

**HYBRID AUTHORITY AT THE INTERSECTION OF CONSTITUTION AND SHARIA:
JURISDICTIONAL DILEMMAS AND THE ENFORCEMENT OF ISLAMIC FAMILY LAW IN
NIGERIA**

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Abstract

Purpose – This study examines why the constitutional recognition of Sharia family courts in Nigeria has failed to resolve ongoing tensions over power, legitimacy, and jurisdiction, revealing a structural dilemma in which constitutional supremacy and Sharia authority coexist without meaningful integration.

Methods – This study uses a normative legal method based on doctrinal analyses. Primary data include constitutional provisions and legal instruments governing Sharia courts, while secondary data consist of established scholarly studies on Islamic legal theory, constitutional law, and legal pluralism. Data were analyzed using interpretive and analytical techniques to assess jurisdictional structures, sources of authority, and adjudication patterns.

Findings – These findings show that Islamic family law in Nigeria operates through a dual structure of constitutional legality and religious legitimacy, resulting in the persistent fragmentation of authority that produces doctrinal inconsistency, judicial minimalism, and institutional caution. Rather than offering a principled framework for coexistence, constitutional supremacy functions primarily as a mechanism of subjugation, placing Sharia family law in a state of formal validity but with normative uncertainty. Thus, the stability of Islamic family law does not arise from the resolution of conflicts of authority but rather from the ability of the judicial system to manage normative tensions through case-specific accommodations within a stable but conceptually fragile space of legal pluralism.

Research contribution/limitations – This study is limited to normative legal analysis and does not include empirical court data or litigants' perspectives. Therefore, the conclusions cannot be generalized beyond doctrinal interpretations.

Originality/value – This study offers a conceptual reframing of Islamic family law as a semi-autonomous normative subsystem within the constitutional order, contributing to the debate on legal pluralism and religious courts.

Keywords: Islamic Family Law; Constitutional Supremacy; Sharia Courts; Legal Pluralism; Nigeria

Abstrak

Tujuan - Penelitian ini mengkaji mengapa pengakuan konstitusional pengadilan keluarga Syariah di Nigeria telah gagal menyelesaikan ketegangan yang terus-menerus atas kekuasaan, legitimasi, dan yurisdiksi, mengungkapkan dilema struktural di mana supremasi konstitusional dan otoritas Syariah hidup berdampingan tanpa integrasi yang berarti.

Metode - Studi ini menggunakan metode hukum normatif berlandaskan analisis doktrinal. Data primer meliputi ketentuan konstitusional dan instrumen hukum yang mengatur pengadilan Syariah, sedangkan data sekunder terdiri dari kajian ilmiah yang mapan tentang teori hukum Islam, hukum konstitusional, dan pluralisme hukum. Data dianalisis melalui teknik interpretatif dan analitis untuk menilai struktur yurisdiksi, sumber otoritas, dan pola adjudikasi.

Temuan - Temuan ini menunjukkan bahwa hukum keluarga Islam di Nigeria beroperasi melalui struktur ganda legalitas konstitusional dan legitimasi agama, menghasilkan fragmentasi otoritas yang terus-menerus yang menghasilkan inkonsistensi doktrinal, minimalisme yudisial, dan kehati-hatian kelembagaan. Alih-alih menawarkan kerangka hidup berdampingan yang berprinsip, supremasi konstitusional berfungsi terutama sebagai mekanisme pembakatan, menempatkan hukum keluarga Syariah dalam kondisi validitas formal tetapi tetap dalam ketidakpastian normatif. Dengan demikian, stabilitas hukum keluarga Islam tidak lahir dari penyelesaian konflik otoritas, melainkan dari kemampuan sistem peradilan untuk mengelola ketegangan normatif melalui akomodasi kasus-spesifik dalam ruang pluralisme hukum yang stabil namun rentan secara konseptual.

Kontribusi/keterbatasan penelitian - Studi ini terbatas pada analisis hukum normatif dan tidak mencakup data pengadilan empiris atau perspektif pihak yang berperkara. Sehingga, kesimpulan tidak dapat digeneralisasikan di luar interpretasi doktrinal.

Keaslian/nilai - Artikel ini menawarkan pembingkai ulang konseptual hukum keluarga Islam sebagai subsistem normatif semi-otonom dalam tatanan konstitusional, berkontribusi pada debat tentang pluralisme hukum dan pengadilan agama.

Kata kunci: *Hukum Keluarga Islam; Supremasi Konstitusional; Pengadilan Syariah; Pluralisme Hukum; Nigeria.*

INTRODUCTION

The coexistence of constitutional authority and Islamic law is a characteristic feature of contemporary legal systems, particularly in postcolonial societies with pluralistic Muslim demographic configurations (Maruf, 2025). This condition not only demonstrates a dualism of norms but also forms a complex landscape of legal pluralism, in which state law and religious law interact dynamically, complementing each other in some aspects but also potentially clashing and competing in regulating the private and communal spheres (Diara and Uroko,

2020). In this context, Nigeria provides a significant empirical example. After the democratic transition in 1999, several states in northern Nigeria revitalized Sharia institutions, thereby reintroducing the Islamic normative regime into the formal legal structure of the state (Weimann, 2025).

Although academic and public attention often focuses on the application of Sharia criminal law, the practice of Islamic family law shows more consistent institutional resilience and has a direct impact on the community's social life. Issues such as marriage, divorce, custody, and inheritance are routinely processed

through Sharia courts, making the family sphere the most concrete arena for the operationalization of Islamic law in the Nigerian judicial system (Busari and Lafiagi, 2025). However, the existence of Sharia courts remains within a constitutional system that affirms the supremacy of the Nigerian Constitution as the highest law. The jurisdiction of Sharia courts is limited by statutory provisions and appeal mechanisms that allow for intervention by the general judiciary (A. A. Oba and Ismael, 2025). This institutional configuration gives rise to structural tensions between the claims of constitutional supremacy and the normative legitimacy of Sharia, particularly in the field of family law, which simultaneously contains theological, social, and administrative dimensions (Owolabi, 2023). Thus, Nigeria offers an instructive case for examining the global dialectic between modern constitutional authority and Islamic legal norms. This tension is not merely doctrinal but also reflects ongoing negotiations between religious identity, state structure, and demands for justice in a pluralistic society.

Existing research on Sharia law in Nigeria has tended to focus on constitutional status issues and their political implications within the framework of the modern state (Yang, 2021). Most literature examines the reintroduction of Sharia criminal law, with an emphasis on issues of constitutionality, federalism, and the protection of human rights as the main

evaluative parameters (Weimann, 2025). In addition, several studies have examined the historical development of Sharia institutions and the jurisdictional limits of Sharia Courts of Appeal in the configuration of the Nigerian judicial system (Maruf, 2025). In contrast, Islamic family law is often positioned as a relatively doctrinally established domain and is considered administratively unproblematic, as if it operates harmoniously within the personal law regime recognized by the Constitution (Chiroma et al., 2015). Consequently, limited academic attention has been given to the day-to-day court practices of Sharia Family Courts, particularly with regard to judicial discretion, institutional legitimacy, and their functional position in Nigeria's constitutional hierarchy (A. Oba, 2017).

Furthermore, the literature's emphasis on formal legality and institutional design tends to obscure more fundamental questions about the rationality of jurisdiction and the sources of normative authority underpinning Islamic family courts (Diara and Uroko, 2020). Although the Nigerian Constitution explicitly regulates the scope of jurisdiction and review mechanisms for Sharia courts, the framework does not provide comprehensive normative guidelines on how constitutional authority should interact with Sharia legitimacy as a religiously normative system. This conceptual void ultimately leaves

epistemic and juridical problems regarding the basis of the jurisdictional authority of Islamic family courts that have not been fully articulated in academic discourse or judicial practice (Muhammad et al., 2025).

This gap is even more apparent from the perspective of Islamic legal theory and the concept of judicial authority. The classical fiqh tradition has constructed complex doctrines regarding judicial power (*wilāyat al-qaḍā'*), legitimacy (*mashrū'iyya*), and the relationship between law, political authority, and substantive justice. Ironically, contemporary analyses of Sharia courts in Nigeria rarely elaborate on these theoretical dimensions, particularly in the context of family law adjudication. Instead, Sharia legitimacy is often reduced to constitutional authorization or abstract religious authenticity without a deep examination of the epistemological and institutional dynamics that arise when Sharia jurisdiction operates under the supremacy of state law. These theoretical limitations have constrained the academic understanding of why Islamic family law in Nigeria exhibits persistent doctrinal inconsistency, cautious judicial reasoning, and a reluctance to address constitutional questions, even in cases with significant legal and social consequences. Consequently, the dominant narrative is inadequate in explaining the internal logic of Sharia family courts under constitutional supremacy.

This article attempts to fill this gap by offering an analysis that focuses on the issue of jurisdiction in Nigeria's Islamic family law. Its main objective is to examine how constitutional supremacy and Sharia legitimacy interact in judicial practice and outline the implications of this interaction for judicial authority, judicial reasoning patterns, and institutional cohesion in a pluralistic judicial system. Thus, the focus of the study lies not only on formal normative design but also on the dynamics of adjudicative praxis that shape the operationalization of Islamic family law within the framework of a constitutional state. This study critically challenges two dominant assumptions in the existing literature. First, the assumption of constitutional supremacy resolves jurisdictional issues through the integration of Sharia courts into the state judicial hierarchy. Second, the assumption that Sharia legitimacy operates autonomously from constitutional constraints, relying solely on religious obligations and social acceptance, is incorrect.

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METHOD

This study adopts a qualitative legal research approach, grounded in normative and doctrinal analyses. It examines Islamic family law in Nigeria as a normative legal system operating within a constitutionally supreme order rather than as a form of social practice or behavioral regulation. Accordingly, this study does not rely on empirical fieldwork, interviews, or surveys. Instead, it focuses on the analysis of legal norms, jurisdictional frameworks, and interpretive structures that shape how constitutional supremacy interacts with, constrains, and legitimizes *Shariah-based* adjudication. The choice of a doctrinal method is appropriate for addressing questions of legal authority, legitimacy, and jurisdiction that arise from overlapping legal orders. The

substantive focus on family law is justified by its continued application within *Sharī'ah* courts and its relative neglect in constitutional scholarship compared to *Sharī'ah* criminal law, despite its pervasive influence on everyday legal practice.

The research materials consist of primary and secondary legal sources. Primary sources include relevant provisions of the 1999 Constitution of the Federal Republic of Nigeria (as amended) governing judicial power, constitutional supremacy, and the jurisdiction of *Sharī'ah* courts, as well as statutory instruments and state laws establishing and regulating *them*. Secondary sources include peer-reviewed academic literature on Islamic legal theory, legal pluralism, and Nigerian constitutional law. Data were collected through systematic identification and close reading of the materials. The author served as the principal analytical instrument, employing textual interpretation, comparative doctrinal analysis, and normative synthesis to examine the patterns of jurisdictional reasoning and assertions of authority. The analytical procedures involved (i) identifying relevant legal norms and doctrines, (ii) comparing their internal logic and hierarchical claims, and (iii) assessing points of convergence, tension, and silence between constitutional law and *Sharī'ah* jurisprudence. Validity was ensured through the internal coherence of interpretation, consistency with

established legal principles, and triangulation between constitutional doctrine and Islamic legal theory. This methodological integration enables a rigorous explanation of the jurisdictional dilemma that shapes Islamic family law adjudication in Nigeria.

RESULTS AND DISCUSSION

Constitutional Supremacy and the Formal Position of Shari‘ah Family Courts in Nigeria

The main findings of this study highlight the role and function of Sharia Family Courts in Nigeria's general court system and their implications for the application of Islamic family law (Busari, 2021). These findings are based on a critical doctrinal analysis of the 1999 Constitution of the Federal Republic of Nigeria (as amended), particularly the norms regarding the distribution of judicial power, the principle of constitutional supremacy, and the limits of the Sharia Court's jurisdiction. This study also includes a systematic review of Sharia court legislation at the state level and the relevant procedural regulations. The analysis is based on an examination of key appellate decisions of the Sharia Court of Appeal and higher courts, with an emphasis on jurisdictional argumentation, constitutional interpretation, and patterns of judicial deference and restraint in Islamic family law courts (Issaka-Toure and Alidou, 2021).

These courts derive their jurisdiction from the Constitution and legislation that provides operational legitimacy, but their jurisdiction is explicitly limited to matters falling under Islamic personal law within the framework of an integrated national legal system (Usman et al., 2024). To balance religious diversity with state authority, Nigeria recognizes Sharia courts while affirming the principle of constitutional supremacy (A. A. Oba and Ismael, 2025). Normatively, this construction appears to be systematic and consistent: Sharia courts operate based on delegated authority, and their decisions obtain legal validity as long as they do not exceed predetermined constitutional limits. However, this formal regularity essentially leaves unresolved conceptual problems (Al-Khalidi, 2026). Although the Constitution has established the institutional scope within which Sharia courts can operate, it provides relatively few normative guidelines on how Islamic legal reasoning can be substantively integrated with constitutional authority in the process of resolving family law disputes (Shahid, 2013).

The absence of constitutional guidance has become increasingly apparent in judicial practice (Kholik et al., 2025). Although the principle of constitutional supremacy determines the main parameters of legal validity, this reality does not eliminate the strong normative authority that Islamic law continues to exert in Muslim

communities (Subhi et al., 2024). In this context, Islamic family law is not merely understood as a set of norms enforced by the state but as a normative-religious system that shapes the moral obligations, social practices, and conceptions of justice of its adherents (Wahib, 2022). The findings of this study show that Sharia courts are in a liminal position between two normative regimes: the constitutional order that regulates jurisdiction, procedures, and institutional authority, and the religious legal order that claims moral and normative legitimacy over personal status matters (Solikin and Wasik, 2023). This dual position gives rise to structural tensions that cannot be reduced to mere technical jurisdictional issues but rather reflect competition between different sources of legal legitimacy (Haider et al., 2025). A systematic analysis of appeal review patterns also reveals inconsistent standards in constitutional engagement, where some rulings use constitutional supremacy to limit Sharia jurisdiction while others avoid constitutional arguments despite their obvious implications (das Chagas, 2023). The resulting jurisprudence demonstrates a fragmented interpretive approach and signals the absence of a stable doctrinal method for balancing religious authority and constitutional limits.

Considering this, it can be understood that constitutional supremacy in practice functions more as a limiting mechanism than as an instrument of normative mediation (González-Quintero et al.,

2021). This principle limits the authority of Sharia courts by affirming jurisdictional boundaries and the review mechanisms of appellate courts. However, it does not offer a theoretical framework for integrating Islamic legal thought into the constitution. The absence of an explicit doctrine on the methods of interpretation, reconfiguration, and harmonization of religious norms in the context of a secular constitution reveals a conceptual void in the existing legal design (Hamad and Anuar, 2022). Consequently, Sharia courts often negotiate these relations on a case-by-case basis based on judicial discretion, rather than through a coherent and principle-based normative integration model.

This institutional configuration explains the conservative tendencies of Sharia court practices. A doctrinal analysis of appeals and first-instance court decisions reveals a recurring pattern of constitutional avoidance, whereby courts consistently prioritize references to classical fiqh thought and disregard constitutional questions, even when these issues are central to the dispute (Garden, 2020). Several findings indicate that judges avoid constitutional issues, even those hidden in family law cases. Instead of providing explanations about the compatibility of Sharia norms and constitutional principles, courts tend to focus on doctrinal issues in Islamic law (Novendra and Reyhan, 2024). This attitude does not merely reflect avoidance or incompetence but

shows that judges are aware that open discussion of the constitution could threaten their decisions. The awareness that open exploration of constitutional issues has the potential to undermine the legitimacy of their decisions encourages judges to choose a more defensive approach to interpretation. In short, caution is a survival mechanism in uncharted structures (Alhammadi, 2016).

This finding challenges the common assumption that constitutional recognition alone is sufficient to stabilize the coexistence of different legal systems in the same country. Issues of authority and legitimacy cannot be resolved through formal legality alone (Diara and Uroko, 2020). Although the Nigerian Constitution explicitly recognizes Sharia courts as an integral part of the national judicial structure, the constitutional framework provides relatively little normative guidance on how secular authority and religious validity can coexist or be reconciled in judicial practice (Olaniyi, 2011). Consequently, Islamic family law occupies a position of formal legal validity but remains conceptually unclear within the broader legal order. Thus, although its institutional status is clearly defined, its normative locus within Nigeria's plural legal framework still leaves structural ambiguities. These unresolved issues rarely lead to open conflicts in practice (Jibril, 2025). Direct constitutional conflicts with Sharia courts are relatively rare, and the judicial system continues to

operate. However, the absence of conflict does not necessarily indicate complete normative resolution (Abdelsalam, 2024). Instead, tensions between constitutional supremacy and Sharia legitimacy tend to operate latently in judicial practice, as reflected in cautious legal considerations, narrow jurisprudence, and reluctance to formulate explicit normative principles regarding the relationship between Islamic law and the constitution (Wicaksono et al., 2021). Thus, the system is maintained more through pragmatic compromises than through a clear normative framework.

This conclusion is reinforced by a comparative analysis of court decisions that reveals patterns of inconsistency in the interpretation of laws and conflicting jurisdictional arguments in similar cases (Sohail et al., 2025). In this context, constitutional supremacy, despite its legally binding force, has not functioned adequately at the normative level in religion-based family law cases, as it only sets enforceable boundaries without addressing the fundamental issues of authority, legitimacy, and interpretive methodology (Arowosegbe, 2022). Consequently, Islamic family law is formally recognized and accommodated, but the regulatory framework governing it is produced without involving legal logic. This condition places Sharia law in an ambivalent position: recognized yet limited, strong in internal legitimacy but peripheral in the national legal structure,

so that its legal status is clear institutionally, but its position in the overall legal system remains conceptually uncertain (Nasohah, 2024). This observation confirms that constitutional supremacy is not a final resolution mechanism but rather a structural attribute that ensures that plural authorities remain ambiguous. Instead of eliminating diverse authorities, it places them in normative layers where Islamic family law continues to negotiate its existence in practice.

Similar ambiguities have the potential to continue shaping the development of

Sharia jurisprudence, the level of transparency in family court decisions, and public perceptions of the legitimacy of judicial institutions (Maaiké, 2012). By uncovering this dimension of structural confusion, this analysis does not stop at a formal description of jurisdiction but goes further to conceptually explain the ongoing tension between constitutional authority and religious legitimacy in the context of contemporary Nigeria, a normative relationship that is institutionally recognized but never fully integrated.

Table 1: Jurisdictional Position of Shari‘ah Family Courts in Nigeria

CONSTITUTIONAL ORDER (Source of Legal Authority)	SHARĪ AH FAMILY COURTS (Liminal Zone)	SHARĪ AH NORMATIVE ORDER (Source of Normative Legitimacy)
Nigerian Constitution	Constitutionally recognized	Classical fiqh
Judicial hierarchy	Religiously legitimated	Religious legitimacy
Appellate review	Jurisdictionally constrained	Communal acceptance
Statutory limits	Normatively authoritative	Moral obligation
Legal enforceability	Methodologically cautious	Doctrinal coherence

Source: Processed by the author 2026

Table 1 illustrates the triadic configuration between the constitutional order, Sharia family courts as a liminal zone, and the normative Sharia order as a source of substantive legitimacy. Within this framework, the Nigerian Constitution functions as a source of formal legal authority that affirms the judicial hierarchy, appeal mechanisms, and jurisdictional boundaries through

statutory instruments, thereby ensuring legal enforceability within the rule of law framework. However, Sharia family courts are not entirely reduced to ordinary judicial organs; they operate in a liminal space that is simultaneously constitutionally recognized, religiously legitimated, and jurisdictionally limited. This intermediate position explains why the judicial reasoning method in Sharia courts tends to be methodologically

cautious: judges consider not only the doctrinal consistency of fiqh but also the constitutional implications and the possibility of review by a higher court. Thus, the normative authority of the court does not stem solely from formal legality but from a combination of religious legitimacy, communal acceptance, and moral obligations inherent in the normative order of Sharia (A. A. Oba, 2004).

This shows that the institutional cohesion of Sharia family courts in Nigeria is better understood as the result of pragmatic accommodation between two overlapping sources of authority rather than a fully resolved principled integration. This finding is consistent with other studies that confirm that the jurisdiction of Sharia courts in Nigeria is shaped by a complex relationship between constitutional recognition and religious legitimacy, resulting in cautious adjudicative practices that tend to avoid direct confrontation with constitutional issues (Baderin, 2009). On the other hand, from the perspective of legal pluralism in postcolonial Muslim countries, it also shows that religious-based judicial institutions often maintain the doctrinal coherence of fiqh while adapting to the constraints of the modern state, thereby creating a “hybrid authority” that is normatively legitimate but structurally conditioned by the state's legal framework (Griffiths, 1986). Nevertheless, the findings of this study reinforce the argument that Sharia family courts are not merely subordinate

institutions in the constitutional hierarchy but rather arenas for ongoing normative negotiations between constitutional supremacy and Sharia legitimacy.

Sharī‘ah Legitimacy, Judicial Authority, and the Problem of Normative Dualism

The second main finding of this study concerns the relationship between Sharia legitimacy and judicial power in the practice of Islamic family law in Nigeria. Sharia legitimacy is considered a concept that differs from legality based on classical theories. Judicial power is related to the enforcement of justice based on divine law, not political power (Fadel, 2018). Thus, political acceptance can facilitate the effectiveness of law enforcement, but the real source of acceptance lies in the conformity of decisions with Sharia norms and recognition from the religious community. From this perspective, law is not reduced to a coercive instrument of the state but is a normative system rooted in moral and religious dimensions (Sejin and Chanhyun, 2017). In the Nigerian context, this configuration has given rise to normative dualism. Shari'ah family courts derive their legality as constitutionally recognized institutions within a secular state system. However, their substantive legitimacy is still measured by adherence to the principles of Islamic law. The tension between state legality and religious legitimacy

becomes more apparent in family cases, which are fraught with doctrinal expectations and religious sensitivities (Anandy et al., 2025). The findings of this study show that courts are always at a crossroads between dependence on the state and religious responsibility. In line with the tradition of Islamic legal theory, political authorization and judicial legitimacy are treated as two domains that may intersect but do not always overlap; the authority of the judiciary is ultimately determined by its conformity with divine law, not solely by the mandate of power (Anandy et al., 2025).

Further investigation shows that the legitimacy of Sharia under the framework of constitutional subordination is relative and contextual. Islamic family law in Nigeria does not operate as a completely independent system but rather as a semi-autonomous normative regime that is limitedly integrated into the state's legal structure. In this position, its authority gains religious legitimacy at the community level but remains conditional in legal terms because it is subject to constitutional restrictions (Shittu et al., 2022). This configuration gives rise to structural ambiguities that directly impact judicial reasoning patterns. Judges are required to work within the framework of constitutional authority while maintaining religious credibility in the Muslim community. In practice, judges tend to refer to established classical fiqh formulations in marriage, divorce, and guardianship cases (Shesa

et al., 2024). This dependence is not merely a doctrinal preference but also an institutional strategy for dealing with overlapping and not always harmonious sources of authority (Zuhriyah and Muna, 2023). Classical fiqh offers internal coherence and religious legitimacy, thereby reducing dependence on constitutional norms that may be considered external or normatively inappropriate (Dupret et al., 2023).

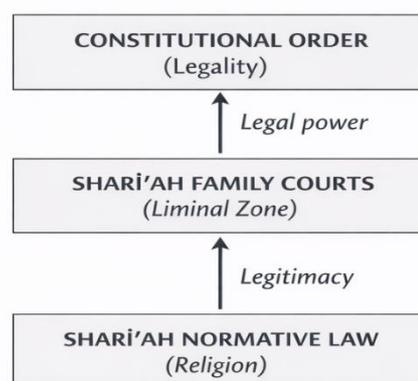
Further analysis shows that judges are in a vulnerable position between the two ends of the normative spectrum. An excessive emphasis on doctrinal autonomy has the potential to lead to vulnerability to reversal at the appellate level or constitutional review, while an overly rigid adherence to state norms risks eroding religious legitimacy in the eyes of the Muslim public (Calder, 2020). In response to this dilemma, judges tend to adopt a minimalist style of adjudication, characterized by selective use of authority, cautious argumentation, and avoidance of explicit theoretical elaboration (Harun et al., 2025). This approach allows judicial decisions to remain institutionally defensible while maintaining religious credibility in the context of unresolved jurisdictional legitimacy issues. This deficiency affects jurisprudence; the inability to explain the relationship between Sharia norms and the Constitution limits the formation of an integrated legal body to deal with contemporary issues by the courts. Their

choices provide answers to short-term conflicts but fail to produce comprehensive principles. Over time, Islamic family law has stabilized, but it remains unchanged, authoritative, and underdeveloped as a methodology (Ningsih, 2025).

This finding contradicts two main assumptions. First, it assumes that Sharia legitimacy operates entirely outside the state structure. The results of this study show that this view is inadequate. Although it is based on religion, its existence depends on constitutional constraints. Sharia legitimacy is applied and articulated through the mechanisms of the state structure, which also provides protection and an operational framework (Khodadadi, 2025). In this context, Sharia does not appear as a legal system that is completely autonomous or separate from state jurisdiction but operates in a space of negotiation shaped by interactions between judges, religious communities, and constitutional structures (Stiles, 2020). Furthermore, these findings challenge the assumption that state recognition automatically decontextualizes Sharia and transforms it into a variant of ordinary state law. The analysis shows that although state recognition changes the normative operation of Sharia, it does not eliminate its religious character or authority. Instead, legitimacy remains within a limited interpretive autonomy that provides the judicial discretion (Hasan and Asutay, 2017). This results in

the formation of jurisprudence that is not entirely continuous with constitutional legal logic. Religious authority remains the main reference in Sharia-based arguments, while constitutional values tend to be implicit and rarely elaborated explicitly in the structure of legal reasoning.

Figure 1: Normative Dualism in Shari'ah Family Adjudication



Source: Processed by the author 2026

Figure 1 exposes the limitations of binary frameworks that conceptualize Shari'ah either as state law or as an entirely autonomous religious norm. In the Nigerian context, Islamic family law occupies a persistent liminal space between constitutional authority and its own normative legal order (Zander, 2025). This liminality is not a transitional anomaly but a defining feature of contemporary Shari'ah adjudication, which shapes judicial reasoning, institutional conduct, and doctrinal development. This condition of normative dualism illuminates the underlying jurisdictional dilemma. The analysis explains why Shari'ah courts may function effectively at the practical

level yet remain insufficiently grounded in terms of legal legitimacy (Hassanah, 2023). This also demonstrates why assessments of Shari'ah that rely exclusively on constitutional or purely religious frameworks fail to capture its institutional and normative complexity. Therefore, the sustainable development of Islamic family law in Nigeria depends on ongoing negotiations between legality and legitimacy, authority and acceptance, and state power and religious normativity (Lawan, 2014).

By placing normative dualism as the point of analysis, this study enriches the understanding of Sharia legitimacy in a pluralistic legal configuration. Legitimacy is no longer viewed as a static attribute but rather as a relational concept shaped by institutional contexts and authority structures (Tabroni et al., 2025). In Nigeria, the resilience of Sharia family law does not stem from the resolution of its dualism of authority but rather from its ability to operate within unresolved tensions. These tensions create a space for adaptation that allows the system to continue functioning without eliminating differences in the sources of legitimacy. However, this same condition has ambivalent consequences: on the one hand, it maintains continuity and social acceptance; on the other, it limits the articulation of jurisprudential principles in a more open and systematic manner. Consequently, the development of Islamic family law tends to be cautious,

with doctrinal coherence maintained but relatively limited normative innovation.

The Jurisdictional Dilemma and Its Consequences for Islamic Family Law Adjudication

The third key finding of this study relates to the practical implications of the return of the unresolved jurisdictional dilemma in the practice of Islamic family law in Nigeria. Although previous research has helped establish the constitutional location of Sharia courts and the continued legitimacy of Sharia under the subordination of the Constitution, the analysis in this section focuses on how the interaction between these two structures of authority manifests itself in more concrete ways in judicial reasoning, institutional practice and normative development (Olaniyi, 2011). The results of the analysis show that the jurisdictional dilemma is not merely an abstract conceptual issue but is repeatedly articulated in the way judges interpret, apply, and present Islamic family law. Therefore, the unresolved jurisdictional dilemma is not merely a theoretical issue but a structural factor that tangibly influences the interpretation, application, and social legitimacy of Islamic family law in judicial practice (Mustapha et al., 2021).

One of the most significant consequences identified in this study is the emergence of doctrinal inconsistencies in the practice of enforcing Sharia in family law. The findings show that courts do not always

explain the normative basis for their decisions (Fitriyati et al., 2025). In some cases, statutory and constitutional provisions are considered more decisive, while Sharia norms are implicitly filtered through legislative authorization. Conversely, in other cases, classical fiqh doctrine is used directly as the basis for adjudication, often without adequate argumentative elaboration regarding the reasons for its priority over positive legal norms (Kusmayanti et al., 2023). The oscillation between these various sources of law does not necessarily reflect arbitrary judicial practice but is more accurately understood as a consequence of the absence of a clearly agreed normative hierarchy in a pluralistic legal system. Consequently, the choice of a particular source of law is often contextual and strategic, depending on the sensitivity of the case, socio-religious expectations, and binding institutional constraints. Thus, this doctrinal inconsistency reflects the adaptive dynamics of Sharia courts in navigating the tension between state and religious authorities.

By analyzing this inconsistency analytically, it appears that the phenomenon functions as an institutional adaptation mechanism rather than merely a doctrinal failure (Jibril, 2025). In the absence of a clear integration framework, Sharia judges often respond pragmatically by choosing an interpretation strategy that minimizes institutional risk in each case. Where legal clarity exists, legal certainty is

guaranteed by referring to state law. Where legal guidance is lacking or silent, normative certainty and community acceptance are derived from classical jurisprudence. The result is jurisprudence that is internally fragmented and externally functional through the accommodation of specific cases (rather than principled synthesis) (Bashayreh, 2022).

The second important consequence is the fragmentation of legal authority and normative acceptance of Sharia family court practice. The findings of the study show that court decisions are often evaluated through two frameworks of legitimacy that are not always in line with each other and, in some situations, even contradict each other (Supardin et al., 2025). For some litigants and Muslim communities, the authority of a ruling is primarily determined by its degree of conformity with Islamic legal doctrines and principles, regardless of its constitutional or procedural status within the state's legal system (Anshori, 2024). Conversely, from the perspective of the formal legal system, the validity of a ruling is determined more by its conformity with the Constitution, jurisdiction of the court, and compliance with applicable laws and regulations. This dual acceptance creates a situation in which a ruling may be considered religiously binding but legally questionable, or legally enforceable but religiously debatable.

This fragmentation of authority has significant implications for the courts

stabilizing function in resolving family law disputes. Family law disputes are highly dependent on normative acceptance, voluntary compliance and social legitimacy. When the authority of court decisions is perceived as fragmented, the ability of courts to resolve disputes is impaired (Kruger, 2024). The findings show that this does not mean that non-compliance will spread, but it does reduce trust in the function of Sharia family courts as a cohesive legal institution that can provide authoritative and final decisions. In practice, the power of decisions becomes contextual and depends on the normative orientation of the parties involved in the case and the surrounding community. This condition indirectly shows that judicial stability in Islamic family law is not only supported by formal legality but also by socio-religious legitimacy that continues to be negotiated in judicial practice.

The jurisdictional dilemma also strongly influences the methodology of Islamic family law jurisprudence. This research makes it clear that the family courts of Shariah are characterized by a restrained and minimalist style of adjudication. Judges often avoid explicit reasoning in terms of constitutional rights or principles, even when implicating constitutional rights or principles are implicated. Similarly, they hardly expound upon larger interpretive techniques that would systematically harmonize the goals of Shariah with the norms of the Constitution. Instead,

decisions are often narrowly framed and based on precedent or established positions of fiqh to the extent that it is limited to the immediate facts of the case.

Critically reassessing this pattern, it is obvious that methodological restraint is not simply a matter of intellectual conservatism (Ezeanolue et al., 2019). Rather, it shows a rational institutional reaction to an environment of unresolved authority issues. Explicit engagement with constitutional norms runs the risk of attracting the attention of appellate courts and inviting constitutional invalidation, and the innovative reinterpretation of Sharia doctrines runs the risk of eroding religious credibility and community trust (Maruf, 2025). Faced with these competing dangers, judges focus more on institutional survival and immediate dispute resolution than on jurisprudential development. The result is jurisprudence that is formally operational but normatively stagnant.

Another key implication of these findings is that they reinforce the dependence on classical formulations of Islamic law without ongoing contextual adaptation. Although classical fiqh offers a stable source of legitimacy, its uncritical application in a modern constitutional context limits the ability of Islamic family law to respond to changing social conditions (Ningsih, 2025). Unresolved jurisdictional dilemmas further narrow the possibilities for innovation. Any attempt

at reinterpretation requires clear, authoritative justification, both within the constitutional framework and in Shari‘ah-based arguments. Consequently, Islamic family law remains stable in its current form but is less responsive to social transformations, changing family relationships, and contemporary demands for justice.

Further discussion shows that the continued existence of this dilemma is perpetuated less by explicit conflict than by institutional silence. Neither Constitutional courts nor Shari'a courts enunciate a coherent theory of the coexistence of jurisdictions. Constitutional jurisprudence has tended to confirm supremacy without considering the normative implications of this on religious adjudication, while the Shariah courts have tended to operate within assumed boundaries and have not questioned their theoretical foundations. This mutual silence makes it possible for this system to work pragmatically, but it also reinforces ambiguity. Authority is enforced without being completely theorized, and coexistence is practiced without being conceptually justified.

From a broader analytical perspective, these findings make a significant contribution to the discourse on legal pluralism by showing that a structure of authority that is not fully integrated can still support a functioning legal order, even under vulnerable conditions. Nigeria's experience shows that the sustainability of a plural legal

system does not always require a complete theoretical synthesis between various sources of legitimacy. The system can survive through adjustment practices that allow interaction between authorities to take place without a final conceptual resolution. However, this type of resilience is not without consequences. The absence of a coherent normative framework limits open doctrinal articulation, hinders the development of more systematic legal principles, and makes legitimacy conditional, dependent on the context of the case and the acceptance of the actors involved, rather than being structurally robust. Under these conditions, Islamic family law continues to operate and perform its adjudicative function, but within a relatively narrow institutional space. The reconsideration of these consequences highlights the main analytical insight of this study, which is that the co-existence of constitutional supremacy and Shariah legitimacy in Nigeria represents an unresolved jurisdictional dilemma with long-lasting ramifications for adjudication. These effects are not dramatic and disruptive but are subtle, cumulative, and structural. They influence the way judges' reason, the reception of decisions, and the evolution of Islamic family law within the constitutional world. Thus, the dilemma comes to be seen as a temporary anomaly.

A brief comparative perspective underscores that the Nigerian experience is neither isolated nor

exceptional. Similar jurisdictional tensions have been observed in other constitutional systems that formally recognize Islamic family law while maintaining constitutional supremacy (Idzhar et al., 2025). In Malaysia and Indonesia, for example, Shari'ah family courts operate within constitutionally subordinate judicial hierarchies, resulting in comparable patterns of restrained adjudication (Trakic and Haydar Ali Tajuddin, 2021), selective engagement with constitutional norms, and reliance on classical doctrine to preserve religious legitimacy (Harding, 2012). Likewise, in Egypt, despite the constitutional elevation of Shari'ah principles, judicial practice reveals persistent ambiguity regarding the integration of religious normativity into constitutional adjudication (Salim, 2015).

In these jurisdictions, the absence of an established theory regarding the coexistence of constitutional authority and Sharia legitimacy has resulted in institutionally stable but normatively vulnerable arrangements. A prominent feature is doctrinal caution and interpretive minimalism in formulating judgments (Abubakar Muhammad Jibril and Bello Rabi'u Abdulmudallib, 2025). Thus, the Nigerian case reflects a broader structural pattern of constitutional-religious pluralism. The unresolved dualism of jurisdiction is not an incidental national anomaly but rather a systemic characteristic of contemporary Islamic family law

adjudication practices under the regime of constitutional supremacy.

CONCLUSION

This study concludes that the jurisdictional dilemma in Islamic family law in Nigeria is a structural consequence of the coexistence of constitutional supremacy and Sharia legitimacy, which have never been fully integrated in principle. The analysis shows that the relationship between the two has not developed into a coherent normative synthesis but rather into a pattern of pragmatic coexistence that allows the system to continue to function operationally. Shari'ah family courts, despite obtaining formal authority from the constitutional framework, still depend on social authority and normative legitimacy based on conformity with Islamic law and acceptance by the religious community. This dual foundation maintains the sustainability of adjudication practices but simultaneously gives rise to structural ambiguity in judicial authority, legal reasoning, and the articulation of the normative basis of decisions.

The main argument of this study is that constitutional recognition alone is insufficient to resolve the fundamental issues of authority, legitimacy, and interpretive autonomy in a legally pluralistic society. Constitutional supremacy functions primarily as a limiting framework that establishes jurisdiction, hierarchy, and formal

validity, while Sharia continues to operate as a normative order with its own basis in religious legitimacy. In the absence of a systematic theory of coexistence, this configuration results in doctrinal inconsistencies, fragmentation of legal authority, and methodological limitations in enforcing Islamic family law. However, these findings should not be understood as indications of institutional failure but rather as the systemic costs of managing legal pluralism through tacit practices, contextual accommodation, and avoidance of explicit normative integration.

From a practical perspective, this study underscores the urgency of formulating a clearer conceptual framework to regulate the coexistence of jurisdiction between constitutional authorities and sharia legitimacy. Doctrinal clarity regarding the pattern of interaction between constitutional principles and Sharia norms, without having to subordinate one to the other, has the potential to increase the consistency of judicial reasoning, strengthen institutional credibility, and reduce normative ambiguity in judicial practice. One relevant normative direction is the development of a legal principle that positions Islamic family law as a constitutionally limited subsystem that still has normative differentiation, so that its interaction with constitutional values can take place through principled interpretive reasoning, not merely defensive

minimalism. This approach has the potential to strengthen jurisprudential coherence, increase judicial confidence, and expand the perceived legitimacy of Sharia courts in the eyes of both the constitutional actors and the religious communities.

Furthermore, this study opens up significant avenues for further research. A comparative analysis of other jurisdictions that constitutionally recognize religious courts can provide a more comprehensive understanding of different models of integration, subordination, and normative accommodation. Empirical research on litigants' perceptions, compliance levels, and public trust in Sharia family courts is also needed to assess the real impact of jurisdictional ambiguity on legal legitimacy in practice. Furthermore, an in-depth study of Islamic legal theory, particularly the interpretive approach based on *maqāṣid al-sharī'ah*, offers a promising framework for reconciling constitutional authority and religious normativity while remaining responsive to contemporary constitutional realities without sacrificing the doctrinal integrity of Islamic law. Thus, the future of Islamic family law adjudication in a pluralistic system does not lie in the elimination of dualism but rather in the management of a more reflective, structured, and principled normative coexistence.

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