

An Assessment of Independent Shari'a Panel (ISP) and Its Roles in Resolving Marital Conflicts in Osun State of Nigeria

Tijani Abdul-Lateef Aremu,¹ Musa-Jeje Ibrahim Aladire,^{1*} Alimi Lawal Sikiru²

¹Federal University of Kashere, Gombe State - Nigeria, ²Federal College of Education, Iwo, Osun State - Nigeria

*Corresponding author. Email: jejeibrahim4real@gmail.com

Abstract

Every relationship, including marriage, is prone to conflict. There have been many solutions offered in dealing with this problem. The Independent Shari'a Panel (ISP) in Osun State, Nigeria, is a panel that plays a role in resolving marital conflicts in Osun State. This article aims at describing the family conflict resolution program in Osun State. This article is a result of the study employing both quantitative and qualitative methods. The data gathered were from the field involving the interviews. This article reveals that marital conflict in Osun State is rampant and tends to increase yearly. This study also identified that the Independent Shari'a Panel has served as a credible alternative mechanism, resulting in the resolution of many marital conflicts in this state. This research recommends that the Independent Shari'a Panel initiates a strong orientation program for young people on successful marriages, the consequences of marital discord, and how to resolve the issues.

Keywords: Independent Shari'a Panel; marital conflict; conflict resolution; *shulh*

□

Setiap hubungan, termasuk pernikahan, rentan perselisihan. Sudah banyak solusi yang ditawarkan dalam mengatasi masalah ini. *Independent Shari'a Panel* di negara bagian Osun, Nigeria, merupakan panel yang berperan dalam penyelesaian konflik perkawinan di negara bagian Osun. Artikel ini menggambarkan program resolusi konflik keluarga di negara bagian Osun. Artikel ini merupakan hasil studi dengan metode kuantitatif dan kualitatif. Adapun data didapatkan dari data lapangan termasuk wawancara. Artikel ini menemukan bahwa konflik perkawinan di negara bagian Osun merajalela dan cenderung meningkat setiap tahunnya. Kajian ini juga mengidentifikasi bahwa *Independent Shari'a Panel* telah berfungsi sebagai mekanisme alternatif yang kredibel, yang menghasilkan penyelesaian banyak konflik perkawinan di negara tersebut. Penelitian ini merekomendasikan agar *Independent Shari'a Panel* memprakarsai program orientasi yang kuat bagi kaum muda tentang pernikahan yang sukses, konsekuensi dari perselisihan pernikahan, dan cara terbaik untuk menyelesaikannya.

Kata Kunci: *Independent Shari'a Panel*; perkawinan; solusi konflik; *shulh*

Introduction

Marital relationships are usually planned to be harmonious and to last forever, but the reality is that many such relationships do not continue as intended.¹ Most marriages experience disputes due to different expectations and hopes, some of which might be fulfilled while others remain unfulfilled.² Marital relationships are much more vulnerable to conflict because both husband and wife have a great deal of shared intimacy and interdependence.³ Two people cannot be emotionally close without some inherent differences, which leads to anxiety. Feelings of fear, anger, frustration, or disappointment characterize this anxiety. Also, the fact that the couples have differences of opinions, values, needs, desires, aspirations, background, and upbringing, cohesion among teams can generate friction and criticism, which, if not properly managed, often lead to violence, conflict, serious disagreement, and separation of the couples or divorce.

It is generally believed that conflict is natural and inevitable in marriages.⁴ Marital conflict is a “make you or break you” phenomenon.⁵ Also, it can destroy a couple and land them in a heartbreaking divorce. Adetunji⁶ noted that despite the many benefits of marriage, these noble goals sometimes do not materialize. It is due to the couple's inability to manage their views. As a result, they may become disappointed and have problems with their marriage.

¹ Elizabeth M. Lawrence et al, 'Marital Happiness, Marital Status, Health, and Longevity', *Journal of Happiness Studies* 20, no. 5 (2019): 1539–61, <https://doi.org/10.1007/S10902-018-0009-9>.

² A. Kamaldeen, "The Roles of Imams as Marital Conflicts Mediator in Ilorin Metropolis" (University of Ilorin, 2018).

³ Patrícia Scheeren et al, 'Marital Quality and Attachment: The Mediator Role of Conflict Resolution Styles', *Paidéia (Ribeirão Preto)* 24, no. 58 (2014): 177–86, <https://doi.org/10.1590/1982-43272458201405>.

⁴ Abelnah Shemaye Tasew and Koye Kassa Getahun, 'Marital Conflict Among Couples: The Case of Durbete Town, Amhara Region, Ethiopia', *Cogent Psychology* 8, no. 1 (2021): 2, <https://doi.org/10.1080/23311908.2021.1903127>.

⁵ Heather L. Storer, Maria Rodriguez, and Roxanne Franklin, "“Leaving Was a Process, Not an Event”: The Lived Experience of Dating and Domestic Violence in 140 Characters", *Journal of Interpersonal Violence* 36, no. 11–12 (2021): NP6553–80, <https://doi.org/10.1177/0886260518816325/format/epub>.

⁶ H Adetunji, 'Conflicts and Stress in Marital Life of Literate Married Adults in Kwara State' (University of Ilorin, 2011), 18–40.

Similarly, Al-Hassan, Tolorunleke,⁷ Odebode,⁸ and Harsari⁹ noted that marriage involves conflicts, as only one person can live together for years without clashing unless one has always decided to give in. Despite this condition, conflict may still exist in their relationship. Misunderstandings occur between husbands and wives for several reasons: the wife is disobedient to her husband, the husband is not responsible for the family, financial problems, infertility, inheritance disputes, and so on.

Many conflict resolution mechanisms are being implemented from the secular and religious dimensions. From the temporal dimension are the normal litigations in conventional courts between husbands and wives, which relate to outright divorce, seeking custody of the children, or seeking the right of inheritance by both parties.¹⁰ There are also the customary courts of the jurisdiction whose responsibilities are to resolve the family dispute or any matter like stealing, corruption, assault, fighting, and breach of peace, among others.¹¹ There are also Sharī'a Panels operated in some States in Nigeria, such as Oyo, Lagos, and Osun.¹² The specific role of the Sharī'a Panel in this

⁷ Caroline Aduke Tolorunleke, 'Causes Of Marital Conflicts amongst Couples in Nigeria: Implication for Counselling Psychologists', *Procedia-Social and Behavioral Sciences* 140 (2014): 21–26, <https://doi.org/10.1016/j.sbspro.2014.04.381>.

⁸ Aminat Adeola Odebode, 'Marital Stress among Working-Class Women in Kwara State, Nigeria: Implications for Counselling Practice', *Canadian Journal of Family and Youth / Le Journal Canadien de Famille et de La Jeunesse* 11, no. 1 (2019): 20–40, <https://doi.org/10.29173/CJFY29410>.

⁹ Riski Januar Tri Harsari, 'A Perspective of Husband and Wife Roles in Long-Distance Marriage', in *5th ASEAN Conference on Psychology, Counselling, and Humanities (ACPCH 2019)*, vol. 395 (Atlantis Press, 2020), 268–71, <https://doi.org/10.2991/assehr.k.200120.056>.

¹⁰ Chungang Miao, 'Family Dispute Resolution from the Perspective of Comparative Law', *Asian Social Science* 14, no. 8 (2018): 153–57, <https://doi.org/10.5539/ass.v14n8p153>.

¹¹ Titus Kehinde Adekunle, 'The Role of Customary Arbitration in the Resolution of Disputes among Nigerian Indigenous Communities', *Journal of Advocacy, Research and Education* 4, no. 3 (2015): 175–83, http://www.kadintnet/journals_n/1451479129.pdf; Jamiu Muhammad Busari, 'Sharī'a as Customary Law? An Analytical Assessment from the Nigerian Constitution and Judicial Precedents', *Ahkam: Jurnal Ilmu Syariah* 21, no. 1 (2021): 25–44, <https://doi.org/10.15408/ajis.V21I1.18815>; Igwe Onyebuchi Igwe, Kevin Onwuka Udude, and Ogah Chinyere Constance, 'A Review of Continuous Relevance of the Traditional Methods of Dispute Resolution Mechanism in Southeast of Nigeria', *Beijing Law Review* 11, no. 1 (2020): 34–42, <https://doi.org/10.4236/blr.2020.111003>.

¹² Abdul Fatah Kola Makinde, 'The Evolution of the Independent Sharī'a Panel in Osun State, South-West Nigeria', in *Sharī'a in Africa Today*, ed. John Chesworth and Franz Kogelmann, vol. 15 (Leiden: Brill, 2014), 71–101, https://doi.org/10.1163/9789004262126_005; Abdul-Fatah Makinde Kola and Makinde Philip Ostien, 'The Independent Sharia Panel of Lagos State', *Emory International Law Review* 25, no. 2 (2011): 921–44, <https://scholarlycommons.law.emory.edu/eilr/vol25/iss2/8>;

dimension is to manage conflicts among couples and teach them the principles of Sharī'a that guide marriage, the wife's rights, and the husband's responsibilities. This article aims at describing the family conflict resolution program in Osun State, Nigeria. This study identified that the Sharī'a Panel has served as a credible alternative mechanism, resulting in the resolution of many marital conflicts in this state. This study also recommends that the Panel embarks on vigorous orientation programs for youths on requirements of successful marriage, consequences of marital disputes and the best means of resolving them. This article is a result of the study employing both quantitative and qualitative methods. The data gathered were from field interviews involving the interviews.

Islamic Mechanisms for Conflict Resolution

From a religious dimension, the method of resolving conflict in Islam is called *ṣulḥ*, which means reconciliation or conciliation. In Islam, *ṣulḥ* is resolving disputes through alternative means called Alternative Dispute Resolution (ADR) rather than going to court. Such a process includes negotiation, compromise, mediation (*wasāṭah*), arbitration (*tahkīm*), *Fatwa* of Mufti (expert determination), and several other methods that could bring about resolving the conflicts.¹³

ADR is a popular aspect of the Islamic Legal system. Like other Islamic law principles, it originates from the Qur'an and is supplemented by the Ḥadīth and *ijmā'* (the consensus of Muslim jurists). The basis of *ṣulḥ* is sourced from many verses of the Qur'an:

Habibat Oladosu-Uthman, 'The Contributions of Independent Sharī'ah Panel (ISP) in Curbing Incidences of Divorce (*Talāq*) Practices among Muslims in Ibadan, Southwestern Nigeria', *Ibadan Journal of Humanistic Studies* 30, no. 1 (2021): 156–73, <https://www.ajol.info/index.php/ibjhs/article/view/208974>.

¹³ D Serrano, 'Bringing Arbitration (*Tahkīm*) and Conciliation (*Sulḥ*) Under the Qadi's Purview in Maliki Al-Andalus (10th to 12th Centuries C.E.)', *Revue Des Mondes Musulmans et de La Mediterranee*, 2016, <https://doi.org/10.4000/remmm.9623>; Ramizah Wan Muhammad, 'The Theory and Practice of *Ṣulḥ* (Mediation) in the Malaysian Shariah Courts', *IJUM Law Journal* 16, no. 1 (2008): 33–50, <https://doi.org/10.31436/ijumlj.v16i1.42>; Olufadi Lanre Abdul Malik and Farah Salwani Binti Muda, 'The Concept of Reconciliation (*Sulḥ*) in Islamic Family Law and Matrimonial Dispute Settlement Practice in Nigeria', *Peak Journal of Social Sciences and Humanities* 3, no. 1 (2015): 1–7; Aida Othman, "'And Amicable Settlement Is Best': *Ṣulḥ* and Dispute Resolution in Islamic Law', *Arab Law Quarterly* 21, no. 1 (2007): 64–90, <https://www.jstor.org/stable/27650573>.

وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا^ص فَإِنْ بَعَثَ إِحْدَاهُمَا عَلَى الْأُخْرَى فَقَاتِلُوا الَّتِي تَبْغِي حَتَّى تَفِيءَ إِلَى أَمْرِ اللَّهِ^ج فَإِنْ فَأَتْ فَأَصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا^ص إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ ﴿٩﴾ إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلِحُوا بَيْنَ أَخَوَيْكُمْ^ج وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُرْحَمُونَ ﴿١٠﴾

“If two parties of the believers happen to fight, make peace between them. But then, if one of them transgresses against the other, fight the one that breaks until it reverts to Allah's command. And if it does revert, make peace between them with justice, and be equitable for Allah loves the equitable. The believers are but one brotherhood, so make peace between your brothers. And be mindful of Allah so you may be shown mercy.” (QS. al-Hujurat [49]: 9-10).

The two verses strongly advocate amicable dispute settlement among two warring parties and the essential aspect of doing that justly. Several other verses of the Qur'an also explain *ṣulḥ* (reconciliation) in Islam. These include:

وَإِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُوزًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا^ج وَالصُّلْحُ خَيْرٌ^ق وَأُحْضِرَتِ الْأَنْفُسُ الشُّحَّ^ج وَإِنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا ﴿١٢٨﴾

“If a woman fears indifference or neglect from her husband, there is no blame on either of them if they seek ‘fair’ settlement, which is best. Humans are ever inclined to selfishness. But, if you are gracious and mindful ‘of Allah’, Allah is All-Aware of what you do.” (QS. al-Nisā’ [4]: 128).

The Prophet prefers dispute resolution over prayer (*ṣalah*), *ṣadaqah* and *zakat* (charity and almsgiving), and fasting. He says:¹⁴

The Prophet said: “Shall I not inform you of something more excellent in degree than fasting, prayer and almsgiving (*sadaqah*)?” The people replied: “Yes, Prophet of Allah!” He said: “It is putting things right between people; spoiling them is the shaver (destructive).”

¹⁴ al-Muttaqī al-Hindī, *Kanz al-Ummal fi Sunan al-Aqwāl wa al-Af’āl* (Beirut: Mawsū’ah al-Risālah, 1985), vols III; 58.

Another mechanism put in place by Islam to settle marital disputes is *tahkīm* (arbitration).¹⁵ *Tahkīm* was practiced to resolve various types of civil and commercial disputes before the arrival of Islam. He then gets legitimacy from the Qur'an to resolve any marital conflicts. This agreement appears in several verses related to *tahkīm*.

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا
يُوقِفِ اللَّهُ بَيْنَهُمَا^ق إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا ﴿٣٥﴾

“If you anticipate a split between them, appoint a mediator from his family and another from hers. If they desire reconciliation, Allah will restore harmony between them. Indeed Allah is All-Knowing, All-Aware.” (QS. al-Nisā' [4]: 35).

Haroon also noticed that the Prophet of Islam recognized arbitration. In one reported case, he appointed an arbitrator and also advised the tribe of Bani Qarnata to have a dispute arbitrated. The Institute of *Muhtasib Ombudsman* is as old as Islam itself. In Islamic law, *Muhtasib* is equivalent to Ombudsman, whose functions include account-taking in markets, honesty in trade and commerce, and mainly his functions are dispute avoidance and dispute resolution.¹⁶ The concept of *Muhtasib* can be traced to various verses of the Qur'an. One such verse is:

وَلْتَكُنْ مِّنكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ
وَأُولَئِكَ هُمُ الْمُفْلِحُونَ ﴿١٠٤﴾

“Let there be a group among you who call ‘others’ to goodness, encourage what is good, and forbid what is evil—they will be successful.” (QS. Ali ‘Imrān [3]: 104).

¹⁵ Mahdi Zahraa and Nora A. Hak, ‘*Tahkīm* (Arbitration) in Islamic Law within the Context of Family Disputes’, *Arab Law Quarterly* 20, no. 1 (2006): 2–42, <https://www.jstor.org/stable/27650536>; Md. Shahadat Hossain, ‘Arbitration in Islamic Law for the Treatment of Civil and Criminal Cases: An Analytical Overview’, *Journal of Philosophy, Culture and Religion* 1 (2013): 1–13, <https://www.iiste.org/journals/index.php/jpcr/article/view/9231>.

¹⁶ Idris Abdullahi Haroon, ‘The Use of Alternative Dispute Resolution (*Sulh*) in Sharia Cases’ (Wuse, Abuja, 2017), https://njj.gov.ng/images/Workshop_Papers/2017/Area_Sharia_Customary_Judges/s4.pdf.

The Prophet appointed Sa'ad ibn al-'Āṣ Ibn Umayyah as *Muhtasib* of Makkah and 'Umar ibn al-Khaṭṭāb as that of Medina.¹⁷

Another mechanism put in place by Islam to resolve a marital dispute is *wasāṭah* (mediation).¹⁸ As for mediation as a means of conciliation, the Qur'an says:

وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا
يُوفِّقِ اللَّهُ بَيْنَهُمَا ^{قُلْ} إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا ﴿٣٥﴾

"If you anticipate a split between them, appoint a mediator from his family and another from hers. If they desire reconciliation, Allah will restore harmony between them. Indeed Allah is All-Knowing, All-Aware." (QS. al-Nisā' [4]: 35).

Olorunoje also noticed several incidences in the life of the Prophet that indicate evidence of mediation in Islamic law. An instance, the Prophet remarked about the prisoners of the battle of *Badr*; "If *Muṭ'am Ibn 'Adī* was alive and intercedes to free these prisoners, I will do it for him." The Prophet was willing to do such favour to *Muṭ'am Ibn 'Adī*, despite being a polytheist (*Mushrik*), because *Muṭ'am* had interceded for him to enter Makkah. Furthermore, he was among the prominent mediators in ending the economic ostracism imposed on Muslims and the tribe of Banī Hāshim by the tribe of Makkah four years before Hijrah.¹⁹ On this basis, the ISP, under the shade of the Osun State Muslim community, geared up to adopt ADR methods to settle and resolve marital conflicts in Osun State.

Even though Islam has become widely practiced in many areas in Osun State presently, it was discovered that before the introduction of *the Shari'ah* Panel in the area, the practice of Islamic law had been relegated to mere observance of

¹⁷ Cengiz Kallek, 'Socio-Political-Economic Sovereignty and the Market of Medina', *International Journal of Economics, Management and Accounting* 4, no. 1&2 (1996): 1-14, <https://journals.iium.edu.my/enjournal/index.php/enmj/article/view/25>.

¹⁸ Ratno Lukito, 'Religious ADR: Mediation in Islamic Family Law Tradition', *Al-Jami'ah* 44, no. 2 (2006): 325-46, <https://doi.org/10.14421/ajis.2006.44.2.325-346>; Sayed Sikander Shah, 'Mediation in Marital Discord in Islamic Law: Legislative Foundation and Contemporary Application', *Arab Law Quarterly* 23, no. 3 (2009): 329-46, <https://www.jstor.org/stable/40604748>.

¹⁹ H.M. Olorunoje, 'An Appraisal of Ṣulḥ (Reconciliation) in Resolving Marital Dispute among Muslims in Ilorin South Local Government Area, Kwara State, Nigeria' (University of Ilorin, 2017).

daily and ceremonial rituals. Local cases like marital issues, two people fighting, etc., were taken to the palace for judgment by the king and the chiefs. Later, claims were handled by Imams and Alkali before the customary court was fully established. Thus, during this period, Muslim marriages conducted under Islamic principles were often dissolved through means other than Islamic injunctions. The *Syariah* Panel aims to handle marital issues through Islamic teachings.²⁰

Historical Background of Independent Shari'a Panel (ISP) of Osun State

It was reported that on January 30, 2000, the Osun State chapter of NACOMYO organized a State Symposium on Shari'a tagged: "Constitutionality of Shari'a Problems and Prospects in Application." The symposium was attended by erudite Islamic scholars and influential Muslim personalities in and outside the state. During that time, Muslims in the State agitated to have an ISP to implement the civil aspect of Shari'a. As time passed, the idea to have Shari'a Panel was conceived in 2004. A seven-man committee headed by Alhaji Abdulrahman Olaniyan was set up after that. Other members are Dr. Abdul Rasaq Olamakinde, Imam Raji M.O, Sheikh Salahudeen Sulaiman, Sheikh Muhibullah Muhammad Jamiu, Zakariyyah Sanusi, and Yunus Ibrahim. The committee was set up and charged with the responsibility of the State's ability to have an ISP. The Panel also looked into how Muslims in the State would accept it if it was eventually established. In the discharge of its functions, the committee saw it as a primary duty to sensitize the Muslims in the State to the all-encompassing nature of the shari'a. The committee then sensitized people through many seminars and workshops, sensitization print and electronic media, flyers, and treatise pre-sitting *da'wah*, among others. In one of the series of meetings held at Ede in Sheikh Salahudeen Olayiwola's residence on December 25, 2004, he was President of the Osun State Muslim Community. At the meeting, Sheikh Abdul-Rahman Olaniyan was chosen as the Pioneer Chairman of the Shari'a Panel, and Dr Makinde was selected as the Panel's vice chairman. At the same time, Imam Musa Raji was appointed as the panel secretary.²¹

²⁰ Makinde, 'The Evolution of the Independent Shari'a Panel in Osun State, South-West Nigeria'.

²¹ Kola and Ostien, 'The Independent Sharia Panel of Lagos State', 823; Makinde, 'The Evolution of the Independent Shari'a Panel in Osun State, South-West Nigeria', 80.

This committee held a series of meetings and gave the entire house the outcome of the meeting. It continued until Sunday, April 23, 2006, when the ISP was formally inaugurated at the Central Mosque Oja-Oba, Osogbo, by the then Chief Imam, Sheikh Mustapha Ajisafe. Many eminent scholars, government functionaries, and politicians graced the occasion. Also, on that day, two members named Sheikh Abdul Ganiyu Olagunju and Sheikh Rabi'u Salahudeen were inaugurated to serve on the Panel.²²

Operation of Independent Shari'a Panel (ISP) and its Personnel

The Osun State Muslim Community (OSMC) has been managing the ISP of Osun State since its establishment in 2006.²³ The Central Mosque Osogbo was used to hear cases before it finally moved to the OSMC secretariat complex located at Surulere area, West bye-pass, Osogbo. The complex has a main hall for events and a shari'a court sitting with witness boxes and other court paraphernalia. There are also conference rooms for meetings, a women's affairs room, a shari'a office, a library, a foreign affairs room, and Information and Communication Technology room (ICT) mainly dedicated to the proposed Islamic online university contact centre.

The Panel has twelve judges and is split into three divisions. Four judges simultaneously sit to hear the cases at their various locations in the secretariat. Also, there is a Registrar and court clerk whose work is to commit the judgment to write, and the written judgment is kept as records of court proceedings. Sessions are held once a month. The first Thursday of every month is chosen to hear cases from 10 am to 1:30 pm. Also, every third Thursday of every month is selected to review the issues from different Panels for others to have input and to decide which cases are to be considered in the next sitting.

As part of the requirements to appear before the Panel, the complainants must obtain and fill out a form stating their claims and pay a token of #500 for the record. Before the trial begins, the defendant must receive his complaint. He was then summoned to appear before the date set by the complainant. The respondent may or may not occur. The Panel shall not have the right to compel anyone to appear as a party or as a witness.

²² Makinde, 'The Evolution of the Independent Shari'a Panel in Osun State, South-West Nigeria', 79.

²³ 'How Shari'ah Court Is Helping Muslim Faithful Get Justice in Osun', Daily Trust, February 3 2021, <https://dailytrust.com/how-shariah-court-is-helping-muslim-faithful-get-justice-in-osun/>.

Given the legal backgrounds of its judges, twelve judges were chosen based on their academic and professional credentials, integrity, and the virtuous character they displayed as active members of various Islamic groups. Apart from the fact that all the panel members are university graduates, four are PhD holders in different fields, while three obtained a degree in Shari'ah and common law. Also, four members of the panel are master's degree holders in arabic and Islamic jurisprudence, while most of the staff above studied abroad. Members constituting the panel are well experienced, as they had visited neighbouring states like Oyo and Lagos States to learn from their experience. Apart from this, the Shari'ah Panel invited Justice Toyin Yusuf from Kwara State to train and sensitize the members through a workshop.

The ISP in Osun State is open to civil cases such as marital issues, Imamship tussles, debt recovery (Muslim cooperative), inheritance, *ḥadānah* (child custody) land matters, and divorce cases, among other things. It was reported that the Panel opens about fifteen marital possibilities filed in a month. In terms of remuneration, information gathered shows that initially, there was none. In other words, the judges were doing it *fi-sabīlillāh* (in the cause of Allah), but now they receive stipends for transportation at every sitting.²⁴

Methods Applied by Independent Shari'ah Panel (ISP) for Resolving Marital Conflicts

The Shari'ah Panel adopts *the ṣulḥ* method in resolving marital conflict among couples in Osun State. The concept of *ṣulḥ* as an alternative dispute resolution in the shari'ah means a contract that is concluded by two parties under which each party waves part of his right to reach a mutual and final resolution of a conflict.²⁵

Since the basis of the *ṣulḥ* is sourced from many verses of the Qur'an. The Prophet and his disciples practised it. The Panel adopted this method to settle and resolve marital issues among the couples. If this method did not yield any positive result, the Panel would eventually separate the union by divorce. Positive achievement of an amicable dispute settlement requires at least the efforts of some responsible personalities whose participation in resolving

²⁴ 'Shari'ah Court Handles 383 Cases in Osun', Universal Reporters, June 29 2022, <https://universalreportersng.com/shariah-court-handles-383-cases-in-osun/>.

²⁵ Haroon, 'The Use of Alternative Dispute Resolution (*Ṣulḥ*) in Sharia Cases'.

marital conflict helps bring positive results. Such persons may include, among others, the litigants themselves, religious leaders, sharī'a court judges, lawyers, family members, and ISP as independent sharī'a third party intervenes either as mediators or agents, they play a vital role in assisting the disputants in arriving at a mutually acceptable solution and avoiding the hardships associated with attending court and undergoing the rigours of trial.

The Sharī'a Panel serves as a mediator among the couples and helps them to resolve their matters in a way that will be acceptable to both parties. They preach and share many experiences with them that will help them in their relationship.

In addition, they minimize the taking of most marriages being conducted in Islamic ways to customary court. Considering the number of cases being resolved by this Panel, it is apparent through the information gathered that the number of patients that have been resolved and withdrawn increases annually. It is presented in Table 1 and illustrated as a bar chart in Figure 1.

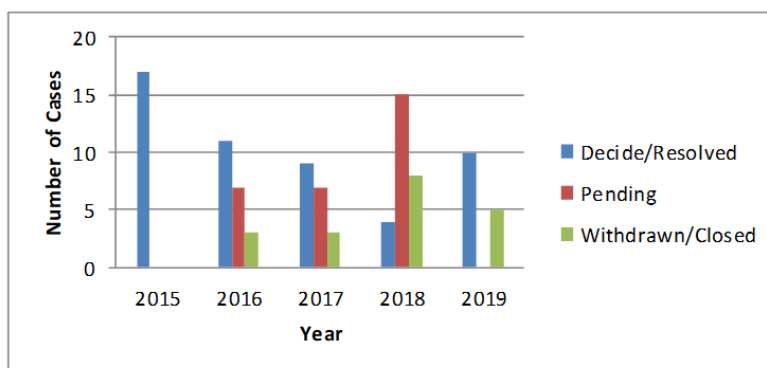
As shown in Figure 1, the number of cases decided in 2015 was seventeen (17). Also, there were neither pending nor withdrawn cases that year. The activities of the *Sharia* Panel in 2016 showed that twenty-one claims had been handled and eleven issues had been resolved. The number of pending cases in 2016 stood at seven (7), while the Panel withdrew three points from further discussion. Based on the inquiries made by the Registrar of the Panel, those cases drawn were a result of the intervention of the Sharī'a Panel to resolve the issue between the warring parties before logging it officially by the Panel. In 2017, nineteen (19) cases were attended to, out of which nine (9) were resolved, seven (7) points remained pending, while the couples withdrew three (3) cases before they were officially documented.

It was also discovered that the number of cases in 2018 rose to twenty-seven (27). However, the number of pending issues that year was fifteen (15). According to the Registrar of the Panel, the increase in cases in 2018 was due to the many delayed problems in 2017. In addition, many cases arrived at the end of 2017, so they could only be resolved in 2018. It was also reported that some Panelists were suspended from hearing cases this time due to the internal crises facing the Panel, and only a few members on the ground were hearing cases during this time.

Table 1
 Details of the number of cases from 2015-2019

Year	Decided/ resolved	Pending	Withdrawn/closed	Total
2015	17	0	0	17
2016	11	7	3	21
2017	9	7	3	19
2018	4	15	8	27
2019	10	0	5	15

Figure 1
 Number of cases per year from 2015 -2019



Interestingly, the number of withdrawal cases that year rose to eight (8). The findings indicate that the plaintiffs dismissed the claims. The reason is they will settle it amicably. Consequently, the case was removed from the Panel's record. As of September 2019, the number of marital issues brought to the Panel's attention was fifteen (15), out of which ten (10), as analyzed in the above table, were decided. The remaining five were withdrawn from the discussion due to interference from the Panel secretary. There are pending cases recorded so far, indicating that the Panelists are doing the assignment effectively.

Causes of Marital Conflicts between Husband and Wife in Osun State

Undoubtedly, the Shari'ah Panel of Osun State has resolved many marital conflicts. There are many instances of voluntary withdrawal of matrimonial conflict cases from the court for the attention of the Independent Sharī'a Panelist to mediate. According to information from the Secretary of the Panel, as of 24 April 2008, several marital conflicts have been successfully resolved. However, some cases that the Panel could not settle were dissolved by the Panel.²⁶ Some of the cases brought to the Panel and the action of the Sharī'a Panel are as presented below:

Case I

Oseni filed against his wife Adeola that she constantly quarrelled and often insulted him and his parents. He further explained that his wife (Adeola) often left his house and stayed elsewhere for two days without permission. The plaintiff (Adeola) reacted to the allegation that they had a little misunderstanding, and he sent her out of his house. She explained that she had begged him. She stated further that her husband did not give her and the children food since he sent her out. Through the intervention of the panellists, the plaintiffs withdrew the case from the Panel. The couple, after it was over, kept in touch amicably.

Case II

The petitioner, Ramatallah Oladimeji (47years), a teacher at Navy Secondary School, Abeokuta, Ogun State, filed, before the registry of the Panel, a petition seeking dissolution of her union with AbdulMajeed Yaqub Oladimeji (55 years). He is a teacher at Air Force Secondary School, Ibadan.

The petitioner (Ramatallah) explained that their marriage was consummated in October 1993 without any malice or misunderstanding. The moment a year passed by after their N.Y.S.C. program, his carefree attitude started toward her and their children. She explained further that their marriage had been filled with misunderstanding and scuffles now and then and that their twenty years old marriage knew no peace. The plaintiff (Ramatallah) told the

²⁶ Kola and Ostien, 'The Independent Sharia Panel of Lagos State'.

panellists that her father used to advise her husband and lend him some ways of dealing with one's wife. She claimed that her husband was never ready to heed that advice. She said there was a day he asked her to come to Ibadan. On getting to Ibadan, she met another woman he claimed to be his wife. In his usual niggardliness, he slept with a co-wife in the same bedroom and on the same bed she was. Another painful incident the petitioner lamented was their child's sickness, who suffered from penile atrophy or penile disorder (a shrinking of male organs). She said the husband neither gave any advice nor any financial assistance; and did not show any concern on the matter.

The defendant (Abdul Majeed) furiously reacted to these allegations though he was not prepared to divorce her. He explained that his wife only deemed it fit once to allow their children to visit him in Ibadan during their holidays. They used to spend their holiday with their maternal aunt in Lagos and part of it with their grandmother in Osogbo. He claimed that her wife was not ready to wash his clothes, and whenever he mentioned this, she reacted furiously by saying that she was not an enslaved person who would run an errand for him at his will.

Based on the plaintiff's evidence and the defendant's attitude, the Panel terminates the relationship between the two. The reason was that the defendant failed to provide a decent life for his family members. Another fact was that he had divorced his wife during the trial when he said, "I am divorcing her as of today."

Case III

Another case was between Khadijat Abdul Ganiyy (petitioner) and Muhammed Qasim Abdul Azeez (respondent) with suit No. OS/ISP/CV/17/152. The petitioner filed an application dated May 4, 2017, against her husband, seeking for dissolution of her union with the respondent. The petitioner's claims against the defendant were that her husband had no stable job. He could not take adequate care of the family; he used to beat her severely to the extent that he once wedged a chair on her head; he was a blatant liar, and that did not relate with her appropriately. The petitioner also stated further that she was fed up with the union. She recalled a particular time she assisted him with #20,000:00 to boost his capital on Prophetic medicine. However, disappointingly, he directed the money to *Aporo Ijebu* (a local herb).

Only the petitioner was present during the hearing on Thursday, January 4, 2018, while the respondent was absent. All efforts made by the Panel to make him appear before the Panel to defend the allegation levelled against him proved abortive. The Panel resolved to deliver the judgment on the case because the case had suffered several adjournments. The Panel eventually dissolved the union between the (Petitioner) Khadijat and the (Respondent) Muhammad Qasim Abdul Azeez on April 5, 2018.

Challenges Faced by the Panel in Discharging its Duties

One of the challenges faced by the Panel is the withdrawal of some staff members from the Panel. Since they had their primary assignment, they had taken the job as secondary. Some were teachers in Arabic schools or colleges, while others were Imams in mosques. Thus, it was easy for them to resign at any time they wished, significantly reducing the number of cases to be considered per month. Among the members that withdrew from the Panel were Sheikh Yunus Ibrahim and Rabiū Salahudeen.

Another challenge was that there needed to be a befitting court to hear cases. The Panel uses the Osun State Muslim Community Secretariat Complex to listen to issues that sometimes used to be very noisy and crowded for many other programs.

Furthermore, the refusal of respondents to appear before the court was another challenge faced by this Panel. Since the Panel, under no circumstance, has the right to compel anybody to appear before the court, this often leads to the adjournment of some cases to some other time, thus causing overlapping claims.

Another challenge was the workforce, as the number of panellists handling cases differs from the number of points. The issue of the pending case would not have come up if more hands could hear the patients at their various locations.

The centralization of the operation of the Sharī'a Panel in the state capital, Osogbo, is another major challenge. Not only had this act hindered a lot of indigent Muslims from patronizing the Panel in resolving one issue or the other due to distance, but it also hampered the movement of the panellists from various locations in the state to the state capital. In order to forestall this challenge and other logistics affecting its operation, the decentralization of the process of the

Panel into the three (3) senatorial districts in Osun State will go a long way in alleviating the suffering of the panellists as well as interested Muslims in order to have access to the Sharī'a Panel. It will also give more awareness of the activities of the Sharī'a Panel to the remote people of Osun State.

Similarly, funding is one of the significant challenges facing the Panel. Undoubtedly, the ISP needed unavoidable running costs to keep it going since the ISP was required to generate its income. The Panel needs money for secretarial maintenance, forms printing, files, court records, and other miscellaneous cost. The inability to finance all of those above may cripple the Panel's assignment. Non-remuneration of the panellists could also affect the task before the Panel in one way or the other. Though members are doing the job *fī-sabīllāh*, a situation whereby a judge decides not to attend a sitting because of his inability to get transportation money may hinder the assignment of the Panel to a great extent.

Prospects of Independent Sharī'a Panel (ISP) in Osun State

Despite the challenges that ISP in Osun State is likely facing, as highlighted above, some prospects suggest that the Panel is still feasible and viable in Osun State. One of the critical success factors that signalled an opportunity for the Panel is the sizeable Muslim population based on the available population census data retrieved from Nigeria's population census. Although the religion of Islam is widely practised in many communities in the State, the dispensation of justice with Sharī'a needs to be given adequate attention. The existence of ISP in Osun State resulted in many marriages and divorces being conducted according to Islamic principles.

During the study, the number of cases handled by panellists increased. There were few overlapping and pending cases like before; this indicates that the Panel, as an alternative dispute resolution, has attended to many points within a short period as against court cases which can take longer. Furthermore, with the high rate of patronage enjoyed by the Sharī'a Panel by Muslims in Osun State, it is expected that any time that the sharī'a court now has criminal cases in which adjudication is established, it will be appropriately handled and managed. In addition, it catalyzes the implementation of a full-fledged sharī'a court in the State.

More so, the existence of the Sharī'a Panel in Osun State will give the government a solid reason to consider the establishment of a sharī'a court that

some Muslims have clamoured for in the state. If this is done, it will positively affect labour employment in the state as more trained personnel will be needed to work in different departments of the sharī'a court.

Finally, since the Islamic adjudication system has safety values for settling disputes among couples and is less interested in the dissolution of marriages, establishing the Sharī'a Panel in the State has gone a long way in reducing the divorce rate among Muslim couples in Osun State. It is necessary to state that many marital cases were brought from far and near. It indicates a more excellent prospect for the Panel shortly, as awareness of such a Panel will get to the broader Muslim communities within and outside the State.

Conclusion

Based on the description above, the Sharī'a Panel's intervention in many marriage cases shows a positive effect. As a result, many issues were removed from the panel discussion. The Sharī'a Panel has served as a credible alternative in resolving lingering crises among couples in Osun State. Disagreements among couples are inevitable. However, it does not always mean that the relationship is at risk. Sometimes such conflict strengthens relationships among the team members. Hence, we conclude that the Panel should immediately resolve disputes in marriage. It should have a certain department to give counsel to intended husbands and wives prior to marriage life. Consequently, it is hoped to reduce the number of rows in marriages to a large extent.[a]

BIBLIOGRAPHY

- Adekunle, Titus Kehinde. 'The Role of Customary Arbitration in the Resolution of Disputes among Nigerian Indigenous Communities'. *Journal of Advocacy, Research and Education* 4, no. 3 (2015): 175-83. http://www.kadint.net/journals_n/1451479129.pdf.
- Adetunji, H. 'Conflicts and Stress in Marital Life of Literate Married Adults in Kwara State'. University of Ilorin, 2011.
- Busari, Jamiu Muhammad. 'Shari'a as Customary Law? An Analytical Assessment from the Nigerian Constitution and Judicial Precedents'.

- Ahkam: Jurnal Ilmu Syariah* 21, no. 1 (2021): 25–44.
<https://doi.org/10.15408/ajis.v21i1.18815>.
- Haroon, Idris Abdullahi. 'The Use of Alternative Dispute Resolution (*Sulh*) in Sharia Cases'. Wuse, Abuja, 2017.
https://nji.gov.ng/images/Workshop_Papers/2017/Area_Sharia_Customary_Judges/s4.pdf.
- Harsari, Riski Januar Tri. 'A Perspective of Husband and Wife Roles in Long-Distance Marriage'. In *5th ASEAN Conference on Psychology, Counselling, and Humanities (ACPOCH 2019)*, 395:268–71. Atlantis Press, 2020.
<https://doi.org/10.2991/assehr.k.200120.056>.
- al-Hindī, al-Muttaqī. *Kanz al-'Ummal fi Sunan al-Aqwāl wa al-Af'āl*. Beirut: Mawsū'ah al-Risālah, 1985.
- Hossain, Md. Shahadat. 'Arbitration in Islamic Law for the Treatment of Civil and Criminal Cases: An Analytical Overview'. *Journal of Philosophy, Culture and Religion* 1 (2013): 1–13.
<https://www.iiste.org/Journals/index.php/jpcr/article/view/9231>.
- 'How Shari'ah Court Is Helping Muslim Faithful Get Justice in Osun'. Daily Trust, February 3 2021. <https://dailytrust.com/how-shariah-court-is-helping-muslim-faithful-get-justice-in-osun/>.
- Igwe, Igwe Onyebuchi, Kevin Onwuka Udude, and Ogah Chinyere Constance. 'A Review of Continuous Relevance of the Traditional Methods of Dispute Resolution Mechanism in Southeast of Nigeria'. *Beijing Law Review* 11, no. 1 (2020): 34–42. <https://doi.org/10.4236/blr.2020.111003>.
- Kallek, Cengiz. 'Socio-Politico-Economic Sovereignty and the Market of Medina'. *International Journal of Economics, Management and Accounting* 4, no. 1&2 (1996): 1–14.
<https://journals.iium.edu.my/enmjournals/index.php/enmj/article/view/25>.
- Kamaldeen, A. 'The Roles of Imams as Marital Conflicts Mediator in Ilorin Metropolis'. University of Ilorin, 2018.
- Kola, Abdul-Fatah Makinde, and Makinde Philip Ostien. 'The Independent Sharia Panel of Lagos State'. *Emory International Law Review* 25, no. 2 (2011): 921–44. <https://scholarlycommons.law.emory.edu/eilr/vol25/iss2/8>.
- Lawrence, Elizabeth M., Richard G. Rogers, Anna Zajacova, and Tim Wadsworth. 'Marital Happiness, Marital Status, Health, and Longevity'. *Journal of Happiness Studies* 20, no. 5 (2019): 1539–61.
<https://doi.org/10.1007/S10902-018-0009-9>.

- Lukito, Ratno. 'Religious ADR: Mediation in Islamic Family Law Tradition'. *Al-Jami'ah* 44, no. 2 (2006): 325–46. <https://doi.org/10.14421/ajis.2006.442.325-346>.
- Makinde, Abdul Fatah Kola. 'The Evolution of the Independent Shari'ah Panel in Osun State, South-West Nigeria'. In *Shari'ah in Africa Today*, edited by John Chesworth and Franz Kogelmann, 15:71–101. Leiden: Brill, 2014. https://doi.org/10.1163/9789004262126_005.
- Malik, Olufadi Lanre Abdul, and Farah Salwani Binti Muda. 'The Concept of Reconciliation (*Ṣulḥ*) in Islamic Family Law and Matrimonial Dispute Settlement Practice in Nigeria'. *Peak Journal of Social Sciences and Humanities* 3, no. 1 (2015): 1–7.
- Miao, Chungang. 'Family Dispute Resolution from the Perspective of Comparative Law'. *Asian Social Science* 14, no. 8 (2018): 153–57. <https://doi.org/10.5539/ass.v14n8p153>.
- Muhammad, Ramizah Wan. 'The Theory and Practice of *Ṣulḥ* (Mediation) in the Malaysian Shariah Courts'. *IJUM Law Journal* 16, no. 1 (2008): 33–50. <https://doi.org/10.31436/iiumlj.v16i1.42>.
- Odebode, Aminat Adeola. 'Marital Stress among Working Class Women in Kwara State, Nigeria: Implications for Counselling Practice'. *Canadian Journal of Family and Youth / Le Journal Canadien de Famille et de La Jeunesse* 11, no. 1 (2019): 20–40. <https://doi.org/10.29173/cjfy29410>.
- Oladosu-Uthman, Habibat. 'The Contributions of Independent Shari'ah Panel (ISP) in Curbing Incidences of Divorce (*Talāq*) Practices among Muslims in Ibadan, Southwestern Nigeria'. *Ibadan Journal of Humanistic Studies* 30, no. 1 (2021): 156–73. <https://www.ajol.info/index.php/ibjhs/article/view/208974>.
- Olorunoje, H.M. 'An Appraisal of *Ṣulḥ* (Reconciliation) in Resolving Marital Dispute among Muslims in Ilorin South Local Government Area, Kwara State, Nigeria'. University of Ilorin, 2017.
- Othman, Aida. "'And Amicable Settlement Is Best': *Ṣulḥ* and Dispute Resolution in Islamic Law'. *Arab Law Quarterly* 21, no. 1 (2007): 64–90. <https://www.jstor.org/stable/27650573>.
- Scheeren, Patrícia, Rebeca Veras De Andrade Vieira, Viviane Ribeiro Goulart, and Adriana Wagner. 'Marital Quality and Attachment: The Mediator Role of Conflict Resolution Styles'. *Paidéia (Ribeirão Preto)* 24, no. 58 (1 May 2014): 177–86. <https://doi.org/10.1590/1982-43272458201405>.
- Serrano, D. 'Bringing Arbitration (Tahkim) and Conciliation (Sulh) Under the Qadi's Purview in Maliki al-Andalus (10th to 12th Centuries C.E.)'. *Revue*

T. A. L. Aremu, M. J. I. Aladire, A. L. Sikiru

Des Mondes Musulmans et de La Mediterranee, 2016.
<https://doi.org/10.4000/remmm.9623>.

Shah, Sayed Sikander. 'Mediation in Marital Discord in Islamic Law: Legislative Foundation and Contemporary Application'. *Arab Law Quarterly* 23, no. 3 (2009): 329–46. <https://www.jstor.org/stable/40604748>.

'Shari'ah Court Handles 383 Cases in Osun'. Universal Reporters, June 29 2022. <https://universalreportersng.com/shariah-court-handles-383-cases-in-osun/>.

Storer, Heather L., Maria Rodriguez, and Roxanne Franklin. "Leaving Was a Process, Not an Event": The Lived Experience of Dating and Domestic Violence in 140 Characters'. *Journal of Interpersonal Violence* 36, no. 11–12 (2021): NP6553–80. <https://doi.org/10.1177/0886260518816325/format/epub>.

Tasew, Abeneh Shemaye, and Koye Kassa Getahun. 'Marital Conflict among Couples: The Case of Durbete Town, Amhara Region, Ethiopia'. *Cogent Psychology* 8, no. 1 (2021): 1–17. <https://doi.org/10.1080/23311908.2021.1903127>.

Tolorunleke, Caroline Aduke. 'Causes of Marital Conflicts amongst Couples in Nigeria: Implication for Counselling Psychologists'. *Procedia-Social and Behavioral Sciences* 140 (2014): 21–26. <https://doi.org/10.1016/j.sbspro.2014.04.381>.

Zahraa, Mahdi, and Nora A. Hak. 'Tahkīm (Arbitration) in Islamic Law within the Context of Family Disputes'. *Arab Law Quarterly* 20, no. 1 (2006): 2–42. <https://www.jstor.org/stable/27650536>.