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JURISDICTIONS**

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Abstract

The successes of most African marriages are largely predicated on child bearing. The discovery of childlessness in marriage often comes with psychological and physical torture, sometimes resulting in self-blame and seeking possible options, one of which is adoption. Adoption is a unique mode of establishing a family relationship between a person and a child of a known or unknown parentage with a view to making such a child legally that of the adopting parent. Adoption allows persons to legally assume the role of parenthood over a child that is not biologically borne by them. The reason for which a person may wish to adopt could range from infertility to need to get a particular sex or provide companionship for an only child, to stabilize a childless marriage, or to provide care for children who have been abandoned or rejected, or to 'replace' a dead child. Adoption is not just about picking any child of one's choice and claiming of ownership. This paper focuses on an appraisal of the necessary procedures to comply with when adopting a child, whether to reside within or outside Nigerian jurisdiction. The doctrinal method of research such as textbooks, journal articles, case laws, internet materials etc. were used to carry out this research. Findings revealed that there are lots of legal gymnastics or hurdles involved which may be difficult to successfully navigate without professional help including the challenge of taking the child outside Nigeria. Therefore, it is recommended that there should be established legal frameworks that promote comprehensive child adoption laws that harmonize internal and international instruments, to back implementation of these laws with needed enforcement procedure.

Keywords: *Adoption, child, parents, process, requirements, jurisdiction.*

Introduction

Child Adoption and its procedures have changed drastically over recent times depending on the procedure to be used which is usually dictated by the relationship that the adoptive parent intends to subsequently maintain with the natural parents of the child to be adopted. One of such procedure is “Open adoptions” which used to be unheard of, but have now, quickly become the norm over recent years. Open adoptions create an opportunity for biological parents to remain connected with the child after the adoption has taken place. Emotionally, this is still largely an uncharted territory for everybody involved and relationships can be difficult to handle emotionally, especially since most adoptive parents are persons who want to have relationships that are almost akin to biological ones. The procedure which is more common, is the “closed adoption”. In this type of adoption, the natural and adoptive families have no knowledge or contact with each other. Most of the parents who opt for adoption do so because they have no children of their own, and therefore find the closed adoption more favorable. Adoptive parents who have biological children of their own will naturally not be emotionally traumatized by the open adoption procedure. Private adoption is another method embraced by adoptive parents. Here, the birth parents and adoptive parents meet each other possibly through agencies and agree to have their children adopted under suitable conditions.

Adoption is not just about embracing a parentless child and providing him/her a new identity. It is a process that requires a lot of legal hurdles and hassles which may sometimes be prolonged, stringent, stressful and challenging. An adoption order severs all legal ties with the birth family and transfers same to the adoptive family. The child then takes the name of the adoptive family as though he had been born by them and is vested with all rights and duties including the right of inheritance. Other types of adoption include special needs, transracial, foster care, and international adoption among others. While adoption can sometimes result in permanently severing the relationship between the child and his natural family, a foster placement is made on a temporary basis, with the intention of reuniting with the biological family at a later time. In this paper, reference to adoption is in relation to child adoption as opposed to all the other forms of adoption.

Conceptual Clarification

Adoption

The child’s welfare league of America states that child adoption is a process whereby an individual assumes the parenting of another and in so doing permanently transfers all the rights and responsibilities along with filiations from the biological to the adoptive parents.¹

Child adoption according to Black’s law dictionary is “ the statutory process of terminating a child’s legal rights and duties toward the natural parents and substituting similar right and duties toward adoptive parents.² It is the creation of a parent–child relationship by judicial order between two parties who are usually unrelated by blood and are not in fact parent and child. Adopting a baby is an act of parenting someone else's child and raising him or her as one's own. Adoption is mainly done by couples to create a family, to raise a child like their own or by a

¹ Alice H. Murray: What’s Law Got to Do with it? The Legal Nature of Adoption. Available at <https://adoption.com>law-gov-t..>

² Bryan Garner, Black’s Law Dictionary, A Thomson Reuters Business 2009, St Pav MN. USA, 9th Ed2 p55

woman to overcome health problems due to pregnancy.³ People decide in favour of adopting a baby for various reason, some of the major reason being, parents being unable to give birth to children of their own, or health complication resulting in having to abort their babies recurrently and/or for humanitarian reasons. This relationship is brought about only after a determination that the child is an orphan or has been abandoned or that the parents' parental rights have been terminated by a court order.

The adoptive parents then assume the role of natural parents and care for the child as though he or she were their biological child. The child assumes all the rights and privileges of a natural child which cannot be derogated even though the adoptive parents eventually give birth to their own biological children. The tendency for parental affection to move from adoptive child to the biological child is one great issue of concern in Africa. Adoption is clearly distinguishable from legitimation and fosterage. While adoption is usually between persons who are unrelated by blood, Legitimation refers to an act between persons related by blood but born out of wedlock, while fosterage is a temporary arrangement for a child's care and is not permanent like adoption or legitimation.⁴

Though the formal term adoption was coined much later, the practice has been prevalent since ancient times. Looking back at history, precisely the ancient Rome, adoption was done to ensure a smooth transition of power to males. Many of the rulers of ancient Rome were the adopted sons of the previous emperor and the upper senatorial class.⁵ In the south Asian region of India and China, families with no sons resorted to adopting a male child for the sake of fulfilling rituals and rites that are to be performed only by a son.⁶

In Nigeria, the earliest statute on adoption was the 1965 Adoption Law of former Eastern Region. This was followed by the Adoption Edict of 1968 of Lagos State. Presently, there is Child's Right Act, 2003, which many States of the Federation have adopted and have subsequently modified their adoption laws. Before 1965, there was no adoption law in any part of Nigeria. Most of the people who took children into their household did so either as guardians or foster parents or even for humanitarian purposes. The attempt in 1958 to introduce a statute on adoption by the Eastern House of Assembly was not well received and had to be withdrawn.⁷ In 1965, the Eastern Nigerian Adoption Law came into force to apply to some places in the South East and South South now known as Anambra, Imo, Abia, Ebonyi, Bayelsa and River states.

In 1968, the Adoption Law of Lagos State (ALLS) was enacted. No corresponding law was enacted in any part of the Northern states even though it had many children with adoptable needs such as beggars, almajiris, abandoned, neglected or disabled children moving about without any form of guidance or support.

As more people are beginning to understand the concept of adoption in recent years, there have been increasing interests by couples in child adoption due to its acceptability in the society. In

³ (spouse may be interpreted as opposite or same-sex couple in jurisdictions where this is recognized. Some sex marriage is not legal in Nigeria, it can be safely assumed that the couple intended is that of husband and wife. In the United Kingdom where gay marriage are recognized, the Laws of England, clearly provides guidelines for adoption of children by gays.

⁴ Bryan Garner *ibid*

⁵ Weigel, Richard D, "A Note on P. Lepidus" *Classical Philology* (1978) 73(1) 42-45;

⁶ Lindsay Hugh – *Adoption and Succession in Roman Law* (1998) *Newc LawRw*; (1998) 3(1) *The Newcastle*

⁷ MD Gupta. *Why is son Reference so Persistent in East and SOUTH Asia? A Cross-Country Study of Chinda, India and the Republic of Korea.* Available at <http://documents.worldbank.org/PDF>

most cases, the parties involved in this relationship are the adopted child, the adoptive parents, the birth family, the social welfare and the court. Stringent rules must therefore identify the roles or involvement of these parties to avoid future confusion.

As international adoption increased worldwide, stringent rules began to be made by United Nations International Emergency Children Fund (UNICEF) and other international organizations to keep children without parents in their country of origin.⁸ The aim is to reduce adoption abuses involving the buying of babies, kidnapping, human trafficking, harvesting of organs among others. Some countries in Africa are noted for international adoption.⁹ Such countries include, Nigeria, Mali, Ghana, Democratic Republic of Congo, Ivory Coast, now Cote de Voire, Burkina Faso and Uganda.¹⁰ Some of these children are known to be engaged in street hawking, alms begging, house helps, sex slaves, trafficking etc.¹¹ Despite stringent rules, some adoptive parents are persuaded to avoid procedural bottleneck by adopting through acclaimed agents so as to shy away from noted barriers like certain cultural practices, stigmatization, financial implications, and the need for total secrecy or confidentiality to curb untold negative attitudes.¹² Such agents keep no record as required by the Child Right's Act but charge exorbitantly to effect adoptions privately. Some of them maintain homes where young girls are kept and encouraged to get pregnant for the purpose of giving out their babies for adoption as a means of making money.¹³

In Nigerian adoption, divers' approaches are maintained by different States of the Federation. Many families have enjoyed significant experience of primary providers for adoption through the following Nigerian States¹⁴ Abia, Anambra, Bayelsa, Delta, Edo, Ekiti, Enugu, Imo, Kwara, Lagos, Ogun, Ondo, Osun, Oyo, Plateau, and Rivers. There are new cases pending from other States and the Federal Capital Territory Abuja. Where international adoption is involved, at least one and usually both of the adoptive parents need to be of dual Nigerian—and foreign citizenship such as American or British citizenship to adopt from all other States with the exception of Lagos State, which provides a separate Nigeria–Lagos program. For more information on Lagos, Akwa Ibom, and Cross Rivers, they have different regulations for their adoption process from the other Nigerian States.¹⁵

As is the case with all international adoptions and most particularly the US, at least one of the adoptive parents must have American citizenship or a US permanent residency card. Nigerians adopting from their native country can adopt a family member or children available for adoption from orphanages through the Nigerian State's adoption authority (Ministry of Social Welfare or

⁸ Bartholet E; international adoption: thoughts and the human rights issues. Buffalo Hum right law 2007 b; 13: pp151-203

⁹ Aenold R.S. outcomes of tras national Adoption. The Future of children adoption vol. 3; no 1<<https://www.princeton.edu/future-of-childrenpublication/docs/03/01/07.PDF> Accessed on 20/9/2014

¹⁰ Benyam D. Mezmur. Intercountry adoption as a measure o last resort in Africa: advancing the rights of a child rather than a right of a child. Scielo. Available at www.scielo.br last accessed on 2nd February, 2021

¹¹ Ibid

¹² Oladokun A., Arulogun O., Oladukun R., Malhason – Bello O.1., etal. Acceptability of child adoption as management option for fertility in Nigeria: evidence from focus group discussions. African Journal of reproductive health 2009, vol. 12 pp 79 – 89

¹³ Ibid

¹⁴ Nigeria Adoption – All States. Available at <https://www.afamilyinbloomadoption.com>>...

¹⁵ Ibid

its equivalent). Agencies ought to evaluate carefully each potential adoption case from Nigeria on its own merit.¹⁶

CHILD

A child, according to the United Nation Convention on the Right of a Child is defined as any person below the age of 18 years unless under the law applicable to the child a majority age is attained earlier.¹⁷ This was ratified by Nigeria in 1991 and domesticated in 2003 by the Child Right's Act¹⁸ which defines a child as a person under the age of 18.¹⁹ This has been domesticated by most states in Nigeria.²⁰ An adopted child is one who has become the son or daughter of a parent or parents by virtue of legal or equitable adoption.

According to Nigerian law, a child must be below the age of 16²¹ or in some cases 17²² in order to be adopted. The specific law governing the adoption will depend on the jurisdiction in which the adoption takes place. If the intention is to take the child for instance to U.S., it is important to note that U.S. law requires a child to be under the age of 16 at the time that the petition is filed to qualify for the United States (U.S.) immigrant visa, unless the child is the natural sibling of another child who was adopted by the same parent while under the age of 18.

The statutes on adoption in Nigeria make provisions for juveniles to be adopted. A juvenile is a person below the age of 17 years. Section 1 of the Adoption Law of Lagos State (ALLS) provides for adoption of certain juveniles under the age of 17 years, who are abandoned, or whose parents and other relatives are unknown or cannot be traced after due enquiry, certified by a juvenile court. Section 2 of the ALLS provides that a court shall upon application, make an adoption order for a person to adopt a juvenile.

There are no specific guidelines regarding the adoption of siblings in Nigeria. Adoption decrees issued in Nigeria will generally specify any special needs or address the general health of the child to be adopted. The immigration authorities should match any specification of special needs that are observed by the Nigerian court.

PROCESS OF ADOPTION

The process for adopting a child from Nigeria generally includes the following steps;²³

1. Choosing of an adoption service provider

The first step in adopting a child in Nigeria is to decide whether or not to use a licensed adoption service provider that can help you with your adoption. Adoption service providers must be licensed by the State in which they operate. The Department of Social Welfare of

¹⁶ [PDF] CHLAB. Cyril N Nnaemeka. The Challenge of Child Labor to The Achievement of MDG2: Available at www.fao.org>uni>CHLAB

¹⁷ UNICEF: What is the Convention on the Rights of the Child? Available at <https://www.unicef.org>what-is-the...>

¹⁸ 2003

¹⁹ Bryan Garner, Black's Law Dictionary op cit n.... p.27

²⁰ Nike Adebawale. Why every Nigerian state must domesticate, implement the Child Rights Act. PREMIUM TIMES. Available at <https://www.premiumtimesng.com>....> Last accessed on the 22nd August, 2020.

²¹ Adoption Act of 1965

²² Child's Right Law 2003.

²³ Samuel Okolie: Child adoption process in Nigeria – Daily Post. Available at <https://dailypost.ng>2018/12/10>

each State provides information on selecting an adoption service provider on its relevant website.

Vigilance is therefore a key requirement for a person wishing to adopt. Prospective adoptive parents should be aware however that not all children in orphanages or children's homes are eligible for adoption.²⁴ In many countries, birth parents place their children temporarily in an orphanage or children's home due to financial or other hardship reasons, with the intention that the child returns home when it becomes possible. In such cases, the birth parents have not relinquished their parental right or consented to their children's adoption. In Nigeria, many orphanages or organizations claiming that they arrange adoptions, do so for-profit making enterprises without license or oversight. All prospective adopting parents should get clear information about any orphanage or adoption agency in Nigeria before entering into an adoption process with any organization. Apart from the fact that the agency must be licensed to carry out adoptions, the child must also be available for adoption.

2. Apply to be found eligible to adopt

In order to adopt a child from Nigeria, it is necessary to meet the requirement of the government of Nigeria and the Immigration Law of the country to which the child will be taken. You must submit an application to be found eligible to adopt with the Social Welfare Office of the State where the child resides in Nigeria.

If the child is for example to be taken to the United States of America, it is a U.S. Immigration requirement, that you also file an I-600A application for advance processing of an orphan petition to U.S. Department of Homeland Security's U.S. Citizenship and Immigration Service to be found eligible and suitable to adopt. Such a person must comply with the age requirement to be discussed later, and must also show evidence of livelihood and residence, among others.

3. Be Matched with a child

If a person is eligible to adopt, and a child is available for adoption, the central adoption authority in Nigeria will provide the prospective adopter with a referral.²⁵ Each family must decide for itself whether or not it will be able to meet the needs of and provide a permanent home for a particular child.

The child must be eligible to be adopted according to Nigeria's requirements, as described in the provisions of the Law regarding who can be adopted. The child must also meet the definition of an orphan under U.S. Immigration Law if it is the intention of the adoptive parent to travel to US with the child.

4. Adopting or Gaining Legal Custody of a Child in Nigeria

The process for finalizing the adoption (or gaining legal custody) in Nigeria generally includes the following:²⁶

(a) Role of Adoption Authority: The social welfare office of the State where the child is located is considered the adoption authority.²⁷ The application for adoption originates from this office.

²⁴ Nightlight – Christian Adoptions. Are there REAL ORPHANS? Available at <https://nightlight.org/2016/02/ar...>

²⁵ Adoption Notice: Guidance on Soft Referrals. Available at <https://travel.state.gov/travel/News>

²⁶ U.S Embassy & Consulate in Nigeria. Adoption in Nigeria. Available at <https://ng.usembassy.gov/adoption...>

²⁷ Adoption Laws. Adoption Center – National Adoption Center. Available at www.adopt.org/adoption-laws

Prospective adoptive parents should not attempt to begin the adoption process through any other local official or private deal. The authority that adjudicates on local adoptions in Nigeria is the Magistrate Court or High Court of the State where the child is resident or located. The role of the Social Development Secretariat (SDS) cannot be overlooked, because it plays a very important role on issues bothering on adoption of any child.²⁸ Some of the procedures to be complied with and documents to be tendered at the SDS include:²⁹

- i. Obtaining and filling a form for adoption.
- ii. Presenting your indigene certificate
- iii. Medical certificate of fitness of the person adopting
- iv. Tax clearance certificate for 3 years
- v. Age declaration
- vi. Nature of business or occupation

(b) Role of the court: In most Nigerian States, the adoption process begins when an application for an adoption order is made in accordance with local requirements and submitted to the registrar of the competent court.³⁰ The Court then assigns a *guardian ad litem*³¹ for the child to represent him/her in the adoption proceedings. The *guardian ad litem* is a social welfare officer in charge of the area where the child or juvenile resides, or a probation officer or some other person suitably qualified in the opinion of the court of assignment. The *guardian ad litem* investigates the circumstances related to the proposed adoption and files a report with the Court. He also represents the child's interest until the Magistrate questions the prospective adoptive parents and grants the adoption order giving legal custody to the adoptive parents. The *guardian ad litem* investigates the circumstances relevant to the proposed adoption and reports in writing to the Court. Prospective adoptive parents must inform the social welfare officer of their intention to adopt at least three months before the Court order is made. For at least three consecutive months immediately preceding an adoption order, the child must have been in the physical care and legal custody of the applicant parents in Nigeria.

An applicant cannot have the child reside with another family member in lieu of living with the applicant, even if a power of attorney is in effect. The social welfare officer visits the home of the adoptive parent until the officer is satisfied that the child or juvenile is settled and the prospective adoptive parents are capable of looking after him or her. Then, the social welfare officer submits a positive recommendation in writing to the Court. The Magistrate or Judge will meet the adoptive parents in Court to confirm their suitability before he will issue or deny their adoption order. After their adoption order has been issued, adoptive parents should obtain a new birth certificate for the child, listing them as the child's parents. In some states, after their adoption has been granted, their adoptive parents must obtain the court's permission to remove the child from the State or Nigerian jurisdiction, either temporarily or permanently. In addition, the social welfare officer might be required to submit a letter to the Nigeria immigration office, stating that the adoptive parents are now the legal parents of the child. This letter permits the adopting parents to apply for a passport to take the child out of Nigeria.

²⁸ Developmental Psychology, Social Development. Psychosocial Development. Available at <https://course.lumenlearning.com>

²⁹ New Found land Labrador, Canada. Children, Seniors and Social Development. Adoption. Available at <https://www.gov.nl.ca>cssd>adopt...>

³⁰ Mondaq. Procedure For Adoption of A Child Under Nigerian Law. Available at <https://www.mondaq.com>nigeria..>

³¹ Gladney, Center for Adoption. What is a guardian ad item? Available at adoption.org>guardian-ad-lite...

c. Documents Required for Adoption.

The Child's Right Act makes provision for an application for adoption to be made to the High Court or Magistrate Courts designated as Family court to be accompanied with the following documents;³²

- (a) Where the applicant is a married couple, their marriage certificate or a sworn declaration of marriage;
- (b) The birth certificate or sworn declaration of age of each applicant;
- (c) 2 passport photographs of each applicant;
- (d) A medical certificate of the fitness of the applicant from a Government hospital; and
- (e) Such other documents, requirements and information as the Court may require for the purposes of the adoption, such as;
 - i. Means of livelihood
 - ii. Certificate of origin
 - iii. Home study/investigation to show how you relate with other people like your siblings, parents, spouses, children etc.
 - iv. Divorce decrees (where applicable)
 - v. Proof of Nigerian citizenship
 - vi. Proof of citizenship of country in which the child is to be taken.
 - vii. Financial documentation—proof of financial assets including evidence of source of income.
 - viii. Police reports
 - ix. That additional documents may be required.

In practice, the Court prefers that an applicant has fulfilled the conditions precedent at the Child Welfare Department and obtained a report stating that the applicant is a proper person to adopt the child. The report would accompany the application for adoption.

Upon receipt of an application for adoption, the Court shall order an investigation to be conducted by the child development officer or a supervision officer or such other person as the Court may determine, to enable the Court to assess the suitability of the applicant as an adopter and of the child to be adopted.

Note that the Court prefers that an applicant has fulfilled the conditions required at the Child Welfare Department and also obtained a report stating that the applicant is a proper person to adopt the child. The report would accompany the application for adoption, failure of which may invalidate the adoption process.

- x. Subject to the Child's Rights Law of any State where adoption is to be carried out, the following may also be required.³³
 - a. Application by way of a letter to the Ministry of Youth, and Social Development (this varies from one State to the other),
 - b. Opening of file where necessary verified documents will be placed after the applicant has been invited for pre-adoption counseling

³² S. 126 CRA 2003

³³ U.S. Embassy Consulate in Nigeria: Adoption in Nigeria. Available at <https://ng.usembassy.gov/adoption...>

- c. The home of the applicant will be visited and necessary pictures may be taken for verification
- d. Applicant will face an adoption panel and if successful an adoption approval shall be granted accordingly.
- e. The child to be adopted is then sought out for the adoptive parents to familiarize with.³⁴
- f. The ministry will send all relevant documents to the Court which may decide whether to hear the application in chambers or in open court
- g. The court will, if satisfied with the application and relevant documents, direct a child development officer of welfare office to investigate the suitability of the applicant adopting the child
- h. If the court is satisfied with the report of the welfare officer, an adoption order shall be made, having regard as far as practicable to the wishes of the parents or guardian to the religious upbringing of the child.

(d) Registration:

The last and important stage which most persons sometimes skip is for the adoption to be registered in the adopted children's register of the National Population Commission.³⁵

Every action taken in the adoption procedure must be entered into the Adoption Register. A certified true copy of such entry is stamped or sealed by the Registrar and shall be proof of such adoption. In *Cordelia Olaiya V. Solomon Olaiya*,³⁶ the 1st respondent Cordelie Olaiya married Solomon Kayode Olaiya in 1963 under the Marriage Act in England. They had no biological child so they adopted Emmanuel, Sarah and Remilekun under a legal and valid adoption. Upon the husband's death in 1981 intestate, his brothers brought an action against the widow to inherit his things. Their claim was that they were unaware that he had adopted children. Although the trial court and the court of Appeal held that the adopted children were entitled to a share of the deceased's estate, it was held by the Supreme Court that since the adoption was not registered in the Adopted Children Register, there was no valid proof of the adoption to be used in evidence.

The effect of a valid adoption is as follows;

The adopted child has as much right as the biological child of same parent. **Section 42(2)** of the 1999 Constitution as amended provides thus: **“No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.”** This means that in terms of inheritance, reference to children in adoptive parents will or wills includes adopted children. If the parents died intestate –do not leave a will or wills- the adopted child will have the same legal rights to inherit from their estate as any biological child would have.

In *Igbozuruike & Ors v. Onuador*,³⁷ it was held that the circumstances of the birth of an individual is no ground to discriminate against such child in sharing or succeeding to the property of a grandmother or mother.

³⁴ S. 131(1)(e) CRA 2003

³⁵ S. 142 CRA 2003

³⁶ (2002) 8 NWLR (pt 782) 652; (2005) 2 SMC 84

³⁷ (2015) LPELR-25530 CA

Also, in *Aduba & Ors v. Aduba*,³⁸ the Court of Appeal upheld the decision of the High Court that the Respondent was an adopted child of Aduba Ohagwam Nwaemere and his wife, Felicia, posting that Section 42(2) of the Constitution of the Federal Republic of Nigeria, Section 42(2) thereof, applied, to protect the Respondent's rights against discrimination and so he was entitled to share in the landed property and the estate of Aduba Ohagwam Nwaemere as his adopted son. It also granted him customary right of occupancy over the particular land in dispute.

From the cases cited above, it is only reasonable that an adopted child be treated as being the blood of the adopters and has the rights of inheritance of properties; otherwise the essence and spirit of adoption would be forfeited.

ADOPTED CHILDREN WHO ARE NOT INCLUDED IN A WILL

Intestate Law often applies to adopted children who are not specifically named in the will of the adopted parent. If a will makes no provision or inadequate provision for a child, including an adopted child, the child may contest the will, making a family provision claim.

Under the UK Law, the Rules of Intestacy do not cover children who are in the process of being adopted. Therefore if the adoptive parents die before the adoption has been fully finalized then the child will not gain the automatic rights to inherit any share of the estate of the parents.

Generally, adopted individuals are included in class gifts (persons in the same category or level of rights, such as heirs of a deceased who are related by the same degree) and other terms of relationship in accordance with the rules for intestate succession.

For example, if a will stipulates that all children of the deceased parents are included whether or not he or she is specifically named. Also, when a parent fails to provide for any adopted child after the will was made, that person shall receive a share of the parents' estate equal in value to that which he or she would have received if the parent had died intestate. This last rule applies unless there is evidence that the omission was intentional or that the parent provided for the adopted person outside the will.

- a. Vesting of rights: All rights, duties, obligation, and liabilities relating to the custody of the child are vested in the adoptive parent.³⁹
- b. Death of parents intestate: If the adoptive parent dies intestate, an adopted child must be treated as a child born to the adopter.⁴⁰

From the foregoing, it is obvious that an adopted child has as much rights as biological child of the same parent. It is however opined that to guarantee and ensure that an adopted child (ren) inherits from the estate as their adoptive parents, the latter should:

- (i) Make a valid will.
- (ii) Name the adopted child/children as beneficiaries to the will.
- (iii) Constantly keeping the will up to date and amend same, when and where necessary.
- (iv) Specifically naming an heir to a particular property.

³⁸ (2018)LPELR-45756 CA

³⁹ [PDF] Refworld. CHILD'S RIGHT ACT, 2003 1.~est interest of a child. Available at <https://www.refworld.org>>p...

⁴⁰[PDF] Childwelfare-Intestate Inheritance Rights for Adopted Persons. Available at <https://www.childwelfare.gov>

In essence, organizing your estate towards when you pass away through the creation/amendment of a valid will, will give you and your family absolute peace of mind.

(e) Interest and welfare of the Child

The Court shall, in reaching a decision relating to the adoption of a child, have regard to the following circumstances. The first consideration to be given is the need to safeguard and promote the welfare and the best interest of the child throughout the childhood and ascertaining, as far as practicable, the wishes and feelings of the child regarding the decision and giving due consideration to those wishes and feelings, having regard to the age and understanding of the child.⁴¹

(f) Proxy adoptions are not valid in Nigeria. A person wishing to adopt in Nigeria must physically participate in the process. Therefore, a person cannot adopt on behalf of another. Also there is no specific minimum residence requirement to be eligible to adopt in Nigeria, prospective adoptive parents may be required to stay in Nigeria for a minimum of three months to two years to bond with the child before petitioning a court to adopt.

Nigerian law requires that a parent-child relationship be established before the court's decision can be considered final in relation to adoption. Each State determines the length of time it takes to establish the parent-child relationship.

Prospective adoptive parents must have physical and temporary legal custody of the adoptive child for at least three consecutive months prior to petitioning the court for an adoption decree.⁴² An applicant cannot have the child reside with another family member in lieu of living with the applicant, even if power of attorney is in effect. If it is not unusual to see waivers issued to parents who claim to the court that meeting this requirement was a burden.

Note that, a step parent cannot adopt the child of the spouse by virtue of S 131 (2) CRA⁴³

(g) Role of adoption agencies: There are no legally recognized Nigerian agencies or licensed Nigerian adoption agencies that assist adoptive parents. Prospective adoptive parents can seek assistance from a Nigerian attorney to facilitate the adoption process. Some Embassies like the U.S. Consulate for example, maintain a list of attorneys that have identified themselves as being willing to provide legal services to U.S. citizens. But they cannot make any endorsements based on their assessment of the quality or the type of services the attorney provides to a competent Court.

(h) Adoption fees: Nigeria does not have any income requirement for inter country adoption. However, fees, including fees to an agencies or the orphanage, attorney fees, court costs and costs to get official paperwork, such as a birth certificate, are estimated by the U.S. Consulate to cost approximately \$500 in fees not including fees paid for the I-600, I-600A or the immigrant visa for a standard adoption in Nigeria.⁴⁴

⁴¹ Order 26 The Child Rights Act (Enforcement Procedure) Rules, 2013 of the High Court of the Federal Capital Territory, Abuja.

⁴² AllAfrica. Nigeria and Changing Face of Child Adoption. Available at <https://allafrica.com>stories> Also see section 126(3) CRA 2003.

⁴³ 2003

⁴⁴ Ibid

(i) Time frame: Adoption procedure can take a few months to more than a year depending on the child's State of origin and the evidence presented.⁴⁵

(j) Authentication of documents: The paperwork involved in Nigerian adoption is quite extensive and time-consuming to locate. Prospective adoptive parents are advised to consult with a Nigerian attorney about the documentary requirements of the State from which they are adopting. You may be asked to provide proof that documents from a foreign country is authentic. If so, the department of State authentication office may be able to assist. In the alternative they may require that such documents are notarized by a notary public.

It is critical to meet the following requirements in order to validly adopt a child from Nigeria:⁴⁶ A notice to social welfare of intention to adopt should be given within – 12 calendar months prior to adoption. Form titled request for adoption is usually filled by the prospective adoptive parent under Section 131(1).

(k) Age of Adoptive Parents:

The age of the adoptive parent is also an important consideration. In Abia, Akwa-Ibom, Anambra, Bayelsa, Cross River, Ebonyi, Imo and Rivers States, prospective adoptive parents must be at least 25 years of age and 21 years older than the child to be adopted. For married couples, at least one parent must meet the requirement.

Section 129 Child Right Act⁴⁷ provides that the following persons may apply for adoption;

1. Married couple where- each of them has attained the age of twenty five (25) years, and there is an order authorizing them jointly to adopt a child; or
2. A married person if he has obtained consent of his spouse, as required under section 132 of the Act, or
3. A single or unmarried person if he has attained the age of thirty five (35) provided the person is of the same sex with the child. In practice, the age of persons seeking adoption is higher, but applications from single applicants are rising nowadays.⁴⁸
4. In all cases, adopters must be persons found suitable to adopt a child by the investigating officer.

(l) Availability of Child Adoption:

Section 128 Child's Right Act⁴⁹ provides the persons who may be adopted as follows;

1. The child of a parent or guardian whose consent has been obtained,
2. A child, who is abandoned, neglected, persistently abused, ill-treated and there is a compelling reason for such child to be adopted.

Abandonment of a child in Nigeria is often poorly documented and may require a full investigation to confirm the abandonment. Nigeria has specific requirements that a child must meet in order to be eligible for adoption.⁵⁰

⁴⁵ Ibid

⁴⁶ Nightlight – Christian Adoptions. Nigeria Adoption Program. Available at <https://nightlight.org/nigeria-adopt...>

⁴⁷ 2003

⁴⁸ Parents, Single Parent Adoption: How to start a family solo. Available at <https://www.parents.com/facts>ca...>

⁴⁹ 2003

⁵⁰ Ibid

Adoptions of children who are allegedly relinquished or abandoned by their parents, who are still living, are subject to investigation to confirm such consent. The U.S. consulate has found that parents in Nigeria may relinquish their children to relatives living in the United States strictly in order to afford the children the ability to immigrate to the United States.⁵¹

Both unmarried individuals and married couples may adopt. Note however that a single person will not be allowed to adopt a child of the opposite sex except in extraordinary circumstances. In most States, married couples must adopt jointly. If married, both parties must be Nigerian citizens. In the case of single-parent adoption, only the adopter's name should be listed on the Nigerian birth certificate and the other parent's name would be left blank.

Nigerian law states that non-Nigerians may not adopt in Nigeria.⁵² Although this law is sometimes inconsistently applied, the U.S. consulate strongly advises that a non-Nigerian citizen is not eligible to adopt children from Nigeria.

(m) Commencement of action:

Section 126 – requires you to apply to the relevant court being the family court of the State High court or the Magistrate court as the case may be.

In Nigeria, the magistrate court or High court (from the State where the child resides) is the relevant avenue for ventilating adoption issues.

(i) Originating Motion:

Although the Child's Right Act does not stipulate the procedure for commencement, it would appear that you apply by originating motion to the family court stating reasons for adoption. It is important to join the initial guardian of the child, the social welfare and the National Population Commission so that they can put this facts in their records for future reference.

(ii) Affidavit in Support:

In the supporting affidavit, the applicant must show by deposition, the following; that you are at least 25 years old and if both are not applying as a spouse, consent of the other spouse to adopt the child should be stated pursuant to s. 127 CRA. State also your intention concerning the religious upbringing of the child.

1. State that you have not given money for the adoption contrary to Section 131(1) (j)
2. Show whether birth parents are known or unknown. If they are known, then the issue of their consent becomes paramount.
3. International passport/indigeneship certificate should be exhibited.
4. Means of livelihood for the next five years of the adopting parent should be known and stated.
5. Reference from a government hospital to show that you are a fit and proper person to adopt.
6. Photographs of both adoptive parents should be exhibited.
7. That the age gap between the child and the adoptive parents provides an age gap of at least 21 years. A birth certificate or statutory declaration of age would solve this

⁵¹ PCD Counseling – Relinquishment of Adoption. Available at <https://www.pcdcounseling.com/re..>

⁵² [pdf] Adoption Practice in Nigeria- an Overview. Available at [core.ac.uk>download>pdf](http://core.ac.uk/download/pdf)

8. Residence for at least five years in the place the adoptive parents stay.
9. Whether you are applying as a spouse or single applicant, as this could determine the sex of the child that can be adopted.
10. Child has been with the parents for at least 3 months before adoption to create a bonding period.
11. Notify the court of the intention to adopt and the reason for such intention, which could range from childlessness, health to humanitarian reasons.
12. Show that relevant consents of parent, guardian, and family head have been extracted. This should be displayed as an attachment.
13. The court will then direct that a social officer should go to the applicant's home to verify the facts stated in the application pursuant to Section 131.

(iii) Court Order:

The court upon hearing the application may;

1. Grant an interim order of adoption
2. Grant a final order of adoption

(iv) Duration of the case depends on the court:

The procedure should not ordinarily take long specially since most of the facts are revealed by affidavit evidence which may not required any physical examination in court. The adopting parent may then ask for right of ingress and outgress to allow you go outside FCT or the state from which the adoption takes place.

Note that, the need to physically sight the child by court may be necessary for the Court to conform with section 1 of the Child's Right Act which requires asking the children questions to confirm some of the averments of the applicant. Adoption proceedings are usually in camera to allow the judge deal freely with the child and provide secrecy for the whole procedure.

Although an applicant cannot pay an agent to adopt a child, he would pay his solicitor for services rendered.

Scale of payment varies from office to office since there is no scale of charges.

5. POST ADOPTION REQUIREMENT:

(i) Compliance with adoption rules of foreign country and taking the child home

After you finalize the adoption (or gain legal custody) in Nigeria, the citizenship and immigration services of the country to which the child is to be taken must determine whether the child meets the requirement to be taken to that country. Under the U.S. Immigration Law for instance, the child's immediate relative will need to file a form I-600 petition to classify the child an orphan.

Once the adoption is complete (or you have obtained legal custody of the child), there is need to apply for several documents for your child before you can apply for an immigrant visa to take your child home to the intended country. Some of these documents are as follows;

(ii) Birth Certificate

If you have finalized the adoption in Nigeria, you will first need to apply for a new birth certificate for your child. Your name will be added to the new birth certificate. Birth certificate in Nigeria is issued by the National Population Commission (NPC). The NPC has offices located within most Local Government Authority (LGA) offices throughout the country. An applicant must go to the LGA office within the jurisdiction of where the adoption occurred in order to obtain the birth certificate. Birth certificate from NPC is a document which is normally filled by hand and can commonly include spelling mistakes or other problems. Applicants are encouraged to check the accuracy of documents obtained by them since visa regulations require that the spelling and other biographical information are consistent across official documents.

If you have been granted custody for the purpose of adopting the child to a different country, the birth certificate you obtain will, in most cases, not yet include your name. There is need to correct this anomaly before processing the travelling documents of the adopted child to avoid the embarrassing question as to why your child's surname is different from yours.

(iii) Nigerian passport

If your child is to be taken abroad, he or she will need travel documents and international passport from Nigeria Immigration Service.⁵³ In some States, after the adoption has been granted, the adoptive parents must obtain the court's permission to remove the child from Nigerian jurisdiction, either temporarily or permanently. In addition, the social welfare officer might be required to submit a letter to the Nigeria immigration office, stating that the adoptive parents are now legal parents of the child. This letter permits the adoptive parents to apply for an international passport to take the child out of Nigeria. Applicants can apply for a Nigerian passport from the Nigeria Immigration Service office of the jurisdiction in which the adoption took place or where they reside. There is a fee for obtaining a passport. The relevant fee is twenty five thousand naira ₦25, 000.00.⁵⁴ The Nigerian passport may take a week or more to obtain depending on certain conditions. Nigerian law has no post-adoption requirements for adoptive parents.⁵⁵ Parents should therefore, confirm any post-adoptive requirements with their legal representatives.

(iv) Post Adoption Support Group:

Many adoptive parents find it important to get support after the adoption.⁵⁶ There are many public and private nonprofit post adoption services available for children and their families. There are also numerous adoptive family support groups and adoptee organizations active in the United States that provide a network of options for adoptees who seek out other adoptees from their country of origin. Take advantage of all the resources available to your family, whether it is another adoptive family, a support group, an advocacy organization, or your religious or community services. Places where one can start a support group search include:

1. Child Welfare Information Gateway
2. Adoption group Council on Adoptable Children

⁵³ Fred-young & Evans. Procedure For Adoption Of A Child Under Nigerian Law. Available at <https://www.mondaq.com>nigeria>

⁵⁴ Nigeria Immigration Service. NIS Passport fee. Available at <portal.immigration.gov.ng>p=pass...>

⁵⁵ Harlem solicitors- Fact-Check Of Child Adoption Process in Nigeria. Available at <https://www.harlemsolicitors.com>f...>

⁵⁶ Chlss. Post Adoptive Resources. Available at <https://chlss.org>post-adoption>p...>

3. Adoption Services Support Groups for Adopting Persons

Nigeria is not party to the Hague Convention on protection of children and co-operation in respect of inter-country adoption (Hague Adoption Convention). Inter-country adoptions of children from non-Hague countries are processed in accordance with the code of Federal Regulations, Section 204(3) as it relates to orphans as defined under Section 101(1) (b) (& (f) the Immigration and Nationality Act.⁵⁷

Individuals who are not Nigerian citizen are not legally allowed to adopt in Nigeria. When a married couple is adopting, both must be Nigerian citizens. Only foreign citizens who also have Nigerian citizenship are allowed to adopt children in Nigeria. Nigerian adoption laws are complex and vary from State to State. At the national level, adoptions are regulated by the Nigerian Child's Right Act 2003 or the Adoption Act of 1965. Depending on where the adoption takes place, the specific laws and regulations governing the adoption may differ.⁵⁸

In general, adoptive parents who intend to adopt a specific child must first obtain temporary custody of the child.⁵⁹ Prospective adoptive parents are advised to obtain information on adoption in the State through the State's Social Welfare Office. It should be noted that the only legal way to do an adoption in Nigeria is to work with the respective State Social Welfare Office (usually named the State's Ministry of Women or family affairs). Prospective adoptive parents should not attempt to process their adoption through local officials who may attempt to circumvent the legal process. Adoption decree must state that, it is full and final for an immigrant visa to be issued to the child. Adoption decrees from Nigerian courts sometimes put stipulations on the adoption that such a child is not allowed to travel beyond the jurisdiction of the court or may require periodic visits to the child by the social welfare office of the respective Nigerian State. This stipulation may prevent the Consular officers of foreign nations from issuing an immigrant visa or could cause a delay in the processing of the immigrant visa.

Prospective adoptive parents must be available to be questioned in court by the magistrate considering the adoption. Proxy adoptions are not valid in Nigeria.

(6) INTERCOUNTRY ADOPTION NOTICES ACROSS DIFFERENT JURISDICTIONS:

(i) United States of America

After obtaining the new birth certificate and passport for your adopted child, there is the further requirement that you have to file forms peculiar to the country of destination. For US, there is need for a form I-600, petition to classify the child an orphan. You then need to apply for U.S. Immigrant Visa for your child from the United States of America (U.S.A) Consular General. This Immigrant Visa allows your child to travel to USA with you. As part of this process, the Consular Officer must provide the panel physician' a medical report on the child.⁶⁰

Most applications for an immigrant visa for an adopted child at the U.S. Consulate will undergo full field investigation in the State where the adoption took place to verify the authenticity of the information provided in the adoption decrees, I-600 petitions, and supporting documents. These

⁵⁷ H.R. 2580, October 03, 1965

⁵⁸ Findlaw. The Different Types of Adoption. Available at <https://family.findlaw.com>adoption>.

⁵⁹ American Adoption News. Can a Legal Guardian Put a Child Up for Adoption? Available at <https://www.americans.com>

⁶⁰U.S. Department State Travel. Medical Examination. Available at <https://travel.state.gov>how-to-adopt>

investigations also serve to verify that the child is an orphan as defined by the U.S. Immigration Law and may include documentary reviews and interviews with person connected to the child's case. For security reasons, U.S government personnel are frequently restricted from traveling to certain parts of the country, thereby making these investigations to take an average of six months or more.

Visa issuance after the final interview generally takes 72 hours and the U.S consulate strongly advises that applicants do not book any travel plans until they have their visa (s)⁶¹. Note that, although the U.S embassy is in Nigeria's capital (Abuja). Immigrant visa cases are reviewed only at the U.S Consulate General Lagos, which issues IR3 classification of immigrant visas.⁶²

To take an adopted child to the United States from Nigeria, you must meet eligibility and suitability requirement. The U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) determine who can adopt under U.S Immigration Law. In order for a child to receive a US Immigrant Visa, they must meet orphan status under US Law. The US Consulate can conduct their own investigation in order to verify the authenticity of the information provided about the child.⁶³

Additionally, a child must meet the definition of orphan under U.S. Immigration Law in order to be eligible to immigrate to the United States on an IR-3 or IR-4 immigrant visa. The Child Citizenship Act (CCA)⁶⁴ contains two provisions that allow foreign-born, biological, and adopted children of U.S. citizens to acquire U.S. citizenship if they satisfy certain conditions before the age of 18. The Act applies to children who did not acquire citizenship at birth. There are two basic issues that are of utmost importance as deduced from the CCA.

For adoption finalized abroad prior to the child's entry into United States, the child will acquire U.S citizenship upon entry into the United States if the child meets the requirement of the Child Citizenship Act of 2000. For adoptions finalized after the child's entry into the United States, an adoption will need to be completed following your child's entry into the United States for the child to acquire citizenship of U.S A.

If your child did not qualify to become a citizen upon entry into the United States, it is very important that you take the steps necessary, so that your child qualifies as soon as possible. Failure to obtain citizenship for your child can impact many areas of his/her life including family travel, eligibility for education, education grants, health care and voting rights. U.S. citizens are required by law to enter and depart the United States on a valid U.S. passport,⁶⁵ issued only by the U.S. Department of State.⁶⁶ Before travelling, it is always a good practice to investigate the local conditions, laws, political landscape, and culture of the country of destination. The Department of State provides Country Specific Information for every country of the world about various issues, including the health conditions, crime, unusual currency or entry requirements, and any area of insatiability. Where required, visas are affixed to your passport to allow you to

⁶¹ Encyclopedia – Nigeria. Available at <https://www.encyclopedia.com>nig...>

⁶² Travel.State.Gov> U.S. Visas> U.S. Consulate General Lagos, Nigeria – LGS. U.S. Department of STATE-BUREAU of CONSULAR AFFAIRS. Available at <https://travel.state.gov>supplements>. Accessed on 15/7/2021

⁶³ NAFSA. 10 Points to Remember when Applying for a Student Visa. Available at <https://www.nafsa.org>. accessed on 14/7/2021

⁶⁴ 2000

⁶⁵ USA.gov – How to Enter the U.S. Available at <https://www.usa.gov>enter-us> . accessed on 14/7/2021

⁶⁶ Ibid

enter a foreign nation. To find information about obtaining a visa for Nigeria, the relevant body to check is the Department of State's Country Specific Information. When traveling during the adoption process, it is important to enroll with the Department of State, so that it will be possible to contact you if necessary, for any family emergency or crisis.

(ii) UNITED KINGDOM

Child adoption from anywhere into United Kingdom (UK) is quite similar to a UK adoption and will be done by a UK adoption agency that may charge a fee.⁶⁷ The adopter need to be assessed and approved as suitable to adopt a child by a UK adoption agency which will guide you through the steps, some of which are as follows;

- i. The application will be sent to the Department for Education (DfE) of the relevant UK central authority to check that it meets eligibility criteria
- ii. The DfE will issue certificate of eligibility to adopt and send it with your adoption application to the relevant oversea country.
- iii. Apply to be matched with a child. Once matched, you must visit the child in the country and confirm in writing that you have done so and want to proceed with adoption.
- iv. Go through the adoption court process of the country you are adopting from.
- v. Once the procedure is finalized, you need to arrange entry clearance for the child to enter the UK.
- vi. Pay the non-refundable fee of £1, 975 for processing the application to adopt a child from overseas.
- vii. Discover if there is any restriction concerning your country by UK rules. UK has restricted adoptions from the following countries, Cambodia, Guatemala, Nepal, Haiti, Ethiopia and Nigeria. This means that Nigerian adoptions are therefore not recognized in the UK. Adopted children can therefore not join their adoptive parents as dependants.⁶⁸ Although such adoption may be seen as defactor, it is in law, not recognized. Application by the mother to bring an adopted child to the UK will therefore be refused.

Although reactions have trailed the inclusion of Nigeria on the list of restricted countries by United Kingdom recently published by the UK Department for Education, from March 12, 2021, the fact still remains that, no visa can be issued for children adopted from Nigeria to enter the UK.⁶⁹

(iii) CONGO

In countries like the Democratic Republic of Congo (DRC), the number of children adopted from there to the U.S. in 2016 alone were 360.⁷⁰ Between 2010 and 2013, adoptions from Congo to US alone rose to 645.⁷¹ Congo allowed over 150 children adopted by foreign parents mostly

⁶⁷ Child adoption: Adopting a child from overseas-Gov.UK. Available at <https://www.gov.uk/child-adoption>. accessed on 16/7/2021

⁶⁸ Danielle Cohen. One Adoptive Parent or two? Immigration Lawyer, UK. Available at <https://www.daniellecohenimmigration.com/one-adoptive-pare...>accessed on 16/7/2021

⁶⁹ Evelyn Usman. Life Foundation Reacts to Restriction of Nigeria on Adoption to UK. Available at www.vanguard.ngr.com/lifefoundation-reacts-...accessed on 16/7/2021

⁷⁰World Bank. Education in the Democratic Republic of Congo. Available at [documents1.worldbank.org\(pdf\)](https://documents1.worldbank.org/pdf)

⁷¹ Aaron Ross. Congo to let 150 Adopted Children leave country after two-year-wait-Reuters. Available at <https://www.reuters.com/congo-to-let-150-adopted-childrenr...>accessed on 16/7/2021

Americans to leave the country after spending more than two years in legal limbo. In 2013 Congo imposed moratorium on exit visa to children adopted by foreign parents for fear that the adopted children could be abused or trafficked.

However, in D.R Congo, some of the rules are as follows;

- Couples must be married for at least 5 years
- Widows, divorcee, and singles may adopt
- Persons must be at least 18 years old and 15 years older than the child they wish to adopt.

There is no age limit for the children available to be adopted.

The Central African nation of Congo is mineral rich but deeply impoverished having suffered two civil wars with armed groups plaguing its eastern region. With over 4 million orphaned children it has become a favoured international adoption destination. Although It has come under intense pressure from foreign governments to lift its suspension on adoption, the moratorium still remains in place.⁷²

(iv) SOUTH KOREA

Another country that is worthy of note on the issue of adoption is South Korea. The maximum age for adoption is not clear but children are allowed to be adopted and taken to the U.S. around the age of 2-3 years.

Who can adopt in South Korea

- i. Married couples who have been so, married for at least 3 years
- ii. They must be between the ages of 25-45, with no more than a 15 years age difference between them.
- iii. Income must be higher than a US national average
- iv. Cannot have more than 5 kids

Obviously the requirements outlined in the countries mentioned above are in tandem with the procedure on who can adopt in Nigeria and other places.

7. REASONS ADOPTION IS NOT COMMON IN AFRICA

i. Cultural belief/superstition:

The belief that an adopted child is less of a child and cannot be likened to “your own child”, places so much emphasis on the couple having their biological children, directly from the womb of the woman.⁷³ This is so strong that a man without children is advised to take a second wife rather than resort to adoption because a man will prefer a biological child to continue his lineage so as to preserve his name. In some situations, a man who is found to be infertile would prefer that his biological brother sleeps with his wife so that the child born is still related to him by blood rather than pursue an adoption process.⁷⁴ The tide is however gradually changing even though slow.

⁷² *Ibid*

⁷³ Adoption Symbolism & Superstitions | Available at <https://afth.wordpress.com/ad...> Accessed on 16/7/2021

⁷⁴ Ernestina S. Donkor, and Florence Naab. Perceived Barriers of Child Adoption: A Qualitative Study among Women with Infertility in Northern Ghana. Hindawi. Available at www.hindawi.com/journals/bm. Accessed on 16/7/2021

ii. Lack of understanding or ignorance.

This accounts for why most people are yet to understand the concept of adoption and what it entails. There is therefore, the need for creation of awareness that adoption is not only for couples who are unable to give birth to children, but also for those who wish to provide parental guide to the many children out there that are neglected, abandoned, without care and are in need of a place called a home.

iii. Fear

Most people are scared of adopting because they are not so sure of the circumstances surrounding the history and birth of the child. For instance, the child might come from a family with a trace of madness, epilepsy or any form of disease that could be dangerous or later feature in the child.⁷⁵

iv. Urge to experience motherhood:

Most women want to experience the joy of motherhood felt by a woman while giving birth to her own baby, after carrying such a child in her womb for 9 months. It is important to note that adoption is not restricted to couples without children. There is a proper procedure to follow as stated above, to avoid natural parents springing up surprises in future.

Advantages and Disadvantages of Adoption:

(a) Advantages

1. A Loving Home

The child is chosen by his/her parent(s) with a heart full of love. The care that a child receives in their younger years shapes their personality as adults and the stable household that a child is exposed to after adoption ensures a bright personality.⁷⁶

2. Increased Opportunities

After adoption, many children who were limited within the four walls of the orphanages become exposed to the outer world with endless opportunities. Children are put up for adoption by their biological parents due to personal reasons that may include financial difficulties. Adoption of the child by a new family gives the child an environment where his /her life is nurtured by proper education and upbringing, which may have been difficult for the biological parents to provide.⁷⁷

⁷⁵ Diana L. Baltimore. Understanding the concept of adoption: a qualitative analysis with adoptees and their parents. Iowa State University. Theses and Dissertations. Available at <https://lib.dr.iastate.edu/cgi/viewcontent.cgi?article=16287&context=rtd>. Accessed on 30/12/2021

⁷⁶ Ross Thompson. Social and Personality Development in Childhood. Available at <https://nobaproject.com/modules/social-and-personality-development-in-childhood> Accessed on 30/11/2021

⁷⁷ Janaye Grenke. Nature versus Nurture: A Study of Adopted and Biological Children and their Behavioral Patterns. Available at <https://digitalcommons.liberty.edu/cgi/viewcontent.cgi?article=1307&context=honors>. Accessed on 30/11/2021

3. A New Family Member

Families are blessed with the addition of a new family member with whom they can create unforgettable memories. Raising a child of their own to whom they can pass on their ideologies and values to future generations. It is a form of utmost blessing, especially for those who may have had complications with childbirth.⁷⁸

4. Less Risk of Poverty

Adoption secures the future of the birth mother and the child suffering from poverty as it gives the child a new family that can take care of his/her needs and provide a good life. It also allows the birth mother to carry on with her life without the risk of being burdened with the needs of a child.⁷⁹

5. Be a part of your Child's Life

Open or semi-open adoption allows the birth mother to still be a part of the child's life. The mother may receive emails, photos, phone calls or they may even get to meet their child. It gives a mother immense peace to see their child being raised with love, care, and security.⁸⁰

(b) Disadvantages of Adoption

1. Additional Responsibility:

Adopting a baby comes with a whole lot of responsibilities. Raising a child is probably one of the biggest responsibilities which humans are able to do it easily because of the amount of love they feel for their children. In the case of adoption, that sense of responsibility might sometimes be lacking and this might create a big problem especially when the adoptive parents eventually find that they can have children of their own.⁸¹

2. Intricate Processes

Adoption, in the modern generation, is to be done in a very formal and legal manner, which most adoptive parents see as a hassle. This is even more so when it comes to international adoptions, where the adoptive parents are required to fly in and out of the country quite often. Not only does it take a prolonged amount of time, it also adds to the total cost.⁸²

3. Difficult to Adjust

For the adopted child, it is quite difficult to learn to adjust to a new family who is to be with them at every step of life. Trusting new people with everything that they have is not an easy task. The adopted child may also feel rejected or unworthy compared to their adoptive parents' own children. This sense of insecurity may lead to loneliness and depression for the child.⁸³

⁷⁸ Legacy Adoption Services. Advantages of Adoption for Adoptive Parents. Available at <https://legacyas.com/advantages-adoption-adoptive-children/> accessed on 30/11/21

⁷⁹ *ibid*

⁸⁰ *ibid*

⁸¹ Shreeya Shrestha. 10 Advantages and Disadvantages of Adopting a Baby. Available at <https://honestproscons.com/advantages-and-disadvantages-of-adopting-a-baby/>

⁸² *ibid*

⁸³ *ibid*

4. Identity Crisis

More often than not, it has been observed that adopted people face identity confusion, especially during adolescence, where one engages on a quest to find themselves. In closed adoptions, the lack of information about the birth parents may leave the child stuck in an identity crisis.⁸⁴

5. Apprehension about the Future of the Relationships

For both the adoptive parents and the child, there is a fear that the adoption may turn out to be unsuccessful due to the breaking of relationships in the future. Not only that, in case of open adoptions, the fear that the birth family may demand the cancellation of adoption is also a fear that lurks within the adoptive parents all the time.

6. Dealing with Emotions

Mainly in the case of birth parents, dealing with various emotions like guilt, grief, and denial regarding the adoption may lead to serious mental illnesses. In closed adoptions, the lack of information about the child and their inability to initiate a conversation with their own children may lead to them feeling like they have abandoned their own child.

9. Conclusion

The essence of adoption all over the world is targeted at the preservation of humanity and the promotion of procreation. It is important to note that the adoptive parent(s) is saddled with the responsibility of caring for the adopted child as though he or she is their biological child not minding that there may be other biological children. Thus, adoption is open for everyone provided that there is due compliance with the requisite provisions of the law.

Depending on where the adoption takes place, the specific law and regulation governing the adoption may differ from one State to another or better still from one jurisdiction to another. For adoption of a child or children to be successful, the agencies involved, the adoptive parent(s), the courts and every other person involved must do all that is required of them as stated by the law.

Every adoption is different in its own way and to ensure that the adoption is successful, it is necessary that all the parties affected by the adoption are aware of the intricacies of what they intend to enter into. This is to confirm that the parties will be ready to face the consequences of everything, whether good or the bad. To allow the fears of adoptive parents, there is need for the social Welfare Department to create a counseling section to remove unnecessary doubts or apprehension. They need to be assured that adoption, if well handled is akin to having one's biological children.

10. Recommendation:

There is need to strengthen the legal basis for intercountry adoption. Government policies are needed to create a plan of action for adoption; establish national minimum standards for foster care as well as monitor and evaluate the foster care system. States are encouraged to strengthen their domestic child adoption laws. Bad practices in some countries have led to blanket restrictions or bans on inter-country adoption. There is need for legal frameworks that promote

⁸⁴ ibid

comprehensive child adoption laws that harmonize internal and international instruments, to implementation of these laws with needed enforcement.

Every country especially Nigeria needs a comprehensive review of its child welfare systems in order to identify key strengths and weaknesses as they relate to adoption. A good legal and policy framework that includes updated laws, regulations and standards of practice is vital. The national, regional and local levels also need detailed implementation plans that include minimum quality assurance standards for child adoption. Prospective adoptive parents are advised to obtain information on adopting in individual States through the State Social Welfare Office before delving into adoption. They should avoid any attempt to process their adoption through local officials who may likely circumvent the legal process.