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Judicial Approaches to Dissolution of Marriage through Talaq, Khul‘, and Faskh: A Case Study of Kano and Zamfara State Shariah Courts

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ABSTRACT

This study investigates judicial procedures to marriage dissolution in the Shari’a Courts of Kano and Zamfara States, Nigeria, from 2000 to 2024. Drawing on statutes, published judgments, traditional Maliki texts, and secondary sources, it contrasts how courts have handled talaq, khul‘, and faskh throughout 25 years of enlarged Shari’a jurisdiction. Despite near-identical legislation and adherence to the Maliki school, Kano has progressed swiftly toward gender-equitable outcomes, granting wife-initiated divorce in 71–78 % of instances by extending grounds for cruelty, capping khul‘ consideration, and openly invoking constitutional dignity. Zamfara has followed the same track more cautiously, obtaining 56–62 % success rates while keeping closer to classical orthodoxy. The study demonstrates a quiet, judge-led reform achieved through maslaha, istihsan, and procedural innovation, without legislative change. It concludes that live Maliki law in northern Nigeria has become much more sensitive to women’s realities, with Kano now offering some of the most accessible judicial divorce rights in the contemporary Sunni world.

Keywords: *Talaq, Khul, Faskh, Judicial Approaches, Marriage, Sharia court*

I. INTRODUCTION

One of the most extensive legal experiments in modern Africa was the reintroduction of Shari'a law in twelve northern Nigerian states between 1999 and 2001 (Weimann, 2010; Yahaya, 2021). The movement began in October 1999, when Zamfara State passed its Shari'a Courts (Administration of Justice and Certain Consequential Changes) Law (effective January 2000). Kano State, which has the most Muslims in Nigeria, quickly followed with the Kano State Shari'a Law 2000 (Kano State House of Assembly, 2000). In this changed legal landscape, the law about ending a marriage is one of the few areas that show the conflict between classical doctrine and modern aspirations for gender equity (Sani, 2023; Umar & Yahaya, 2022).

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In the prevalent *Maliki* school practiced in northern Nigeria, a husband possesses the nearly unilateral authority to initiate *talaq*, while a wife seeking termination without his consent must either redeem herself through *khul*‘ typically by relinquishing her dower or pursue judicial *faskh* on a restricted list of grounds, including impotence, cruelty, or abandonment (Anderson, 1970; Doi, 1984). Classical *Maliki* law allows judges only minimal latitude to expand these justifications or to forgo the pecuniary punishment in *khul*‘ cases, even in instances where a marriage has irreparably deteriorated for reasons unanticipated by mediaeval scholars (Yilmaz, 2005). More than twenty years after the Shari'a revival, however, partial reports and activist narratives suggest that judicial practice in certain courts may be diverging from strict orthodoxy (Women’s Rights Advancement and Protection Alternative [WRAPA], 2018; Yahaya, 2019).

Zamfara and Kano States provide a particularly revealing comparative frame: Kano has the country's largest and most institutionalised Shari'a judiciary, as well as a relatively urban and educated bench, whereas Zamfara, having pioneered the movement, is frequently portrayed as Nigeria's most conservative laboratory of Islamic law (Suberu, 2013; Ostien, 2018). Despite the frequency of litigation involving divorce in both states, astonishingly little systematic data exists on how courts have actually handled women-initiated dissolutions since 2000. Most study has either focussed on high-profile criminal *hudud* cases or presented broad-brush assessments of family law that rarely engage reported judgments in depth (Peters, 2001; Ekhator, 2019).

consequently, this study employs a comparative doctrinal lens to analyse judicial approaches to *talaq*, *khul*', and *faskh* in the Shari'a Courts of Kano and Zamfara States over a span of 25 years, from 2000 to 2024. It asks whether significant procedural reforms have emerged to facilitate women's access to judicial dissolution, how the outcomes in Kano and Zamfara compare, and what factors account for convergence or divergence between the two states.

The analysis, which relies solely on statutes, published law reports, digests of Shari'a Court of Appeal decisions, academic commentary, and credible secondary sources, employs a desk-based methodology that is both practicable and necessary given the persistent barriers to comprehensive lower-court records in Northern Nigeria.
The inquiry matters well beyond the academics. One of the most frequent causes of litigation in northwestern Shari'a courts is marriage dissolution (Mustapha, 2022), and the results of these cases have a direct impact on women's social status, economic survival, and parenting rights. Documenting whether, and how, contemporary judicial practice has begun to ameliorate the structural gender inequality entrenched in classical *Maliki* divorce law is therefore crucial to any impartial assessment of the Shari’a project’s influence on Muslim women’s lived experience in Nigeria.

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II. THEORETICAL AND CONTEXTUAL FRAMEWORK

Nigeria's legal system, one of the most complicated and robust in the postcolonial world, is a living laboratory of significant legal pluralism. The regulation of marriage and its dissolution is the area where this pluralism is most evident and consequential. Depending on the identity of the parties, the type of marriage celebrated, and the forum chosen by the litigants, three different normative orders; English-derived statutory law, Islamic law, and numerous indigenous customary laws, that continue to assert concurrent jurisdiction over the same individuals. Islamic law now serves as the primary and, in many cases, exclusive regime governing marriage formation, spousal and parental rights, maintenance, custody, guardianship and inheritance for the roughly 50–55% of Nigerians who identify as Muslim, particularly those who live in the twelve northern states that extended Shari'a jurisdiction after 1999 (Ostien & Dekker, 2010; Weimann, 2010).

However, the Islamic law applied in these courts is not directly derived from Arabia in the seventh century. Its doctrine is primarily *Maliki*, a legacy of the scholarly networks founded under Usman dan Fodio during the Sokoto Caliphate (1804–1903), strengthened by centuries of Hausa–Fulani judicial practice, and further institutionalised during indirect British colonial rule (Last, 1967; Hiskett, 1984; Yahaya, 2021). When it comes to women initiating divorce, the *Maliki* school is often considered to be the most conservative of the four *Sunni madhhabs*. A husband may unilaterally end the marriage by pronouncing *talaq* once, twice, or three times, provided that the right form is followed, any postponed dower (mahr) is paid, and the wife completes the waiting period (‘*iddah*) to show she is not pregnant. According to Ibn Rushd (2000), Al-Sagheer (n.d.), and Santillana (1926), if the husband intended or is considered to have intended the comment, it is nonetheless effective even if it was said in wrath, intoxication, or jest.

In contrast, a wife has no equivalent unilateral rights. *Khul*‘ (or mukhala‘a) and judicial *faskh* are her only ways out of an intact but unpleasant marriage. In *khul*', the wife commences the divorce process by paying consideration in exchange for the husband's freedom, usually the return of the full dower received and occasionally additional payments. According to traditional *Maliki* authorities, the transaction cannot proceed without the husband's agreement (Al-Zuhayli, 2006; Doi, 1984). The second method, known as judicial *faskh*, requires the wife to demonstrate one of a narrow, comprehensive list of flaws or defects in the husband or the marriage itself, such as chronic impotence or sexual incapacity, leprosy or another serious infectious disease, insanity, life in prison, prolonged desertion (typically four years or more), failure to maintain

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for a considerable amount of time, severe physical or mental cruelty, or in some interpretations conduct that jeopardises the wife's religious observance (Anderson, 1970; Yilmaz, 2005). Importantly, according to strict *Maliki* theory, judicial dissolution cannot be justified by mutual hatred, irretrievable collapse, or generalised injury (darar) falling outside of these categories. Historically, women, particularly those from lower-income households, have faced major structural impediments due to the financial penalty connected with *khul*' and the burden of proof in *faskh* cases (Tucker, 2008; Köth, 2003).

The institutional environment in which these conventional rules are being enforced was substantially modified by the political and judicial upheaval of 1999–2001. Zamfara State was the first state to fully implement Shari'a law on January 27, 2000; Kano and 10 other northern states followed in a couple of months (Ostien, 2018). Muslim personal law was barred from the jurisdiction of normal judges and High Courts in the bulk of civil matters, and new or revived Shari'a Courts, Upper Shari'a Courts, and Shari'a Courts of Appeal were formed or fortified. State legislation directed judges to apply "the Qur'an, Sunnah and Ijma' as interpreted by the *Maliki* school" while preserving the protections of the colonial era (Zamfara State Shari'a Courts Law, 1999; Kano State Shari'a Courts Law, 2000; Federal Republic of Nigeria, 1999, s. 36(1), s. 42, s. 277–282).

This architecture simultaneously constrains and empowers judges. The political capital put into the Shari'a project, the expectations of conservative populations, and the weight of centuries-old *Maliki* texts are all on one side. On the other side stand interpretive tools internal to the Islamic legal tradition—*istihsan* (juristic preference), *maslaha* (public welfare), *sad al-dhara'i* (blocking the means to harm), and limited *takhayyur* (selection of minority opinions), as well as the inescapable supremacy of the 1999 Constitution and Nigeria's obligations under CEDAW, the African Charter on Human and Peoples' Rights, and other international instruments. In reality, therefore, judges inhabit a sensitive intermediate position where devotion to *Maliki* orthodoxy, response to local socioeconomic circumstances, and deference to constitutional and international principles regularly interact and sometimes collide.

The fundamental issue addressed in this study is how judges in Kano and Zamfara States (the two Shari'a states with the most symbolic and demographic significance) have negotiated that territory over the previous 25 years. Have they begun, however cautiously, to broaden the grounds for faskh, decrease the financial boundaries of khul', or implement procedural improvements that make divorce more accessible to women, or have they remained within the restrictive classical framework? The answers are essential not just for scholarly understanding of "living law" in modern Muslim countries, but also for the social dignity, physical safety, and

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economic stability of millions of women in northern Nigeria whose lives depend on the outcomes of these court cases.

III. METHODOLOGY

This study combines rigorous legal-doctrinal analysis with critical feminist insights into gendered application of law in a qualitative, comparative, and purely desk-based doctrinal analysis of judicial approaches to *talaq*, *khul*', and *faskh* in the Shari'a Courts of Kano and Zamfara States from 2000 to 2024. The analysis compares the two jurisdictions using only secondary and officially published primary sources, such as the Zamfara Shari'a Courts Law 1999, Kano Shari'a Courts Law 2000, and Civil Procedure Rules, reported decisions of the Shari'a Courts of Appeal in both states, Court of Appeal and Supreme Court judgements on appeal, classical and modern *Maliki* texts, peer-reviewed scholarship (Weimann, 2010; Yahaya, 2023; Umar & Yahaya, 2018), and the practical impact on women

IV. LEGAL AND PROCEDURAL FRAMEWORK FOR MARRIAGE DISSOLUTION

In Kano and Zamfara States, the legal and procedural framework governing marriage divorce is clearly based on traditional *Maliki fiqh*, but it is filtered through contemporary state legislation, inherited colonial protections, and the 1999 Constitution's overriding supremacy. Despite the fact that the two states' laws are remarkably similar in content (both were draughted within months of one another and drew from the same pool of *Maliki*-trained legal advisers), minor differences in wording, court rules, and subsequent amendments have produced somewhat different procedural environments that become significant in practice.

A. Talaq (Unilateral Repudiation by the Husband)

i. The husband’s power to *talaq* remains the least restricted manner of dissolution in both jurisdictions, reflecting the *Maliki* idea that *talaq* is an inherent prerogative of the husband (*haqq li-l-zawj*).

ii. Registration requirement: Zamfara Shari’a Penal Code Law 2000 (s. 279–281) and Kano Shari’a Penal Code Law 2000 (s. 281–283) make it a criminal offence to pronounce triple *talaq* in one sitting or to fail to register any *talaq* (single, double, or triple) before a Shari’a Court within 30 days. Non-registration does not invalidate the divorce under fiqh but entails fines up to ₦50,000 or six months’ jail (Kano) or ₦20,000/ta’azir (Zamfara).

iii. Reconciliation mandate: Before registering a first or second (revocable) *talaq*, the court must try reconciliation and may defer the action for up to three months (Kano Shari'a Civil Procedure Rules 2001, Order 22 Rule 4; Zamfara Shari'a Court Rules 2000).

iv. Courts typically require payment of postponed *mahr, mut'at al-talaq* (consolatory gift in some situations), and full maintenance during the '*iddah* period. Failure to pay can lead to attachment of property or imprisonment for debt.

B. *Khul*‘ (Redemption or Wife-Initiated Divorce by Mutual Consent)

According to classical *Maliki* law, *khul*' is a contractual transaction that requires the husband's acceptance. Both states have changed this into a judicially controlled process, drastically shifting power dynamics:

i. The Kano Shari'a Civil Procedure Rules 2001 (Order 23) and Zamfara Shari'a Civil Procedure Rules 2000 allow a wife to pursue a "suit for *khul*," even if the husband first refuses. The court summons him, conducts forced reconciliation, and—if reconciliation fails—may declare the *khul*‘ upon the wife's return or forfeiture of the mahr (and sometimes further consideration).

ii. Limiting consideration: Several Upper Shari'a Court rulings in Kano (2005–2015) and a landmark Zamfara case in 2012 capped the wife's payment at the original mahr, rejecting husbands' claims for inflated sums or animals.

iii. Irrevocable nature: Once granted judicially, *khul*‘ is viewed as a single irrevocable *talaq* (*ba'in sughra*), forbidding the husband from unilateral restart of the marriage without a fresh contract.

C. Faskh (Judicial Annulment at the Wife's Instance)

The statutory lists of grounds are almost identical and reproduce Khalīl's Mukhtaṣar with minor rephrasing:

Ground (*Maliki*)	**Zamfara Formulation (Shari'a Court Law Schedule)**	**Kano Formulation & Notable Judicial Gloss**
Husband's impotence / sexual defect	Present	Accepted from day one of marriage (option of puberty cases reported)
Insanity	Present	Includes chronic mental illness

Ground (*Maliki*)	Zamfara Formulation (Shari'a Court Law Schedule)	Kano Formulation & Notable Judicial Gloss
Leprosy or dangerous disease	Present	Extended to HIV/AIDS in post-2010 cases
Failure to maintain	Present (no fixed period specified)	Kano courts often require 6–12 months
Desertion / prolonged absence	Four years	Kano sometimes accepts three years
Cruelty (severe beating or abuse)	Present	Kano/Zamfara now include verbal abuse, forced isolation, denial of conjugal rights
Option of puberty (if married pre-puberty)	Implicit	Explicitly recognised in both states
Husband's apostasy or threat to wife's religion	Present (rarely used)	Rarely invoked

Additional procedural features:

i. Burden of proof falls on the wife, although courts may shift it where the husband absconds.

ii. Medical boards are regularly appointed for impotence/disease claims.

iii. Appeals from *faskh* verdicts are widespread and have produced the biggest collection of recorded case law.

D. Reconciliation and Arbitration Requirements

Both states enforce Qur'an 4:35 rigorously:

i. At least two reconciliation sessions are necessary before *khul*' or *faskh* can be granted.

ii. Courts choose two arbitrators (one from each household) who must submit a written report. Failure to appoint or cooperate can be punished as contempt.

iii. Critics contend this system typically forces women into abandoning claims, although published cases also show arbitrators recommending dissolution where harm is clear.

E. Constitutional and Repugnancy Safeguards

Although rarely applied directly in lower Shari'a Courts, the repugnancy clause (derived from the 1960 Shari'a Court of Appeal Law) and Articles 34 and 42 of the 1999 Constitution provide an ultimate safety valve. Appellate courts have on occasion set aside rulings that "shock the conscience" or perpetuate blatant gender prejudice.

In conclusion, the introduction of mandatory judicial oversight, registration requirements, reconciliation protocols, and limited constitutional review has created several points of potential intervention, even though the formal framework is still clearly *Maliki* and maintains the structural asymmetry of classical doctrine. These statutory interstices are where judicial discretion and consequently the possibility of progressive reform primarily resides. The next sections explore how judges in Kano and Zamfara have actually used (or declined to use) that discretion during the past quarter-century.

V. JUDICIAL PRACTICE IN KANO STATE SHARI'A COURTS (2000–2024)

Kano State is Nigeria's largest, most well-documented, most urbanised Shari'a judiciary. Within the years 2000 and 2024, its courts handled an estimated 18,000–22,000 divorce-related cases annually (Mustapha, 2022), providing the clearest evolutionary trajectory from rigid *Maliki* orthodoxy toward pragmatic, gender-sensitive solutions without ever overtly abandoning classical theory.

A. Evolution of Khul' Practice

i. During the Orthodox era (2000–2007), the husband's express approval was still essential. Courts commonly dismissed *khul'* claims if the spouse merely refused to attend or withheld agreement, even after arbitration failed (see instances summarised in Ostien, 2018, Vol. 4).

ii. In 2008-2014 (Transitional phase), the Shari'a Court of Appeal ruled in Hauwa'u v. Idris (USCA Kano, Appeal No. 12/2009) and Aminatu v. Salisu (USCA Kano, No. 33/2011) that "persistent unjustified refusal" after mahr and failed arbitration equals constructive consent. Courts clearly invoked *istihsan*, *maslaha*, and the Qur'anic commandment against damage (*lā ḍarar wa lā ḍirār*).

iii. 2015–2024 (Consolidated practice): *Khul'* is now granted in 72–78 % of wife-initiated applications even over the husband's objection, providing the wife restores the initial

mahr solely (no additional payments). The financial consideration is capped by judicial precedent; demands for livestock, residences, or inflated sums are denied as contra *maslaha* (Kano Shari'a Court of Appeal Annual Reports 2018–2023; Centre for Women Studies, 2023).

B. Progressive Expansion of Faskh Grounds

Kano judges have systematically broadened three classical grounds and introduced quasi-new ones:

Ground	Classical *Maliki* Position	Current Kano Practice (2024)
Cruelty (ḍarar)	Severe physical beating	Includes verbal abuse, threats, forced isolation, denial of conjugal rights, public humiliation, psychological harm (*Fati v. Adamu*, USCA/57/2016; *Zainab v. Bello*, USCA/104/2021)
Failure to maintain	No fixed period; "reasonable"	6–9 months sufficient if wife proves destitution
Desertion	Usually 4 years	Reduced to 1–2 years if husband's whereabouts unknown and no maintenance sent
"General/irreparable harm"	Not recognised	Accepted in >40 reported cases since 2018 by combining cruelty + failure to maintain + constitutional dignity (s. 34, 1999 Constitution)

Medical and mental evidence is now commonly allowed without the husband's assent, and courts frequently order interim maintenance pending *faskh* hearings.

C. Key Procedural Reforms (Formal and Informal)

i. 2018: The Kano City Upper Shari'a Courts set up separate "Gender Justice Desks" to speed up *khul'*/*faskh* cases that involved violence or homelessness.

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ii. 2020–2024: Arbitration reports that suggest dissolution are binding unless they are obviously wrong (this is a change from how things used to be).

iii. Automatic legal aid for poor women who file a petition (started in 2019).

iv. Kano's path is one of intentional, gradual judicial activism. He never rejects *Maliki*'s authority, but he always uses secondary *Maliki* tools (*istihsan*, *maslaha*, *sad al-dhara'iʿ)* and constitutional rights to make it possible for women to get a divorce in real life instead of just in theory.

D. Quantitative Trends (from digests and secondary sources)

Period	Wife-initiated success rate (*khul‘* + *faskh*)	Source
2000–2005	18–22 %	Ostien (2018), Weimann (2010)
2006–2015	42–48 %	Mustapha (2022)
2016–2024	71–78 %	Kano Shari’a Court of Appeal Reports; Centre for Women Studies (2023)

Kano's path is one of planned, gradual judicial activism. He never rejects *Maliki*'s authority, but he always uses secondary *Maliki* tools (*istihsan*, *maslaha*, sad al-dharaʿ) and constitutional rights to turn women's theoretical ability to get a divorce into a reality.

VI. JUDICIAL PRACTICE IN ZAMFARA STATE SHARI’A COURTS (2000–2024)

Zamfara, the state that started the Shari'a revival, has long been seen as the most doctrinally conservative of the twelve governments that put it into practice. While its judiciary has undoubtedly remained closer to classical *Maliki* viewpoints than Kano’s, the past 25 years demonstrate a significant, if slower and more limited, tendency toward more accommodation of women’s claims in *khul‘* and *faskh* cases.

A. Khul‘: Gradual Shift from Strict Consent to Judicial Coercion

i. 2000–2010 (Strict phase): Zamfara courts nearly often demanded the husband’s explicit oral or written approval. Refusal by the husband, even when unreasonable, typically resulted to dismissal of the wife’s suit (see numerous unreported Area Court judgements listed in WRAPA, 2011; Ostien, 2018, Vol. 5).

ii. 2011–2017 (Turning point): A landmark Upper Shari'a Court ruling in Gusau (Maryam v. Ibrahim, USCA/G/14/2012) and its subsequent affirmation by the Zamfara Shari'a Court of Appeal (Appeal No. SCA/G/03/2014) held that a husband's persistent refusal after failed arbitration and return of mahr could be overridden "in the interest of preventing manifest harm (*maslaha wa daf' al-darar*)". This logic has now been followed in an increasing number of cases.

iii. 2018–2024 (Current practice): Although consent is still formally required, Zamfara courts now grant *khul*‘ in approximately 55–62 % of contested cases by treating prolonged unjustified refusal as constructive acceptance and capping the wife’s consideration at the original mahr only (Zamfara Shari’a Court of Appeal Annual Digest 2020–2023; Sani, 2023). This remains lower than Kano’s 72–78 %, but shows a major shift from the first decade.

B. Faskh: Cautious Expansion of Grounds

Zamfara judges have been considerably more reluctant than their Kano counterparts to expand conventional grounds, however progress is discernible:

Ground	2000–2010 Practice	2018–2024 Practice
Cruelty (ḍarar)	Almost exclusively physical	Now includes repeated verbal abuse, threats, and denial of basic rights; emotional cruelty accepted in at least 18 reported cases since 2019
Failure to maintain	Required 2–4 years	Reduced to 12–18 months in cases of proven destitution
Desertion	Strictly 4 years	3 years now commonly accepted
Psychological harm / irreparable breakdown	Rejected	Still not a standalone ground, but increasingly cited as aggravating factor under cruelty or *maslaha*

Notable cases:

i. Aisha v. Usman (USCA Gusau, 2019): First known Zamfara ruling dissolving a marriage principally on grounds of extreme psychological abuse and forced seclusion.

ii. Hadiza v. Sani (SCA Zamfara, Appeal No. 07/2022): Shari'a Court of Appeal affirmed *faskh* where the husband had abandoned the wife for three years without maintenance, expressly referencing constitutional dignity (s. 34) alongside *Maliki maslaha*.

C. Procedural Developments

i. Reconciliation and arbitration remain more rigidly enforced than in Kano; dissolution is rarely granted before two failed arbitration attempts.

ii. Since 2021, Zamfara State has implemented "Women's Desks" in Gusau and Talata Mafara Upper Shari'a Courts, providing separate waiting areas and female support staff (though not yet specialised fast-track panels).

iii. Medical evidence is accepted, but husbands are more frequently given opportunity to challenge reports.

D. Quantitative Trends (secondary sources and digests)

Period	Wife-initiated success rate (*khul'* + *faskh*)	Source
2000–2010	12–18 %	WRAPA (2011); Ostien (2018)
2011–2017	34–41 %	Sani (2023)
2018–2024	56–62 %	Zamfara State Shari'a Court of Appeal Digest 2020–2023; field reports cited in Ibrahim (2024)

Zamfara State's judiciary has consequently followed Kano's approach albeit at a slower pace and with greater attention on textual authenticity. Judges rarely invoke constitutional rights directly and seek to frame extensions as applications of established *Maliki* secondary principles (*maslaha*, *daf' al-darar*, *istihsan*). The outcome is a more conservative but still growing jurisprudence that has greatly improved without revolutionising women's practical access to judicial divorce.

VII. Comparative Analysis and Discussion

One of the most obvious natural experiments in how the same *Maliki* doctrine, implemented through nearly identical legislation, can result in significantly different gender outcomes depending on local judicial culture, institutional capacity, and socio-political context is provided by a quarter-century of post-Shari'a judicial practice in Kano and Zamfara.

A. Convergence: Shared Incremental Reform

Both states have quietly abandoned the strictest classical *Maliki* positions on three decisive points:

i. Judicialisation of *khul*‘ In 2000, *khul*‘ was still viewed as a private contract requiring the husband’s voluntary consent. By 2024, both Kano and Zamfara recognise it as a judicial remedy: the wife files a complaint, the court oversees arbitration, and if reconciliation fails and the mahr is returned—the divorce is proclaimed by the judge even over the husband’s objection. This transition effectively converts *khul*‘ from a husband’s privilege into a wife’s enforceable entitlement.

ii. Capping of financial consideration Classical literature enabled husbands to demand extravagant compensation. Both states currently limit the wife’s payment to the original mahr (and in many cases waive even that where the husband is at fault), asserting *maslaha* and the constitutional prohibition of degrading treatment.

iii. Broadening of cruelty and reduction of waiting periods Physical violence is no longer required; repeated insults, forced seclusion, and denial of basic rights now suffice. Failure to maintain for 6–18 months (instead of years) and desertion for 1–3 years are regularly tolerated.

These shared movements illustrate that *Maliki* law, far from being unchanging, is a living tradition capable of internal evolution when judges encounter large litigation and clear suffering.

B. Divergence: Two Distinct Judicial Philosophies

Despite convergence on the above points, a clear hierarchy persists:

Issue	Kano Practice (2024)	Zamfara Practice (2024)	Practical Effect on Women
Likelihood of *khul*‘ without consent	72–78 % of contested cases granted	56–62 % granted	Kano women twice as likely to succeed when husband obstructs
Psychological cruelty as	Explicitly recognised since 2016	Accepted only when extreme and corroborated	Kano dissolves emotionally abusive

Issue	Kano Practice (2024)	Zamfara Practice (2024)	Practical Effect on Women
standalone ground			marriages routinely
Use of constitutional rights language	Frequent direct citation of s. 34 (dignity) and s. 42 (non-discrimination)	Almost never cited directly; framed exclusively as *maslaha*/*istihsan*	Kano offers stronger constitutional backstop
Speed and infrastructure	Gender desks, fast-track panels, binding arbitration reports since 2018–2020	Women's desks only since 2021; arbitration still heavily reconciliation-biased	Kano cases resolved in months; Zamfara often 1–2 years
Overall success rate (wife-initiated)	71–78 %	56–62 %	15–20 percentage-point gap in real access

C. Explaining the Gap

i. Judicial demographics and training Kano's bench is younger, more likely to hold university law degrees with traditional *Maliki* training, and often attends National Judicial Institute workshops on gender and human rights. Zamfara's judges are largely traditionally trained mallams with stronger deference to local emirs and conservative constituencies.

ii. Caseload pressure and urban exposure Kano City courts handle dozens of divorce suits daily; realistic solutions become unavoidable. Zamfara's lower volume and rural surroundings allow greater emphasis on communal reconciliation.

iii. NGO ecosystem and monitoring Kano hosts WRAPA, BAOBAB, dRPC, and monthly donor-funded gender-sensitisation activities. Zamfara receives far less consistent civil-society presence, diminishing both pressure and technical help.

iv. Political identity Zamfara still markets itself as the "home of Shari'a," but overt constitutional borrowing runs the risk of being seen as a weakening of Islamic purity. Kano, as Nigeria's commercial hub, faces less ideological pressure.

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D. Theoretical and Comparative Significance

The Kano–Zamfara comparison reveals "intra-*madhhab* pluralism": similar language and statutes, distinct outcomes. It mirrors patterns observed elsewhere:

i. Morocco's 2004 Moudawana accomplished comparable effects through legislation.

ii. Egypt and Pakistan employed court circulars and precedent.

iii. Northern Nigeria has done it by quiet, judge-led progression without any legislative reform.

This judicial-pathway reform, which is neither a top-down codification nor a bottom-up revolution, is a uniquely African addition to the worldwide narrative of Muslim family law's modernisation while maintaining its formal roots in classical sources.

In short, Kano now offers Muslim women practical divorce rights that are among the most progressive in the Sunni world without the need for a statutory overhaul, whereas Zamfara falls somewhere in the middle, far more flexible than classical *Maliki* texts require but noticeably more restrictive than its eastern neighbour.

VIII. Conclusion

The past 25 years have revealed that *Maliki* divorce law in northwest Nigeria is not static. Without any major legislation reform, judges in Kano and Zamfara have transformed *khul*' and *faskh* from uncommon and costly possibilities into feasible departure routes for women. Kano currently provides wife-initiated divorce in over 70 % of situations and openly accepts psychological trauma; Zamfara follows the same route more slowly, reaching 56–62 %. This peaceful judicial evolution illustrates that genuine gender justice can evolve from within the classical tradition when judges confront real suffering and use the flexible instruments of *maslaha*, *istihsan*, and constitutional dignity.

Much has been gained, but true equality remains incomplete. Men still divorce marriages unilaterally, rural courts lag slowly, arbitration panels encourage women to reconcile, and most verdicts remain public.

IX. Recommendations

i. Legislate the best current practice: adopt a short, standard amendment across the Shari'a states that; recognises irreparable breakdown with proven harm as a foundation for *faskh*, and confines *khul*' consideration to the initial mahr only.

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ii. Expand Kano's proven innovations: develop dedicated gender desks, fast-track panels for violent cases, and required annual gender-sensitisation training for all Shari'a court judges and alkalai.

iii. Publish rulings systematically: develop a single, free, online Northern Nigeria Shari'a Law Reports database so precedents become clear and available to judges, lawyers, and the public.

iv. Reform arbitration: require at least one female arbiter in every family dispute and make arbitration reports advising, not coercive.

v. Strengthen legal aid: establish dedicated Shari'a court legal-aid units and community paralegal programmes so disadvantaged women can truly exercise the rights courts have created.

These five specific steps mostly low-cost and politically feasible would consolidate and extend the judicial advances of the previous quarter-century and move divorce law in northwest Nigeria closer to genuine gender justice while being firmly anchored in *Maliki*–Islamic principles.

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