out more than another thing the indispensability of women in the affairs of the world. Ibrahim N. Sada summarized the status of women in Islam in a very capsule form, when he said:

It is only in Islam that the status of woman as a full-fledged human being with independent legal status and independent rights and obligations is recognized... Islam treats a woman as a unique, autonomous, and independent personality, who exists in her own right and who must, therefore, pursue the fulfilment of her life with a serious sense of personal responsibility. The must be defined in her own self, not as relative to man... From a material as well as a spiritual point of view, the woman’s position and status are seen by Islam as the same and equal to that of man.^[18]

The social aspect

Islam elevate the position of women in society and treated on an equal footing with men, and in some cases, as a for instance, clearly gave them precedence over men. Thus, when a man asked the prophet (*Peace be upon him*): “Who is most entitled to be treated with the best companionship by me? The prophet (*Peace be upon him*) replied, “your mother.” The man asked, “who is next?” The prophet said: “your mother.” Again the man asked, “Who is next?” The prophet repeated, “Your mother.” The man asked for the fourth time, “Who is next?” The prophet (*Peace be upon him*) then replied, “Your father.”^[19] On another occasion, when a man came to prophet (*Peace be upon him*), and expressed the desire to join a military expedition, the prophet asked him if he had a mother. When he replied that he had, the prophet advised him, “Stay with her, for paradise is at her feet.”^[20] While, as daughters, women have a right to just and equitable treatment from their parents. The prophet (*Peace be upon him*) gave glad tidings to those who did not insult their daughters or favoured sons over daughters. Women have as much right to education as men do. Almost fourteen centuries ago, Prophet Muhammad (*Peace be upon him*) declared that the pursuit of knowledge is incumbent on every Muslim, male and female. This declaration was very clear and was implemented by Muslims throughout history.

The economic aspect

Islam grants women equal right to contract, to enterprise, to earn and possess independently. A woman’s life, her property and her honour are as sacred as those of a man. If she commits any offense, her penalty is no less or more than of a man’s in a similar case. If she is wronged or harmed, she gets due compensation equal to what a man in her position would get.^[21] Islam has given women a share of inheritance. Before Islam, women were not only deprived of that share, but were themselves considered as a property to be inherited by men. Out of that transferable property Islam made an heir, acknowledging the inherent individuality of women. Whether the woman is a wife or a mother, sister or a daughter, she receives a certain share of the deceased kin’s property, a share that depends on her degree of relationship to the deceased and the number of heirs. This share is hers, and no one can take it away from or disinherit her. Even if the deceased wishes to deprive her by making a will to other relations or in favour of any other cause, the law will not allow him to do so. They are also exempted from all financial liabilities. As a wife, she is entitled to demand of her prospective

¹⁵ K. Al-Bahiy, “Min Uses Kadiyat Almar’ah. Al-Waa’y Al-Islami, Ministry of wakf, Kuwait, Vol. 3 No. 27, June 9, 1967, p. 17. Translated by the Writer.

¹⁶ S. R. Janfa, Culture and the Development of Women. In Ben Orewere et al eds., The Plateau State Women: Yesterday, Today and Tomorrow. Jos: Ehindero Nigeria Ltd., 1988.

¹⁷ Surah At Taubah: 71

¹⁸ I. N. Sada, “The Muslim Women and Her Responsibility. In ed. Rahmatu Abdullahi. The Muslim Women: Challenges of the 15th Hijrah. Ilorin: Woye and sons Nigeria Ltd., 1988

¹⁹ Reported by Bukhari

²⁰ Reported by Ahmad, Nisa’i and Baihaqi

²¹ Surah Al Baqarah: 178; Surah An Nisa’: 45; Surah Al Lail:-93

husband a suitable dowry that will be her own. She is entitled to complete provision and total maintenance by the husband. She does not have to work or share with her husband the family expenses. She is free to retain, after marriage, whatever she possessed before it, and the husband has no right whatsoever to any of her belongings. As a daughter or a sister, she is entitled to security and provision by the father or brother respectively. That is her privilege. If she wishes to work or be self-supporting and participating in handling the family responsibilities, she is quite free to do so, provided her integrity and honour are safeguarded. It is thus clear that the status of women in Islam is very high. Islam has granted rights that match beautifully with their duties. What Islam has established for women is that which suits their nature, gives them full security and protects them against disgraceful circumstances and uncertain channels of life.

If we examine objectively, the teachings of the Qur'an and Hadith about women, we perceive immediately that the society in which we live today has departed extensively from both the letter and spirit of the Qur'an and Sunnah on the role and status of women. Despite all these rights and privileges are given to women by Islam, they were not even given equal or proper treatment with men in northern Nigeria. As many patterns of behaviour and action are antithetical to the teaching of Islam, there seems to be a conflict of ideas arising from a mixture of different values and norms.^[22]

Contextualizing Northern Nigerian women

Before specifically discussing the status of women in northern Nigeria, it will be useful to contextualize northern Nigeria women. The term is used to refer to mainly Muslim women living in the northern part of Nigeria, specifically Hausa, Kanuri, Fulani, who constitute the largest and most influential ethnic group in the region. Northern Nigeria being the dominant Islamic and patrilineal, multi-ethnic, satisfied, and dynamic society. Women in northern Nigeria recognised Islamic laws governing marriage, divorce, inheritance, child custody, and socialization in general. Women also, are being regarded as the "possession" of their fathers, not usually have the right to the freedom and must live in seclusion. As such, the Nigerian women are among the most strictly secluded in Africa.^[23] Women in some northern Nigeria societies can be recognized by classes and communities for our purposes, the most relevant broad categories are only three: (a) women below the subsistence or poverty line; (b) women who move continuously between subsistence or poverty and often descend below the subsistence line with the disappearance of their means of earning a livelihood; (c) women firmly above the poverty line. All these categories had an impact on women cultural, social, and economic life in northern Nigeria.^[24]

The status of women in northern Nigeria: the clear example of inequality

Several decades ago, the status of women in Nigeria was not better than that of the west. She was not better than a slave. By logical implication, a woman cannot be equal to man since it is believed that women were created from man's ribs to help him what they called dependency syndrome. In fact, the Nigerian scenario today presents an interesting experience on the changing status of the woman. The history of the status and position in Nigeria dates to the pre-colonial era. Women at this period played their influential roles within their respective communities.^[25] During the colonial period, the indirect rule system of administration disenfranchised many women except a few who rose in opposition to its challenge through the formation of women's league, or women group, clubs, or unions to be enfranchised.^[26] Despite this position and status, they did not have the required support and encouragement. It has been in the post-independence era that a more deliberate recognition is given to the important role of the women in development.^[27] Interestingly, this measure of recognition has been more pronounced during military regimes than civilian, in involving women at the decision-making cadre of government. We can thus say the Nigeria women have now moved away from the stage of agitation for equal rights because the laws of the land forbid discrimination against them.^[28]

In the context of northern Nigeria, the status of women was influenced by three main sets of factors: Nigerian law, societal law, and Islamic law. Firstly, the constitution of Nigeria does not tolerate discrimination based on sex, yet in a subtle way, it makes it difficult for women to achieve constitutional equality with the men. For instance, section 39 of the 1979 constitution of the federal republic of Nigeria guarantees full equality between men and women with regard to their

²² L. Okunnu, The Importance of Women Education to the Proper Growth of Islam. In ed. Rahmatu Abdullahi. The Muslim Women: Challenges of the 25th Hijrah. Ilorin: Woye and Sons Nigeria Ltd., 1988

²³ Y. Bilkisu, An Address to the Muslim Sister. In ed., Rahmatu Abdullahi. The Muslim Women: Challenges of the 15th Hijrah. Ilorin: Woye and Sons Nigeria Ltd., 1988

²⁴ L. Okunnu, The Importance of Women Education to the Proper Growth of Islam. In ed. Rahmatu Abdullahi. The Muslim Women: Challenges of the 25th Hijrah. Ilorin: Woye and sons Nigeria Ltd., 1988

²⁵ S. R. Janfa, Culture and the Development of Women. In Ben Orewere et al eds., The Plateau State Women: Yesterday, Today and Tomorrow. Jos: Ehindero Nigeria Ltd., 1988.

²⁶ Ibid

²⁷ Ibid

²⁸ Ibid

rights, obligations, and benefits.^[29] While in reality, women can enter into a contract without the consent of the written consent of her husband or relatives if she is not married. Furthermore, when foreign women married to Nigerian men can become Nigerian citizens, foreign men married to Nigerian women cannot become citizens except by naturalization which can take up to 15 years. Another area in which the law discriminates against women in Nigeria is the requirement that women must obtain the permission of their husbands to get things like a passport visa, bank loan, birth control facilities, and scholarship. In this context, we must seek gender equality before the law to improve the conditions and status of all women, as well as create enable environment for women to achieve these societal goals.

The denial of women's post-divorce entitlements

The *Shari'ah* requirements that husbands continue to make automatic provision of maintenance for their divorced wives is followed more in the breach than in the observation. The invariables practices after divorce is that the wife is required or expected to leave the matrimonial home the moment divorce is pronounced. In practice also, the financial commitment of the husband come to an abrupt end, leaving the wife and her infant children to fend for themselves. The divorced wife normally then stays with and depends on her parents or relatives until the husband recalls her or she is able to remarry. *Shari'ah* places most, but not all, of the post-divorce entitlements on the good conscience and sense of justice of the husband. but because divorce is accompanied by bitter separation, almost all divorcing men may have their sense of justice compromised and clouded. Apart from these unspecified entitlements, the *Shari'ah* guaranteed entitlements, which are almost always denied by northern Nigeria women are:

- ✓ Preventing the wife from staying in the matrimonial home the three-month period
- ✓ Denying her, after forcing her out of the home, any provision for maintenance
- ✓ Denying her maintenance for her infants or young children (which includes food, clothing and schooling expenses)-a right that extends beyond the three-month period
- ✓ Denying her custody of her young children and their maintenance allowances.

The practice of denying wives their post-divorce entitlements is extremely rampant in northern Nigeria, and this has a negative impact on the victims of the practice, that is women and their young children.

What the *Shari'ah* says

Shari'ah requires that following divorce, for a certain number of months in which the wife is serving the iddah (waiting period), the husband must continue to maintain her in all respects as if no divorce had taken place. It is unlawful to ask her to leave the matrimonial home during that period. God says in the Quran:

“O prophet, when you do divorce women, divorce them at their prescribed periods...and fear Allah your lord and turn them not out of their houses, nor shall they leave expect in case they are guilty of some open lewdness... When they fulfil their term appointed, either take them on equitable terms or part with them on equitable terms...” Q65:1-2^[30]

The *Shari'ah* also recommends that beside the legal entitlement of the wife, she should be given a parting gift known as *mat'ah al dalaq*. God says:

“...bestowed on them [divorced women] a suitable gift, the wealth according to his means and the poor according to his means, a gift of a reasonable amount is due from those who wish to do the right thing.” Q2:236^[31]

All the Jurist agree that a divorced wife can sue and successfully recover withheld entitlements from the divorcing husband.

Why women's health?

Women's health is often seen as being the health of women's reproductive 'bits'-namely wombs, breasts, and vaginas. Women's health nurses are employed to provide breast and cervical screening services. Women's hospitals provide specialist gynaecological and childbirth services. Women's health services are promoted as providing a full range of services when in many cases they are narrow and focus on women's reproductive health. Health status data though shows that it is not only reproductive issues that cause women's ill-health.^[32] Women's health then is about all health issues that affect women. Women's health is about recognizing the diversity of women's lives and the diversity that exists among women. Key principles are encouraging women to take control of their bodies (based on a full range of information and access to appropriate health care), education, collaborative decision making between women and their health care providers (with women deciding for themselves what happens to their bodies), and a social model of health

²⁹ 1979 Constitution of the Federal Republic of Nigeria

³⁰ Surah At Talaq:1-2

³¹ Surah Al Baqara:236

³² R.C. Clark, Women and Health. In: Rogers-Clerk C, Smith A eds., Women's Health. A primary health care approach. Sydney: MacLennon and Petty, 1998:1-18

(that takes account of more than just body parts and recognises the context of women's lives e.g. the influence of social factors such as housing and employment on health and well-being).

When talking about why we need women's health, one of the common issues raised is that 'things have changed' and it is not like that anymore (that being a situation where women's interests are not taken into account). Indeed much has changed over years. Medical power has been, and continues to be, challenged. The over-medicalization of women's lives is discussed openly in the media and women often refuse certain treatments and seek for alternatives.^[33] Although some things have changed, the history of health and medicine and the history of the women's health movement are important to understand if we are to understand why women's health is important today. Jill Astbury, in her book *crazy for you*^[34], looks at the development of our understanding about women's health. She shows very clearly that current research and understanding about women's health is still based on assumption and conclusions that are based on older studies that were poorly conducted and based on particular myths and cultural biased attitudes towards women. Women's health services' role is to ensure that individual women have access to women-sensitive services and access to information so they can make informed decisions regarding their health. A key role is to continue lobbying of government, as well as other health institutions, to ensure they recognise social issues and provide policy and services that meet women's needs. The common thread throughout each of these services is a commitment to providing health services to women, within a feminist framework and within a social model of health and maintain advocacy to government at local, state and federal levels, and service providers to ensure that in the future we don't hear comments from women.

Demand for antenatal and hospital delivery

Maternal mortality rates in the northern Nigeria are among the highest in the world. This can be attributed largely to women that are not having antenatal and postnatal care, and home delivery. Socio-cultural conventions drive these behaviours, as confirmed by a study conducted in Zamfara and Kano states.^[35] The study identified many reasons for not delivering in the hospital, including poor services, unpleasant attitudes of health workers; lack of adequate equipment; drugs and skilled medical personnel; having male medical personnel attend to pregnant women; others reflected cost and lack of access. The authors interviewed women in Katsina, Yobe, and Zamfara states. Only 27% of those with a live birth in the previous five years (n=1,189) had attended at least one antenatal consultation. While 30% sought advice from friends, family or traditional birth attendants in their community, the remainder did not seek or receive pregnancy-related advice from anyone, not even their mothers.^[36] Of interest also is the couple's decision-making process in cases of an obstetric emergency. A 2010 study described how pregnant women in three rural northern Nigerian communities responded to maternal complications outside of a hospital settings.^[37] They interviewed 322 women who had recently given birth, of which 15% had at least one complication. Some 20% did nothing, as they waited for their husband to return and give them permission to seek help (an average of two hours); 35% consumed or applied herbal remedies, and only went to the hospital when these did not work. A 2013 study in Kaduna state found that 83% of women would prefer to deliver in the hospital if they could, mostly for the safety of mother and child.^[38]

The literature shows that religious and community leaders can also influence women's decisions about their health. Religious leaders who were discussants at a United Nations Population Fund (UNFPA) conference on roles of traditional and religious leaders in maternal health, held in Sokoto State, acknowledge that traditional and religious leaders can make substantial contribution to reducing maternal mortality, provided they are sufficiently informed and effectively mobilized.^[39] While, a study in Borno state interviewed a representative sample of religious leaders and Muslim scholars and found a lot of ignorance about reproductive health issues. Yet when the concept were explained to them, they adopted positive attitudes toward reproductive health programming, provided that activities did not conflict with Islamic

³³ Ibid

³⁴ J. Astbury, *Crazy For You: The Making of Women's Madness*. Melbourne: Oxford University Press, 1996

³⁵ T. Segun et al, *Factors Enabling and Constraining The Use of Maternal and Newborn Health Services in Northern Nigeria: Formative Research Findings and Implications*. A poster presented at 135st annual Meeting of the American Public Health Association, Washington, (DC). 2007

³⁶ F. Adamu et al, *Using Community-Based Research to Shape the Design and Delivery of Maternal Health Services in Northern Nigeria. Reproductive health matter*, 2012;20(39): 104-112

³⁷ B. M. Tukur et al, *Praying for Divine Intervention: The Reality of "The Three Delays" in Northern Nigeria*. *Afr J Reprod Health*. 2010;14(3):113-120

³⁸ F. B. Okeshola et al, *Determinants of Home Delivery among Hausa in Kaduna South Local Government Area of Kaduna State, Nigeria*. *American Int J. Cont Research*. 2013;3 (5):78-85

³⁹ UNFPA (2008), *Conference on the Role of Traditional/Religious Leaders on Reduction of Maternal Mortality and Survival of Women: Held at the Sokoto State College of Education Conference Hall*. [Cited 2016 June 30]. Available from <http://nigeria.unfpa.org/pdf/ctrleasokoto2008.pdf>

teaching.^[40] A 2010 study interviewed religious leaders in Zamfara State. Respondents indicated religious tolerance to hospital delivery, and identified programmatic opportunities to increase demand for hospital delivery by engaging religious leaders to give their congregation the message that Islam supports hospital delivery and orthodox medicine.^[41]

A possible option was acknowledged in focus groups in Borno State, designed to assess community perceptions of maternal mortality. Respondents suggested that to improve health outcomes among women religious leaders should be informed and husband should be educated and counselled on allowing their wives to attend antenatal services and deliver in a health facility.^[42] Few interventions in northern Nigeria utilized influencers to effect women's health seeking behaviour. Below, we present those we could find.

Interventions involving religious or political leader

A 1997 study described a community education intervention in Kebbi State, designed to make opinion leaders, such as village chiefs, change agents in the community. To encourage use of emergency obstetric services they were trained in key messages for four months.^[43] Community awareness and other indicators improved; however since this one of a package of interventions undertaken in the community concurrently, increases in demand for services cannot be attributed to this intervention alone. Still, the researchers concluded that involving opinion leaders in their communication effort was successful in getting new information to women and men in the community. Note that utilization of services improved in some facilities but decline in others, suggesting that improved knowledge does not necessarily to behaviour change. Centre for Development and Population Activities (CEDPA) implemented a program in northern Nigeria aimed to improve family welfare by training Imams and sensitizing religious leaders to take action to promote safe motherhood, birth spacing and education of girls. These leaders were also urged to advocate for reproductive health and family planning support.

The Chief Imam clarified Islam's position on using modern contraception, affirming the critical message that birth spacing is desirable for the well-being of mother and child. Getting buy-in from the chief Imam helped to positively influence the network of Islamic leaders in northern Nigeria. No information is available on the impact of this project on health-service utilization.^[44]

Effects of harmful practices on women's development in the northern Nigeria

Some women in northern Nigeria are unaware of their rights. It is this state of ignorance which ensures their acceptance and consequently, the perpetuation of harmful cultural practices affecting their well-being and that of their children. Harmful cultural practices are among the greatest obstacles to women's contribution to development of their society. This is reflected in the women's growing impoverishment, inferior status in the family and society, and unequal access to legal rights, social welfare, education, poverty and political participation. Of course from the backbone of the larger society, which is the family, women have their own potentials that manifest in the fabric of the nation for the better. Practices, such as harmful birth practices constitute health hazards to the women to the extent of serious ailments in some cases. In addition, the low value accorded to women by the society, makes them to have low esteem of their selves with consequent effect on their performance in the society and other activities which requires the use of intellect. Certainly, no meaningful development can be achieved under this condition. Therefore, community education is critical to increasing public awareness of the negative consequences of these practices and changing societal norms.

Exclusion and seclusion of women in northern Nigeria

Women are generally excluded from decision-making at the family and community levels. Husbands do not generally consult their wives on matters that may concern them or their children. Similar practice applies at the community level. Women are rarely involved on matters that concern the community, nor are they nominated to represent the community. A woman is to be heard, not seen. Seclusion is the practice whereby husbands restrict their wives' movements. The current practice among some communities in northern Nigeria of secluding women by totally confining them to their

⁴⁰A. G. Mairiga et al, Knowledge, Perceptions, and Attitude of Islamic Scholars Towards Reproductive Health Programs in Borno State, Nigeria. *Afr J Reprod Health*. 2007; 11(1):27-34

⁴¹T.Segun et al, Factors Enabling and Constraining the Use of Maternal and Newborn Health Services in Northern Nigeria: Formative Research Findings and Implications. A poster Presented at 135st annual Meeting of the American Public Health Association, Washington, (DC). 2007

⁴²G. AbdulKareem et al, Community Perception of Maternal Maternity in Northern Nigeria. *Afr J Reprod Health*. 2008;12(3):27-34

⁴³F. B. Gummi et al, Community Education to Encourage Use of Emergency Obstetric Services, Kebbi State, Nigeria. The Sokoto PMM Team. *Int J Gynecol Obstet*. 1997;59 Suppl 2:S191 -200

⁴⁴ CEDPA. Engaging Social Networks in Family Planning Programming: Lessons from Research and Intervention. A report for: Terikunda Jekulu: Using Network Analysis to Address Unmet Need in Mali. 2012

homes, popularly called *kulle*, has no basis in *Shari'ah*. It might have been a convenient way for northern Nigeria men who think the practice enables them to conform to required modesty expected in the Muslim society.

What the *Shari'ah* says

Free and unrestricted intermingling between men and women is prohibited in Islam. Women are, however, free to go out of their houses and pursue any legitimate business as long as they observed the code of modesty of Islam. This code relates to issue such as lowering their gaze in an encounter with a stranger of the opposite sex. Covering the body properly in such a way as not to expose her beauty and adornments, speaking to strangers in a dignified and natural way and walking normally without intent to attract attention.

Heavy and discounted domestic chores

Women are burdened with domestic and other responsibilities, which are taken for granted both within and beyond the family. This over-burdening of women may increase in magnitude as more women work outside the family. Despite the increasing role of women in making provision for the family, some men rarely assist their wives with simple domestic chores-neither to relieve them of the work nor to represent appreciation. Some marriages may have problems because of, for example, the failure of a wife to finish cooking in time. The few men who attempt to assist wives are often ridiculed. The husband is responsible for the maintenance, protection and the overall leadership of the family within the framework of consultation and kindness. The mutuality and complementarity of husband and wife does not mean 'subservience' by either party to the other.

What the *Shari'ah* says

Under *Shari'ah*, both the husband and the wife have rights and duties. It is interesting to note that to most jurists domestic chores are not part of the duties or obligations of a wife of an Islamic marriage. It is, however, recommended that she carries out her duties and tasks of her own volition in the interest of good companionship, and that the husband reciprocates by showing appreciation as a division of labour between them. It is also highly recommended in line with the practice of the prophet (Peace be upon him) that husbands should assist their wives with domestic work. This corresponds with the report that the prophet (Peace be upon him) used to assist his wives with the household chores, although the responsibilities he bore and the issues he faced in the community were immense.

Maintenance

In Islam it is the responsibility of the husband to provide maintenance for their wives. This includes things like foods, clothing, medical expenses and accommodation. Muslim husbands should try as much as possible to meet the needs of their wives; this is considered a religious obligation. This division of responsibility is reinforced by the fact that it is legally appropriate for wives to seek divorce on the grounds of lack of support from their husbands. Money spent on household provisions by the wife is to be paid back by the husband and failure to do this may result in separation until he pays. However, the wives of the poor are expected to complement the effort of their husbands.

What the *Shari'ah* says

It is against the basic principles of Islam to marry knowing full well that one cannot maintain a wife. The directive of the prophet (*Peace be upon him*) is to the effect that "O young people! Whoever has the wherewithal should get married. Those who do not should fast because fasting suppresses sexual urge." Maintenance under Islamic law includes not only basic necessities such as accommodation, food and clothing, but also the provision of all items required by a wife to live decently. The Quran says:

"Let those who find not the wherewithal for marriage keep themselves chaste, until God gives them means out of His grace." Q24:33^[45]

On the obligation maintaining a wife the Quran says:

"Let the women live in the same style as you live, according to your means. Annoy them not so as to restrict them... Let the man of means spend according to his means..." Q2:223^[46]

The process followed

This paper is part of a project that seeks to promote respect for the rights of women in the northern Nigeria. Women in northern Nigeria, like others across the world, have been subjected to practices that violate their rights the expansion of *Shari'ah* in most states in northern Nigeria provides the opportunity to question and address these practices by subjecting them the scrutiny of *Shari'ah*. It also open an avenue for concerned Muslims to embark on projects that seek to promote positive practices and challenge harmful and negative ones, relying on an authentic understanding of *Shari'ah*.

⁴⁵ Surah An Nur:33

⁴⁶ Surah Al Baqara:223

Addressing these negative practices is important because they constitute barriers to women's rights and hinder women's ability to access justice in Nigeria. In addition, they have a generally negative impact on the religion. This report is basically on northern Nigeria, which spans a wide area and consists of diverse ethnic groups, most of whom are Muslims. The major Muslim societies or groups upon which this paper focuses are the Hausa, Fulani etc. The methodology adopted.

Conclusion and Recommendations

Northern Nigerian women must have a voice in the implementation of equality standards and cultural practices and norms. Effective, facilitated dialogue, together with careful litigation, will allow women to shape the customary law and cultural practices that dramatically affect their daily lives.^[47] Women must also be recognised as both members of their cultural communities and as advocates for gender equality within those communities.^[48] Although traces of records had shown that some northern Nigerian women in extreme cases had excelled in their endeavours, their impact could not be felt in a man-dominated northern Nigeria. The first thing for the women in northern Nigeria in twentieth-first century to do is to clear their mind of the idea that they have second-class political, social, spiritual, economic, cultural or intellectual status. However, because of the society's attitudes towards women, their world is conditioned by the psychological and repressive do's and don'ts dictated by the men. This leads to low self-esteem. To eradicate this, women has to develop a personal self-esteem and self-actualization.

Shari'ah also has great implications on the women's rights of all their lives aspects. Other customary practices in Nigeria should also be made to fall within the context of the supreme law of the land [the constitution] through the repeal of all customary laws that are repugnant to equity, injustice, and good conscience. States in Nigeria must also be encouraged to pass into law, provisions of the ratified international instruments advocating for the rights of women in Nigeria. The role of civil societies and stakeholders in advocating for the rights of women cannot be overstated. Lawyers should also be encouraged to undertake more pro bono cases to assist women who really need legal representation and advice.

This will help to create the enabling environment which includes structures, laws and policies while the stakeholders include: government, women, law enforcement agents, media, courts, religious and traditional rulers, women's rights activities and community advocates. It is advocated that the enforceability and justice ability of women's rights not only in the northern part but Nigeria in general must commence with the codification of appropriate laws and instruments followed by the court's insistence on enforcing provisions that are fair and equitable, and not repugnant to justice and good conscience. In the dictum of late Hon. Justice Pats-Acholonu in *Magit v University Of Agriculture, Makurdi*^[49] "It is said that the function of the court is to interpret laws made by legislature and not to make laws. In theory, that is so. To achieve this, we propose the following recommendations:

- i. Equality of women is necessary as a basic condition of social, economic, and political development of the nation;
- ii. Improvement of employment opportunities and earning power should be given the highest priority to release women from their dependent and unequal status;
- iii. Society owes a special responsibility to women as mothers; safe bearing and rearing of children, therefore, is an obligation that must be shared by the mother, father and the society
- iv. The contribution made by an active house-wife to the management of a family should be accepts as economically and socially productive and as essential for national savings and development
- v. Marriage and motherhood should not become disabilities, preventing women from fulfilling their full and proper role in the task of national development for which society, including women themselves, must accept their due rights and responsibilities;
- vi. Disabilities and inequalities, of which women are victims, cannot be removed from women only: such action must form of a total movement for removal of all inequalities and oppressive social institutions;
- vii. Some special temporary measures will be necessary to move in the direction of the goals set by the constitution and to transform less equality for women into full one.

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