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## Challenges and Negative Effects of Divorce among Muslim Women in Northern Nigeria

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### ABSTRACT

The alarming explosion of divorce in our present times is a cause of great concern. The mention of the word (Talaq) divorce has now become so cheap that in some marriages, every argument features this word, either the husband threatens with it or the wife demands it. This paper is therefore an attempt to highlight some of the causes of rampant divorce and its negative impact on Muslim women in the northern part of Nigeria. Both primary and secondary sources were utilized for the work. These comprise of Qur'an, Hadith and other literatures. Thus, using descriptive and analytical methods, this paper interprets Islamic teachings with a view to proffering Islamic solutions on them. The study reveals that the challenges and negative effects of divorce are usually much stronger on the woman and her off spring than the man. These ranges from psychological trauma, immoral behaviour, Economic hardship, denial of custody, etc. The paper recommends among other things, that parents of intending spouses should endeavor to find out the level of Islamic knowledge, habit, and character of suitors/wives to be, prior to the marriage in order to prepare adequately for a successful association.

**Keywords:** Muslim Women, Northern Nigeria, Challenges, Negative Effects, Divorce

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### 1.0 Introduction

Islam enjoins marital relations between spouses and prescribes principles and rules to regulate marriage both as a transaction as well as an institution. Amongst these prescriptions are the rights and obligations of the husband and wife towards each other. The observance of these rights and obligations is obedience to Allah (SWT) and the breach of which constitute not only offending the other partner but also disobedience to Allah (SWT). It is also obvious that some Muslims do not really understand the techniques of marriage in Islam especially in regards to women. This is known by the

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frequency of divorce incidents between couples. Divorce has left fresh negative point on the face of Muslims women of the Northern Nigeria.

Furthermore Islam has taken the issue of divorce very serious. This is why we found out that the Qur'an talks about it (divorce) in different chapters and with different tones. For Instance, chapter 2, al-Baqarah the (the cow) and chapter 4, al- Nisai (the women). Chapter 65 is named *Al- Talaq* (the divorce), this chapter explains how divorce should take place among couples. There are also many instructions in the Qur'an urging men to treat their women with kindness, justice and fairness, even in the event of divorce. Therefore, there is a categorical moral admonition to safe guard the women's welfare where divorce becomes inevitable.

Khan opines that once a man and a woman are tied together in the bunds of matrimony, they are expected to do their utmost till the day they die to honour and uphold what the Qur'an calls their firm contract or pledge. He went further to states that, the full thrust of the *Shari'ah* is leveled at preventing the occurrence of divorce; the laws it lays down in this regard exist primarily, therefore, as checks not incentives (Khan, 1995:2000).

Ambali (1998:200), states that, Islam prohibits men to breach the contract of marriage by terminating it on baseless grounds. While discussing the rights of women after divorce, Sada et al, argue that, When divorce occurs, the wife is expected to be in the matrimonial home during this period while the husband provides for her maintenance although no conjugal relationship is permitted (Sada et al., 2004:39).

According to Abdal'Ati(1982), the wife must be fully recovered from the menses of the regular menstruation and the usual postnatal fluxes, whose maximum time spans are about ten and forty days respectively. He further states that the wife in addition must not have intercourse at any time during this period of fresh purity, which covers the whole interim between the monthly courses. If she experiences her period or the postnatal flux, or if there has been an intercourse after recovery and purity therefore, the wife's state is considered impure and there can be no (acceptable) *Sunnah* divorce. Under these circumstances, a divorce pronouncement is religiously forbidden but legally valid (Abdal'Ati 1982:228). Many researchers on divorce link separation to different levels of stress. These perspectives state that family dysfunctions are extremely stressful on children and adults (Amato, 2000:62:1269-1288.). Numerous studies show that there are lasting psychological effects for adults from divorce. They have been shown to be unhappy and have lower levels of self-concept (Aselstine & Kessler 1993:237-251). According to Shakhrawi(n.d) the worse of divorce is to pronounce it three times in one stretch. He goes on to say that, it is against the Islamic *Shari'ah* and invites a number of problems and difficulties for both of the spouses and their respective families including Children. (Shakhrawi n.d:9).

Thus, Maintenance of a stable home is the goal of Islam. And so Islam encourages reconciliation between spouses whenever there is any misunderstanding and this is why even when divorced, the woman is to stay in the man's house during the *iddah* (waiting period) during which she is entitled as of right to accommodation and maintenance at the husband's expense. It is also possible that reconciliation may take place. In any case, ample time is at their disposal to reconsider the whole situation. Divorce is not to be resorted to except if all steps taken for reconciliation have failed. This study employed the descriptive and analytical research methods, relying heavily on existing facts and literature to explore and examine the causes of divorce and its effects on the Muslim women in Northern Nigeria.

The study revealed that, in Northern Nigeria, some men divorce women with ease, when such happened, the women are left to fend for themselves without any preparation. In fact, the way and the

manner in which *Talaq* (divorce) has been practiced adversely affect women and their young children. It is also common for husbands to divorce their wives through pronouncing the divorce three times (*saki uku*) to make reconciliation impossible and the divorce irrevocable. As a result of these practices, women are left (in most cases together with their children) to fend for themselves. The divorced woman goes back to her parents until the husband recalls her or she is able to remarry. That is the more reason why some women relinquish or forfeit their right to custody of children and allow the children to stay with their father, not minding the psychological effect of such acts. This becomes necessary as most of these women are not economically empowered. The *Shari'ah* however stipulates that, beside the legal entitlements of the wife, she should be given a parting gift as *muta'a*. Allah says: Bestow on them (divorced women) a suitable gift, the wealthy according to his means and the poor according to his means, a gift of a reasonable amount due from those who wish to do the right thing. (Q2:236). Thus Sada et al. (2004) stated in their report that there is a unanimous agreement among jurists that a divorced wife has the right to sue and successfully recover withheld entitlements from the divorcing husband (Sada et al. 2004: 40).

The paper therefore analysis these practices and compares it with what is obtainable in Islam. The findings of this research shall be of benefit to the governments and policy planners of Nigeria in general in the sense that they shall be resourceful in coming up with improved ways through which divorce can be minimized if not totally eradicated. This paper thus, considers this subject matter under the following headings: Introduction; Literature Review, Methodology, Islam on divorce, why rampant divorce in Northern Nigeria, Examination of some cases of divorce decided in the Shari 'ah courts of northern Nigeria, Challenges and negative effects of divorce on the Muslim woman in northern Nigeria, conclusion and recommendations.

## 2.0 Literature Review

Abdal'Ati (1982)) states that divorce is the dissolution of (an unhappy) marriage, a preventive measure against the breach of peace. He further mentioned that divorce, though permissible in Islam, is one of the most detestable in the sight of Allah, according to the prophet (PBUH) (217 –218). Although Islam permits divorce, it lays great emphasis on its being a concession, and measure to be resorted to only when there is no alternative. (Khan 1995:200). Zakariyya (2008) notes that, a man is more capable, technically, of controlling his temper, emotions and personal reactions if upset about large or small issues in life, especially in terms of disputes with his wife. The husband should never seek divorce as a first solution to end his daily suffering with his wife (38). Al- Qaradawi (n.d) opines that, a husband must be patient with his wife if he sees something in her which he disapproves and dislikes, he should balance her good qualities with her feelings (204). Heffeman et al (1992) argue that, divorce among adults signifies the loss of an intimate relationship that also brought security and support. It also signifies a loss of hopes and dreams as well as feelings of failure. Although there may be relief over the divorce, being alone also brings fear, anxiety, loneliness, and guilt, especially if there are children involved (187-192). Furthermore, the negative impact of western world in African continent, negative impact of movies and a husband who cannot fully bear the family's financial burden find it difficult to control their wives (Abuja Daily Trust, 23rd December, 2007). It has been observed that, higher ages at marriage are typically thought of as an indicator of female autonomy In Africa; education is positively associated with the occurrence of divorce among the women. Adedokun (1988) stated that the educated women are more likely to embrace new ideas about marriage which also resulted into divorce. She stressed the point that, as the passion of sexual attraction may emerge; spouses may wish to end an unexciting marriage in favor of relationship that will provide renewed excitement. She however, opines that increasing participation of educated women in the labour force may reduce their dependent on men (2:38-54). Jones (2000) observes that, there is increasing ages at marriage to a greater degree of self-arrangement of marriages, and that is considered as powerful mechanism of

declining divorce rates (Jones, 2000:1:94-114). Olaofe (2013) cited Ali, in her article titled: “Divorce, Divorce, Divorce” where she attempted to clear the misconceptions by Muslims and others about the triple pronouncement of *Talaq*. The main points in her article are that, *Talaq* and divorce are strongly condemned with Islam. In case of difficulties within a marriage that the husband and wife cannot solve by themselves, each shall appoint an arbitrator or conciliator to resolve the matter as prescribed in the Qur’an: “And if you fear a breach between the two, and then appoint judge from his people and a judge from her people; if they both desire agreement, Allah will effect harmony between them, surely Allah is knowing, aware.” (Q4:35) (Vol.2:125). Doi (n.d) mentions that, for the divorce to be valid it is necessary that the husband should be sane (‘aqil), not a minor (baligh), and be capable of using his own discretion (Muktar).

### 3.0 Methodology

Both primary and secondary sources were utilized for the work. These comprise of Qur’an, Hadith interviews and other literatures. Qualitative method of data analysis will be employed. Thus, using descriptive and analytical methods, this paper interprets Islamic teachings with a view to proffering Islamic solutions on them.

### 4.0 Islam on divorce

This can be defined as the dissolution of (an unhappy) marriage. Maintenance of a stable home is the goal of Islam. And so Islam encourages reconciliation between spouses whenever there is any misunderstanding and this is why even when divorced, the woman is to stay in the man’s house during the ‘*Iddah*’ during which, she is entitled as of a right, to accommodation and maintenance at the husband’s expense. It is also possible that reconciliation may take place. In any case, ample time is at their disposal to reconsider the whole situation. Furthermore, Islam tends to take a realistic and sympathetic view of human affairs and thus stresses on the happiness of both spouses. If a husband and wife cannot live happily together in peace and harmony and are not satisfied with their matrimonial life, in the sense that they have physical, emotional, and sexual problems with each other, the Qur’an prescribes to them ‘divorce’ only if the problems are severe. Allah says: “But if they disagree and must part, Allah will provide abundance for all from His all reaching bounty. For Allah is He who careth for all and is wise”. (Q. 4: 130). Also the Qur’an states,

If a wife fears cruelty or desertion on her husband’s part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is best; even though men’s souls are swayed by greed but if ye do good and practice self-restraint, Allah is well acquainted with all that ye do (Q4:128).

As earlier on stated by Sada et’ al (2004:39), when divorce occurs, the man has the option to reclaim his wife to the exclusion of all men within the period of ‘*Iddah*’ (waiting period). If after the ‘*Iddah*’, the couple could not reconcile the wife leaves the matrimonial home and the husband loses his right of automatic recall. A new suitor as well as the former husband may make fresh marriage proposals which the woman is absolutely free to accept or reject. After the third *Talaq* however, he loses this option of return of the wife and he cannot remarry the wife until she consummated marriage with another husband and the new husband willingly divorces her. The Qur’an states.

The divorce is twice, after that, either you retain her on reasonable terms or release her with kindness. And it is not lawful for you (men) to take back (from your wives) any of your *mahr* (bridal money given by the husband to his wife at the time of marriage) which you have given them, except when both parties fear that they would be unable to keep the limits ordained by Allah (e.g. to deal with each on a fair basis) then there is no sin on either of them if she gives back (the *mahr* or a part of it) for her *Al khul* (divorce). These are the limits ordained by Allah, so do not transgress the limits ordained by Allah, then such are the zalimun (wrong doers) (Q.2:229).

A third pronouncement of divorce means that re-marriage between the parties is only possible after the wife has married another person and got divorce from him. The first and second pronouncements of divorce are revocable and may allow the parties to resume marital relationship without the requirements of an intervening marriage.

Thus, it is common for husbands in Northern Nigeria to divorce women through pronouncing the divorce three times to make reconciliation impossible and the divorce irrevocable. The *Shari'ah* condemns this practice as harmful innovation. The *Shari'ah* requires that divorce if there is reason for it, be pronounced on separate occasions and in each case only when the wife is in a state of purity. Allah says: "O prophet, when you divorce women, divorce them at their prescribed periods..." (Q.65:1).

A divorce is regarded as a moral, self-correcting and self-restricting act. Some men however ignore these rules in the Islamic law of divorce due to negative influences and lack of proper Islamic knowledge and practices. The *Shari'ah* provision works towards reducing and checking divorces between the period of menstruation and purity; there is high possibility of reconciliation, even though some men do not understand the wisdom behind the *Sunnah* divorce. Abdal'Ati explains the virtues or reasons of the *Sunnah* divorce in the following ways:

Firstly, menstruation is called by the Qur'an 'hurt;' its term is difficult time of fatigue depression, irritability, and tension, etc. Much of this is due to the wife's physical condition, which makes her sexually both unserious and undesirable, and also to the husband's unfulfilled needs. Intercourse is forbidden during all such times of impurity. All these factors may lead some parties to act hastily or misjudge each other. It is required therefore, that they wait for these periodical difficulties to pass and then act, if they must under normal conditions. Secondly, when the wife enters her period of purity she is usually fresh and pleasantly, compensable, desirous and desirable, more considerate and responsive. She has not only the capacity, but also the opportunity to strengthen the marriage tie and command the husband's love compassion and devotion (Abdalati 1982:228).

However, if in spite of this there is desire to dissolve the marriage; it will be, presumable, for some serious reasons other than a passing fatigue, momentary depression or casual unfulfillment (Abdalati 1982:228).

## 5.0 Why rampant divorce in northern Nigeria?

The research has revealed that divorce is rampant nowadays in almost all the Northern States of the Federation. Mama Binta a housewife and an indigene of Sokoto State argues that some ethnic groups such as the Fulani and even some Hausa people of Sokoto, Kano, Bauchi, Zamfara States etc, always discourage divorce and as such parents play an important role in settling disputes amongst couples. Despite this argument, the research found out that, divorce still exists among the above mentioned groups including other groups among the ethnic of Dogon Daji, Bagudan Barkeji, in Sokoto State and Tsafe, Dan Gamji, in Zamfara State, Potiskum, in Yobe State Azare in Bauchi State to mention but few. Another interview was conducted on Sunday 25<sup>th</sup> January 2016 on the causes of rampant divorce among some Muslims of Northern Nigeria. Those interviewed included Aisha Sulaiman a housewife, Umami Muhammad a business woman, Maimuna Umar a civil servant, and Shehu Musa Katagum a civil servant all of Azare Residents Bauchi State. According to them, one of the major reasons why divorce is rampant is the lack of care and maintenance by the husbands. Other reasons, in their opinions for the high level of divorces are forced or early marriage, poverty, the women's disrespect of marital norms, lack of sincerity among couples, wickedness, disagreement with mother inlaws, domestic violence etc. Idris Yahya, a Lecturer at Azare college of Education Bauchi State observed that, polygamy may also be a reason for divorce as some women insist on divorce whenever the husband marries another woman on one hand, or where the husband maltreats her when he marries another woman on the other hand. The research has established that it is a common practice amongst Muslims to marry and divorce even on a minor issue. Some group of divorcees (Abu Manager and Rilwantu Garba) disclosed that they were

divorced without any genuine reason. One Hauwa'u S. Rafi Anka mentioned that she was divorced by her husband on the reason of lack of maintenance, as at then, she was two months pregnant. She had to take care of herself before and after delivery, because there was no financial support from the girl's father (her former husband). According to her, the girl is nineteen years now. Another divorcee, Fatimah Musa explained that she sought for divorce as a result of maltreatment from her husband. In her words:

My husband Musa Karimu used to beat me and will not provide for my upkeep. I then reported the case to the Azare Shari'ah court and the court dissolved the marriage.

In an interview with the former Deputy Speaker Zamfara State House of Assembly Muhammad Abubakar Gumi, he observed that the reason why divorce is rampant especially in Zamfara state is as a result of the ignorance of the couples on the actual teachings of Islam on Marriage. He further stated that the Zamfara state government has embarked on enlightenment campaign in order to educate the Muslims on the right of spouses and according to him; this has yielded fruitful result to some extent. According to Abdur Rahim Muhammad Sanusi a Lecturer with Abba Bukar Ibrahim University Damaturu Yobe State, an important factor that precipitates the act of divorce in the Muslim Community of Northern Nigeria in general is because marriage is not taken as an act of *Ibadah* (Worship) as recommended by the Prophet of Islam and of course the Shari'ah. It is taken, in most cases, as purely a business (transaction) affair. Divorce becomes a thing of pride among some women.

In his paper "Proliferation of Divorces" Halilu (2006), stated that a number of factors could be responsible for this recent proliferation of divorces (talaqs) which has resulted in so many broken homes and shattered families. According to him, lack of proper Islamic education is one big factor. Other factors include lack of fear of Allah, selfishness, hard heartedness, callousness, uncompromising attitude as well as devastating effect of western culture and tradition on Muslim marriages. He continues by saying that the inability to handle the pressures of marriage and an escapist attitude are a major factor. Anger is another dangerous factor. He accuses parents, families, elders and the wider community as they adopt an unusual attitude and hardly bring any pressure on the warring couple to come together and solve their differences. He points out that to save marriages, Islam has actually permitted the speaking of "white lies" (lying capable of keeping the couple together) if that will bring about some degree of reconciliation in the couple. He concludes by giving some solutions to the problem such as large scale educational programs on matrimonial matters. Spiritual programs that contribute towards Allah's consciousness and fear of accountability are absolutely imperative and need to be increased in the minds of the people. Attitudes and conduct (*Islahe-Nafs*) according to him are an urgent need. A decadent lifestyle and western values have to be shunned and spurned (Halilu 2006:23).

The Kano State government has expressed concern at the breakdown of marriages in the region. The state governor, Abdullahi Umar Ganduje, said that, his administration would enact a law that will address such incidents. He stated this during a meeting with Hisbah Guards, Vigilante Groups, Vehicles Inspection Officers (VIOs) and Civil Society Organizations at Coronation Hall in Government House. The governor directed the state Hisbah Board to discuss the issue with Islamic scholars and other contemporary Islamic students with a view to advising government on how the law would be implemented from an Islamic perspective. Ganduje lamented the increase of divorce cases in the state as worrisome and noted that government would take appropriate action to stop the menace. The governor appreciated the effort of Hisbah Guards in institutionalizing Islamic tenets in the state and assured that his government would continue supporting them to work effectively. Commander General, Hisbah Guards, Malam Aminu Daurawa, said that over the years, the board had reconciled 20,000 disputes, remarried 4, 900 widows and facilitated 2, 300 converts to Islam. This has been recorded in the four years of his leadership. (Kano State formulating legislation to halt divorces). The Women in Da'wah issued a Communiqué at the end of a Two-Day Marriage Seminar held from Saturday November 24th – Sunday 25th, 2015 in Abuja, the document observed the deep crises that has manifested in Muslim homes and marriages which have resulted in rampant divorce, separation, breakdown of communication, lack of cooperation in proper child upbringing etc. The document also

highlighted some genesis of the problems leading to divorce which include; marital problems arising mainly from suspicion which leads to mistrust, unnecessary interference from family members, lack of proper understanding of each other's roles, lack of preparation through seeking knowledge on marriage prior to entering into the relationship, influence of friends, social media engagement etc. Among the resolutions of the communiqué were that, Muslims should imbibe and exhibit goodness which is an integral part of a happy marital relationship, Patience and understanding are the core ingredients of achieving happiness in marriage, Men/husbands should discharge their responsibility as heads of their households adequately and with knowledge and the fear of Allah, Both partners should have the knowledge that marriage is an aspect of worship and transcends just the fulfilment of human desires, to mention but few.

Thus, it can be submitted that there are many factors that necessitates divorce among Muslim couples today. It is worthy of note however, and as earlier mentioned, that before a man can divorce his wife, he must have tried several means of effecting better changes and even where such occurs the husband is fully responsible for the full maintenance of the divorce wife during the waiting period.

## **6.0 Examination of some cases of divorce decided in the Shari'ah courts of northern Nigeria**

This section examines some court cases which are related to problems arising from divorce. Decided cases from the *Shari'ah* Courts in some parts of Northern Nigeria are discussed with a view to determine their compatibility or otherwise with the *Shari'ah*. Furthermore, the section aims at seeing whether the Judiciary is invulnerable to the problem of divorce among Muslim women in Northern Nigeria.

### **Case CV/82/12**

The first issue to be examined here is the case filed in case no CV/82/12 on 17/9/12 in High *Shari'ah* Court Shinkafi, Zamfara State before the Judge, Barrister Sama'ila Jibril Gusau between Aisha Basharu T/Kolo – (The petitioner) and Basharu Dadi T/Kolo – (The respondent). The petitioner of this proceedings by name Aisha Basharu appeared before this honourable court seeking the court to dissolve her marriage with the respondent because of the latter's cruel behavior and inhuman treatment against her, such as coming to her and demanding to have sexual intercourse with her while he was in his second wife's room which amounted to injustice. If she refused he would give her a serious beating. Apart from the beating for no just cause he used to mock and insult her telling her that, it was his marriage with her that had been the cause of him becoming a pauper. With these reasons, the petitioner moved the court to separate her from her husband. The petitioner was asked by the court, whether she had witness (es) to buttress her claim. She answered in the affirmative. The case was adjourned to 27/9/12 to enable the petitioner to provide her witnesses. On 27/9/2012, the court took the testimony of Mas'uda Basharu, the second wife of the respondent. Upon being asked by the court what she knew about the issue of beating between the petitioner and the respondent, the witness (Mas'uda) testified that she did not know much about their trouble. However, she was aware of their quarrelling and sometimes the petitioner's screaming at night. The court demanded the petitioner to provide another witness to collaborate the testimony of Mas'uda, that in the absence of additional witness, the petitioner can corroborate the testimony with swearing. However the court postponed the swearing till after week, as a grace to afford the two spouses with the opportunity to reconcile their differences if they wished so. The week however, elapsed without any success. The parties returned to court, and the petitioner took her oath, corroborating the earlier testimony of her witnesses.

It is a trite principle under *Shari'ah* that where there is cheating between spouses, then the court has the power to dissolve the marriage. From the foregoing, and the testimony of one Mas'uda as corroborated by the swearing of the petitioner herself, the court per Ismail Jibril Gusau dissolved the marriage bond between Aisha Basharu (hereinafter referred as the petitioner) and Bashiru Dadi (hereinafter referred as the respondent). The parties were informed of their right to appeal this

judgment within 30 days in case they were not satisfied with the judgment. The judgment was decided on 19/12/2012. This judgment is sound and commendable as well.

### Case CV/05/2008

Another case for marriage dissolution is a case filed in Tudu Wada Lower Sharia Court Sokoto Case No: CV/05/2008. The case was between Asmau Abubakar (Petitioner) and Nasiru Altine (Respondent). The Judge was Hon. Ibrahim Abubakar. The petitioner of this case, Asamu Abubakar petitioned her husband Nasiru Altine seeking the court to dissolve their marriage. According to her, her husband, i.e the respondent of this case has abandoned her for about six years without feeding, clothing and other provisions for her livelihood. The court on the reception of this case, summoned the father of the respondent by name Altine to appear before the court on 10/01/2008 in order to start a proper investigation of the case. The father appeared before the court and confirmed the statement of Asma'u the petitioner, adding that even he; his father did not know his where about. The court had also listened to the testimony of two persons, by names Abubakar Umar and Hassan of which both of them confirmed the abandoning of the petitioner by the respondent.

The court proceeded by asking the petitioner to swear by Allah that all the claims she made and testified by her witnesses were true. The petitioner, Asmau proceeded and swore by Allah that all her claims were true.

Consequent upon the testimony of the respondent's father and two other persons upon the claims of the petitioner by name Asmau Abubakar and the subsequent swearing of the latter, the court dissolved the marriage between Asma'u Abubakar and Nasiru Altine. That Asma'u can remarry after observing her iddah (waiting period) (See Qur'an 2:228). The court canvass that both parties were granted the right to make appeal within 30 days of the judgment.

Judging from the scenario given above, the research holds the view that there is no miscarriage of justice here, because under the principle of *Shari'ah* a woman can sue for divorce from her husband, because of lack of maintenance. The only hiccup embedded in the proceedings is the attitude of the court towards asking the petitioner to swear after having three genuine witnesses including the respondent's father. It is my considered view that, this swearing has no basis from the Qur'an or Hadith. Because wherever a plaintiff or petitioner is able to provide witnesses to prove his case, then there is no need for swearing. Because the Prophet said: "... calling of witness (es) is for him that claims whereas, swearing is for him that denies" (Muslim 489, Hadith 4470, vol.4).

### JUACI/2005

This was a case filed in the Area Court of Kasuwan Nama, in Jos, Plateau State, Suite No.. JUACI/2005 This was a divorce petition resulting from the maltreatment and Khul'u was granted by the Judge. The case was between Sa'adatu Yusuf (plaintiff/Petitioner) and Yusuf Isa Badeh (defendant). The complaints lodged by the Plaintiff were;

1. The husband (Defendant) beat her until she was hospitalized.
2. She had four miscarriages all as a result of his habit of torturing by beatings.
3. She stated that she was willing to pay the ₦20,000 dower given to her in order to salvage or save her life from the marriage.

Judgment was passed in favour of the wife (Plaintiff). She was asked to pay back the dower and the marriage was terminated or dissolved irrevocably.

Arising from the scenario given above, the research holds the view that the marriage should have been dissolved without any payment of dower by the wife (khul'u). In Islam, marriage can be terminated on

the grounds of spousal abuse and wife battering. In addition, the *Shari'ah* does not condone wife battering. The Qur'an specifically describes the following on how to correct an erring wife:

Men are the protectors and maintenance of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husbands) absence what Allah would have them guard. As to those women on whose part ye fear disloyalty and ill conduct, admonish them (first), (next), refuse to share their beds, (and last) beat them (lightly); but if they return to obedience, seek not against them means (of annoyance): For Allah is Most High, Great (above you all) (Q4:34).

It is clear from the above verse that Islam has laid down some steps that can serve as principles for correction by the husband on his wife. The research also observes that some scholar's translation of the above verse in our societies however, seems to be highly affected by the culture of their time. Some Muslims mercilessly beat their erring wives on the basis of the scholar's misinterpretation of this verse. This is quite unfortunate because three steps are mentioned in the verse but the men always jump to the last steps at the slightest instance due to their misunderstanding of the verses. Moreover, the last step does not give license to wife battering as the Hadiths of the Prophet explains it clearly. It was reported that the Prophet said:

"Could any of you beat his wife as he could a slave, and then lie with her in the evening"  
(Bukhari No 466 Vol. 6).

## 7.0 Challenges and negative effects of divorce on the Muslim woman in northern Nigeria

Divorce which is a legal termination of a marriage contract between a man and a woman has a negative impact on both parties, and the impact is usually much stronger on the woman than on the man. But the children of the separated couple are the most affected because they are the weaker parties and are the most in need of the marriage contract remaining intact.

The following are some of the likely challenges and negative effects of divorce on the Muslim woman:

### 7.1 Economic hardship

The divorced wives are left together with their children to fend for themselves. Where the husbands give money for maintenance, it is usually a meager amount which is not enough to cater for them and their children.

That is the more reason why some women relinquish or forfeit their right to custody of children and allow the children to stay with their father, not minding the psychological effect of such act. This becomes necessary as most of these women are not economically empowered. The *Shari'ah* however stipulates that, beside the legal entitlements of the wife, she should be given a parting gift as *muta'a*. Allah says:

Bestow on them (divorced women) a suitable gift, the wealthy according to his means and the poor according to his means, a gift of a reasonable amount due from those who wish to do the right thing. (Q2:236).

### 7.2 Divorce woman are usually antagonized by their husbands through denial of custody

This research has observed that many men seek to antagonize their former wives and see denial of custody as serving that purpose. In fact, it is a common practice among some Muslim husbands in Northern Nigeria to deny their wives custody of their children, except for those that are breastfed. Where the woman attempts going with the children, she is being threatened by the husband. Abubakar M. Usman ESQ a private practitioner in Abuja agreed that although Islam allows custody of children to their mothers, this right is always denied to women. Making references to

Nasarawa State, his state of origin, he argued that children are deprived of the right to live with their mothers after divorce. He said further that, they are instead, seen on the streets begging for food and money under the name of Almajiri (Islamic pupils). He also observed that some are intentionally sent on such errands by their parents

### 7.3 Divorce women are sent out from their matrimonial home before the completion of Iddah.

Kulu Adamu and Yusuf Umar lamented on how women are forced to leave their houses without any entitlements while in some cases the women feel ashamed to continue staying in their husband's houses after divorce. In many cases people mock at them if they refuse to leave their husband's house after the dissolution of the marriage. Thus the divorced woman goes back to her parents until the husband recalls her or she is able to remarry again.

The Islamic law (*Shari'ah*) stipulates that the woman who has been divorced by her husband is fully entitled to complete maintenance as long as she is still in the waiting period. She has the right to continue her occupation of the same home as before the divorce, or to be furnished with relatively comfortable lodging facilities. She should not be expelled from her home nor should she move there from, unless she has committed an evident offence of indecency. In addition, the man, (the repudiator) is fully responsible for her food, clothing and if necessary, service, just as if the marriage were still completely intact, by which time she will probably have adjusted to the new changes in her life. Allah says:

... and fear Allah your Lord and turn them not out of their houses, nor shall they leave in case they are guilty of some open lewdness... when they fulfill their term appointed, either take them back on equitable terms or part with them on equitable terms... (Q65:2).

### 7.4 Divorce lead to immoral behaviour among some women

Divorce lead to unIslamic behaviour on the part of some women. Some divorced women are involved into prostitution, alcohol, drugs etc. According to Governor of Kano state, Abdullahi Umar Ganduje. The high rate of divorce is a worrisome situation resulting in adultery, prostitution and births of children out of wedlock and has become dangerous to society. (Mass wedding to promote Islamic Society in Nigeria).

In Kano state, thousands of divorcees have been arrested in recent months for improper dress, selling of alcohol, prostitution and indecent mixing of the sexes. (Mass wedding to promote Islamic Society in Nigeria).

The planning director of the Hisbah board Kano state Aisha Atiku said: "If our operatives (religious police) arrest prostitutes, we normally give them an option to marry. If they agree we will include them. (In the mass wedding). But if they disagree, we cannot force them (Mass wedding to promote Islamic Society in Nigeria).

Islam as a comprehensive way of life encompasses a complete moral system that is an important aspect of its world view (we live in an age where good and evil are often looked at as relative concepts) Islam enjoins moral behaviour in all circumstances, even during the trying period of divorce. Allah is aware of each one. The love and continuous awareness of Allah enables one to be moral in conduct and sincere in intention with devotion and dedication. Allah says:

Say: The things that my Lord hath indeed forbidden are: shameful deeds whether open or secret; sins and trespasses against truth or reason assigning of partners to God, for which he hath given no authority; and saying things about God of which ye have no knowledge (Q7:33).

## 7.5 Psychological trauma

Marriages are very difficult to end and everyone goes through a period of emotional transition. This is so because of the loss and fear of the unknown. However, mediation allows each individual to take some degree of control over their lives. It also helps to make sense of the ambivalent and upsetting feelings that are prevented. That is why Islam stipulates that in case of disagreement the relatives of both couples should mediate to find a lasting solution.

## 7.6 Poor performance in her life activities

Liman laments that, the divorced woman may have difficulty in concentrating on her task as she is lost in a world of feelings. She is full of feelings such as, absence of her children where she is deprived of their custody. Such feelings and others do not allow her to perform well in her other activities.

## 7.7 Difficulty in remarrying

Some divorce women find it very difficult to marry again. This observation was made by Gero. According to him, she is sometimes accused of being impatient with her former husband, being disrespectful; having immoral behaviour etc. on the other hand the woman herself may express her experiences in her previous marital life with the fear that she may encounter such problem in another marriage. These and many others discourage the woman from getting married easily.

## 7.8 Sexual immorality

Some divorce woman indulged in sexual immorality. For instance, the Kano state government recently disqualified 35 women from the mass wedding exercise, as 19 women were tested positive for HIV and 16 were pregnant. Before then 25 were also disqualified for similar reasons. (Adelakun sex and control).

## 8.0 Conclusion

The family life is a life of commitment into one another. The uncommitted and irresponsible man or woman cannot raise or maintain the home. Both of them must be committed to loving their children, helping and developing them in a right manner to become the best in the society at large. By the time majority of the homes does this, the society, will be free from pollution and will be properly represented and given a better place in the world at large. The Government should sponsor Scholars to carry out more studies in this area in other to find a lasting solution to divorce and should also device a means of uniting the divorcees where it is not an irrevocable divorce, so that Nigeria as a country will be emulated and set as a standard for other countries to evaluate their marriage performance. In addition, couples should be admonished to solve marital challenges and not see divorce as a solution. However, should in case all resolutions fail and dissolution becomes the order of the day, couples should come together to think of their children's welfare.

Hence, the paper reveals that Islam abhors divorce and encourages marriage. The paper examined some decided cases of divorce in the *Shari'ah* courts in Northern Nigeria. This shows that some women in Northern Nigeria seek dispensation of justice through the judiciary, while many others do not. The study also shows that many factors are responsible for the rampant divorce in Northern Nigeria. These include among other things, lack of proper Islamic knowledge, hard heartedness, inability of husbands to maintain the homes, to mention but few. The paper discussed some of the negative effects of divorce on the Muslim women in Northern Nigeria such as economic hardship, psychological trauma, poor performance in her life activities, immoral behaviour etc. the paper brings to lime light the position of Islam on these negative practices.

## 9.0 Recommendations

To address the problems and challenges of divorce in Northern Nigeria, the following suggestions are proffered towards an effective application of *Shari'ah* provisions for the Muslim women after divorce.

1. There is an old adage that says “*Darajar mace dakin Mijinta*” (i.e A woman’s worth is in her husband’s home), this drives the desire that every woman of marriageable age should get married and try as much as possible to keep the marriage.
2. Awareness and enlightenment campaign should be extended to family and community leaders within the Muslim communities who played the vital role of mediation and arbitration in family disputes.
3. Islamic procedures for divorce and reconciliation should be strictly adhered to. Ruling concerning divorce, reconciliation are found in the Qur’an, for instance Q65:1, Q4:3 and Q65:2. They are aimed at reducing the rate of divorce and spousal abuse.
4. In addition, committee should be set up by the government to conduct research on the rampant cases of divorce in order to come up with ways through which divorce can be minimized if not totally eradicated.
5. Furthermore, the women should be given their post-divorce entitlement. The practice of throwing them out of their houses during Iddah should be stopped.
6. All other rights associated with them should be given to them in order not to cause any hardship on them even after Iddah.
7. She should also be given custody of her children as she is best entitled to them and nobody can replace her motherly affection (Q2:233).
8. Ulama should counsel the couple before marriage and after.
9. As divorce can harm all concerned, both husband and wife need to build on patient and prayer for Allah to help them.

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List of interviews				
S/N	Name	Work	Age	Date
1	Mama Binta	House Wife	45	15/12/2015
2	Idris Yahaya	Lecturer Azare College of Education, No. E27 Azare Bauchi State Senior Staff Quarters	Adult	17/12/2015
3	Shehu Katagumm	Musa Civil Servant Jaram Street, Angwan Dan Kano, Azare	53	20/12/2015
4	Fatima Kande	House Wife Kano Street, Makarahuta, Azare, Bauchi State	35	22/12/2015
5	Maimuna Umar	Civil Servant Azare Bauchi State	42	24/12/2015
6	Ummi Muhammad	Business Woman, Nasarawa Ward Azare	38	26/12/2015
7	Aisha Sulaiman	House Wife No. 27 Baraje Street, GRA Azare Bauchi State	38	28/12/2015
8	Fatima Musa	Divorcee Baba Lele Street Mitsango Azare Bauchi State	25	29/12/2015
9	Kabiru Nagogo	Teacher, Islamic Orientation Secondary School, Tashar Gadau Azare	Adult	30/12/2015
10	Kulu Adamu	House wife Darna Tsoluwa illela Sokoto	38	31/12/2015
11	Yusuf Umar	Famer illela Sokoto	43	1/1/2016
12	Abu Manager	Divorcee Asare village, Sokoto	40	3/1/2016
13	Hawawu.S. Rafi-Anka	Divorcee Asare village, Sokoto	Adult	5/1/2016
14	Muhammad Abubakar Gumi	Former deputy speaker, Zamfara State House of Assembly.	Adult	8/1/2016
15	Abdur-Rahim Muhammad Sanusi	Lecturer, Aba-Bukar Ibrahim, Damaturu, Yobe State.	Adult	11/1/2016
16	Liman Hassan Sa’adatu	Deputy Vice Chancellor Academics, Nasarawa State University, Keffi	Adult	13/1/2016
17	Gero Ahmad Abubakar M.Usman ESQ	Lecturer, University of Abuja Lawyer, Mamman Maiyaki & Co (Munatare) Chambers, No 38 Nouakchott Street, off Obasanjo Way, Wuse Zone 1 Abuja	Adult	15/1/2016
18	Railwatu Garba	Divorcee in Sokoto	Adult	30/1/2016