

## Islamic Law of Inheritance among the Yoruba of Southwest Nigeria: A Case Study of Dar ul-Qadha (Arbitration Panel)

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### Abstract

This article examines the complex aspects of succession law, which deals with the transmission of rights and obligations of individuals who have deceased concerning their inheritance, based on the legal sources adopted by society. Although the Yoruba succession practices rely on three different legal sources (common law, customary law, and Islamic law), Dar ul-Qadha (arbitration panel) disregards the latter legal source. The study aims to analyse the application of Islamic inheritance law in three cases of private legal disputes resolved by Dar ul-Qadha from 2008 to 2013. Adopting a qualitative and interpretative research method, the research findings reveal that guidelines for property distribution in Islamic law are overlooked by Dar ul-Qadha. Mothers are excluded from inheritance, while uncles, cousins, half-brothers, and step-sisters can inherit alongside full brothers. Moreover, personal property is not considered in the distribution. Neglect of Islamic inheritance law is attributed to the dominance of Yoruba social and cultural life, influenced by colonialism, Christianity, and societal ignorance. Therefore, this article argues that the distribution of inheritance through a valid Islamic system will accommodate the extended cultural family of the Yoruba. Recommendations emphasise the importance of adhering to legal requirements under land law.

[Artikel ini meneliti aspek kompleks hukum suksesi, yang menangani transmisi hak dan kewajiban individu yang telah meninggal terkait dengan harta waris mereka, berdasarkan sumber hukum yang diadopsi oleh masyarakat. Meskipun praktik suksesi masyarakat Yoruba bergantung pada tiga sumber hukum yang berbeda (common law, hukum adat dan hukum Islam), Dar ul-Qadha (Dewan Arbitrase), Logos, mengabaikan sumber hukum yang terakhir. Studi ini bertujuan untuk menganalisis penerapan hukum waris Islam dalam tiga perselisihan hukum pribadi yang diselesaikan oleh Dar ul-Qadha dari tahun 2008 hingga 2013. Dengan mengadopsi metode penelitian kualitatif dan interpretatif, temuan penelitian mengungkapkan bahwa panduan distribusi properti dalam hukum Islam diabaikan oleh Dar ul-Qadha. Ibu dikecualikan dari warisan, sementara paman, sepupu, saudara laki-laki dan perempuan tiri dapat mewarisi bersama saudara laki-laki kandung. Selain itu, harta pribadi tidak dipertimbangkan dalam pembagian. Kelalaian terhadap hukum waris Islam ini disebabkan oleh dominasi kehidupan sosial dan budaya masyarakat Yoruba yang dipengaruhi oleh kolonialisme, kekristenan, dan ketidaktahuan masyarakat. Oleh karena itu, artikel ini berargumentasi bahwa pembagian harta peninggalan melalui sistem surat wasiat Islam yang sah dapat mengakomodasi keluarga besar budaya Yoruba. Rekomendasi menekankan pentingnya mematuhi persyaratan hukum dari hukum tanah.]

**Keywords:** Customary Law, Dar ul-Qadha, Inheritance, Islamic Law, Yoruba.



## Introduction

Succession and inheritance are intrinsic concepts within any legal framework. Succession involves the acquisition of rights or property through inheritance, governed by laws of descent and distribution. On the other hand, inheritance specifically pertains to the property received from an ancestor in cases of intestacy.<sup>1</sup> It denotes the passing of property to individuals upon the owner's death.<sup>2</sup> The law of succession intricately deals with transmitting the rights and obligations of the deceased person regarding their estate to heirs and successors. It delineates the order of succession in various legal contexts, and such succession may occur through a testate (with a will) or intestate (without a will) process. Intestacy rules are rooted in customary law.<sup>3</sup>

Nigeria, as a legal landscape, draws from three primary sources of law: common law, Islamic law, and customary law.<sup>4</sup> Customary law, reflecting age-old practices ingrained in specific communities, has given rise to ethnic customary law and Muslim customary law in Nigeria.<sup>5</sup> The Yoruba people, residing in southwest Nigeria, adhere to distinct rules of inheritance shaped by their cultural heritage.<sup>6</sup> Consequently, in 2008, Dar ul-Qadha, an arbitration panel, was established to administer Islamic personal law, including inheritance cases, divorces, and civil matters for Ahmadi Muslims. The objective of Dar ul-Qadha is to oversee legal proceedings, ensure equitable arbitration in disputes, and adhere to Shari'ah principles. Its jurisdiction spans divorce cases initiated by both women (*kebul'*) and men (*talāq*), inheritance disputes, and other civil matters such as child custody, maintenance, and financial transactions.<sup>7</sup> This research seeks to explore the nuances and gaps in the application of Islamic law, specifically in inheritance cases, within the unique cultural and legal context of the Yoruba Muslims in Nigeria.

Numerous scholars have explored the intricacies of Islamic law among the Yoruba people in Nigeria. For instance, Makinde, in his study of the institution of Shari'ah (Islamic law) in Oyo and Osun states from 1890 to 2005, argued that Yoruba Muslims actively engaged with Shari'ah within their mosques, particularly in matters such as marriage, child-naming, funerals, and inheritance.<sup>8</sup> This implies a longstanding presence of Shari'ah practices in Yorubaland preceding the British colonial era. Despite the historical prevalence of Shari'ah in towns like Iwo, Ikirun, Ede, and Epe, the arrival of British colonialists and their

<sup>1</sup> Babatunde Adetunji Oni, "Discriminatory Property Inheritance Rights under the Yoruba and Igbo Customary Law in Nigeria: The Need for Reforms," *IOSR Journal of Humanities and Social Science* 19, no. 2 (2014): 30–43.

<sup>2</sup> T. O. G. Animashaun and A. B. Oyeneyin, *Law of Succession, Wills, and Probate in Nigeria* (Lagos, Nigeria: MIJ Professional Publishers, 2002), 3.

<sup>3</sup> MOTUN911, "Yoruba Law of Succession," *Mo's Blog* (blog), September 13, 2019, <https://motun911.wordpress.com/2019/09/13/yoruba-law-of-succession/>.

<sup>4</sup> A. G. Karibi-Whyte, *History and Sources of Nigerian Criminal Law*, Spectrum Law Series (Ibadan: Spectrum Law Publ, 1993), 58.

<sup>5</sup> See: Akintunde Olusegun Obilade, *The Nigerian Legal System* (Ibadan: Spectrum Books Limited, 1979), 83; Jamiu Muhammad Busari, "Shari'a as Customary Law? An Analytical Assessment from the Nigerian Constitution and Judicial Precedents," *AHKAM: Jurnal Ilmu Syariah* 21, no. 1 (June 30, 2021): 25–44.

<sup>6</sup> T. G. O. Gbadamosi, *The Growth of Islam among the Yoruba, 1841-1908*, Ibadan History Series (London: Longman, 1978), 1.

<sup>7</sup> Dar ul-Qadha, "Dar ul-Qadha Nigeria Civil Procedure Rules" (Lagos: Dar ul-Qadha, 2020), 1.

<sup>8</sup> Abdul-Fatah Kola Makinde, "The Institution of Shari'ah in Oyo and Osun States, Nigeria, 1890-2005" (Ph. D Thesis, Ibadan, University of Ibadan, 2007), 220–21.

manipulation of Shari'ah dealt a blow to its continued practice in Yorubaland. Okunola further emphasised that colonialism, Christianity, and ignorance collectively thwarted the establishment of Islamic courts in the region, leading to the ascendancy of customary law of succession over Islamic law. The Western attitude towards religion further fortified the prevalence of customary law among Yoruba Muslims.<sup>9</sup> In his analysis of Yoruba and Islamic Laws of Inheritance, Sodiq argued that despite the significance of Islamic law to Yoruba Muslims, their daily lives are not thoroughly aligned with Islamic principles, particularly in matters of inheritance.<sup>10</sup> Raifu reiterated the fact that there are no reliable records of the operations of the court, guiding us to understand the type and number of cases brought before the court for judgment, whether civil or criminal and the determination of the cases by the arbiter.<sup>11</sup> In contrast to these theoretical works, this article focuses on the pragmatic application of the Islamic law of inheritance by certain judges at Dar ul-Qadha, providing a novel perspective on the subject.

This article aims to critically investigate the application of Islamic inheritance law in three judgements issued by Dar ul-Qadha, Lagos, from 2008 to 2013. Adopting a qualitative research approach, the article meticulously analyses the inheritance of three cases of private legal disputes and two Sharia Quarterly Law Reports (S.Q.L.R.) as primary sources. They are the Dar ul-Qadha Nigeria Case No. 1 Report of Distribution of Estate of Late A. A. Adetunji, 10 July 2008; Dar ul-Qadha Nigeria Case No. 2. Inheritance of Late Alhaj I. A. Ayelagbe, 18 September 2009; and Dar ul-Qadha Nigeria Case No. 3 Distribution of the Estate of Late Alhaj Abdul Kabir Adeshina, 8 March 2013; Sharia Quarterly Law Report, 2014, Vol. 2, Part. III, 451; and Sharia Quarterly Law Report, 2018, Vol. 6, Part. II, 260. Additionally, the article relies on textual analysis of primary Shari'ah sources (the Qur'an and Sunnah), and Islamic jurisprudence (*fiqh*) books of the Mālikī jurists. The data is then analysed interpretatively.

### **Yoruba Muslim Community and Inheritance Law in Southwest Nigeria**

The Yoruba people are one of the main ethnic groups in Nigeria, located in the South West, North-Central, as well as Southern and Central Benin, making up 21% of the country's population, estimated to be over 216 million, with about half of the Yoruba population being Muslims.<sup>12</sup> The Yoruba homeland comprises several sub-ethno-cultural groups, including *Ifè*, *Igbomina*, *Ebga*, *Ondo*, *Ilaje*, *Abeokuta*, *Ikale*, *Idanre*, *Ekiti*, *Ibadan*, *Owo Oyo*, *Ijebu*, *Ijesha*, *Egbado*, *Ifonyin*, etc.<sup>13</sup> Islam spread to Yoruba land through itinerant preachers from Borno and Hausa land in the seventeenth century.<sup>14</sup> Some of these mallams or marabouts (i.e., Muslim scholars

<sup>9</sup> Muri Okunola, "The Relevance of Sharia to Nigeria," in *Islam in Africa: Proceedings of the Islam in Africa Conference*, ed. Nur Alkali (Islam in Africa Conference, Ibadan: Spectrum Books, 1993), 116.

<sup>10</sup> Yushua Sodiq, "An Analysis of Yoruba and Islamic Laws of Inheritance," *The Muslim World* 86, no. 3–4 (October 1996): 313–33.

<sup>11</sup> Isiaka Raifu, "Interrogating Shariah Practice in Yoruba Land, 1820-1918," *IOSR Journal of Humanities and Social Science (IOSR-JHSS)* 21, no. 12 (2016): 3–9.

<sup>12</sup> New World Encyclopedia, "Yoruba People," accessed March 8, 2023, [https://www.newworldencyclopedia.org/entry/Yoruba\\_People](https://www.newworldencyclopedia.org/entry/Yoruba_People).

<sup>13</sup> Adetunji Oni, "Discriminatory Property Inheritance Rights under the Yoruba and Igbo Customary Law in Nigeria," 31.

<sup>14</sup> S.A. Balogun, "History of Islam up to 1800," in *Historical Society of Nigeria*, ed. Obaro Ikime (Ibadan, Nigeria: Published for the Historical Society of Nigeria by Heinemann Educational Books, 1980), 210–23.

and spiritualists) and itinerant traders likely ventured as far south as old Oyo and a few other urban centres of the old Oyo Empire. Consequently, a Muslim community emerged in old Oyo by the middle of the seventeenth century, committed to the Islamic faith, seeking guidance from Katsina, as reflected in the document “*Shifā’ al-Ribā fī Taḥrīr Fuqahā’ Yūrūbā.*”<sup>15</sup>

This historical event implies that Islam was deeply rooted and firmly established among the Yoruba people at the time of their request for Islamic guidance.<sup>16</sup> If the document was intended to guide the Muslim community in Yoruba land, it not only attests to the age of Islam in Yoruba land but also highlights the early attention given to religious practices in the seventeenth century.<sup>17</sup> This is why it is often asserted that Islam and Islamic law, the Sharī’ah, were more prominent in Yorubaland than in other geographical areas. During the colonial era between 1860 and 1894, the Yoruba tribe was 55% Muslim, 35% Christian, and 10% adherents of other religions, with Sharī’ah firmly established in many Yoruba towns before the colonial era.<sup>18</sup> Despite the majority of Yorubas being Muslims, the Sharī’ah has not been applied to them as a legal system to date.<sup>19</sup>

Inheritance transcends merely being the “entrance of living persons into the possession of dead persons’ property” or a mere “succession to all rights of the deceased.” Instead, it entails the transference of statuses from the deceased to the living, specifically concerning certain property objects.<sup>20</sup> Succession is an integral component of Yoruba customary law, representing the transmission of rights to property and land, with the cognatic aspects of Yoruba kinship gaining paramount significance. The fundamental principle is that property exclusively passes between blood relatives. Historically, a central concern in Yoruba inheritance pertained to the relative rights of the deceased’s siblings and children. In the 19th century, the estate of a prosperous individual could encompass slaves, horses, money, an extensive wardrobe, and pawns, along with rights over wives and children. Originally, the primary beneficiaries would have been full siblings. In Ibadan, Ibadan chiefs seemingly favoured the rights of children over siblings, although the old pattern remained ideal in Ijebu up to the present day.<sup>21</sup> The Yoruba community perceived female family members as temporary sojourners within the family since they typically marry outside the family. Consequently, land was reserved for permanent family members, namely the males. Females, being considered temporary members, generally do not enjoy succession rights to a man’s

<sup>15</sup> A. D. H. Bivar and M. Hiskett, “The Arabic Literature of Nigeria to 1804: A Provisional Account,” *Bulletin of the School of Oriental and African Studies* 25, no. 1 (February 1962): 104–48.

<sup>16</sup> Abdulmajeed Hasan-Bello, “Sharia in the Nigerian Constitutions: Examining the Constitutional Conferences and the Sharia Debates in the Drafts,” *Al-Abkam* 29, no. 1 (April 8, 2019): 1–26.

<sup>17</sup> Saheed Ahmad Rufai, “Emergent Issues in Heterodox Islam among the Yoruba of Nigeria (Masalah Berbangkit dalam Islam Tulen di Kalangan Kaum Yoruba di Nigeria),” *Jurnal Hadhari: An International Journal* 4, no. 2 (2012): 117–36.

<sup>18</sup> Okunola, “The Relevance of Sharia to Nigeria,” 23–35.

<sup>19</sup> Sulaimanu Kumo, “Sharia under Colonialism-Northern Nigeria,” in *Islam in Africa: Proceedings of the Islam in Africa Conference*, ed. Nur Alkali (Islam in Africa Conference, Ibadan: Spectrum Books, 1993), 1–22.

<sup>20</sup> P. C. Lloyd, “Some Notes on the Yoruba Rules of Succession and on ‘Family Property,’” *Journal of African Law* 3, no. 1 (1959): 7–32.

<sup>21</sup> S. Ade Falade, *Marriages Divorces and Inheritances in Nigeria* (Osogbo: Igbalaye Printing Machinery, 1999), 49.

property. This includes properties such as land, chieftaincy, and other roles of honour that bind the family together.<sup>22</sup>

In earlier times, characterised by values of honesty and probity, the *dawodu* (the first son) held all the properties of the deceased in trust for all dependents, encompassing his wives, children, mother, father, uncle, etc., if he predeceased them. The *dawodu* was restricted from selling, alienating, disposing of, granting, or mortgaging the land without the knowledge, consent, and agreement of all other members, particularly the principal members of the family.<sup>23</sup> Proceeds from any sale or alienation were often utilised for the overall benefit of the family. This applied specifically to family property, which devolves on the descendants for the collective benefit and enjoyment of the entire family as a corporate entity. Although individual members might receive allotments of the family property for personal use, it does not confer ownership rights, as their interest is limited to their lifetime. Conversely, self-acquired property, acquired through conveyance or other formal methods of alienation (English or customary), is distributed among a deceased individual's children upon their death.<sup>24</sup>

Nevertheless, if there is any reason whatsoever to distribute the properties, the *idi-igi*, i.e., the per stripes method, is adopted. In other words, the distribution of the estate of a deceased person without a valid will is per stripe, meaning it is based on the number of wives the deceased had rather than the number of children. Thus, if a man has three wives, all of whom have produced children, the property is divided into three equal shares, regardless of the number of children in each sibling group. The legal status of the mother, whether a legal wife or a casual lover, is immaterial as long as the children contribute to their father's funeral expenses. The cognate element in Yoruba inheritance stems from the rights of women to their parents' property. Women generally have inheritance rights similar to those of men, where possible. In cases of serious disputes, the family head is allowed, in certain parts of Yoruba land, to exercise final discretion by recommending the distribution of the estate per capita, i.e., by the number of children and not by the number of wives.<sup>25</sup>

Over time and with experience, it became apparent that some injustice was being perpetrated; a wife with one child might share in the same proportion as a wife with more than one child. This method became irksome to members of the family, leading to its eventual rejection. The present generation prefers the distribution of family property using the per capita method, i.e., *ori-ojori*.<sup>26</sup> Under the *ori-ojori* method of distribution (per capita), the property is directly distributed equally among the children of the deceased. This method is typically employed in monogamous families where the deceased has only one wife or in polygamous families where the deceased has sufficient property to be divided among the children of all his wives. However, this method is no longer preferred for use in polygamous families. The rationale is that the first wife, who started from scratch with the deceased, built the estate with him and had a child or two, whereas the second, third, and fourth wives who

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<sup>22</sup> Falade, 117.

<sup>23</sup> Taslim O. Elias, *Nigerian Land Law and Custom*, 4. ed, Law in Africa 29 (London: Sweet and Maxwell, 1971), 120.

<sup>24</sup> MOTUN911, "Yoruba Law of Succession."

<sup>25</sup> Falade, *Marriages Divorces and Inheritances in Nigeria*, 119.

<sup>26</sup> Falade, 120.

came after the establishment of the estate gave birth to five or six children. It would be unfair for the first wife to inherit less than the other wives based on the number of children each has.<sup>27</sup> It is noteworthy that a woman can only inherit a share of her spouse's property if she marries under the marriage ordinance. Otherwise, husband and wife do not inherit from each other, and the property of a woman who dies without issue goes to her kin, typically her full siblings. Furthermore, fathers and mothers do not inherit from their sons, and senior brothers and sisters do not inherit from the property of their junior brothers and sisters. In other words, children and descendants take precedence over other blood relations, with equal shares granted irrespective of the sex of the heirs.<sup>28</sup>

### Three Cases of Islamic Inheritance from Dar ul-Qadha

Dar ul-Qadha, Lagos, officially launched in 2014, has been operational well before this date under the title 'inheritance sharing committee.' It functions as an arbitration panel to oversee and facilitate legal proceedings in disputes among Ahmadi Muslims, ensuring fair arbitration under the earliest traditions of Islam. This arbitral tribunal exclusively deals with disputes related to civil rights or matters not considered within the purview of a nation's law enforcement under the respective country's legal system. Dar ul-Qadha's jurisdiction is strictly limited to questions of Islamic personal law as outlined in the 1999 Nigerian constitution, specifically in Section 262 (2)(a), (b), (c), and (d). It covers matters such as Islamic marriages, family relationships, guardianship of infants, divorce initiated by a woman (*khul'*), divorce initiated by a man (*talāq*), wills, succession, inheritance cases, and other civil matters including child custody, maintenance, lending, and borrowing.<sup>29</sup>

Dar ul-Qadha is characterised by two defining features. First, all cases within its jurisdiction are resolved according to Islamic law. Second, no fees are charged from the involved parties; every case is conducted free of charge, with the community bearing the expenses in adherence to Islamic principles. Access to Dar ul-Qadha within the Ahmadiyya Jamaat is uncomplicated, requiring no special forms or applications on specific paper types; applications are submitted in writing, and the system is set into motion. It is essential to note that the legal system of Dar ul-Qadha serves the functions of arbitration and mediation, which are initiated only if both parties agree in writing to seek the system's assistance. In the initial stage of proceedings, the parties present their cases before an arbiter (*qādi*) appointed by Dar ul-Qadha. This hearing may occur in one session or extend over several sessions, depending on the nature of the case. Since both parties have agreed in writing at the outset, the decision of Dar ul-Qadha is generally acceptable to both. If either or both parties wish to appeal the decision, they can do so, and the case is then referred to the appellate arbitral tribunal (*murāfa'at al-ūlā*). Should any of the parties still desire to appeal against the decision made by the *murāfa'at al-ūlā*, the matter is forwarded to the higher arbitral tribunal (*murāfa'at*

<sup>27</sup> MOTUN911, "Yoruba Law of Succession."

<sup>28</sup> J. S. Eades, *The Yoruba Today*, Changing Cultures (New York: Cambridge University Press, 1980), 49.

<sup>29</sup> "Constitution of the Federal Republic of Nigeria (Promulgation) Decree No. 24 of 1999," Section 262 (2)(a), (b), (c), and (d).

*al-‘ulyā*). This higher board, comprising the arbiters involved, decides the case based on testimonies and evidence presented anew.<sup>30</sup>

### *Case 1: Distribution of the Estate of Late A. A. Adetunji*

As previously mentioned, before 2014 and the official launch of Dar ul-Qadha, the Inheritance Sharing Committee served as the arbitration panel responsible for executing the will and distributing the property of a deceased Muslim among the heirs. However, with the establishment of Dar ul-Qadha in 2014, the files of the inheritance cases previously handled by the Inheritance Sharing Committee were transferred to Dar ul-Qadha as part of its property. Therefore, the records of the three cases outlined in this paper are now available in the archive of Dar ul-Qadha.

The Inheritance Sharing Committee, now operating as Dar ul-Qadha, undertook the task of distributing the estate of Late Alhaj A. A. Adetunji, based on a letter dated July 10, 2008, and signed by Allahj A. R. O. Bello. The deceased left behind eleven heirs, including two wives, seven children, and two consanguine relatives—a mother and a stepfather. The estate included a plot of land at Sango with a four-bedroom apartment, a half plot of land at Ibese Ikorodu in Lagos State, and a plot of land at Agoro area Sango in Ogun State, under construction. According to the Dar Qadha records, the distribution formula, as per the Quran, allocates one-eighth of the estate to the wives when there are children, while for male heirs, their portion is twice that of female heirs. Consequently, one-eighth of the estate was designated for the wives, and both were to co-share the sitting room, and each had a room at the building at Ipa Mesan Sango.

Monsuru, a son of the deceased, was allotted a room at this property, while Habeebullah, another son, took the remaining room. Facilities at this building were to be jointly used. Additionally, Uthman, Yaseer, and Abdulmujeeb, sons of the deceased, were assigned a room each at the property at Agoro Sango when completed. Hameedah and Ameenah, both daughters, were entitled to half of the share of their male counterparts. Consequently, they were to co-share a room at Agoro when completed. It was suggested that the ½ plot of land at Ibese be sold, and the proceeds deposited for the upkeep of the children be given out as needed at a ratio of 2:1. By the Islamic law of inheritance, every heir is to be taken care of when there is residue. The original heirs' heirs are considered wives and children, while the rest are treated as residuary.<sup>31</sup>

### *Case 2: Inheritance of Late Alhaj I. A. Ayelagbe*

The Inheritance Sharing Committee, now Dar ul-Qadha, received an application seeking the distribution of the estate of late Alhaj I. A. Ayelagbe among his eligible heirs under Islamic law. This request was dated July 17, 2008. The deceased left behind three wives, nine sons, and thirteen daughters, totalling twenty-five beneficiaries. The estate of the deceased includes a one-story building with four flats of three bedrooms each, four rooms for boys' quarters,

<sup>30</sup> Al Hakam, “The Ahmadiyya System of Justice in Conflict Resolution,” January 14, 2022, <https://www.alhakam.org/the-ahmadiyya-system-of-justice-in-conflict-resolution/>.

<sup>31</sup> Dar ul-Qadha Nigeria Case No. 1 Report of Distribution of Estate of Late A. A. Adetunji (July 10, 2008).

and four shops at Orita, as well as a standard eight-room, four-bedroom flat, a shop, a small mosque, and N215,400.00.

According to Islamic law, the formula for distribution is that one-eighth is the share for the three wives, with a male receiving a double portion of a female. Thus, the one-story building at Orita, comprising four flats of three bedrooms each, shall be shared between five sons, namely Wasiu Ayelaagbe, Sabur Ayelaagbe, Rauf Ayelaagbe, Ridwan Ayelaagbe, and Bashir Ayelaagbe. Wasiu, Sabur, and Rauf, all males, shall co-share the first flat plus two boys' quarters, while Ridwan and Bashir shall co-share the second flat. Abdul Rahman (male), Kareemat (female), and Tayiba (female) shall have the third flat, and Abdul Jabar (male), Abdul Ghany (male), and Sulaiman (male) shall have the fourth flat and the other two boys' quarters.

The house at Ajegunle serves as one-eighth of the entire estate, which is the share due to the wives. Thus, the three wives will co-share the rooms equally, while the living room and the store will be equally used by the wives. The last of the four rooms will be taken by Mrs. Waliat Salman. The property is described as a standard eight-room apartment occupied by the children of the deceased, out of which one big parlour living room was used by the deceased and one small parlour living room was rented out. Meanwhile, two daughters, Mrs. Rakiba Lateef and Mrs. Lateefat Akinlotan, were each given a shop. Eight daughters, namely Miss. Mariam Ayelaagbe, Miss. Risqat Ayelaagbe, Miss. Rashidat Ayelaagbe, Miss. Sukurat Ayelaagbe, Miss. Qawiyat Ayelaagbe, Miss. Raheemat Ayelaagbe, Miss. Bushrat Ayelaagbe, and Miss. Rykayat Asuri, were each given a room. The parlour and two shops left will be rented out, and the proceeds will be used for the maintenance of the property. The cash on record at the time of burial was N215,400.00. One-eighth of N215,400.00 is N26,925.00, which will be divided into three equal shares of N8,975.00 for each wife out of N215,400.00. The balance of N138,475 will be shared in a ratio of 2:1, i.e., twice the female's share to the male. The male shall have N12,400.00 each, while the female shall have N6,200.00. The balance shall go to the residue, i.e., the estate left for maintenance.<sup>32</sup>

### *Case 3: Distribution of the Estate of Late Alhaj Abdul Kabir Adeshina*

The late Alhaj Abdul Kabir Adeshina passed away in September 2009. On February 25, 2013, Brother Moshood Adesina wrote to the Inheritance Sharing Committee, now Dar ul-Qadha, regarding the estate of his senior brother, Alhaj Abdul Kabir Adeshina. According to the brother, the deceased left three wives, a mother, a full brother, Moshood Adesina, three half-brothers, and nine half-sisters, but no offspring. The secretary reported that Alhaj Shehu Adesina, the head of the family, submitted the list of heirs, comprising three wives, one full brother, three half-brothers, eight half-sisters, one uncle, four cousins, one nephew, and one family friend. The estate of the deceased includes a plot of land at Badagry, a duplex of three bedrooms under completion at Langbasa, Ajah Lagos, a bungalow with two four-bedroom flats each, a mini flat, and two self-contained apartments of two rooms each at Lagos-Epe Expressway (uncompleted), and N80,870,200.00 as death benefit from NNPC.

<sup>32</sup> Dar ul-Qadha Nigeria Case No. 2. Inheritance of Late Alhaj I. A. Ayelagbe (September 18, 2009).

In Dar ul-Qadha's statements, the deceased did not leave a child but left three wives, which makes his case different from the case of a *kalāla*. The term *kalāla* means leaving no parent or children as heirs. According to the Quran. A *kalāla* is one who is without a wife and child but has a brother and/or sister. Hence, the first category of heirs to be treated are the wives, the next is the brother, and then half-brothers and sisters who, under these circumstances, have fallen into the category of residue. The report from the family indicated that the deceased made a will of one-tenth of his estate in the way of Allah. Hence, from what is left behind, a tenth will have to be deducted as fulfilment of his will in the way of Allah. Another form of his will is his promise to a friend, Mr. Najeemudeen Junaid. Since no statement is made by the deceased as to how much is willed to this individual, the Sharī'ah will safely add him up as an adopted child, and the committee's discretion will determine his share.

The share distribution has been executed under Islamic law. The wives are entitled to an equal share of one-eighth of each of the total estate value. The full brother, i.e., maternal brother, receives one-sixth of the estate values. Uterine brothers and sisters are allocated shares in residuary. The uncle and cousins, although, according to the principle of exclusion, should have been excluded, share in the residue. In this case, three wives, one full brother, three half-brothers, eight half-sisters, one uncle, four cousins, one nephew, and a family friend are the heirs. The estate of the deceased includes a plot of land at Badagry, a duplex of 3 bedrooms under completion at Langbasa, Ajah Lagos, a bungalow with 2 four-bedroom flats each, a mini flat, and 2 self-contained apartments of two rooms each at Lagos-Epe Expressway (uncompleted), and N80,870,200.00 as a death benefit from NNPC.

According to Dar ul-Qadha's rules, the sharing formula aligns with Islamic law as stipulated by the Quran for each class of deceased. In this particular case, the deceased did not leave a child but left three wives, making his situation different from the case of a *kalāla* according to the Qur'ān. A *kalāla* is someone without a wife and child but who has a brother and/or sister. Therefore, the first category of heirs to be treated are the wives, followed by the brother, and then half-brothers and sisters who, under these circumstances, fall into the category of residue. The portion due to each category of the heirs includes *waṣīyyāt* (bequeath) = 10% of the total sum of N8 million, Lawyer's outstanding balance = N360,000.00 paid to Aery & Associates, the lawyer who did the distribution N100,000.00, the wives share N9 million for each wife, full brother N12 million, all three half-brothers in equal shares at 3.5 million, all eight half-sisters in equal shares at N2 million, Alhaj Abdullah Ayinla (uncle) N1 million, and Alhaj Lambe N794,000.00 since the outstanding debt is 206,000.00 from the car sale, Alhaj Shehu (uncle) N1 million, brother, Najeemudeen Junaid N1 million, total estate distributed = N80,754,000.00. The balance is N116,200.00. It is recommended that part of this balance be kept for other unforeseen expenses. While discretion is used to accommodate those who reverted from Islam and were paid under the spirit of welfarism.<sup>33</sup>

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<sup>33</sup> Dar ul-Qadha Nigeria Case No. 3 Distribution of the Estate of Late Alhaj Abdul Kabir Adeshina (March 8, 2013).

### British Colonial Influence on the Islamic Law in Yorubaland

Legal pluralism featured in the administration of justice in precolonial southwest Nigeria. Dispute resolution largely took place in the Oba's palace, which bears semblance to the Emir's court in precolonial Northern Nigeria. It is conceded that the native laws and customs were usually applied in these courts. Nevertheless, Islamic law was also applied in some cases of personal status where the parties are Muslims. This usually took place in the mosques and, in some cases, the king's (Oba's) palace.<sup>34</sup> It is on record that Islamic law was featured in Adele's court in Lagos between 1832 and 1834 and Abibu Lagunju's court in Ede around 1856.<sup>35</sup> Similarly, Shari'ah courts were established, though unofficially, in cities such as Iwo, Ibadan, and Epe in the 1960s.<sup>36</sup>

Colonialism altered the socio-political lives of the communities it encountered. Wherever it found a foothold, it brought exploitation.<sup>37</sup> With the amalgamation in 1914, the Yorubas found themselves in completely new socio-economic and political environments. Indeed, it was a new system of administration, broadly referred to as indirect rule, a model of administration alien to them.<sup>38</sup> No surprise that the attitude of the colonial administration towards Shari'ah is that in Yoruba land, the Muslims merely practised Islam as a religion, not as a way of life, and that nowhere in Yoruba land was Shari'ah ever practised.<sup>39</sup> This is the authority Nigerian legal jurists' quote and was the basis of the Supreme Court's decision stating that Islamic law is not known to be applicable anywhere in southwestern Nigeria.<sup>40</sup> Thus, Yoruba culture dominates the social and cultural lives of the Yoruba people, regardless of their religious affiliations with Islam, Christianity, or any other religion.<sup>41</sup>

The first and very important factor inhibiting the implementation of the Islamic law of inheritance among Yoruba Muslims is colonialism. The educated Yoruba Muslims emerged from the colonial system of education, which, unfortunately, has continued to this day. So, this total mental, intellectual, and indeed cultural slavishness to the Europeans has continued to this day among the educated Yoruba Muslim elites. Thus, what the colonial educational system—which still prevails—can achieve is the creation of a set of people who have no confidence in their abilities and personalities, who are contemptuous of themselves, their society, and their colour, who take joyous pride in imitating the white man, who adjust their tastes, values, standards, behaviour, and mode of life to suit those of the west, and who see themselves as an extension of European history. Is it therefore surprising that these people should opt for English law in place of Islamic law and customary law?<sup>42</sup>

Those Yoruba Muslim elites trained in Christian doctrines have come to look upon themselves with pride as the recipients and propagators of Western civilization, often at the

<sup>34</sup> Makinde, "The Institution of Shari'ah in Oyo and Osun States, Nigeria, 1890-2005," 220–21.

<sup>35</sup> Raifu, "Interrogating Shariah Practice in Yoruba Land, 1820-1918," 6.

<sup>36</sup> Gbadamosi, *The Growth of Islam among the Yoruba, 1841-1908*.

<sup>37</sup> Ieuan Ll. Griffith, *The African Inheritance* (London: Routledge, 1995), 91.

<sup>38</sup> A. S. Basiru, "Why They Might Have Gone Wild: The Yorubas of Southwestern Nigeria and the Politics of the First Republic," *Inkanyiso: Journal of Humanities and Social Sciences* 6, no. 1 (July 25, 2014): 23–30.

<sup>39</sup> J. N. D. Anderson, *Islamic Law in Africa* (London: Frank Cass, 1955), 222–23.

<sup>40</sup> Okunola, "The Relevance of Sharia to Nigeria," 27.

<sup>41</sup> Sodiq, "An Analysis of Yoruba and Islamic Laws of Inheritance," 313.

<sup>42</sup> Ibrahim K. R. Sulaiman, "The Sharia and the 1979 Constitution," in *Islamic Law in Nigeria: Application and Teaching*, ed. Syed Khalid Rashid (Lagos: Islamic Publ. Bureau, 1986), 42–51.

cost of the development of their personalities. It should be noted that the intellectual, mental, and cultural enslavement of Nigerians through colonial education is most complete and thorough in Nigerian law. While the Christians in Nigeria warmly receive the English legal system and tenaciously stick to it, they at the same time chide the Muslims for remaining loyal to the Shari'ah.<sup>43</sup> By the time some Yoruba Muslim students of combined law come out of Nigerian universities, they become self-doubting and self-condemning. So much so that sometimes he could even make a derogatory remark against the Shari'ah. In his mind, Islamic law is depicted as Arab or Hausa law that is not practicable in Yoruba land.<sup>44</sup>

As a result of the above, Yoruba Muslims are often ambivalent as to which system they should adhere to Islamic or African?<sup>45</sup> To Yoruba, family, and community solidarity are very important, and they take precedence over religious solidarity, which Islam advocates.<sup>46</sup> The colonial educational system has succeeded in creating a set of Muslims who have no confidence in their society or their faith. While the Christians in southwestern Nigeria warmly receive the English legal system, the Yoruba Muslim elites at the same time chide the Muslims for remaining loyal to the Shari'ah.<sup>47</sup> We have discussed factors that are militating against the application of the Islamic law of inheritance among the Yoruba Muslims of western Nigeria. Under the Islamic law of succession, the competitive claims of descendants, ascendants, and collaterals have been satisfied most equitably and rationally.<sup>48</sup>

### **Miscarriage of Justice in the Application of Islamic Law of Inheritance**

The application of the Islamic law of inheritance in Yorubaland remains controversial. While some claim that in some parts of pre-colonial Yorubaland, justice was dispensed according to Shari'ah, others argue that Islamic law is not known to be applicable anywhere in southwestern Nigeria. However, the fact is that colonialism, Christianity, and ignorance combined defeated the establishment of Islamic courts in Yorubaland. Thus, Yoruba culture dominates the social and cultural lives of the Yoruba people, regardless of their religious affiliations. Yoruba culture has different rules of inheritance: a wife cannot inherit her husband's property; daughters do not inherit from their parents' property, and parents do not inherit from their sons. Additionally, senior brothers and sisters do not inherit from the property of their junior brothers and sisters.

Dar ul-Qadha, Lagos, has been functioning long before this date under the title 'inheritance sharing committee' to oversee and enable legal proceedings in disputes between Ahmadi Muslims and to equitably pursue fair arbitration under Shari'ah. The jurisdiction is strictly restricted to the questions of Islamic personal law, which include inheritance. Through the records of proceedings, it is discovered that the items left behind by the

<sup>43</sup> Sulaiman, 61–63.

<sup>44</sup> Yunus Abdullah, "Observations on Teaching Materials," in *Islamic Law in Nigeria: Application and Teaching*, ed. Syed Khalid Rashid (Lagos: Islamic Publ. Bureau, 1986), 123–28.

<sup>45</sup> John S. Mbiti, *African Religions & Philosophy* (New Hampshire: Heinemann Educational Books, 1990), 5 and 67.

<sup>46</sup> Sodiq, "An Analysis of Yoruba and Islamic Laws of Inheritance," 23.

<sup>47</sup> Sulaiman, "The Sharia and the 1979 Constitution," 61.

<sup>48</sup> Mohammad Mustafa Ali Khan, "A Case for Teaching Mirath as an Independent Course in Nigeria," in *Islamic Law in Nigeria: Application and Teaching*, ed. Syed Khalid Rashid (Lagos: Islamic Publ. Bureau, 1986), 181–194.

deceased in his house were not separately mentioned in all the cases. This is influenced by the Yoruba traditional system, which frowned upon the valuation of deceased personal properties. Also, cash in the accounts was omitted in cases number one and three. What strikes attention most in this case, number one, is how the stepfather became the heir of the deceased. Even in the Yoruba customary system, this is unknown, while Dar ul-Qadha has denied the mother the right to inherit her son while extending the right to cover distant relatives.

This is the influence of the Yoruba customary system of inheritance. In the Yoruba inheritance system, fathers and mothers do not inherit from their sons, and senior brothers and sisters do not inherit from the property of their junior brothers and sisters. Meanwhile, in Islamic law of inheritance, family members who share in the inheritance, specifically referred to in the Qur'ān, are awarded fixed fractional portions (*farā'id*:  $\frac{1}{8}$ ,  $\frac{1}{6}$ ,  $\frac{1}{4}$ ,  $\frac{1}{3}$ ,  $\frac{1}{2}$ ,  $\frac{2}{3}$ ) of the estate under suitable circumstances. This is also known as *dhanū al-farā'id* or *aṣḥāb al-farā'id* (those entitled to prescribed portions) and Qur'ānic heirs. Those relations who can inherit are twelve in number total: four males and eight females. The four male relations include the father, grandfather, or lineal male ascendant (when not excluded), uterine brothers, and the husband. The eight female relations include the wife, daughter, son's daughter or daughter of a lineal male descendant, however low, mother, true grandmother, full sister, consanguine sister (paternal half-sister), and uterine sister (maternal half-sister).<sup>49</sup> It should be noted that five (daughter, father, mother, husband, and wife) of the twelve relations, known as primary heirs, are never excluded from the succession. The remaining seven relatives can be excluded, under certain circumstances, by other relatives of the deceased.<sup>50</sup> But the mother, in this case, is excluded.

The Mālikī jurists outlined guidelines on property distribution that stipulate that it is necessary for all inheritable properties that have different qualities to be valued separately.<sup>51</sup> Thus, the sharing of landed items of an estate, as well as other movable items, shall be based on value rather than size or quantity.<sup>52</sup> On how to determine the value of the items of the estate, Abū Bakr Ḥasan al-Kashnāwī said that the valuation stands for whatever value the heirs approve and not necessarily the market values of the items of the estate.<sup>53</sup> Thus, in determining the value, the *Qadab* (court) brings an expert in the field called *mukhbir*, as stipulated by Islamic law, and heirs must approve whatever values are placed on the items by the experts. Where the heirs give all proposed varying prices, the *Qadab* finds and works with the aggregate.<sup>54</sup> In line with the above rules, it is mandatory that all the items of the estate be

<sup>49</sup> Sayd Athar Husain, *Muslim Personal Law: An Exposition* (Lucknow: Nadwa Press, 1989), 146.

<sup>50</sup> Zahid Malik, "The Islamic System of Inheritance," *Review of Religions* 87, no. 12 (1992): 24–45.

<sup>51</sup> See: Alī bin 'Abdulsalām al-Tasulī, *Al-Bahjah fī Sharḥ al-Ṭuhfah*, vol. 2 (Beirut: Dār al-Kutub al-'Ilmiyyah, 1998), 128; Abū Bakr Ḥasan al-Kashnāwī, *Ashalu Madārik Sharḥ Irshād al-Sālik*, vol. 3 (Bairut: Dār al-Fikr, 1969), 342; Ibrāhīm Abū 'Abd Allāh Muḥammad ibn Farḥūn, *Tabṣīrat al-Ḥukm*, vol. 2 (Bairut: Dār al-'Ulūm al-Kutub, 2003), 16; Issa Babatunde Oba, "The Dynamics of Islamic Marital Jurisprudence in Islamic Courts: The Experience of the Kwara State and Zanzibar," *IJoReSH: Indonesian Journal of Religion, Spirituality, and Humanity* 2, no. 1 (June 30, 2023): 43–67.

<sup>52</sup> Ṣāliḥ 'Abd al-Samī' al-Abī al-Azharī, *Jawābir al-Akīlī Sharḥ Mukhtaṣar Khāḍir*, vol. 2 (Bairut: Dār al-Fikr, 1976), 165.

<sup>53</sup> Al-Kashnāwī, *Ashalu Madārik Sharḥ Irshād al-Sālik*, 3:342.

<sup>54</sup> Muḥammad ibn Aḥmad ibn Jusayy, *Al-Qawānīn al-Fiqhīyah* (Bairut: Dār ibn Ḥāzim, 2013), 660.

reduced to money for convenience in order to attain justice in the matter. For instance, the properties at various places are not of the same value considering their locations and the quality of the building materials used. Thus, the rule requests that estate valuers be engaged for the valuation. Their reports were accepted by the heirs or their representatives. This is the rule of Islamic law of inheritance as contained in *Al-Bahjah fī Sharḥ al-Ṭuhfah* which says: “It is necessary for all inheritable properties that have different qualities to be valued separately.”<sup>55</sup>

Another issue is the question of *mushārahah* or partnership; whether under the Islamic law of inheritance, *mushārahah* can be adopted in sharing the estate of the deceased without the consent of the heirs and without specifying to each heir his or her precise portion of the estate. The committee’s intention is *mushārahah ikhtiyārīyah* which does not apply to the distribution of the estate; the applicable *mushārahah* in estate distribution is *sharīkat al-jabr* compulsory partnership, which arises from inheritance or gift of a single real property to more than one person, and this is the *mushārahah* that applies to estate distribution. This would be in the case of oversharing of a property that cannot take individual distribution, or if a group of heirs cannot join on a particular property. In the case at hand, the number of properties is so large that the committee did not need to result in *mushārahah*.<sup>56</sup>

In the third case, Dar ul-Qadha defined a *kalālah* as one who is without a wife and child but has a brother and/or sister.<sup>57</sup> While a *kalālah* is someone who died and had neither a father nor son.<sup>58</sup> Or one who left neither parent nor offspring.<sup>59</sup> Dar ul-Qadha also allotted wives equal shares of one-eighth each of the total value of the estate. While the deceased left no child, the share of the wife or wives should be one-fourth to be shared equally among them. This position is supported by the unanimous opinions of Malik jurists that a wife, two, three, and four wives are equal in that if we gave each one a quarter, they would take all the money, and their share would exceed the husband’s share.<sup>60</sup>

A full brother, according to Sharī’ah, is the brother of the same father and the same mother, while a maternal brother is the child of the same mother with a different father. In this case, the deceased left only one full brother, three consanguine brothers, and eight consanguine sisters, i.e., half-brothers and sisters from the father’s side. The rule concerning the real brother in Islamic law is that the real brother does not inherit in the presence of the son, grandson, and father of the deceased. He inherits as a residuary in their absence. Thus, the full brother takes the full residue if alone and shares it with the sister(s) in a ratio of 2:1. Two or more real brothers equally divide the residue among themselves. However, the full brother is excluded by the son, grandson, and father of the deceased. Meanwhile, a consanguine brother is excluded by a real brother. A consanguine brother is not excluded by

<sup>55</sup> Al-Tasulī, *Al-Bahjah fī Sharḥ al-Ṭuhfah*, 2:695.

<sup>56</sup> “Sharia Quarterly Law Report (S.Q.L.R), 2014, Vol. 2, Part. III, 451.”

<sup>57</sup> Dar ul-Qadha Nigeria Case No. 3 Distribution of the Estate of Late Alhaj Abdul Kabir Adeshina.

<sup>58</sup> Mohamed Mostafa Shahata al-Husayni, *Al-Aḥwāl al-Siyākiyah fī al-Mawāriṭh Wāqif al-Qānūn al-Jadīd* (Cairo: Al-Azhar University Faculty of Sharia and Law, 1981), 39.

<sup>59</sup> Malik Ghulam Farid, *Dictionary of the Holy Qur’an* (Qadian: Nazarat Nashro Ishaat, 2009), 724.

<sup>60</sup> See: ‘Abd al-Wahhāb ibn ‘Alī Al-Baghdādī, *Al-Talqīn fī al-Fiqh al-Mālikī* (Bairut: Dār al-Kutub al-‘Ilmiyyah, 1999), 175; Jalāl al-Dīn ibn Shās, *Uqd al-Jawābir al-Thamīnah fī Madhhab ‘Ālim al-Madīnah*, vol. 3 (Bairut: Dār al-Gharb al-Islāmī, n.d.), 438; Al-Shaykh Muḥammad ibn ‘Arfaḥ al-Dasūqī, *Ḥāshiyah al-Dasūqī ‘alā al-Sharḥ al-Kabīr*, vol. 4 (Cairo: Dār Iḥyā’ al-Kutub al-‘Arabīyah, 1981), 461.

a real sister. In the presence of a real sister (one or more), he takes the residue, if any, after the real sister (one or more) takes her fixed share.<sup>61</sup>

Uterine brothers and sisters do not inherit through residuary; their condition is that a uterine brother or sister, if single, takes one-sixth of the property. Two or more uterine brothers or sisters, or both together, or one uterine brother and uterine sister together, collectively get 1/3 of the property, dividing it equally among themselves, irrespective of whether they are male or female. The rule of the 2:1 ratio (male and female) does not apply to this class of inheritance, and they are excluded by children, sons, father, and grandfather. However, they are not excluded by their full or consanguine brothers. In this case, there are no uterine brothers or sisters.<sup>62</sup> Hence, the full brother is the only legitimate heir of the deceased. Again, the committee erred when it accommodated an uncle, cousins, and an adopted child because there was a surplus. Meanwhile, when somebody is excluded, he or she is excluded, whether there is a surplus or not. The doctrine of return (*rādd*) is there to take care of the surplus. For example, if some residue is left after fixed sharers have received their shares and there is no residuary to claim it, the surplus is returned to the sharers, except to the husband and wife, in proportion to their fixed shares in the inheritance.<sup>63</sup> In this case, there is no surplus since there is a full brother that takes the residue. The heirs in this case after the payment of debt, if any, and bequest are the mother, the three wives, and the only full brother who takes the full residue as he is alone. Therefore, the dues allotted to the heirs above by the committee do not conform to Sharī'ah.

In principle, the distribution of inheritance should not be limited to one's immediate family, but half-brothers, sisters, and even helpless distant relatives should be taken care of, no matter how small the stipend. This will promote unity and concord in the family proper, as in Islamic moral teaching.<sup>64</sup> The words 'relatives, orphans, and the poor' in Sūrah al-Nisā' (4) verse 8 mean those distant relatives and those orphans and poor persons who, not being among the testator's lawful heirs, are not entitled to receive any part of the property as a right. The verse, although not granting them a legal right of inheritance, exhorts all Muslims, while making a will about the division of their property, to set aside a portion for orphans, the poor, and such distant relatives that are not entitled to any legal share. A testator, however, can leave no more than one-third of the property to anyone other than the lawful heirs in their will.<sup>65</sup> Thus, it is the will that allows the testator to help someone (e.g., a relative's needs, such as an orphaned grandchild or a Christian widow) who is not entitled to inherit. If a person, however, fails to make a will, the entire property becomes liable to be divided under the rules governing intestate succession.<sup>66</sup> Amir, commander in the Islamic community, has no prerogative to alter the Islamic law of inheritance under any circumstances.

<sup>61</sup> Shakil Ahmad Khan, *How to Calculate Inheritance* (New Delhi: Goodword Books, 2005), 30.

<sup>62</sup> Khan, 37.

<sup>63</sup> Khan, 37.

<sup>64</sup> Abdumajeed Hassan Bello, "Islamic Law of Inheritance: Ultimate Solution to Social Inequality against Women," *Arab Law Quarterly* 29, no. 3 (August 10, 2015): 261–73.

<sup>65</sup> Mirza Bashir-ud-din Mahmood Ahmad, *Commentary of the Holy Qur'an*, vol. 2 (London: Islam International, 1988), 500.

<sup>66</sup> Bello, "Islamic Law of Inheritance," 267.

## Conclusion

Colonialism, Christianity, and societal ignorance collectively hindered the establishment of Islamic law in Yorubaland. Consequently, the customary law of succession has gained prominence over the Islamic law of inheritance in Yorubaland, as evident in the records of proceedings at Dar ul-Qadha. The cases revealed a reluctance to separately value the items left by the deceased, influenced by the Yoruba traditional system's disapproval of such valuations. In principle, the Islamic law of inheritance can be effectively implemented and applied among Yoruba Muslims, aligning with its practice in other parts of the Muslim world. However, this implementation can only be rightfully accommodated and practically executed through a valid will, ensuring compliance with all legal formalities mandated by the law of the land. This involves distributing the property under Shari'ah if the testator's intentions are clearly expressed and free from ambiguity, thereby striking a balance between local legislation and Shari'ah principles without altering or violating established rules for harmonious succession practices.

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