

**SOCIAL FEATURES AND CULTURAL ISSUES IN CHILD ADOPTION PRACTICES IN NIGERIA:
THE CHILD'S RIGHTS ACT IN PERSPECTIVE***

Abstract

Child adoption has been in existence from the antiquity. The practice has always been regulated. In the antiquity, it was culturally influenced and based on social norms. Tracing it to the contemporary world, local and international statutes govern the practice. However, the social and cultural influences are not completely relegated as they form the basis for any legislation. Sequel to this backdrop, this study focused on a critical analysis of the 'Social Features and Cultural Issues in Child Adoption Practices in Nigeria with Child Rights Act in Perspective'. The specific objectives were to examine who a child is, assess the concept of child adoption and other related concepts, trace the historical development of child adoption, explore the types and forms of child adoption, examine the different practices in relation to child adoption, evaluate the social features and cultural issues in child adoption practices in Nigeria, examine the reasons for child adoption, examine the welfare of adopted children within families, analyze the societal feelings about child adoption, and finally make some recommendations. The research design and methodology was doctrinal approach, using analytical and descriptive research methodology. The main sources of data collection were various legal documents and materials, both from the library and internet, and covering the primary sources and the secondary sources. For the summary of findings, it was submitted that child adoption means taking up the paternity or maternity of a child who is not the biological child of a person who takes up such paternity or maternity. It was therefore observed among others that irrespective of legislation, there are still some cultural practices and social norms which are repugnant to the rules of natural justice, equity, and good conscience which affect child adoption. Sequel to these, some recommendations were made among others that the National Assembly should resuscitate and form steering committees that will work with Houses of Assembly of all the states towards the enactment and implementation of the Child Rights Law in their respective states, especially for the states which have not done so, in order to discourage the traditional, customary, and ethno-religious practices on child adoption for the law to have its place. It was concluded that, notwithstanding the shortcomings, there are still some commendable social norms and cultural practices in child adoption in Nigeria. Finally, this study is significant to all persons who have interest in child adoption in Nigeria.

Keywords: Child adoption, Social features, Cultural issues, Child's Rights Act, Nigeria

1. Introduction

Over the years, there have been numberless practices on child adoption. Most people who practiced child adoption in antiquity do not in themselves know what it actually involved in terms of the legal implications, the right of both the adopted and the adopter. In fact most persons who adopted saw themselves as masters, while the child they adopted was seen as their slaves. Since they were slaves, they can no rights, except duties and obligations. It is on this backdrop that this study becomes imperative to address the issues surrounding the background of child adoption under the *Child Rights Act*. Succinctly put therefore, this study shall examine 'Social Features and Cultural Issues in Child Adoption Practices in Nigeria with Child Rights Act in Perspective'.

2. Who is a Child?

Biologically, a child (plural: children) is a human being between the stages of birth and puberty,¹ or between the developmental period of infancy and puberty.² The legal definition of child generally refers to a minor, otherwise known as a person younger than the age of majority.³ Child may also describe a relationship with a parent (such as sons and daughters of any age)⁴ or, metaphorically, an authority figure, or signify group membership in a clan, tribe, or religion; it can also signify being strongly affected by a specific time, place, or circumstance, as in 'a child of nature' or 'a child of the Sixties'.⁵ In the Nigeria context, the definition of who a child is varies, especially in the legal parlance. In contract and corporate governance, for instance, a child is considered to be a minor of under 18 years of age. In Sections 20(1) (a) of *Companies and Allied Matters Act*, a person of under 18 years cannot be a second person in the formation of a company or partnership. Section 257 (1) (a) of the same Act⁶ provides that a person of under 18 years cannot be a director of a company.

*By Patricia Chinwe ILOKA, BAEd, LLB, BL, LLM, PhD, Lecturer, Department of Private and Public Law, Faculty of Law, Chukwuemeka Odumegwu Ojukwu University, Anambra State, Nigeria. Phone No: 08035696281. Email: cp.iloka@coou.edu.ng and Chypat4@gmail.com.

¹Child' *Mosby's Dictionary of Medicine, Nursing & Health Elsevier Health Sciences* (Mosby Inc., 2013) 345.

²Rathus S A, *Childhood and Adolescence: Voyages in Development* (Cengage Learning, 2013) 48.

³*Ibid*, 50

⁴For example, the US Social Security Department specifically defines an adult child as 'being over 18' available at <<http://www.ssa.gov.vtvy>> accessed on 20th August, 2021.

⁵*American Heritage Dictionary* (Stardom Publishers, New York, 2007).

⁶*Companies and Allied Matters Act, 2020*.

3. Meaning of Child Adoption and Other Related Concepts

Adoption is a process whereby a person assumes the parenting⁷ of another, usually a child, from that person's biological or legal parent or parents. Legal adoptions permanently transfer all rights⁸ and responsibilities, along with filiation⁹, from the biological parent or parents.¹⁰ According to the *Black's Law Dictionary*,¹¹ adoption is the 'Statutory process of terminating a child's legal right and duties towards the natural parents and substituting similar rights and duties toward adoptive parents.' According to Nwogugu,¹² adoption is the process which 'creates a parent-child relationship between the adopted child and the adoptive parents with all the rights, privileges and responsibilities between the child and the natural parents or guardians. Adoption was unknown to common law and is entirely a creature of statute. While according to Aduba,¹³ adoption is the process by which the legal relationship between a child and his natural parents is severed and re-established between the child and a third party or parties. In many jurisdictions, the adopted person's full original birth certificate is cancelled and replaced with a fabricated post-adoption birth certificate which states that the child was born to the adoptive parents. This deception, where carried out, may continue with the adopted person for life and can be the cause for many well documented traumas experienced by the adopted person, including loss of identity, family history, culture, biological family (including not only biological parents but also siblings and extended family), family medical history and records, and increased risk of suicide, homelessness, incarceration, PTSD, depression, and anxiety.¹⁴ Unlike guardianship¹⁵ or other systems designed for the care of the young, adoption is intended to affect a permanent change in status and as such requires societal recognition, either through legal or religious sanction. Historically, some societies have enacted specific laws governing adoption; where others have tried to achieve adoption through less formal means, notably via contracts that specified inheritance rights and parental responsibilities¹⁶ without an accompanying transfer of filiations. Modern systems of adoption, arising in the 20th century, tend to be governed by comprehensive statutes and regulations.¹⁷

Adoption and Fostering

Fostering involves giving parental care to a child who is not ones natural or legally adopted child.¹⁸ Further explanation on these two concepts lies in the fact that Muslim law does not recognize adoption, but Northern states provided for fostering while the Southern states provided the legal framework for adoption. Thus, simply put, fostering is the name used to refer to adoption in the Northern part of Nigeria while the southern part sticks to adoption.

⁷Parenting or child rearing is the process of promoting and supporting the physical, emotional, social, and intellectual development of a child from infancy to adulthood. Parenting refers to the intricacies of raising a child and not exclusively to the biological relationship. *Online Database* <<https://en.wikipedia.org/wiki/parenting>> accessed 6th April, 2021.

⁸Rights are legal, social, or ethical principles of freedom or entitlement; that is, rights are the fundamental normative rules about what is allowed of people or owed to people, according to some legal system, social convention, or ethical theory. Rights are of essential importance in such disciplines as law and ethics, especially theories of justice and deontology. *Online Database* <<https://en.wikipedia.org/wiki/rights>> accessed 6th April, 2021.

⁹Filiation is the legal term for the recognized legal status of the relationship between family members, or more specifically the legal relationship between parent and child. As described by the Government of Quebec: Filiation is the relationship which exists between a child and the child's parents, whether the parents are of the same or the opposite sex. The relationship can be established by blood, by law in certain cases, or by a judgment of adoption. Once filiation has been established, it creates rights and obligations for both the child and the parents, regardless of the circumstances of the child's birth. *Online Database* <<https://en.wikipedia.org/wiki/filtration>> accessed 6th April, 2021.

¹⁰ Wikipedia, 'Adoption' *Online Database* <<https://en.wikipedia.org/wiki/Adoption>> accessed 6th April, 2021.

¹¹Byran A G, *Black Law Dictionary* (8th ed, Thomson West, 2004) 52.

¹²Nwogugu E I, *Family Law in Nigeria*, (3rded, HEBN Publishers Ltd., 2014) 333.

¹³Aduba J N 'Family Law' *Unpublished Lecture Notes* (Faculty of Law, University of Jos, February, 2018).

¹⁴*Ibid.*

¹⁵A legal guardian is a person who has the legal authority to care for the personal and property interests of another person, called a ward. Guardians are typically used in three situations: guardianship for an incapacitated senior, guardianship for a minor, and guardianship for developmentally disabled adults. *Online Database* <<https://en.wikipedia.org/wiki/legalguardian>> accessed 6th April, 2021.

¹⁶In the nations of the European Union and in the United Kingdom, parental responsibility refers to the rights and privileges which underpin the relationship between the children and the children's parents and those adults who are granted parental responsibility by either signing a 'parental responsibility agreement' with the mother or getting a 'parental responsibility order' from a court. The terminology for this area of law now includes matters dealt with as contact and residence in some states. *Online Database* <<https://en.wikipedia.org/wiki/parentalresponsibility>> accessed 6th April, 2021.

¹⁷ Wikipedia, 'Adoption' *Online Database* <<https://en.wikipedia.org/wiki/Adoption>> accessed 6th April, 2021.

¹⁸Nwogugu E I, *Family Law in Nigeria*, 326.

Adoption and Child's Custody

The Black's Law Dictionary,¹⁹ defines child custody as the term applied to the support and control of a child that is determined by the court when the parents of the child are divorced or separated.²⁰ It can be put that custody of a child, in contrast to adoption of a child, has to do with the care, control and maintenance of a child awarded by a court to a responsible adult.²¹ It is worthy to note that, in proceedings before a court in which questions involving the custody or upbringing of a child, or the administration of the property held in trust for a child arises, the court in deciding the issue will regard the welfare of the child as the first and paramount consideration. This was the court decision in the famous case of *Williams v Williams*²².

Adoption and Guardianship

A guardian²³ is one who has legal authority and duty to care for another person or property especially because of the others infancy, incapacity or disability. A guardian may be appointed either for all purposes or for specific purpose.²⁴ The parents of a child are his guardians. In the event of the death of either of the parents, the surviving parent will be the guardian unless discovered to be unfit to be a capable guardian to the child, the court will appoint a guardian to take care of that family unless the appointed guardian takes the necessary step to adopt the child as his own.

Adoption and Legitimacy

Legitimacy simply puts means acceptability, rightfulness, legality, or validity. One of the instances where a child can be legitimate is where a child at birth is born in lawful wedlock. To be legitimate at birth, the parents of the child must be lawfully married either at the time of his conception or at the time of his birth. In connection with adoption, a child becomes legitimate once he is legally adopted.

3. Types or Forms of Child Adoption

By way of classification, contemporary adoption practices can be open or closed. These are examined as follows: Open adoption allows identifying information to be communicated between adoptive and biological parents and, perhaps, interaction between kin and the adopted person.²⁵ Open adoption can be an informal arrangement subject to termination by adoptive parents who have sole custody over the child. In some jurisdictions, the biological and adoptive parents may enter into a legally enforceable and binding agreement concerning visitation, exchange of information, or other interaction regarding the child. As of February 2009, 24 U.S. states allowed legally enforceable open adoption contract agreements to be included in the adoption finalization.²⁶ The practice of closed adoption (aka confidential or secret adoption), which has not been the norm for most of modern history²⁷, seals all identifying information, maintaining it as secret and preventing disclosure of the adoptive parents', biological kins', and adoptees' identities. Nevertheless, closed adoption may allow the transmittal of non-identifying information such as medical history and religious and ethnic background.²⁸ Today, as a result of safe haven laws passed by some U.S. states, secret adoption is seeing renewed influence. In so-called 'safe-haven' states, infants can be left, anonymously, at hospitals, fire departments, or police stations within a few days of birth, a practice criticized by some adoption advocacy organizations as being retrograde and dangerous.²⁹

4. Different Practices in Relation to Child Adoption

Knowledge and attitude constitute the different practices in relation to child adoption. These concepts are somehow varying across Nigeria. However, Nigerians have a fair knowledge of the term 'child adoption'. In a number of studies, most people are aware of child adoption practices.³⁰ Regrettably, this high level of awareness does not translate into the actual practice of child adoption. Nonetheless, it is important to note that formal adoption practices is gradually gaining ground in the country but the practice of kinship adoption which originates

¹⁹ Byran A G, *Black Law Dictionary*, 432.

²⁰ Also see *People v Burr* (1987) 70 N. Y. 2d 354; *Emerson v State* (1994) 33 Tex.CR.R. 89, 25 S.W. 290; *Roe v Irwin* (1977) 32Ga.39.

²¹ Nwogugu E I, *Family Law in Nigeria*, 264.

²² *Williams v Williams* (1987) A.N.L.R. 253.

²³ Part IX of the *Child Rights Acts* deals with guardianship.

²⁴ Byran A G, *Black Law Dictionary* (8th ed. Thomson West, 2004) 725.

²⁵ 'Openness in Adoption: Building Relationships Between Adoptive and Birth Families, Child Welfare Information Gateway' *Online Database* <<http://www.google.com/types/child|adoption|rights4xa5>> January 1, 2021.

²⁶ 'Postadoption Contact Agreements Between Birth and Adoptive Families: Summary of State Laws' (PDF). U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. 2009.

²⁷ Herman E, *Adoption History Project* (University of Oregon, 2009) 38.

²⁸ Nwogugu, E. I. *Family law in Nigeria* (3rded, HEBN Publishers Ltd, 2014) 23.

²⁹ *SECA Organization*, available online <<http://www.google.com.childadoptioninhistoryandmodern/stnuuy/7893>> accessed on 30th March, 2021.

³⁰ Avidime S, Adesiyun A G, Ozed-Williams C, Isaac N A, and Ojabo A, 'Knowledge and Attitude towards Child Adoption among Women in Zaria, Northern Nigeria.' *Nigerian Medical Journal*, 54(4), (2013) 261-264.

from extended family system is still being practiced.³¹ This affinity or kinship adoption is largely informal but not illegal. This is because it involves mutually agreed placement of children in homes of relatives mostly without the services of public agencies.³² In most cases what is called affinity adoption can be likened to fostering. Recently, this practice is slowly declining and formal child adoption is increasingly becoming widespread. Nevertheless, this acceptance only portrays an awareness of the term ‘child adoption’ as compared to understanding the true meaning of the concept of child adoption, its legality and process.³³ According to Omosun’s and Kofoworola’s³⁴ study, child adoption, as understood by the participants of their research, means buying a motherless baby and majority did not know what requirement is needed, who may be adopted or who can adopt. Regardless of this ignorance, he concluded that more Nigerians are aware of the possibility of adopting a child.³⁵ It is yet to be proven whether this has a lot to do with the present legislation³⁶. However, the successful enactment of the Child’s Rights Act³⁷ is a positive move to strengthen the process and practice of child adoption in Nigeria. Additionally, knowledge and practice of child adoption has taken another dimension as an alternative option for infertility management.³⁸ Interestingly, the option of child adoption is lately becoming acceptable and more successful and affordable for infertile couples compared to artificial insemination or test tube babies as common in the medical practices.³⁹ By implication, couples become parents without much emotional, psychological, and physiological, as well as much financial rigour. Sadly, acceptability and practice of child adoption among infertile couples is relatively low. Most couples are discouraged by cultural implications of child adoption, misconceptions and stigmatization, financial burden and procedural bottle-necks.⁴⁰ On the contrary, couples with previous orthodox specialist treatment, tubal infertility, maternal age above 35, protracted infertility, absence of living children, secondary and tertiary education, and those with correct knowledge of child adoption are more likely to adopt a child.⁴¹

In addition, pre-adoption and post adoption checks for compatibility and progressive adjustment between the adopted and adopter are sometimes required⁴². However, this discourages some couples from adopting and partly encourages unofficial or illegal adoption practices which are often less rigorous and sometimes less expensive.⁴³ Lately, especially in South-Eastern Nigeria, unofficial and illegal child adoption practice has been turned into a ‘normal business’. Facilities called ‘baby factories’ where they exploit their victims for ‘baby harvesting’ are now set up by unethical persons.⁴⁴ The victims are mostly young women and teenage girls trafficked through false promises of job and safe abortions.⁴⁵ This is also called surrogate mothers. Most of them are contracted to perform the work, while some do it under duress or threat. That is, it could be through kidnapping or trafficking of the young woman meant for the surrogate purpose. Additionally, the procedures of child adoption as contained in Part XII⁴⁶, in actual practice, are relatively cumbersome due to various red-tapes in the Nigeria welfare and judicial system.⁴⁷ They require adopters to complete lawful process for adopting a child from an authorized and regulated child care facility or orphanage. The social welfare department charged with the responsibility of child adoption in the state will usually assess the capability of prospective adopter. They inspect their living conditions, financial

³¹Aniebue P N, and Aniebue U U ‘Adoption Practices in Enugu, Nigeria,’ *Nigerian Journal of Clinical Practice*, 11 (1) (2008) 5-8.

³²Ojelabi O A, Osamor P E, and Owumi B E, ‘Policies and Practices Child Adoption in Nigeria: A Review Paper’ *Mediterranean Journal of Social Sciences* (MC SER Publishing, Rome-Italy, 2015).

³³*Ibid.*

³⁴Omosun A O, and Kofoworola O, ‘Knowledge, Attitude and Practice towards Child Adoption Amongst Women Attending Fertility Clinics in Lagos State, Nigeria’ *African Journal of Primary Health Care and Family Medicine*, 3(1) (2011).

³⁵ *Ibid.*

³⁶The *Child Rights Act*, 2003.

³⁷ 2003.

³⁸Ojelabi O A, Osamor P E, and Owumi B E, ‘Policies and Practices Child Adoption in Nigeria: A Review Paper’ *Mediterranean Journal of Social Sciences* (MC SER Publishing, Rome-Italy, 2015).Paper’

³⁹*Ibid*

⁴⁰Avidime S, et al, Knowledge and Attitude towards Child Adoption among Women in Zaria, Northern Nigeria. *Nigerian Medical Journal*, 54(4), (2013) 261-264.

⁴¹*Ibid.*

⁴²Oladokun A, et al, ‘Acceptability of Child Adoption as Management Option for Infertility in Nigeria: Evidence from Focus Group Discussions’ *African Journal of Reproductive Health*, 13(1), (2009) 79-91.

⁴³Aniebue P N, and Aniebue U U ‘Adoption Practices in Enugu, Nigeria’ *Nigerian Journal of Clinical Practice*, 11(1), (2008) 5-8.

⁴⁴Alfred C, Francis A A, and Andeshi C A, ‘Dialectics of the Incubation of Baby Factories in Nigeria’ *International Journal of Peace and Conflict Studies*, 2, (2014) 82-90.

⁴⁵Punch News, ‘Stop Aba Baby-Making Factory’ *Punch News Online*. <<http://www.punchng.com/editorial/stop-abababy-making-factory/>> accessed on 6th April, 2021.

⁴⁶*Child Rights Act*, 2003.

⁴⁷Oladokun A, et al, ‘Acceptability of Child Adoption as Management Option for Infertility in Nigeria: Evidence from Focus Group Discussions’ *African Journal of Reproductive Health*, 13(1), (2009) 79-91.

ability and other relevant factors to ascertain their preparedness for their new parenting role.⁴⁸ When they are delivered of their babies, the infants are sold to desperate infertile couples and other patronizes who seek to avoid the legalities of formal child adoption.⁴⁹ Also, these babies are allegedly sold to ritual killers for black magic, sexual exploiters and fake fertility treatment operators. In a news report by BBC NEWS⁵⁰ it was observed that some women seeking fertility treatment in Nigeria are been tricked into thinking they have become pregnant and delivered of a baby. The scam is usually well planned to deceive and exploit unsuspecting and desperate childless couples with babies mostly from the so-called baby factories. This suggests that the practice of unofficial and illegal child adoption is more complicated than imagined. The process is complex with multiplicity of perpetrators and victims, as well as varieties of issues including fake pregnancies, trafficking in-person, deceit, fraud and poverty.⁵¹

5. Social Features and Cultural Issues in Child Adoption Practices in Nigeria

Culture is often commonly defined as a complex totality of Man's acquisition of knowledge, morals, beliefs, arts, customs and technology which are geared and transmitted from generation to generation.⁵² There are diversities of cultural and social issues surrounding child adoption practices and considerations in Nigeria. It is the same way cultural practices have implication on child bearing in Nigeria, so also culture influences couple's decision towards adoption. As a matter of fact, most of the circumstances in which adoption occur in Nigeria, that is, infertility, gender completion, desire for an heir to sustain lineage and inherit possessions are culture based.⁵³ For instance, the Nigerian culture perceives infertility as unacceptable, such that upon marriage in-laws, parents, family and friends are not only waiting expectantly for news of pregnancy and subsequent child-birth but making babies. Hence, childless couples would often suffer from a combination of personal, interpersonal, social and religious expectations which brings a sense of failure to them.⁵⁴ These social stigmas, psycho-social stresses and other consequences often put intense pressure on marriages. At unbearable level they are excluded from leadership and important social events; women are forced out of their marriages or ostracized by their immediate families.⁵⁵ Several studies on child adoption in Nigeria suggest positive attitude, nevertheless, knowledge, acceptability practice of child adoption is relatively low among infertile couple.⁵⁶ Despite, the increasing acceptability of child adoption a number of socio-cultural practices and concerns still constrain people's attitude in the actual practice and process of adoption.⁵⁷

Proper child adoption has found its way into the Nigerian culture, even though its introduction has not been fully acknowledged by a lot of people because of the nature of their culture. Consequently, the process of child adoption in Nigeria faces a number of ethnic issues and challenges. In South Eastern Nigeria (Igbo land) for instance, the complex ethno-religious behaviors, beliefs and practices makes the formal practice of child adoption seemingly difficult.⁵⁸ The predominant cultural norms do not literally accept adopted children as born children of their adopter. They are treated as outcast and bastard, sometimes hated, disrespected and constantly reminded that they do not belong to the family.⁵⁹ It is noteworthy that the ingrained Eastern indigenous ideology of 'onyebiaraabia' meaning 'the stranger' which generates a caste system might have contributed to the poor acceptance of an adopted child. Thus, to accord such adopted child all the benefits and privileges of a full-fledged member of the community will be seemly rare.⁶⁰ Excitingly, there seems to be some positive dispositions towards child adoption in the South-western part of Nigeria (Yoruba land). The Yoruba cultural belief that '*oriomo lo npeomowa 'ye*' (meaning a child usually attracts yet to be born children to come

⁴⁸Adewunmi AA, 'Factors Associated with Acceptability of Child Adoption as a Management option for Infertility among Women in a Developing Country' *International Journal of Women's Health*, 4, (2012). 365-372

⁴⁹Huntley S S, 'The Phenomenon of Baby Factories in Nigeria as a New Trend in Human Trafficking' *International Crimes Database*(Brief 3, 2013).

⁵⁰BBC NEWS, 'Judge Raises Nigeria Baby Selling Scam Concerns' *BBC NEWS Online* <<http://www.bbc.com/news/uk-england-london-20082389>> accessed on 6th April, 2021.

⁵¹Ojelabi O A, Osamor P E, and Owumi B E, 'Policies and Practices Child Adoption in Nigeria: A Review Paper' *Mediterranean Journal of Social Sciences* (MCSER Publishing, 2015).

⁵²*Ibid.*

⁵³Ezugwu F O, Obi S N, & Onah H E, 'The knowledge, Attitude and Practice of Child Adoption among Infertile Nigerian Women' *Journal of Obstetrics and Gynaecology*, 22(2), (2002) 211-216.

⁵⁴Ojelabi O A, Osamor P E, and Owumi B E, 'Policies and Practices of Child Adoption in Nigeria: A Review Paper'

⁵⁵Oladokun A, et al, 'Acceptability of Child Adoption as Management Option for Infertility in Nigeria: Evidence from Focus Group Discussions' *African Journal of Reproductive Health*, 13(1), (2009) 79-91.

⁵⁶*Ibid.*

⁵⁷Avidime S, et al, Knowledge and Attitude towards Child Adoption among Women in Zaria, Northern Nigeria. *Nigerian Medical Journal*, 54(4), (2013) 261-264.

⁵⁸ Ojelabi O A, Osamor P E, and Owumi B E, 'Policies and Practices Child Adoption in Nigeria: A Review Paper' *Mediterranean Journal of Social Sciences* (MCSER Publishing, 2015).

⁵⁹Nwaoga C T, 'Socio-Religious Implications of Child Adoption in Igbo land South Eastern Nigeria' *Mediterranean Journal of Social Sciences*, 4(13), 705-710.

⁶⁰Ojelabi O A, Osamor P E, and Owumi B E, 'Policies and Practices Child Adoption in Nigeria: A Review Paper' *Mediterranean Journal of Social Sciences* (MCSER Publishing, 2015).

to the physical realm) strongly suggests support for child adoption.⁶¹ Therefore, it is relatively easier to accept adopted children as a part of the family and community in order to attract the blessings of biological children to the adopters.⁶² However, some Yoruba cultural belief also perceives adopted children as bastards with likelihood of anti-social behaviors. As a result, men in infertile marriages are rather encouraged to marry another woman⁶³ and couples willing to adopt are constrained by the fear of tarnishing their family's good name, should in case the adopted child is indeed become a societal vice and causing moral decadence to the family and the society.

6. Reasons for Child Adoption

The factors that necessitate adoption of a child range from the desire to replace a death child, acquired companion for the only child to legitimate and illegitimate child. To rescue a child who is in irreversible situation of abandonment. These and many other factors necessitate the adoption of a child which shall further be discussed in a piecemeal. There are many reasons why people choose to adopt a child. Although the most basic reason is a desire to build or expand a family, the specific reasons that motivate each adoption vary. Some adoptive parents choose to adopt a child because they are infertile (medically unable to bear children). One or both partners in an adoptive family may be infertile. The most common reason a female may be infertile is her age. Unlike male fertility, which tends to stay viable into old age, female fertility begins to decline sharply at or around a woman's 35th birthday, and by age 45 or so, it may be more or less impossible for a woman to conceive naturally. Given the large number of women who have chosen to put off having a family until they have established careers, this problem has become unfortunately and increasingly common.⁶⁴ Infertile couples that seek to adopt may have no children or they may have existing children they conceived when they were younger. In the former case, the adoptive parents may have attempted for years to conceive a birth, but ultimately be forced to the conclusion that they cannot have their own child due to infertility. They still desire to raise children, and make a choice to adopt. In the latter case, the adoptive parents may wish to have a larger family than they currently do and be unable to accomplish this naturally due to infertility. In addition, the adoptive parents may specifically wish to add a girl or a boy to their family.⁶⁵ Infertility is not the only motivation for adoption. Some adoptive parents may have learned that while they can have a natural child, they are at risk for passing on serious genetic or medical conditions and so choose not to attempt a natural pregnancy. Alternatively, a potential birth mother may not be able to risk a natural pregnancy due to her own health complications and choose adoption over the risk of pregnancy.⁶⁶ Some families choose to adopt because they believe they will be saving a child who otherwise would not grow up with the benefits of a loving and supportive family. Such a belief in the goodness of saving a child through adoption often has its genesis in adoptive parent's religious, ethical, and/or emotional feelings and their desire to make the world a better place, even if only for a single child or a few children. In this case, adoption is a means of saving the world, one child at a time.⁶⁷ Still other adoptive parents choose adoption because they lack an appropriate partner. It takes genetic material from both a man and a woman in order to produce a viable baby. Single people and established homosexual couples may choose to adopt a child rather than use a sperm donor or surrogate mother to produce a natural child. Here are some of the common reasons to adopt a child today⁶⁸:

- (1) Due to infertility, some couples cannot have a biological child.
- (2) Some women are facing medical conditions that make it dangerous to carry a pregnancy.
- (3) They don't want to pass down genetic disorders or diseases.
- (4) They are a single parent and want to start a family.
- (5) They are a same-sex couple and want to become parents.
- (6) They want to give a child in need a loving home.
- (7) They want to help pregnant women considering adoption continues to pursue their life goals.
- (8) They support educational financial aid for birth mothers, like through American Adoptions' birth mother scholarship.
- (9) They want to help a friend or family member who isn't in a position to raise a child.
- (10) They want to help one of the thousands of children in the U.S. living without permanent families.
- (11) They want to give a child born in another country a better chance at life in their country, like the USA.
- (12) They want to raise an older child rather than an infant.
- (13) They want to choose the gender of their child.
- (14) The adoption process has more potential for success than infertility treatments.
- (15) They want to adopt a stepchild.
- (16) They want to adopt an adult they have a long-established parent-child relationship with.

⁶¹Nwaoga C T, 'Socio-Religious Implications of Child Adoption in Igboland South Eastern Nigeria' *Mediterranean Journal of Social Sciences*, 4(13), 705-710.

⁶²Ojelabi O A, Osamor P E, and Owumi B E, 'Policies and Practices Child Adoption in Nigeria: A Review Paper' *Mediterranean Journal of Social Sciences* (MCSER Publishing, 2015)..

⁶³*Ibid.*

⁶⁴Kathryn M A, 'Choosing to Adopt' *Online Database* <<https://www.mentalhelp.net/articles/choosing-to-adopt/>> accessed 6th April, 2021.

⁶⁵*Ibid.*

⁶⁶*Ibid.*

⁶⁷*Ibid.*

⁶⁸'23 Reasons to Adopt a Child' *Online Database* <<https://www.americanadoptions.com/adopt/why-people-adopt/>> accessed 6th April, 2021.

- (17) They want to help balance population growth.
- (18) They want to incorporate multiple races, cultures or ethnicities into their family.
- (19) They feel called to adopt, for religious or other reasons.
- (20) They decide becoming parents is more important than becoming pregnant.
- (21) They know others who were adopted or have adopted and see it as a positive way to grow a family.
- (22) They were adopted and want to give the same experience to someone else.
- (23) They just 'want to.'⁶⁹

These are just a few of the reasons to adopt that people consider when deciding which parenthood path to take. Of course, one may have other reasons to adopt a child that are not listed here — and that is completely normal. Every person's situation is different, as are their individual reasons for adoption.

7. Welfare of Adopted Children within Families

As the parent of two adopted children who are in touch with their first mothers and fathers, a parent who sees how their families are doing over time and sees how the other not-adopted kids are developing, this question gets an urgency beyond the theoretical. Of course children, young though they may be, think about that option as well. Particularly when they are distressed, they sometimes loudly express the wish to be back in their first families. The anger that comes with that wish triggers complicated emotions not only in them, but also the adoptive parents, not only fears, unwavering love, feelings of insecurity, but also guilt. The reasons why children are available for adoption — domestic and international — are often linked with poverty and injustice. This knowledge excites these guilty feelings. Who knows what would have happened with the first families, and therefore with our children, if each adoptive family had spent the median costs of adoption not on the process itself, but on programs to help families?⁷⁰ The biological parents, here and in other countries, have these thoughts of permanent reunion as well. But they will quickly realize with a humiliating pain that they cannot compete with the wealth of the adoptive parents, who are able to offer their children an education and other opportunities in life they can never match. And, the longer the kids are in the adoptive family, the farther away they drift off from their roots, from their culture, their class, their language: they can't come back, even it were legally possible.⁷¹ Children are adopted at a specific moment in time. That moment however, can be the wrong moment. Poverty can be overcome, national crises solved, mothers and family members found, policies changed; families can pull together, single motherhood can become a serious possibility, addictions can be conquered, lifestyles be changed. The choice of adoption may seem right one day, but questionable the next day, the next month, the next year, the next decade. As I said before, there is no way back. There are no second thoughts for first families. Adoptive parents have that option and can disrupt an adoption legally. Adoptees have to be over 18 to get a say in their lives. Can people be confident that adoption was the right solution for children?⁷² Not disregarding the sorrows and difficulties of many adoptive parents, adoption is often a tough outcome for two of the three parties involved in this precious and vulnerable process of 'human exchange.'⁷³ In adoption country, which is regulated by lax laws which favor adoptive parents and is practically governed by private institutions, businesses and individuals, the preferred way to tell a woman she is about to lose her child is to suggest that 'she makes an adoption plan.' But those who professionally help that woman to make this plan are often themselves denizens of adoption country, who are depending on the positive choice of the mother to make that plan: the social worker of the adoption agency, the adoption lawyer, the representative of an agency in another country. These professionals are not members of a larger child welfare organization, which could make a 'life plan' for mother, father and child, a long-term life plan that focuses not on the immediate situation, but on the life of the child and her or his family thereafter and that has — extended — family preservation or family (re)building as its goal.⁷⁴ Most workers in the adoption world are decent people, but many have one-sided perspectives, which necessarily focus on the longings and wishes of adoptive parents, who are their paying clients. And some are blindsided by the widespread and false ideology that adoption is about saving children from horrible situations. A few are just in it for the money. Whatever the case, the adoption industry, as the business it is now, cannot continue. A certain rate of adoptions of children for a certain price is needed to make for the bottom line, even for the most sincere non-profit organization or individual. That is an ethical matter one cannot just bypass anymore. Adoption should be viewed just as foster care is seen; as child welfare, part of a national and international network of private and publicly-sponsored independent organizations whose goal it is to make choices with the needs and possibilities of the first families in mind, within the context of family preservation (paradoxically, abortion could be one of the options in an early stage). This change would lead to fewer adoptions because of the success of long-term family preservation in the U.S. and elsewhere and more middle class and lower income people and families adopting, because of the 'de-capitalization' of adoptions, which will be seen as a success. Crucially, those who were speechless till now — the first parents and their kids — are placed centrally in the services offered.⁷⁵ Providing social services for the first family to overcome their problems is all about adding time to

⁶⁹*Ibid.*

⁷⁰*Online Database*<https://www.huffpost.com/entry/adoption-child-welfare-or-business_4804779>accessed on 6th April,2021.

⁷¹*Ibid.*

⁷²*Ibid.*

⁷³ Frank L, *Adoption: Child Welfare or Business* (Contributor Brooklyn, 2014) 20.

⁷⁴*Ibid.*, 24.

⁷⁵*Online Database*<https://www.huffpost.com/entry/adoption-child-welfare-or-business_4804779>accessed on 6th April,2021.

the equation. Not an adoption plan, but a life plan has to be made. How such a plan should look like depends on the local circumstances, but next to aid for the parent(s) and their extended families in their community and coaching, temporary guardianship, foster care and co-parenting for the child could be part of that plan. Adoption should only become an option when family preservation is just impossible or when the efforts to keep the family together failed. Adoption should not be separate of child welfare services, but part of them.⁷⁶

8. Societal Feelings about Child Adoption

Societal feelings about child adoption are not far from the social issues surrounding child adoption. There are numerous fears and misconceptions about adoption to the stigma associated with a child whose biological parents are unidentified, according to Ojelabi and others.⁷⁷ They further observed that:

Possibility that many Nigerians assume an adopted child would be a child of such persons as drug addicts, criminal convicts, mental retarded, prostitutes and the likes cannot be ruled out. Child abuse by their adopters is another social issue reoccurring in child adoption practice across Nigeria. In a number of cases adopters take advantage of the adoptee either by sexual assault, physical abuse and child labour (house maids, sales girls and boys, sex workers and streets hawkers).⁷⁸

Adopted children experience abuses simply because their adopters might have regained their fertility and later have their biological children. Also, the socio-cultural preference for child bearing among many cultural groups in Nigeria creates a social class on the bases of child bearing.⁷⁹ Certainly, many communities would refer to women by the name of their first born, and a woman who has no child is made to feel out of place within such neighborhood.⁸⁰ Additionally, a woman to gain the full consent and support of the husbands and the extended family in a decision to adopt because of the patrilineal and affinity nature of most Nigerian families make it very essential for. The importance of this cannot be overemphasized and part XII; section 132 of the Child's Right Act 2003 also acknowledges this.⁸¹ The reason behind this is because of the supreme authority that empowers entitlement to resources flows from the father figure' and it is often restricted to only legitimate and biological sons of the family. More so, upon the demise of the father, the extended family heads make most of the decisions with regard inheritance and distribution of his resources.⁸² Hence, by implication, an adopted child who is not fully accepted into the family may be alienated and neglected by the extended family especially in the event of the death of one or both adoptive parents. Such treatment is undoubtedly detrimental to the child's proper social and psychological development, thus defeating one of the purposes of adoption. Another social aspect in the practices of child adoption is the prevailing gender specification during child adoption.⁸³ However, while this has a cultural connotation, it is also fundamentally inclined by the social perception of a perfect family image of mother, father, son and daughter. Therefore, primarily to complete the missing gender among their children, a couple may decide to adopt. In some instances male children are adopted for the continuity of the family lineage and for inheritance purposes.⁸⁴ Female children, on the other hand, are preferred either because of the popular misconception that parental control is less tasking with a female child or because of the cultural implication of having a female child.⁸⁵

9. Conclusion and Recommendations

In a nutshell, the societal perception, influence, and actions on child adoption cannot be overemphasized. It does not just stop at the cultural tendencies, but its impacts are as well felt in the Child's Rights Act. It is gainsaying to submit that the legislature must have taken a lot of leverage from the culture to successfully enact the Child's Rights Act, especially the aspects that touch on culture. This influence is both domestic and international law parlance. The governments, in collaboration with the NGOs, should raise funds to widely produce, gazette and distribute the Child's Rights Act and Child Rights Laws of the domesticated states to all relevant stakeholders in the child protection sectors, including the motherless babies' homes and any prospective adopter. This will go a long way in promoting child adoption and checking the excesses of otiose societal and cultural influences. The National Assembly should also resuscitate and form steering committees that will work with Houses of Assembly of all the states towards the enactment and implementation of the Child Rights Law in their respective states, especially for the states which have not done so. This will discourage the traditional, customary, and ethno-religious practices on child adoption for the law to have its place. On the other hand, the non-repugnant cultures should be sustained.

⁷⁶*Ibid.*, 23.

⁷⁷Oladokun A, et al, 'Acceptability of Child Adoption as Management Option for Infertility in Nigeria: Evidence from Focus Group Discussions' *African Journal of Reproductive Health*, 13(1), (2009) 79-91.

⁷⁸*Ibid.*

⁷⁹ *Ibid.*

⁸⁰Nwaoga C T 'Socio-religious Implications of Child Adoption in Igboland South Eastern Nigeria' *Mediterranean Journal of Social Sciences*, 4(13), (2013) 705-710.

⁸¹Federal Ministry of Women Affairs, *Child Rights Act: Simplified Version*, 2005.

⁸² Oladokun A, et al, 'Acceptability of Child Adoption as Management Option for Infertility in Nigeria: Evidence from Focus Group Discussions' *African Journal of Reproductive Health*, 13(1), (2009) 79-91.

⁸³*Ibid.*

⁸⁴Eke C B, et al 'Perception of Child Adoption among Parents/Care-givers of Children Attending Pediatric Outpatient's Clinics in Enugu, South East, and Nigeria.' *Nigerian Journal of Clinical Practice*, 17(2), (2014) 188-195.

⁸⁵*Ibid.*