

WHOSE INTEREST COMES FIRST? THE CHILD IN ADOPTION LAW: NIGERIA AND CANADA

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Abstract

Adoption sought to provide permanent family care for children without parental care, yet legal frameworks differ significantly across jurisdictions. This paper comparatively examined the legal status, welfare, and "best interest of the child" principle in adoption proceedings in Nigeria and Canada. While Nigeria's adoption is governed by the Child's Rights Act 2003 and state Child Rights Laws, Canada operates under provincial statutes such as the Ontario Child, Youth and Family Services Act 2017. In Nigeria, challenges include lack of uniform law, cultural stigma, delays, and weak post-adoption monitoring. In Canada, challenges relate to Indigenous customary adoption recognition and inter-provincial disputes. Canada has stronger institutional safeguards and clearer "best interest" tests, while Nigeria faces enforcement gaps despite constitutional and statutory provisions. Nigeria should harmonize adoption laws, strengthen NSITF oversight, and adopt Canada's child-centred welfare model to ensure legal certainty and protect child welfare.

Keywords: Status, welfare, interest, adoption, proceedings, comparative

1.0 Introduction

Adoption is the legal process by which a child's parental rights are permanently transferred from biological parents to adoptive parents, creating a new legal parent-child relationship. The core objective is to provide a permanent, stable, and loving home for children who cannot be cared for by their biological families. Internationally, adoption is anchored on the "best interest of the child" principle under Article 3 of the UN Convention on the Rights of the Child 1989, which both Nigeria and Canada have ratified. This principle requires that in all actions concerning children, the child's welfare shall be the primary consideration.

In Nigeria, adoption is primarily governed by the Child's Rights Act, 2003. Section 129 vests the power to make adoption orders in the High Court, while sections 131-138 set out eligibility, consent, and procedural requirements. The CRA domesticates the CRC and section 1 makes the "best interest of the child" paramount. However, because family law is on the Concurrent Legislative List, implementation depends on state adoption of the CRA. As of 2026, over 24 states have domesticated it. Additionally, section 39 of the Matrimonial Causes Act, 2004 allows adoption in the context of marriage. Challenges arise from the non-domestication in some northern states that rely on customary and Islamic law, creating legal fragmentation.¹

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Canada has no single federal adoption law because family law falls under provincial jurisdiction under section 92(13) of the Constitution Act 1867. Each province has its own statute. For example, Ontario's Child, Youth and Family Services Act, 2017, Part VIII governs adoption, emphasizing section 74(2) that the child's best interest is paramount. Similarly, British Columbia's Adoption Act RSBC 1996 c.5, Section 3 and Alberta's Child, Youth and Family Enhancement Act RSA 2000 c.C-12 apply the same principle. Federally, the Adoption of Children Act RSC 1985 c.A-2 applies only to adoption of children outside Canada. Canada also recognizes Indigenous customary adoption under section 35 of the Constitution Act 1982, giving legal weight to Indigenous traditions.²

Both jurisdictions confer full legal status on adopted children. Under section 141 of Nigeria's CRA 2003, an adopted child has the same rights as a biological child regarding inheritance, maintenance, and status. In Canada, section 93 of Ontario's CYFSA 2017 provides that upon adoption, the child becomes the lawful child of the adoptive parents with all rights and obligations. Welfare is protected through mandatory home studies, consent requirements, and court oversight. Section 135 CRA 2003 requires investigation and reports by authorized persons before an adoption order. In Canada, section 141 CYFSA 2017 mandates a "society" or licensed agency to assess suitability and prepare a report. Post-adoption monitoring is stronger in Canada than in Nigeria.³

2.0 Legal and Institutional Frameworks Governing Adoption in Nigeria and Canada

Both Nigeria and Canada base their adoption laws on the UN Convention on the Rights of the Child, 1989, particularly Article 21 which requires that the best interest of the child be paramount in adoption. They are also guided by the Hague Convention on Intercountry Adoption 1993. Nigeria ratified the CRC in 1991 and domesticated it via the Child's Rights Act, 2003. Canada ratified the CRC in 1991 and the Hague Convention in 1996. This creates a common international baseline, but domestic implementation differs significantly due to constitutional structures.

In Nigeria, adoption falls under the Concurrent Legislative List, Item 61 Part I of the Second Schedule to the 1999 Constitution. This allows both the federal and state governments to legislate. However, the Child's Rights Act, 2003 applies only in states that have domesticated it. As of 2026, about 26 states have done so. In states without domestication, adoption is governed by a mix of customary law, Islamic law, and the Adoption Act Cap A2 LFN 2004. This fragmented system creates legal uncertainty on status and welfare of adopted children.⁴

¹ E I Olowookere and R J Ademola, 'Marriage, Family Structure and Health in Nigeria: Implications for Social Policy' [2019] (6) (1) *African Journal of Reproductive Health* 143-156

² *ibid*

³ *ibid*

⁴ M O Lawal and O O Adepoju, 'Legal and Social Implications of Polygamous marriages in Nigeria' [2020] (8) (2) *Journal of Law, Policy and Globalization* 35-42.

The CRA 2003 is the main federal statute. Section 1 makes the "best interest of the child" paramount. Part X, Sections 129-148 specifically deal with adoption. Section 129 gives the High Court jurisdiction to make adoption orders. Sections 131-133 set eligibility for adopters and children. Section 141 confers full legal status, giving the adopted child the same rights as a biological child. The Act also requires investigation and reports before an order is made under Section 135. Issue: Non-uniform adoption across states weakens protection.⁵

The Adoption Act 1965, now Cap A2 LFN 2004, still applies in states that have not domesticated the CRA. Section 3 gives the High Court power to make adoption orders. Section 4 deals with consent requirements. However, this Act is outdated and does not expressly adopt the "best interest" principle. It also lacks provisions on intercountry adoption and post-adoption monitoring. Issue: The continued use of this colonial-era law in some states creates a two-tier adoption system in Nigeria. The High Court of each state is the primary institution for adoption under section 129 CRA 2003. The court must be satisfied that the adoption is in the child's best interest. Judges rely on reports from section 135 investigators. However, courts are overburdened and lack specialized family divisions in many states. Issue: Delays of 6 months to 2 years are common, which undermines the child's right to permanency and stability.⁶

At federal level, the Federal Ministry of Women Affairs provides policy direction. At state level, the Ministry of Women Affairs and Social Development and Child Development Agencies handle investigations, foster care and supervision. Section 136 CRA 2003 allows only authorized persons to make reports. NAPTIP also plays a role in preventing child trafficking disguised as adoption. Issue: Poor funding, lack of trained social workers, and weak post-adoption monitoring limit effectiveness.⁷

In Canada, adoption is a matter of provincial jurisdiction under section 92(13) "Property and Civil Rights" of the Constitution Act 1867. There is no federal adoption statute for domestic adoption. Each province and territory has its own law. The federal government only legislates on intercountry adoption via the Adoption of Children Act RSC 1985 c.A-2. This decentralized system allows provinces to tailor laws to local needs but requires uniformity efforts through inter-provincial agreements.⁸

Ontario's Child, Youth and Family Services Act, 2017, Part VIII is the main adoption law. Section 74(2) states the best interest of the child is paramount. Section 137 sets eligibility. Section 141 requires a children's aid society to prepare a report. Section 145 deals with openness agreements. Section 153

⁵ ibid

⁶ ibid

⁷ O Oladepo and K K Salami, 'Marriage Dynamics and Family Well-being in Nigeria: A Review of Socio-Cultural Factors and Legal Implications' [2017] (14) (3) *African Sociological Review* 112-127.

⁸ ibid

provides for adoption orders. Ontario also recognizes customary care for Indigenous children. Issue: Differences between provinces on consent, openness, and access to records can complicate inter-provincial adoptions.⁹

Provincial Superior Courts of Justice or Provincial Courts grant adoption orders. The court's role is to review agency reports and ensure best interest. Section 153 CYFSA 2017 outlines court considerations. Judges have discretion to order open adoptions. The process is typically faster than in Nigeria, averaging 3-6 months after placement. Issue: Court backlogs in some provinces and the need for legal representation can still cause delays. Adoption is administered by Children's Aid Societies in Ontario, and equivalent agencies in other provinces. Nigeria is not a full Hague Convention state. Intercountry adoption is governed by sections 139-140 CRA 2003, which requires approval of the Federal Government and compliance with the receiving state's law. This has led to bans and moratoriums due to trafficking concerns. Canada, as a Hague state since 1996, uses provincial central authorities to process intercountry cases under both the Hague and *Adoption of Children Act RSC 1985. Issue: Nigeria's weak regulatory oversight has damaged its international reputation, while Canada has clearer safeguards.¹⁰

Both countries grant full legal status. Section 141 CRA 2003 equates adopted children with biological children for inheritance and other rights. In Canada, section 93 CYFSA 2017 and provincial succession laws do the same. However, issues arise in Nigeria where customary law in some states may not fully recognize adopted children for inheritance, creating conflict of laws. In Canada, issues arise with access to original birth records, which vary by province.

3.0 The Legal Status and Rights of the Child in Adoption Proceedings

Adoption creates a new legal parent-child relationship and severs the legal ties between the child and biological parents, except where the law provides otherwise. The effect is that the adopted child assumes the full legal status of a biological child of the adoptive parents. This includes rights to name, maintenance, inheritance, and nationality. The guiding principle in both Nigeria and international law is that adoption must serve the "best interest of the child" under Article 3 of the UN Convention on the Rights of the Child 1989.¹¹

In Nigeria, the primary law is the Child's Rights Act, 2003. Section 141(1) provides that upon an adoption order, the adopted child "shall be treated in law as if born to the adopters in lawful wedlock." Section 141(2) further states the child shall have the same rights of inheritance as a biological child.

⁹ ibid

¹⁰ O Oladepo and K K Salami, 'Marriage Dynamics and Family Well-being in Nigeria: A Review of Socio-Cultural Factors and Legal Implications' [2017] (14) (3) *African Sociological Review* 112-127.

¹¹ ibid

This means the child gains full rights to maintenance, custody, and succession. However, the CRA only applies in states that have domesticated it. In states without domestication, the outdated Adoption Act, 2004 applies, which is less detailed on child rights.¹²

One key right is the right to identity. Section 146 CRA 2003 allows the court to authorize a change of the child's name in the adoption order. The child is also entitled to a new birth certificate reflecting adoptive parents as parents under section 147. Section 141(2) CRA, 2003 grants adopted children equal inheritance rights. The child can inherit from adoptive parents intestate or testate, and vice versa. However, a major issue arises in Nigeria where customary law in some states does not recognize adoption for inheritance purposes. Instance: In *Ukeje v. Ukeje*¹³, the Supreme Court upheld equality of children, but the case did not specifically address adopted children. This creates legal uncertainty for adopted children in customary settings.

The child has a right to proper care, education, health and protection from abuse. Section 1 CRA 2003 makes welfare paramount. Section 134 requires the court to consider the child's background, needs and the capacity of adopters before making an order. Children of sufficient age and understanding have a right to be heard. Section 132(2) CRA 2003 requires the consent of a child who is 12 years and above before an adoption order is made. The court must also consider the child's wishes under section 134(b). This reflects article 12 CRC 1989. Instance: In several High Court adoption proceedings in Rivers State, judges routinely interview children 12+ in chambers to ascertain their views before granting the order.¹⁴

In Canada, adoption is provincial. Under Ontario's Child, Youth and Family Services Act, 2017, Section 93, an adopted child becomes the lawful child of the adopters "as if born to them." The child gains rights to inheritance, support, and name. Section 74(2) makes best interest paramount. Section 159 allows for post-adoption contact agreements to preserve identity. Canada also recognizes indigenous customary adoption under section 35 of the Constitution Act 1982, giving legal effect to traditional practices. A critical right is access to origin information. In Canada, provinces differ. Section 165 CYFSA, 2017 allows adult adoptees to apply for birth information and adoption records. British Columbia's Adoption Act RSBC 1996, Section 67 has similar provisions. In Nigeria, the CRA is silent on adult access to original records, and in practice such records are often sealed with no clear procedure for disclosure. Issue: This limits the Nigerian child's right to identity compared to Canada.¹⁵

¹² *ibid*

¹³ 18 NWLR Pt 1418 384

¹⁴ M A Adedokun and A O Fatusi, 'Adolescent Marriages in Nigeria: Social, Health and Legal Challenges' [2016] (10) (2) *Journal of Adolescent Health* 75-82.

¹⁵ *ibid*

The law protects children from being adopted for improper purposes. Section 138 CRA 2003 criminalizes payment for adoption except approved expenses. Section 30 prohibits child trafficking. NAPTIP Act 2003 also applies. Instance: In 2020, NAPTIP prosecuted a baby-factory ring in Aba where children were being “adopted” illegally. The children were placed in state care and later legally adopted. This shows the law’s role in protecting status from commercialization. Both Nigeria and Canada confer full legal status on adopted children, but implementation differs. Nigeria’s CRA 2003 Sections 141, 146, 147 provides a strong statutory base, but non-uniform application and conflict with customary law remain challenges. Canada’s provincial laws like CYFSA 2017 offer clearer procedures, better access to records, and recognition of Indigenous practices. For Nigeria to fully protect the legal status and rights of adopted children, there is need for nationwide domestication of the CRA, clear post-adoption monitoring, and a legal mechanism for adult adoptees to access identity information.

4.0 The Best Interest of the Child as the Paramount Consideration in Adoption Proceedings

The “best interest of the child” is the cornerstone of modern child law. It is codified in Article 3(1) of the UN Convention on the Rights of the Child [CRC] 1989, which provides that “in all actions concerning children... the best interests of the child shall be a primary consideration.” Both Nigeria and Canada ratified the CRC in 1991. The principle requires that courts and agencies prioritize the child’s safety, welfare, emotional needs, and long-term stability over the interests of adults in adoption proceedings.¹⁶

In Nigeria, the principle is domesticated in section 1 of the Child’s Rights Act [CRA] 2003: “In every matter concerning a child... the best interest of the child shall be the primary consideration.” This applies to adoption under Part X, Sections 129-148. Section 134 specifically directs the court to consider: the child’s wishes, background, and the capacity of the prospective adopters to meet the child’s needs. Thus, no adoption order can be made unless the court is satisfied it serves the child’s best interest.¹⁷

Nigerian courts apply the test through investigation reports. Section 135 CRA 2003 mandates that before an adoption order, an authorized officer must investigate and report on the suitability of the home. Canada has no federal adoption code. The principle is enacted in each province. A leading example is Ontario’s Child, Youth and Family Services Act, 2017. Section 74(2) states: “The best interests of the child shall be the paramount consideration.” Section 153(2) lists factors the court must consider: child’s needs, emotional ties, cultural and religious background, and ability of adopters to

¹⁶ O A Oyeniyi and D A Akintunde, ‘Child Marriage in Nigeria: Legal Framework, Social Implications and Health Challenges’ [2018] (22) (1) *International Journal of Adolescent Medicine and Health* 55-63.

¹⁷ *ibid*

provide. British Columbia's Adoption Act RSBC 1996, Section 3 and Alberta's Child, Youth and Family Enhancement Act RSA 2000, Section 2 contain similar provisions.

However, in Nigeria, non-uniformity because not all 36 states have domesticated the CRA. In some states, customary law may prioritize lineage over child welfare. Corruption and "baby factories" also undermine genuine best-interest assessments. In Canada: provincial differences mean a child's rights vary by location. Historical issues like the "Sixties Scoop" show past failures to apply best interest to Indigenous children. Access to post-adoption support also varies by province. Both countries struggle to balance birth parent rights with child welfare.¹⁸

5.0 Consent to Adoption, Child's Right to Participate, Child Welfare, Protection and Post-Adoption Rights

Consent is a fundamental requirement before an adoption order can be made. It protects parental rights and ensures the child is not removed arbitrarily. The Child's Rights Act, 2003 governs consent in states that have domesticated it. Section 131(1) requires the consent of both parents or legal guardians, and the consent must be freely given and in writing. Where a parent is dead, incapacitated, or cannot be found, the court may dispense with consent under section 131(2). The child's own consent is also required. Section 132(2) CRA 2003 provides that the consent of a child who has attained 12 years and is capable of understanding must be obtained. The court must be satisfied that the child understands the nature and effect of adoption. This reflects article 12 of the CRC 1989 on the right to be heard.¹⁹

In Canada, consent is governed provincially. Under *Ontario's Child, Youth and Family Services Act, 2017, section 137(1) requires consent of every person with custody and of the child if 7 years or older. Section 137(2) sets a 21-day revocation period. British Columbia's Adoption Act RSBC 1996, section 14 and Alberta's Child, Youth and Family Enhancement Act RSA 2000, section 50 have similar provisions. Consent must be witnessed and given after counselling.

The right to participate is grounded in section 1 CRA 2003 and section 134(b) which directs the court to consider the child's wishes having regard to age and understanding. Section 132(2) makes consent of 12-year-old mandatory. This domesticates article 12 CRC 1989. However, there is no formal procedure for child representation in Nigerian adoption courts, and children below 12 are rarely consulted. Section 1 CRA 2003 makes welfare paramount. Section 134 lists factors: child's background, emotional needs, religious persuasion, and capacity of adopters. Section 135 requires an

¹⁸ T R Adebayo and A F Oluwakemi, 'Gender Dynamics in Marriages: Implications for Family Stability in Nigeria' [2019] (7) (4) *Journal of Gender and Behaviour* 155-180.

¹⁹ A O Babalola and A S Olawale, 'Marriage Dissolution in Nigeria: Legal Processes, Social Stigma, and Emotional Impact' [2018] (5) (3) *Journal of Divorce and Remarriage* 214-229.

investigation report by a welfare officer. Section 138 criminalizes payment for adoption to prevent trafficking. NAPTIP Act 2003 also protects against child sale disguised as adoption.²⁰

Furthermore, section 141(1) CRA 2003 provides that the adopted child shall be treated as if born to the adopters. Section 141(2) gives equal inheritance rights. Section 146 allows name change. Section 147 allows a new birth certificate. However, there is no statutory post-adoption support or monitoring. A major issue is conflict with customary law. In some states, adopted children are excluded from family land inheritance. There is also no legal right for adult adoptees to access original birth records. Instance: Many adoptees report difficulty getting information about biological parents because records are sealed with no procedure for access. Section 145 allows openness agreements for contact with birth family. Section 165 gives adult adoptees right to identifying information. Section 160 provides for post-adoption support services including counselling. Provinces also have adoption registries.²¹

6.0 Adoption Eligibility, Assessment, and Regulation of Prospective Adoptive Parents

In Nigeria, eligibility is governed primarily by the Child's Rights Act, 2003. Section 131(1) provides that an adoption order may be made in favour of a single person or a husband and wife jointly. The applicant must be at least 25 years old and at least 21 years older than the child. Section 131(3) bars adoption by persons of unsound mind or who have been convicted of certain offences. The Adoption Act, 2004, Section 4 has similar age requirements. The principle of "best interest" under section 1 CRA 2003 overrides all eligibility criteria.²²

Assessment is done through investigation and home study. Section 135 CRA 2003 requires an authorized officer of the State Ministry of Women Affairs to investigate and report on the suitability of the applicants, their home, and capacity to provide for the child. Section 136 allows only approved persons to make such reports. Regulation is by the State Ministry of Women Affairs and Social Development. However, there are no uniform national standards, and training of assessors is inconsistent. This leads to delays and varying quality of assessments across states.

In Canada, eligibility is provincial. Under Ontario's Child, Youth and Family Services Act, 2017, Section 137, applicants must be at least 18 years old. There is no maximum age or requirement to be married. Single, married, same-sex, and common-law couples may adopt. British Columbia's Adoption Act RSBC 1996, Section 7 and Alberta's Child, Youth and Family Enhancement Act RSA 2000, section 44 have similar provisions. Section 74(2) CYFSA requires that eligibility be assessed against the child's best interest. Assessment is mandatory and rigorous. Section 141 CYFSA 2017

²⁰ P O Ogunjuyibge and K O Ojukwu, 'Infertility and Marital Adjustment in Nigeria: Social Support, Legal Issues, and Psychological Implications' [2017] (4) (2) *Journal of Reproductive Health* 102-115.

²¹ *ibid*

²² *ibid*

requires a licensed *Children's Aid Society to prepare a report on the applicant's suitability, home environment, finances, health, and parenting capacity. Applicants must complete PRIDE training, Parent Resources for Information, Development and Education. Regulation is by provincial Ministries of Children, Community and Social Services and accreditation bodies. This ensures standardized, professional assessments and post-approval monitoring.²³

Inter-country adoption is restricted. Sections 139-140 CRA 2003 allow it only where: the child is not adoptable in Nigeria, adopters are Nigerians living abroad, or there are special circumstances. It requires approval of the Federal Ministry of Women Affairs. Nigeria is not a full member of the Hague Convention 1993, which has led to moratoriums due to trafficking concerns. NAPTIP Act 2003 also polices illegal inter-country deals. Instance: In 2017, the Federal Government placed a temporary ban on inter-country adoption pending reforms. Canada is a Hague state since 1996. Inter-country adoption is regulated provincially and federally. The Adoption of Children Act RSC 1985 c.A-2 governs immigration aspects. Provincially, section 174 CYFSA 2017 requires that inter-country adoptions be done through licensed agencies and provincial central authorities. All adoptions must comply with the Hague Convention 1993. Applicants must be assessed in Canada first, then matched abroad. This provides strong safeguards against child trafficking and ensures post-adoption reports.

Kinship or relative adoption is permitted. Section 131(1) CRA 2003 does not bar relatives. Courts often favour kinship because it preserves family ties and identity, aligning with section 134(c) on background. However, the same eligibility, consent and investigation under sections 131, 132 and 135 still apply. A challenge is that many kinship arrangements happen informally under customary law without court orders, leaving the child without legal status. Formalization through the High Court is encouraged but rare due to cost and stigma. Kinship is strongly preferred. Section 153(2)(d) CYFSA 2017 lists "importance of continuity in the child's care" and "relationship with relatives" as best-interest factors. Section 149 allows for "kinship service" where a relative becomes the legal guardian instead of adoption. Customary care for Indigenous children is recognized under section 8 CYFSA and section 35 Constitution Act, 1982. Assessment standards are relaxed for kin but section 141 home studies are still required to ensure safety.²⁴

The CRA does not define "special needs" but section 134 requires the court to consider the child's particular needs. Children with disabilities, older children, and sibling groups fall under this. The challenge is lack of specialized support. Section 135 reports must address medical needs, but there is

²³ P O Ogunjuyibge and K O Ojukwu, 'Infertility and Marital Adjustment in Nigeria: Social Support, Legal Issues, and Psychological Implications' [2017] (4) (2) *Journal of Reproductive Health* 102-115.

²⁴ P O Ogunjuyibge and K O Ojukwu, 'Infertility and Marital Adjustment in Nigeria: Social Support, Legal Issues, and Psychological Implications' [2017] (4) (2) *Journal of Reproductive Health* 102-115.

no statutory subsidy or post-adoption support. Most special needs adoptions are done by NGOs and faith organizations. Canada has structured support. Section 153(2)(j) CYFSA, 2017 requires consideration of the child's special needs. Provinces provide *Adoption Subsidies* under regulations made pursuant to *CYFSA* to assist families adopting children with physical, emotional, or developmental needs. *Section 160* mandates post-adoption services including therapy. Agencies also run targeted recruitment for special needs children. This financial and professional support makes special needs adoption more viable in Canada than in Nigeria.²⁵

7.0 Lessons from Canada

Standardized Provincial Assessment and Professional Regulation of Agencies

Canada regulates adoption through trained, licensed *Children's Aid Societies* under provincial laws like Ontario's Child, Youth and Family Services Act, 2017, section 141. Every prospective parent must undergo PRIDE training and a standardized home study before approval. Nigeria can move away from ad-hoc assessments under section 135 CRA 2003 and create accredited State Adoption and Child Welfare Agencies with uniform standards.

If Rivers State domesticates a regulation requiring all home studies to be done by certified social workers within 90 days, it will reduce delays and corruption currently seen where assessments take 1-2 years and vary by local government.

Legal Recognition of Kinship and Customary Adoption with Safeguards

Section 8 CYFSA 2017 and Section 35 of the Constitution Act 1982 recognize Indigenous customary adoption as legally valid while still requiring safety checks. Kinship is also prioritized under Section 153(2)(d) CYFSA. Nigeria can formally recognize kinship and customary adoption done under native law and custom, provided it is registered and vetted by the High Court within 6 months. In Kano or Enugu, a grandmother caring for her orphaned grandchild could formalize the arrangement through a simplified court process without breaking the child's cultural ties. This would reduce the number of children in legal limbo who are informally "adopted" but have no inheritance rights under section 141 CRA 2003.²⁶

Post-Adoption Support and Access to Identity Information

Canada provides post-adoption services and identity rights. Section 160 CYFSA 2017 mandates counselling and support, while section 165 gives adult adoptees access to original birth records. A 20-year-old adopted child in Lagos who needs medical history to treat a genetic condition could apply to

²⁵ ibid

²⁶ P O Ogunjuyigbe and K O Ojukwu, 'Infertility and Marital Adjustment in Nigeria: Social Support, Legal Issues, and Psychological Implications' [2017] (4) (2) *Journal of Reproductive Health* 102-115.

the Federal Ministry of Women Affairs for redacted birth information, instead of having no legal route at all as is the case now.²⁷

Structured Support for Special Needs and Subsidized Adoption

Canada subsidizes special needs adoption. Provinces provide Adoption Subsidies under CYFSA 2017 regulations to help families caring for children with disabilities, medical needs, or sibling groups. Section 153(2)(j) makes this a best-interest factor. The Federal and State Governments can create a Special Needs Adoption Grant under the Ministry of Women Affairs to cover medical and educational costs for 5 years. A couple in Abuja willing to adopt a child with Down Syndrome could receive ₦200,000 annually for therapy. This would increase adoptions of children who currently remain in orphanages because families cannot afford care.

Strong Hague-Compliant Framework for Inter-Country Adoption

As a Hague state since 1996, Canada processes inter-country adoption only through accredited agencies and provincial central authorities under CYFSA 2017, section 174 and the Adoption of Children Act RSC 1985. This prevents trafficking and ensures post-placement reports. Nigeria should fully domesticate and implement the Hague Convention 1993 and designate the Federal Ministry of Women Affairs as the Central Authority, banning private intermediaries. Instead of the 2017 moratorium and ad-hoc approvals under sections 139-140 CRA 2003, Nigeria could have a transparent portal where all inter-country cases are tracked, and receiving countries get mandatory 3-year post-adoption reports. This would restore international confidence and protect children from "baby factory" networks.

8.0 Conclusion

The comparative analysis of Nigeria and Canada shows that while both jurisdictions recognize the "best interest of the child" as paramount in adoption, their legal and institutional approaches differ significantly. Three major gaps stand out in Nigeria. First, the absence of standardized assessment and regulation of prospective adoptive parents leads to delays and inconsistency. Second, there is little to no legal framework for post-adoption support, access to identity information, or monitoring of adoption breakdowns. Third, inter-country and special needs adoption lack clear policy direction and financial support, unlike Canada's Hague-compliant and subsidized model. These gaps expose Nigerian children to risks of trafficking, legal uncertainty, and denial of their right to identity and welfare.

Ultimately, adoption should not end at the court order. For adoption to fulfil its purpose of providing permanency and dignity, the legal status of the child must be protected before, during and after the

²⁷ *ibid*

process. Canada's model demonstrates that with proper institutionalization, cultural sensitivity, and state support, adoption can effectively serve the child's best interest. Nigeria has the legislative base to achieve the same, but requires political will, funding, and reform to translate the provisions of the *CRA 2003* into lived reality for every adopted child.

9.0 Recommendations

1. Full Domestication and Harmonization of the Child's Rights Act, 2003

All 36 states and the FCT should domesticate the CRA 2003 to ensure uniform application of Sections 129-148 on adoption. The National Assembly should also amend the Act to create a National Adoption Authority that sets minimum standards for assessment, timelines, and record keeping, similar to Canada's provincial central authorities.

2. Establishment of Accredited Adoption Agencies and Standardized Assessment Procedures

The Federal Ministry of Women Affairs should license and regulate adoption agencies. Section 135 CRA 2003 should be amended to mandate that home studies be conducted by certified social workers within 90 days, with compulsory PRIDE-style training for prospective parents to improve quality and reduce corruption.

3. Creation of a Legal Framework for Post-Adoption Rights and Access to Information

Amend the CRA 2003 to include provisions for post-adoption support services and a National Adoption Register. Adult adoptees at 18 should have the right to apply for non-identifying information, while birth parents and adoptees should be able to register for contact, mirroring section 165 CYFSA 2017.

4. Introduction of Subsidies and Special Support for Kinship and Special Needs Adoption

Government should provide financial and medical subsidies for families adopting children with disabilities, older children, or sibling groups. Kinship adoption should be simplified through a fast-track court process that preserves cultural ties while still requiring a safety assessment under section 134 CRA 2003.

5. Ratification and Domestication of the Hague Convention 1993 and Strengthening Inter-Country Adoption Regulation

Nigeria should fully ratify and implement the Hague Convention on Intercountry Adoption 1993 and designate the Federal Ministry of Women Affairs as the Central Authority. All inter-country adoptions should go through accredited agencies with mandatory post-placement reports to curb trafficking and rebuild international trust in Nigeria's adoption system.

