



# Synopsis on The Steps for Legal Child Adoption in Africa: A Case Study in Nigeria

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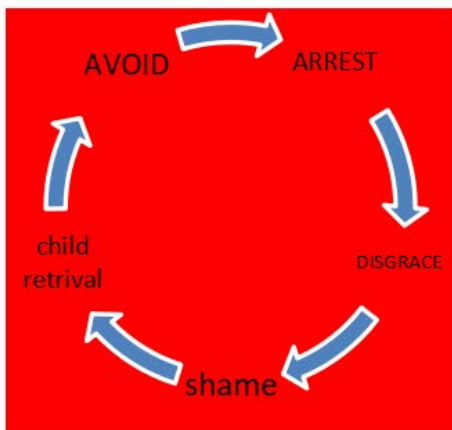
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1ST EDITON

## Synopsis on The Steps for Legal Child Adoption in Africa: Nigeria A Case Study

1st Edition



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### Preface

It is apparent that child adoption is increasing in the society in other to prevent polygamy, divorce and acquire self-actualization. Many of the adopted children have gotten married and also live in the society freely without any issues. The process of child adoption is what most people are not aware of and the implication attached to illegal child adoption. Most of the adopted children in our homes today are owned by the Government not the adopted parents because of the illegal process.

This book on steps for legal child adoption in Nigeria viewed the concept, the process, legal and the benefits attached to it in different chapters. It is ideal that the students, parents, care givers, adopted children etc to read this book and correct mistakes and also transfer to unknown people. We use this medium to thank Distinguished Professor Emma Ngumoha, Dean of Post graduate studies, Abia state university, Uturu, Nigeria. And Dr.Mrs.

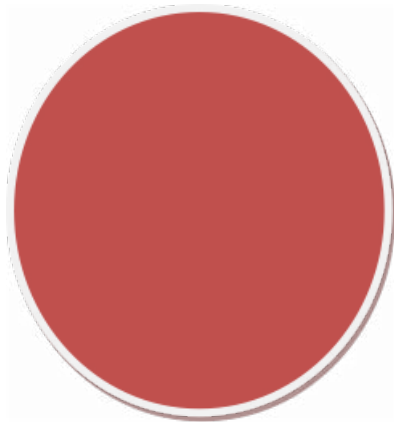
Nkechi Ikpazu, wife of the governor of Abia state, Founder VIC-AR Hope foundations.

### We Also Thank Our Mentors Too Numerous to Mention

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### Chapter One

#### Introduction to Child Adoption

Dr Emeonye O P

Child adoption is a legal process pursuant to state statute in which a child's legal rights and duties towards its natural parents are terminated and similar rights and duties towards his adoptive parents are substituted. Child adoption is a legal process of creating a parent-child relationship between persons not related by blood. The adopted child is entitled to all privileges belonging to the natural child of the adoptive parents, including the right to inherit.

The child adoption process is guided by rules and statutory or customary law. The process has so many types, and we engage in close adoption whereby the adopter and adoptee do not know each other. The couple with adopted children might be experiencing problems of marital adjustment with the arrival of the child. As much as children bring joy to the home, they may also be a cause of conflict between husband and wife, especially when one of the parties is not living up to his or her responsibility. It is also an order vesting the parental rights and duties relating to a child in the adopters, made on their application by an authorized court. Adoption is important in society because it touches on status and, therefore, affects the rights and obligations of an adopted person.

In Nigeria, adoption may be affected either under statutory law or customary law. However, as with all adoption procedures, the rules differ from country to country, state to state. Adoptive parents must foster their children for at least three months in Lagos,

but must foster for at least one year in Akwa-Ibom. Abuja allows adoption if and only if one parent is a Nigerian. The government office responsible for adoption in Nigeria is the civil court. The institution of adoption is wholly a statutory creation. Common law does not provide for nor recognize adoption [1].

Historically, adoption was considered primarily for healthy infants and very young children. It was not until the early 1970s that the idea that "no child is unadoptable" started to take hold among adoption professionals, who started making greater efforts to find permanent homes for children with special needs. However, many older children, particularly adolescents, express opposition to being adopted.

Child adoption has been fast gaining ground in Nigeria among childless couples, especially since the 1990s. There has been an enormous surge of interest by couples in child adoption due to its acceptability in recent times. To this end, Obasa (2014) noted that western civilization has led to rapid changes in all spheres of African life in socio-economic, political, and technological as well as the marriage institution. This is to the extent that demand for children in child institutions outstrips supply, and couples are placed on the waiting list, some for more than two years, waiting to collect children from child institutions. In the past, this practice was not popular as a result of the culture of Africans who perceive childlessness as a huge problem, with the only option of couples divorcing or entering into a second marriage in order to have children of their own [2].

### Chapter Two

#### The Concept of Child Adoption

Dr Emeonye O P

Child adoption is a process whereby a person assumes the parenting of another, usually a child, from that person's biological or legal parent or parents and, in so doing, permanently transfers all right and responsibilities, along with fixation from the biological parent or parents [2].

#### Types of Adoption

**Open Adoption:** This type of adoption is between the adoptive and biological parents. The adoptive parents discuss with the parents of the child and all the demands that must be made before the child is adopted.

**Closed Adoption:** This is also referred to as confidential or secret adoption. When the adoptive parents do not know the biological parents, the process is done by the social welfare officer.

**Private Domestic Adoption:** This is a type of adoption in which charities and "for-profits" organizations act as intermediaries.

**Foster Care Adoption:** This is a type of domestic adoption where a child is initially placed in public care.

**International Adoption:** This involves the placing of a child for adoption outside that child's country of birth.

**Embryo Adoption:** This is when an embryo from a person is given to another individual or couple.

**Common Law Adoption:** This is an adoption which has not been recognized before hand by the court, but where a parent, without resorting to any formal legal process, leaves his or her children with a friend or relative for an extended period of time. Kigbu (2014).

**Adoption in Nigeria:** Nigeria is not party to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention). Intercountry adoptions of children from non-Hague countries are processed in accordance with Section 204.3 of the Code of Federal Regulations, as it relates to orphans as defined by Section 101(b)(1)(F) of the Immigration and Nationality Act.

Individuals who are not Nigerian citizens are not legally allowed to adopt in Nigeria. When a married couple adopts, both must be Nigerian citizens. Only U.S. 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 Rights Law or the Adoption Act of 1965.

### Chapter Three

#### Nigerian adoption law

##### Mr Nwatu M S B

Though there are laws against illegal adoption, most people are not aware of them because of a lack of information on them, and because of this lack of information, unscrupulous people cash in on them to make quick money and maneuver things in their own favour. Section 50 of the trafficking in persons (prohibition) law enforcement and Administration Act, 2003 defines trafficking as including; "... all acts and attempted acts involved in the recruitment, transportation within or across Nigerian borders, purchase, sale, transfer, receipt, or labor of a person involving the use of deception, coercion, or debt bondage for the purpose of placing or holding the person, whether or not involving servitude (domestic, sexual, or reproductive), in force or bonded labour, or in slavery-like conditions." The above definition is drawn largely from the definition in Article 3 of the UN protocol to prevent, suppress, and punish trafficking in persons, especially women and children. Before the enactment of the anti-trafficking law, some provisions existed in various legislation, including;

The Child's Rights Act (Cap 198) laws of the Federation of Nigeria criminalize exploitative child labor and other forms of child abuse hitherto left unpunished by the criminal code.

The entire part of the Child Rights Act 2003 on adoption is included for enlightenment of all on the law.

#### The Child Rights Act and Other Related Matters, 2003 Adoption

125 (1): For the purpose of adoption, each State government shall establish and maintain within the State and, in the case of the Federal Government, within the Federal Capital Territory,

Abuja, a service designed to meet the needs of

- (a) A child who has been adopted or who may be adopted;
  - (b) The child's parents and guardians, as specified in paragraph (a) of this subsection; and
  - (c) Persons who have adopted or may adopt a child, and for this purpose, every government shall provide the necessary facilities or ensure that approved adoption services provide the necessary facilities as prescribed by the appropriate authority.
- The following facilities must be provided as part of the services maintained under Subsection of this section:
- (a) Temporary board and lodging where a child and, in exceptional circumstances, the mother of a child are required;
  - (b) Plans for evaluating a child and prospective adopters, as well as placing the child for adoption; and
  - (c) Counseling for people with problems relating to adoption.

#### 126 (1): an application for adoption shall be made to the Court in the prescribed form and shall be accompanied by

- (a) In the case of a married couple, a marriage certificate or a sworn declaration of marriage;
- (b) Each applicant's birth certificate or sworn declaration of age;
- (c) Each applicant's two passport photographs;
- (d) A medical certificate from a government hospital certifying the applicant's fitness; and
- (e) Any other documents, requirements, or information that the Court may deem necessary for the adoption.

(2) Upon receipt of an application pursuant to subsection (1) of this section, the Court shall direct that an investigation be conducted by

- (a) An officer in charge of child development;
- (b) An officer in charge of supervision; and
- (c) Such other persons as the Court may deem necessary to assess the applicant's suitability as an adopter and the child to be adopted,

(3) When making a decision on the adoption of a child, the Court must consider all of the circumstances, with priority given (A) The need to protect and promote the child's welfare and best interests throughout the

And during the childhood of that child,

(B) Ascertaining, as far as is 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.

The Court shall, in placing a child for adoption, have regard, as far as is practicable, to the wishes, if any, of the parents or guardian of the child as to the religious upbringing of the child.

#### The Court may not issue an adoption order in relation to a child unless

- (a) The child's parents or, in the absence of a surviving parent, the child's guardian consent to the adoption; or
- (b) The child is abandoned, neglected, or persistently abused or ill-treated, and there are compelling reasons in the child's interest why he should be adopted.

The following people may apply for an adoption order:

- (a) A married couple in which
  - (i) Each of them is over the age of twenty-five, and
  - (ii) There is a court order authorizing them to adopt a child joint-

ly; or

(b) A married person if he has obtained his spouse's consent as required by Section 135 of this Act; or

(c) A single person over the age of 35, provided that the child to be adopted is of the same sex as the person adopting; or

(d) In all cases specified in paragraphs (a), (b), and (c) of this section, the adopter or adopters must be persons determined by the appropriate investigating officer to be suitable to adopt the child in question.

(1) Subject to the provisions of this Act, the Court may, on the application of a person stated in Section 132 of this Act in the prescribed manner, make an order under this Act referred to as an "adoption order".

(2) An adoption order is made in the manner specified in Schedule 5 to this Act.

### **1: No Adoption Order Shall Be Made in Respect of a Child Unless and Until**

(a) The applicant, or one of them in the case of a joint application, is at least twenty-five years old and at least twenty-one years older than the child;

(b) the applicant, or, in the case of a joint application, both or at least one of them, and the child live in the same State;

(c) the applicant has resided in the State in which the application is made for at least five years; or, in the case of a joint application, both of them have resided in the State in which the application is made for at least five years;

(d) The applicant is a Nigerian citizen or, in the case of a joint application, both applicants are Nigerian citizens;

(e) The child has been in the applicant's care for at least three consecutive months immediately preceding the date of the order; and

(f) The applicant informed the social welfare officer of his intention to adopt the child at least twelve months prior to the making of the order.

(2) On the application of a married couple consisting of a parent and a stepparent of the child, the Court shall dismiss the application if the Court believes that the matter would be better handled under Part VIII of this Act.

(1) If a married person is the sole applicant for an adoption order, the Court may, in its discretion, refuse to make the order if the consent of the applicant's spouse to the making of the order is not obtained first.

(2) If it appears to the Court that a person other than a child's parent or relative has any right or obligation in relation to the child under a Court order, an agreement, or customary law, the Court may, if it thinks fit, refuse to make the adoption order unless that person's consent is first obtained.

(3) On an application for an adoption order in respect of a child, the child development officer shall prepare a report to assist the Court in determining whether a person who is not a parent or relative of the child has any right or obligation in respect of that child and whether the person's consent should first be obtained.

(4) A consent under this section may be given in either of the following ways:

(a) Indefinitely; or

(B) subject to conditions regarding the religious persuasion in which the child is to be raised.

(5) In giving consent under this section, it may not be necessary for the person giving the consent to know the identity of the applicant for the adoption order.

(6) If the Court is satisfied that the person whose consent is required cannot be found, is incapable of giving his consent, or is withholding his consent unreasonably, the Court may waive any consent required under this section.

(7) While an application for an adoption order is pending in any court, no person who has consented to an adoption order being made in respect of a child may withdraw the child from the applicant's care and possession without the court's permission, and the court must consider the child's welfare in deciding whether or not to grant the permission.

### **The Court Shall, Before Making an Adoption Order, Satisfy Itself That**

(a) All consents required by Section 135 of this Act that have not been waived have been obtained;

(b) Every person who has given his consent understands the nature and effect of the adoption order for which the application is made, and the relevant adoption service shall provide adequate counseling for the parties involved in the adoption for this purpose.

(c) The order, if made, shall be for the child's welfare and best interests, with due consideration given to the child's wishes in light of his age and understanding; and

(d) The applicant has not received or agreed to receive any payment or other reward in consideration of the adoption other than what the Court may approve, and no one has made, given, or agreed to make or give to the applicant any payment or other reward.

The Court may, in making an adoption order, impose such terms and conditions as the Court may think fit, and in particular, may require the adopter, by bond or otherwise, to make for the child such provisions, if any, as, in the opinion of the Court, are just and expedient.

(1) Subject to the provisions of this section, the Court may, on an application for an adoption order, postpone the determination of the application and make an interim order giving the applicant custody of the child for a period not exceeding two years on such terms and conditions as the Court deems appropriate in terms of provision for the maintenance, education, and supervision of the welfare of the child.

(2) In making an interim order under subsection (1) of this section, the Court shall specify that the child shall

(a) Be overseen by a child development officer appointed by the Minister; and

(b) Not be removed from the State in question without the Court's permission.

(3) The consents required for the making of an adoption order under Section 135 of this Act shall also be required for the making of an interim order, and the Court's power to waive any such consent shall apply in the case of an interim order.

(4) An interim order shall not be made in any case where making an adoption order would be prohibited by the provisions of this Act.

(5) An interim order is not an adoption order within the meaning of this Act.



The Court shall have exclusive jurisdiction to deal with an application for an adoption order, subject to rules made by the Court under Section 140 of this Act.

The Chief Justice of Nigeria may make rules of court to govern the Court's practice and procedure in the adoption of a child.

Without limiting the generality of Subsection (1) of this section, the power to make rules conferred by that subsection includes the power to make provisions for

- (a) Application for adoption orders to be heard and decided outside of open court;
- (b) The acceptance of documentary evidence of any consent required under Section 135 of this Act; and
- (c) Requiring the child development officer to prepare a report for the Court's consideration, on an application for an adoption order, to assist the Court in determining whether the order will be in the child's welfare and best interests.

(1) A decision on any application for an adoption order, other than a decision to postpone the determination of the application for such an order and make an interim order, may be appealed to the Court at the High Court level from the Court at the Magisterial level.

(2) Where the High Court has original or appellate jurisdiction, an appeal may be filed with the Court of Appeal.

(3) The hearing of an appeal under this section must take place in chambers.

(1) A child may be adopted even if a corrective order is in effect against the child.

(2) If an application for an adoption order is made in a case under Subsection (1) of this section, and the Court is satisfied that the adoption is in the best interests of the child, the Court shall suspend the corrective order to allow the applicant to have the child in his case for at least three consecutive months prior to the date of the adoption.

(1) A child may be adopted despite the fact that a maintenance order is in effect in relation to that child.

(2) Where a maintenance order requiring a person to contribute to the maintenance of a child under this Act or any other law is in force at the time an adoption order is made in respect of that child, the maintenance order shall cease to have effect at that time.

### **1: Upon the Issuance of An Adoption Order**

(a) all rights, duties, obligations, and liabilities, including any other order under personal law applicable to the child's parents or any other person in relation to the child's future custody, maintenance, supervision, and education, including all religious rights, the right to appoint a guardian, and the right to consent or give notice of dissent to marriage, are extinguished;

(b) Shall vest in, be exercisable by, and enforceable against the adopter—

(i) All rights, duties, obligations, and liabilities pertaining to the child's future custody, maintenance, supervision, and education, and

(ii) All rights to appoint a guardian and consent or give notice of dissent to the child's marriage that would vest in the adopter if the child was the adopter's natural child, and in those matters, the child shall stand with the adopter in the relationship of a child

born to the adopter.

(2) If a husband and wife are joint adopters of a child, they must do the following:

(a) With regard to the matters specified in this section; and

(b) For the purposes of the Court's jurisdiction to make orders concerning the custody, maintenance, and access rights to the children, they shall stand with each other and with the child in the same relationship as if the child were their natural child, and the child shall stand with them in the relationship of a child born to the adopters in those matters.

(3) An adopted child is treated as a child born to the adopter for the purposes of the devolution of property on the adopter's intestacy.

(4) Any reference, whether express or implied, to—in a disposition of property made after the date of an adoption order

(a) Unless the contrary intention appears, the adopter's child or children shall be considered, including a reference to the adopted child; and

(b) Unless the contrary intention appears, a person related to the adopted child in any degree shall be construed as a reference to the person who would be related to him in that degree if he were the natural child of the adopter and not the child of any other person.

(1) The Chief Registrar shall establish and maintain a register to be called and known as the "Adopted Children Register" in which shall be made such entries as may be directed by an adoption order to be made therein, but no other entries.

(2) An adoption order must include a direction to the Chief Registrar and the National Population Commission (referred to as "the Commission" in this section of the Act) to make an entry in the Adopted Children Register in the form specified in Schedule 5 to this Act.

(3) If, on any application to the Court for adoption, it is proven to the Court's satisfaction that

(a) The date of the child's birth; and

(b) The identity of the child is identical to that of a child to whom any entry in the Register of Births kept by the Commission relates. The adoption order shall contain a further direction to the Chief Registrar to cause that birth entry in the Register of Births to be marked "Adopted" and to include in the entry relating to the adoption of the child in the Adopted Children Register the day of the child's birth.

(4) Where an adoption order is made in respect of a child who has been the subject of a previous adoption order made by the Court under this Act, the order shall contain a direction to the Chief Registrar and the Commission to cause the previous entry in the Adopted Children Register in respect of that child to be marked "Re-adopted".

(5) The Court shall communicate to the Chief Registrar and the Commission a copy of each adoption order and upon receipt of the order, the Chief Registrar and the Commission shall comply with the directions contained therein.

(6) A certified copy of an entry in the Adopted Children Register if purporting to be stamped or sealed by the Chief Registrar's office shall be proof of the adoption as is therein specified, and where the copy of the entry includes the date of the birth of the child to whom it relates, it shall be proof also of the date without any further evidence as though the same were also a certified

copy of an entry in the Register of Births.

(7) The Chief Registrar shall cause an index of the Adopted Children's Register to be made and kept in the Registry.

(8) The Chief Registrar shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books and make such entries therein as may be necessary to record, in connection with an entry in the Register of Births which has been marked "Adopted".

(9) Any such register or books mentioned in Subsection (8) of this section, or any index thereto, shall not be subject to public searches, and the Chief Registrar shall not make a certified copy thereof or furnish any information therein contained to any person except under an order made by the Court.

(10) Upon the revocation of an adoption order, the Court shall communicate the fact of the revocation to the Chief Registrar, who shall cancel

(a) The entry in the Adopted Children's Register relating to the adopted child; and

(b) the marking with the word "Adopted" or "Readopted" of any entry relating to the child in the Register of Births.

(11) A copy of an extract of an entry in any register that is an entry whose marking is cancelled under this section is considered an accurate copy if both the marking and the cancellation are omitted.

#### **1: No Adoptive Parent or Other Person Shall**

(a) Except with the Court's permission, receive or agree to receive any payment or reward in consideration for or in aid of the adoption of a child under this Act;

(b) Make or give, or agree to make or give, any payment or reward to an adopter the receipt of which is prohibited by this subsection.

(2) Anyone who violates the provisions of Subsection (1) of this section commits an offense and is liable on conviction to a fine of not more than thirty thousand Naira or to imprisonment for a term not exceeding three years, or to both such fines and imprisonment.

(3) Notwithstanding the provisions of Subsection (2) of this section, an adoption order affected by the prohibited payment under Subsection (1) of this section may be allowed to continue or resolved at the Court's discretion, taking into account all of the circumstances of the case, particularly the best interests of the child.

1: No person shall permit the care and possession of a child to be given to any person outside the State in which the adoption order was made in order to have the child adopted by any person, except under a licence issued under Section 143 of this Act.

(2) A person who allows, causes, or procures the possession of a child to any person—

(a) Outside of the state where the fostering order was issued; or

(b) Outside Nigeria, with the intent of getting that child fostered by that person to commit an offence.

(3) Anyone who violates the provisions of Subsection (1) of this section commits an offense and is liable on conviction to a fine of thirty thousand Naira or imprisonment for a term not exceeding one year, or both such fines and imprisonment.

(4) A person who commits an offense under subsection (2) of

this section is subject to a term of imprisonment of

(a) In the case of an offense under Subsection (2) (a) of this section, to a term of years' imprisonment;

(b) Imprisonment for a term of fifteen years for an offense under Subsection (2) (b) of this section.

145 (1): Subject to the provisions of this section, the Minister may grant a licence for a child to be transferred to a person, subject to such conditions and restrictions as he deems appropriate, authorising the care and protection of a child for whom inter-State adoption arrangements have been made.

(2) A licence under Subsection (1) of this section shall not be granted unless the Minister is satisfied, in respect of each person whose consent is required under Section 136 of this Act for the making of an adoption order for the child, that—

(a) The application for the license is made with that person's consent; or

(b) The consent of that person can be properly waived on any of the grounds on which the Court can waive consent to an adoption order under that section.

(3) A licence under this section shall not be granted unless the Minister is satisfied—

(a) That the person to whom the child's care and possession is proposed to be transferred is an appropriate person to be entrusted with the child under the provisions of this Act; and

(b) That the transfer is for the welfare and best interest of the child.

(4) In granting a licence under this section, the Minister shall take into account the child's wishes, taking into account the child's age and understanding.

146. Where a person has been adopted under any law in force in any part of Nigeria, or under the law of any other country other than Nigeria, the adoption shall have the likely validity and effect as if it had been affected by an adoption order under this Act.

147 (1): Marriage between a person who has adopted a child under this Act or a natural child of the person who adopted the child is expressly prohibited, and any such marriage is void.

(2) Anyone who marries an adopted child in violation of Subsection (1) of this section commits an offense and faces up to fourteen years in prison if convicted.

148 (1): It shall be the duty of the State Ministry's Director of Child Development to keep himself informed of the condition and welfare of any child adopted by any person in the State from time to time, and to arrange for officers of his Department to do all or any of the following:

(a) To pay reasonable visits to each child adopted under this Act on a regular basis;

(b) Enter any premises to determine whether any person has violated any adoption condition imposed in an adoption order or any provision of this Act in relation to an adopted child.

(2) During any visit under Subsection (1) of this section, the officer making the visit may require the adoption of the child or provide information about the child's condition.

(3) Someone who

(a) Fails to comply with a requirement imposed by a child development officer without reasonable excuse; or

(b) obstructs a child development officer in the exercise of the

powers conferred by this section commits an offence and is liable on conviction to a fine of not more than 500 Naira or imprisonment for not more than three months, or both such fines and imprisonment.

## Chapter four

The Process of Child Adoption in Nigeria

Mrs AGUI S

The basic requirements for local adoption and fostering and guardianship are the same as for international and African adoptions, except for the international requirements.

- For an adoption to take place, the court has to grant an adoption order depending on the type of adoption taking place.
- Visit the adoption section of the Ministry of Women Affairs and Social Development in any state of your choice.
- They will put you through a series of interviews, and once they are satisfied with their investigations, the decision to adopt will be given to you.
- Section 2 (2) states that "an adoption order may be made upon the application of two spouses authorizing them jointly to adopt a juvenile, but in no other case shall an adoption authorize more than one person to adopt a juvenile." Because of cases of sexual abuse, this clearly does not support single parent adoption, especially of opposite sex; however, in rare circumstances where the issue of blood ties can be firmly established in such a case, the court may justify making such an order.

The simplest form of adoption is one by relatives or step parents. In cases like this, if one or both parents are dead, the grandparents come first before any member of the family in having the court consent to take custody of the children. In issues involving step parents, the spouse of the biological parent adopts a close relationship and becomes their legal guardian. Since biological parents live in the household, background investigations are often waived. Adoption outside these is often complicated because detailed investigations into the background of the applicants will be conducted for history of child abuse, criminal activities, medical records, social life style and financial status. This is to ensure the safety, comfort, and proper well-being of the child. If the adopters are cleared, then they can proceed with the adoption process.

### The Adoptive Parents Are Expected to Meet and Fulfill the Basic Rights and Duties of The Adopted Child.

- And in disbursing of wills and settlements, the adopted child must be treated as a lawful child of the adoptive parents and the same way as the biological child and not as a stranger. This is due to the fact that there have been cases in the past whereby the adopted child was not allowed to share in their inheritance.

### Requirements for Child Adoption in Nigeria

The address of the adoptive parents

Adoptive parents' names

Adoptive parents' passport

Adoption date

Time of adoption

- Interview with prospective parents of list of requirements
- Submission of required documents
- Administrative screening and processing
- Submission of application letters
- Interview with the director of social welfare
- Complete the appropriate forms and obtain the test requirements.
- Administrative processing/secretary session
- Mandatory pre-counseling session on the appointed date
- Panel discussion
- Approval from the ministry
- Post-counseling (proper parenting) on the appointed date
- Children are collected from registered orphanages.
- Legalization at the family court after 3 months

### Adoption Requirements from Nigeria to Any Other Country

Type a letter of application, stating the reasons for adopters and addressed to

The Director,

Umuahia,

For example, take Abia State.

### Attached to This Are Photocopies Of

- Adoptive parents' birth certificates, two copies each
- Adoptive parents' marriage certificates, two copies each
- 2 copies each of the original medical certificate of fitness
- 4 color passport photographs, each 2 copies each.
- Proof of employment
- Identity card photocopy, two copies
- Letter from employer addressed "to whom it may concern" 2 copies each.
- Letter of employment: 2 copy each.
- Utility bill for the last three months. 2 copy each.

### (Energy, water, gas, telephone)

- 3 months' salary pay-slip, 2 copies each
- Statement of accounts for 6 months (recent) 2 copies each.
- Photocopy of the data pages of your international passport (Colour photocopy) 4 copies each
- Photocopies of tax return certificates for the previous three years, two copies each
- Home study report from the country of domicile 2 copies each.
- Certificate of naturalization, 2 copies
- Adoptive parent's phone number in Nigeria
- Adoption law of the country of domicile 2 copies each.

### After the Submission

- Interview with the Director of Social Welfare
- Submission of data page of an international passport-Payment of prescribed fees
- Complete appropriate forms and obtain a list of requirements. Submission of relevant documents.

### Administrative Processing

- Collection of letters of approval -Collection of children from registered orphanage
- Legalization in the family court

## Procedure for International and African Child Adoption Through A Foundation

- Identification of the child (for international placement)
- Notice brought to the adoption/fostering unit on the intention of the child
- Investigation by the division and submission of case Approval for the foundation to look for prospective adopters
- Submission of all required documents on behalf of the prospective adopters by the foundation
- Arrival of prospective adopters for documentation interview and child bonding
- Collection of the approval letters on behalf of the prospective adopters
- Adoption within the family should be legalized.

The United States gives its citizens the following information about the requirements for Nigerian adoption. The following is directly from the United States Embassy (<https://ng.usembassy.gov/u-s-citizen-services/adoption/adoption-in-nigeria>).

### 2003 Child Rights Act and other Related Matters.

Depending on where the adoption takes place, the specific laws and regulations governing the adoption may differ.

In general, prospective adoptive parents who intend to adopt a specific child must first obtain temporary custody of the child. Prospective adoptive parents are advised to obtain information on adopting in individual states through the state social welfare office. Please note 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 Ministry of Women's 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 decrees must state that they are full and final in order for an immigrant visa to be issued to the child. The U.S. Consulate General in Lagos (U.S. Consulate) only issues IR3 classification immigrant visas. Oftentimes, adoption decrees from Nigerian courts put stipulations on the adoption, such as not allowing the child to travel beyond the jurisdiction of the court or requiring periodic visits to the child by the social welfare office of the respective Nigerian state. These stipulations may prevent the consular officer from issuing an immigrant visa or 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.

Document and identity fraud related to adoptions is a serious concern in Nigeria. The U.S. Consulate requires that most adoptions be investigated in person in the state where the adoption took place to verify the authenticity of the information provided in the adoption decrees and I-600 petitions. For security reasons, U.S. government personnel are frequently restricted from traveling to certain parts of the country. As a result, investigations and the in-country visa application and approval process can cause adoption processing in Lagos to take six to 12 months

to complete, after the initial approval of the I-600 by U.S. Citizenship and Immigration Services (USCIS). June 2013 was the most recent update.

### U.S. Immigration Requirements for Intercountry Adoptions

To bring an adopted child to the United States from Nigeria, you must meet eligibility and suitability requirements. The U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) determine who can adopt under U.S. immigration law.

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.

## Chapter Five

### Roles in The Child Adoption Process in Nigeria

#### Nwatu M S B

- The social welfare office of the state where the child is located is considered the adoption authority.
- The social application for adoption originates from the social welfare office of the state where the child is located. The government is the magistrate court of the state where the child is located.
- The social welfare office visits the homes of the adoptive parents until the officer is satisfied that the juvenile is settled and the prospective adoptive parents are capable of looking after him or her.
- In such a case, the social welfare officer reports in writing a positive recommendation to the court.
- The magistrate will meet the adoptive parents in court to confirm their suitability and will issue or deny the adoption order.
- In addition, the social welfare officer might be requested to submit a letter to the Nigerian immigration office, stating that the adoptive parents are now the legal parents of the child.
- This letter then permits the adopting parents to apply for a passport to take the child out of Nigeria.
- In 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.
- The court then assigns a guardian listen for the child to represent him/her in the adoption proceedings.
- The guardian listen is the social welfare officer in-charge of the office or some other person suitably qualified in the opinion of the court of assignment.
- The guardian investigates the circumstances related to the proposed adoption and files a report with the court.
- The guardian listen 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.

### Adoptive Parents' Role

- The guardian listen 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.
- After the 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 the adoption has been granted, the adoptive parent must obtain the court's permission to remove the child from Nigerian jurisdiction, either temporarily or permanently.

## Chapter Six

### Who Can Adopt? Who Can Be Adopted? And How to Choose Adoptive Parents

#### Mr Anaele Charles C

In addition to U.S. immigration requirements, you must also meet the following requirements in order to adopt a child from Nigeria:

**Residency:** Nigerian law requires that a parent-child relationship be established before the court decision can be considered final. Each state determines the length of time it takes to establish the parent-child relationship, which can range from a few months to two years.

**Age of Adopting Parents:** In Abia, Akwa-Ibom, Anambra, Bayelsa, Cross River, Ebonyi, Enugu, Imo and Rivers State, prospective adoptive parents must be at least 25 years of age and 21 years older than the child. For married couples, at least one parent must meet the age requirements.

**Marriage:** Both single individuals and married couples may adopt. Note 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 members of the couple 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 should be left blank. Lesbian, gay, bisexual and transgender (LGBT) individuals or married same-sex couples in the United States who are known by the Nigerian court to be LGBT may not be able to adopt children from Nigeria. It is unclear whether the Government of Nigeria and Nigerian law permit such adoptions at present; if it passes, a proposed bill will explicitly prohibit adoptions by LGBT parents in Nigeria.

**Income:** Nigeria does not have any income requirements for inter-country adoptions.

**Nigerian Citizens:** Nigerian law states that non-Nigerians may not adopt in Nigeria. While the law is sometimes inconsistently applied, the U.S. Consulate strongly advises that non-Nigerian citizens are not eligible to adopt children from Nigeria. Who Can Be Adopted?

In addition to u.s. Immigration Requirements, Nigeria Has Specific Requirements That A Child Must Meet in Order to Be Eligible for Adoption

- Adoptions of children who are allegedly relinquished by their parents, who are still living, are subject to investigation as 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.
- Abandonment: Abandonment of a child in Nigeria is often poorly documented and may require a full investigation by the U.S. Consulate to confirm the abandonment.
- Age of Adoptive Child: According to Nigerian law, a child must be below the age of 16 (according to the Adoption Act of 1965) or 17 (according to the Child Rights Law) in order to be adopted. The specific law governing the adoption will depend on the jurisdiction in which the adoption takes place. Important note: law requires a child to be under the age of 16 at the time the petition is filed to qualify for a U.S. immigrant visa, unless the child is the natural sibling of another child who was adopted by the same parents while under the age of 18.
- Sibling Adoptions: There are no specific guidelines regarding adopting siblings in Nigeria.
- Special Needs or Medical Conditions: Adoption decrees issued in Nigeria will generally specify any special needs or address the general health of the child to be adopted. The U.S. home study should match any specifications of special needs that are observed by the Nigerian court.
- Waiting Period or Foster Care: Prospective adoptive parents must have physical and temporary legal custody of the adoptive child for at least three consecutive months immediately prior to petitioning the court for an adoption decree. 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 U.S. Consulate has seen waivers issued to parents who claimed to the court that meeting this requirement was a burden.

### Caution

Prospective adoptive parents should be aware that not all children in orphanages or children's homes are eligible for adoption. In many countries, birth parents place their children temporarily in an orphanage or children's home due to financial or other hardship, intending that the child return home when it becomes possible. In such cases, the birth parent (s) has not relinquished their parental rights or consented to their child's adoption. In Nigeria, many orphanages or organizations claiming that they arrange adoptions are for-profit enterprises which operate without licensing or oversight. The U.S. Consulate advises all prospective adoptive parents to get clear information about any orphanage or adoption agency in Nigeria before entering into an adoption process with the organization.

### How to Adoption

Nigeria's Adoption Authority

The Magistrate Court (from the state where the child resides)

The Process

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

1. Choose an adoption service provider.
2. Apply to be found eligible to adopt
3. Be matched with a child
4. Adopt (or gain custody of) the child in Nigeria.
5. Apply for the child to be found eligible for orphan status
6. Bring your child home.

### **Choose an Adoption Service Provider**

The recommended first step in adopting a child from Nigeria is to decide whether or not to use a licensed adoption service provider in the United States that can help you with your adoption. Adoption service providers must be licensed by the U.S. state in which they operate. The Department of State provides information on selecting an adoption service provider on its website.

### **Apply to be found Adoption Eligibility**

In order to adopt a child from Nigeria, you will need to meet the requirements of the Government of Nigeria and U.S. immigration law. You must submit an application to be found eligible to adopt from the social welfare office in the state where the child resides in Nigeria.

To meet U.S. immigration requirements, you may also file an I-600A, Application for Advance Processing of an Orphan Petition with the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Services, to be found eligible and suitable to adopt.

### **Be Matched with a Child**

If you are eligible to adopt, and a child is available for inter-country adoption, the central adoption authority in Nigeria will provide you with a referral. 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 Who Can Be Adopted section. The child must also meet the definition of orphan under U.S. immigration law.

### **Adopt or Gain Legal Custody of a Child in Nigeria**

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

The social welfare office of the state where the child is located is considered the adoption authority. The application for adoption originates from this office. Prospective adoptive parents should not attempt to begin the adoption process through any other local officials. The government office that adjudicates local adoptions in Nigeria is the magistrate court of the state where the child is located.

### **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. The court then assigns a guardian ad litem for the child

to represent him/her in the adoption proceedings. The guardian ad litem is the social welfare officer in charge of the area where the 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 to the court. The guardian ad litem represents the child's interests 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 office visits the home of the adoptive parents until the officer is satisfied that the 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 will meet the adoptive parents in court to confirm their suitability and will issue or deny the adoption order. After the 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 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 Nigerian 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.

**Note: Proxy adoptions are not valid in Nigeria.**

### **Role of Adoption Agencies**

The U.S. Consulate is not aware of any legally recognized Nigerian agencies that assist adopting parents or any licensed Nigerian adoption agencies. Prospective adoptive parents can seek assistance from a Nigerian attorney to facilitate the adoption process. The U.S. Consulate maintains a list of attorneys that have identified themselves as willing to provide legal services to U.S. citizens but cannot make any endorsements based on an assessment of the quality or type of services the attorney provides.

### **Adoption Application**

The application is submitted to the registrar of the competent court.

### **Time Frame**

Adoption procedures can take a few months to more than a year depending on the child's state of origin and the evidence presented.

## Adoption Fees

Fees, including fees to an agency or the orphanage, attorney fees, court costs and costs to get official paperwork, such as a birth certificate, are estimated to run into the hundreds of dollars per child. The U.S. Consulate estimates that a standard adoption in Nigeria would cost approximately \$500 in fees, not including fees paid for the I-600, I-600A, or the immigrant visa.

## Documentation is Required

The paperwork involved in Nigerian adoptions is expensive and time-consuming to locate. Prospective adoptive parents are advised to consult with a Nigerian attorney about the document requirements of the state from which they are adopting. The following is a list of some of the required documents:

- Birth certificates
- Marriage certificates
- Divorce decrees (where applicable)
- Proof of Nigerian citizenship:
- Proof of U.S. citizenship:
- Financial documentation: proof of financial assets
- Police reports
- Note: Additional documents may be requested.

## Authentication of Documents

You may be asked to provide proof that a document from the United States is authentic. If so, the Department of State's Authentications Office may be able to assist.

Apply for the Child to be Found Eligible for Orphan Status  
After you finalize the adoption (or gain legal custody) in Nigeria, the Department of Homeland Security, U.S. Citizenship and Immigration Services must determine whether the child meets the definition of orphan under U.S. immigration law. You will need to file a Form I-600, Petition to Classify Orphan as an Immediate Relative.

## Return Your Child

Once your adoption is complete (or you have obtained legal custody of the child), you need to apply for several documents for your child before you can apply for a U.S. immigrant visa to bring your child home to the United States

## Chapter Seven

### Certificate after Child Adoption

#### Dr Emeonye Odochi P

#### Birth Certificate

If you have finalized an 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.

If you have been granted custody for the purpose of adopting the child in the United States, the birth certificate you obtain will, in most cases, not yet include your name.

Birth certificates in Nigeria are issued by the National Population Commission (NPC). The NPC has offices co-located within most local government authority (LGA) offices throughout the

country and applicants must go to the LGA office with jurisdiction in the area where the adoption occurred in order to obtain the birth certificate. Birth certificates from NPC are documents which are normally filled out by hand and can commonly include spelling mistakes or other problems. Applicants are encouraged to check the accuracy of documents obtained in Nigeria as visa regulations require that the spelling and other biographical information be consistent across official documents.

## Nigerian Passport Certificate

Your child is not yet a U.S. citizen, so he/she will need a travel document or passport from Nigeria.

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 Nigerian 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.

Applicants can apply for a Nigerian passport in the Nigerian 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 Nigerian passport may take a week or more to obtain depending on conditions. Applicants are encouraged to check the accuracy of documents obtained in Nigeria as visa regulations require that the spelling and other biographical information be consistent across official documents.

I have a U.S. Immigrant Visa certificate.

After you obtain the new birth certificate and passport for your child and you have filed Form I-600, Petition to Classify Orphan as an Immediate Relative, you then need to apply for a U.S. immigrant visa for your child from the U.S. Consulate General in Abuja. This immigrant visa allows your child to travel home with you. As part of this process, the consular officer must be provided the Panel Physician's medical report on the child.

Most applications for an immigrant visa for an adopted child at the U.S. Consulate will undergo full field investigations 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. This investigation also serves to verify that the child is an orphan as defined by U.S. immigration law and may include both documentary reviews and interviews with persons connected to the child's case. For security reasons, U.S. government personnel are frequently restricted from traveling to certain parts of the country, causing these investigations to take an average of six months.

## You Can Find Instructions for Applying for An Immigrant Visa on This Website.

Visa issuance after the final interview generally takes 72 hours, and the U.S. Consulate General in Lagos strongly advises that applicants do not book any travel plans until they have their visa (s) in hand.

## Note

Although the U.S. Embassy is in Nigeria's capital (Abuja), immigrant visa cases are reviewed only at the U.S. Consulate General in Lagos.

## The Child Citizenship Act

For adoptions finalized abroad prior to the child's entry into the United States: A child will acquire U.S. citizenship upon entry into the United States if the adoption was finalized prior to entry and the child otherwise meets the requirements 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 U.S. citizenship.

\*Please be aware that if your child did not qualify to become a citizen upon entry to the United States, it is very important that you take the steps necessary so that your child does qualify 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 and education grants, and voting.

## Read more about the Child Citizenship Act of 2000.

### Traveling Abroad

#### Applying for Your U S Passport

U.S. citizens are required by law to enter and depart the United States on a valid U.S. passport. Only the U.S. Department of State has the authority to grant, issue, or verify U.S. passports. Getting or renewing a passport is easy. The Passport Application Wizard will help you determine which passport form you need, help you to complete the form online, estimate your payment, and generate the form for you to print all in one place.

#### Obtaining a Visa to Travel to Nigeria

In addition to a U.S. passport, you may also need to obtain a visa. A visa is an official document issued by a foreign country that formally allows you to visit. Where required, visas are affixed to your passport and allow you to enter a foreign nation. To find information about obtaining a visa for Nigeria, see the Department of State's Country Specific Information.

#### Staying Safe on Your Trip

Before you travel, it is always a good practice to investigate the local conditions, laws, political landscape, and culture of the country. 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 areas of instability.

#### Staying in Touch on Your Trip

When traveling during the adoption process, we encourage you to enroll with the Department of State. Enrollment makes it possible to contact you if necessary. Whether there is a family emergency in the United States or a crisis in Nigeria, enrollment assists the U.S. Embassy or Consulate in reaching you. Enrollment is free and can be done online via the Smart Traveler

Enrollment Program (STEP).

#### After Adoption

Nigerian law has no post-adoption requirements for adoptive parents. Parents should confirm any post-adoption requirements with their legal representatives.

#### Post-Adoption Resources

Many adoptive parents find it important to find support after the adoption. There are many public and private non-profit 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 the same 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.

## Chapter Eight

### Implications of Child Adoption in The Family

#### Dr Ifenyinwa A S

Childlessness is a potential cause of marital instability, especially in the African culture where it is used as a parameter for marital success. This is because a marriage without children is likely to be stressful for couples due to pressure from family members, especially if the husband is encouraged to take up a second wife when the woman is suspected to be barren.

Similarly, Denga (1982) posited that the absence of children in the family, especially when it is due to biological causes rather than a choice to remain childless, threatens marital adjustment among Africans. Childless couples engage in behaviors that upset one another, and in some cases, this may lead to a breakup in their marriage. Therefore, in order to avert this, most couples have realized that one of the values of child adoption is its ability to prevent the breakup of marriages, especially for those suffering from psychological and emotional problems.

- Coincidentally, the biological parents might come in contact with the kid and plan to take him/her away.
- The child might grow up with a genetic disease.
- The child, after realizing that he/she was adopted, might decide to leave at a later stage and go in search of his/her biological parents.
- It is always painful when kids grow up to become monsters.

#### Positive Implication

- Adoption gives a child a new family when living with their own family is not possible.
- It is the means of giving a child an opportunity to start again. For many children, adoption may be their only chance of experiencing family life.
- Adoption is an enviable act of love.
- It must come from a desire to love a child.
- It must be motivated by our love for God.
- It must be because we want to raise a child for God as a demonstration of our love for God. Every child is a gift



from God through adoption and fostering. You can help a child develop and grow to be an accepted member of society. Through adoption and fostering, you can make the child part of your family and lavish your love on him or her.

- The birth parents no longer have any legal rights over the child, and they are not entitled to claim them back.
- The child becomes a full member of their new family.
- They take your surname, and assume the same rights and privileges as if they had been born to you, including the right of inheritance.
- The child becomes the adoptive parents' the day they adopt.
- The child will call the adoptive parent's mother/father.
- A whole new responsible relationship and love is formed because the couple are mother and father to the child.
- No matter what happens, the adoptive parents will be loved by the kids because they have given them love, hope, food, shelter, and security.

### Summary

Adoption is a legal process that creates a parent-child relationship between persons not related by blood. The adopted child is entitled to all privileges belonging to the natural child of the adoptive parents, including the right to inherit. Child adoption has been fast gaining ground in Nigeria among childless couples, especially since the 1990s. There has been an enormous surge of interest by couples in child adoption due to its acceptability in recent times. Adoption is important in society because it touches on status and, therefore, affects the rights and obligations of an adopted person. The absence of children in the family, especially when it is due to biological cause rather than a choice to remain childless, threatens marital adjustment among Africans. Childless couples engage in behaviors that upset one another, and in some cases, this may lead to a breakup in their marriage. Therefore, in order to avert this, most couples have realized that one of the values of child adoption is its ability to prevent the breakup of marriages, especially for those suffering from psychological and emotional problems [3-17].

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### Dedication

This work is dedicated to all children/ parents

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