



CHILD ADOPTION: A PANACEA FOR A HAPPY HOME
AMONG CHILDLESS COUPLES IN RIVERS STATE OF NIGERIA

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ABSTRACT

Child adoption is a legal process by which a set of parents become parents of a child not naturally born to them. This act among others is one of the mechanisms of placing a homeless child in a childless home in contemporary society which in turn could bring happiness in such a home and so serve as a panacea for a happy home. With this aim the present study was carried out to explanatively and qualitatively study child adoption as a panacea for a happy home. The study presented the meaning of child adoption, child adoption policy and reasons for adoption. Problems associated with child adoption as well as the link between a child and a home was also explored. In conclusion, it was emphasized that despite the perceived challenges that may be associated with child adoption, with proper counselling, childless homes can adopt a child which is the potential of bringing some degree of happiness to such homes. And so, child adoption is recommended as a panacea to a happy home particularly where infertility is probably not curable.

Keywords: Child adoption, infertility, Parenting, Nigeria.

1. INTRODUCTION

In Africa, marriage and procreation are intertwined and inseparable. It is almost always presumed that readiness for marriage is readiness for procreation; to get married is an opportunity to contribute freely, through procreation, to the survival of the lineage and society at large. During marriage, one of the most appreciated and common gestures of goodwill accorded to the newly married couple is praying for them for the fruit of the womb: "May God grant you many children", "You shall give birth to male and female," "In nine months we shall gather to celebrate the birth of your baby". In these wishes, both the societal perception of marriage and the use of sexuality in marriage is primarily geared towards the begetting of progeny are encapsulated.

The problem arises when a marriage fails to lead to procreation. This inability to procreate poses challenges to married couples here-on referred to a home. In addition, the African societies to which Nigeria belong has a cultural context that stresses procreation and

blames individuals especially the woman for any failure in this regard. What is the way out for a “childless” home? What is the solution to an infertile couple? What is the panacea to a childless couple? These are some of the questions some concerned individuals may likely ask. However, answers to the above questions are usually given by the same individuals who posed these questions initially in some cases, range from medical treatment to spiritual, to socio-cultural remedies and even child adoption which is the crux of this paper. It should be noted that this discussion does not embrace couples or marriages or homes that voluntarily chose not to have a child or children in their home or bosom as with the case with voluntary infertile couples.

1.1 The Meaning of Adoption

Adoption could be defined as a permanent, legally binding arrangement through which a person, usually a child or teenager becomes a member of a new family. In this arrangement persons other than the birth parents assume all parental rights and obligations. The birth parents no longer have these rights and obligations and are no longer the legal parents of the child.¹ Adoption could be defined as the official transfer through the legal system of all the parental rights that a biological parent has to a child, along with an assumption by the adopting parents of all of the parental rights of the biological parents that are being terminated and are assumed in their entirety by the adoptive parents, including the responsibility for the care and supervision of the child, its nurturing and training, its physical and emotional and financial support.²

Child adoption is the process whereby children deprived of a family gets people they can call their own and childless couples don't remain deprived of the joy of parenting. Every child has a right to grow in a healthy environment. And this is exactly what adoption endorses. Adoption is a legal procedure that makes the birth child of a couple, the legal child of someone else. It is a process involving three parties, the birth parents, the adoptee and the adoptive parents (Oak, 2016). Furthermore, under the United Nations Convention on the rights of the child of 1989, adoption is recognized as one of the forms of alternative care for children who are unable to remain in their family environment (Chukwu, 2012) and as such, adoption serves as a means of prevention of child abuse including child trafficking, and equally enables the adopted children access to good education and quality life in a family setting.

Adoption in social circle plays the role of legal placement of a homeless child in a childless home. Such provision of care by adults other than the natural parents has occurred throughout history. Adoption was recorded as early as 2350BC, the story of Moses a familiar biblical hero is a classical example of open adoption. Born at a time when Hebrew newborns were being killed by the Egyptians. The mother of Moses knew who was parenting her child and where the child was residing. Likewise, the daughter of Pharaoh met the birth mother of her child though the identity was not disclosed. This is a classical example of substitute care. However, in Nigeria, although some learned writers posit that adoption is practiced under native law and custom, it would appear that what they described as adoption, upon a careful analysis, is either guardianship or fostering or some other peculiar indigenous concepts (Chukwu, 2012).

Nevertheless, adoption confers on the child all the rights vis-à-vis his adoptive parent(s) as if the child had been born to them in lawful wedlock as well as imposes on the adoptive parent(s), parental responsibility equivalent to that of the natural parents of the child (Chukwu, 2012). Simply put adoption is the act of legally placing a child with a parent or parents (home) other than those to whom they were born. Apparently, marriage or sexual

¹ www.adopt.org/glossary.com/2016 accessed 24 Feb 2016

² <http://glossary.adoption.com>, 2015 accessed 24 Feb 2016

relationship between the adopted child and any member of the adopter's family is prohibited (Federal Ministry of Women Affairs, 2005).

2. CHILD ADOPTION POLICY

In Nigeria, adoption may be effected either under statutory law or customary law. But the rules regulating differ from state to state. It is one of the most life transforming experiences that can happen to a child and their adoptive parents. The government office responsible for adoption in Nigeria is the civil court. The first known attempt at providing a statute on adoption in Nigeria is dated back to April 1958 when a private member bill was submitted to the Eastern House of Assembly. Although this 1958 bill was unsuccessful, the first adoption legislation in Nigeria was eventually enacted in the then Eastern Region of Nigeria in 1965. This legislation was known as the Eastern Nigeria Adoption Law 1965 and it came into force on the 20th of May 1965 (Chukwu, 2012). While it is interesting to know that this Eastern Nigeria Adoption Law 1965 still applies in the Eastern States in Nigeria, it is also questionable considering the changes in the Nigerian society since 1965. Before the year 1965, practice similar to child adoption was already in place. Children were accommodated in homes with understanding that they were being adopted, but there was no statutory basis for such adoption (Tajudeen, 2013). As a result, the act of accommodating was not regarded as legal adoption and such parents were more often regarded as guardians or foster parents. The implication of this practice was that birth parents of the children might at any time assert their natural rights of parenthood over the child. Shortly after the 1965 Eastern Nigeria Adoption Law, Lagos State promulgated an adoption law in 1968 and other South Western States subsequently followed with their own laws which had a lot in common with each other. At that time only States in the Northern region of Nigeria have no legislation on adoption (Chukwu, 2012).

About two decades later, the world acknowledges the need for a child- focused international law that will address the peculiar needs of children. On 20th of November 1989, the United Nations General Assembly adopted the Convention on the Rights of the Child (CRC) and in July 1990, OAU Assembly of Heads of States and Governments adopted the African Charter on the Rights and Welfare of the Child (ACRWC) (Unicef, 2011). Both international instruments contain universal set of standards and principles for survival, development, protection and participation of children. Subsequently, Nigeria signed both international instruments (CRC and ACRWC) and ratified them in 1991 and 2000 respectively (Unicef, 2007).

Following these commitments, the Nigeria Federal Government passed a comprehensive Child Right Act 2003 into law. The Act is presumed to be culturally-sensitive, compatible, relevant and in the best interest of the Nigerian child. It incorporates all the rights and responsibilities of children and consolidates all laws relating to children into a single law (Unicef, 2011). Part XII of the act provides for child adoption practices. It consists of 23 sections (124-148 of the Act) and among several provisions in these sections, the Act provides for the following: all state should provide services and facilities to enhance child adoption practice; prospective adopters must make application to a court of law; only children whose parents/guardians consent to adoption or those who have compelling reasons to be adopted can be adopted; except the court sanctions it, the Act prohibits payment to facilitate the adoption of a child; adopted children register must be maintained to record child adoption activities within a court; no adopter or any other person shall facilitate re-adopting of an adopted child except with the court's sanction; and periodic visit to every child adopted under the Act must be maintained to ensure their wellbeing (Child Rights Act 2003). In addition to these provisions, the Act further includes among others a system of child justice administration and a child right implementation committees at all levels of government (Tajudeen, 2013). These committees are to ensure all levels of government are committed to

the provisions of the Act, through research, investigation and jurisprudence (Unicef, 2007). Besides, the domestication of the Act ought not to be questionable at State or local government levels because provisions of a national enactment supersede all other legislations that have a bearing on the right of the child. Therefore, the States are expected to formally adopt and adapt to the provisions of the Act. However in 2011, eight years after the enactment of the law, only 24 out of the 36 States Houses of Assembly have passed the Child's Right Act 2003 into law while others are still in the process of doing so (Tajudeen, 2013). Moreover, most States who adopted the act also continue to regulate adoption practices with the State's legislation (Chukwu, 2012). Many do so with the claim that issues of child rights protection are on the residual list of the Nigerian Constitution, thus they are within the legislative competence of the States (Unicef, 2007).

3. ADOPTION UNDER CUSTOMARY LAW

According to Uzodike in Tajudeen (2013), customary law adoption in Nigeria differs from one custom to another. In the real sense what is obtained under customary law is guardianship or foster parenting. Traditionally, children are regarded as the gift of God bestowed on a couple or family, and so parents are reluctant to part with their child or to lose all parental rights and obligations. Where parents are too poor to properly maintain their children, members of the extended family usually come to their assistance.

Cases of guardianship under customary law are common, while adoption cases are rare. Most, if not all, of such adoptions are between blood relations. Informal adoption takes the form of the adopter taking into his family the child of a relative or an orphan. The child is brought up and treated as the other children of the adopter. This arrangement if continued over a long period may mature into an adoption. The process is one by which foster-parentage matures in time into adoption. Also, where a widow with a child or a single mother re-marries, she may bring her child into the marriage. The child is then brought up by the step-father whose name he may take and with time the relationship crystallizes into an adoption.

Customary law adoption does not seem to affect a clear and permanent severance of the parental rights and obligations between the infant and his natural parents. He may succeed to property both in the family of his adopter and also in respect of his natural parents. Under customary law, no matter the length of time an individual is cared for by another individual or family, the link between that individual and his roots can never be severed. This is the singular hallmark of adoption that distinguishes it from the other alternative child care devices. Therefore what is being referred to as adoption is in the real sense, foster parenting.

4. ADOPTION UNDER ISLAMIC LAW

Adoption is prohibited under the Quranic edict. In areas where Islamic Personal Law is practiced, adoption is unacknowledged. Under Islamic law it is the issue of guardianship that is recognized. The religious authorities that talk about guardianship under Islamic law are contained in different verses of the Qur'an. Any Muslim who is sane, adult and responsible may be a guardian under appropriate circumstances. Islam has developed its own concept known as kafalah under which a child who cannot be cared for by his biological parents may be taken by another family to live with them permanently but the child is not entitled to adopt the family name or to inherit from the family. (Tajudeen, 2013).

5. PROCEDURES FOR ADOPTION

Adoption procedures may be open or closed. A closed adoption is one which the natural and adoptive families have no knowledge of or contact with the adoptive family. However, an open adoption is an adoption in which the birth family and the adoptive family have direct contact with each other. In most cases the adopted child will also have contact with his birth family. This type of adoption enables the birth family to see child as he grows. It also provides the adoptive family the opportunity to find out about any medical conditions and other information about the birth family. However, an open adoption also has disadvantages that must be taken into consideration.

The laws in most parts of the country provide that an application for an adoption order must be made in the prescribed form and submitted to the register of the competent court. The court will appoint a guardian ad litem for the child to represent him or her in the adoption proceeding. The person appointed as the guardian ad litem is the welfare officer in charge of the area where the child resides; or a probation officer or some other persons suitably qualified in the opinion of the court of assignment. The guardian ad litem investigates the circumstances relevant to the proposed adoption and reports in writing to the court. Prospective adoptive parent(s) must inform the chief 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 care and custody of the applicant. The applicant for adoption must be resident in Nigeria during this entire period.

Foreigners must seek private legal assistance to facilitate the process of adoption. The confidential report of the welfare officer will be written after several visits to the home of the adoptive parents and after he or she is satisfied that the child is settled and that the prospective adoptive parents are capable of looking after him or her. In such a case a positive recommendation will be sent to the court. In some states, after the adoption has been granted, leave of court must be obtained by the adoptive parents before the child can be taken out of the jurisdiction of the court either temporarily or permanently. In addition, a letter from the social welfare officer to the immigration officer, informing the immigration officer that the adoptive parents are now the legal parents of the child, must be obtained before the adoptive parents will be permitted to obtain a passport to take an adopted child out of Nigeria. (Child Law Rights Act 2003). Every action taken in an adoption proceeding and its final outcome must be entered into the Adoption Register. A certified copy of an entry in the Adopted Children's Register if stamped or sealed by the registrar's office shall be proof of such adoption as is specified therein.

6. REASONS FOR ADOPTION

In Africa, the prevalence of childless home is up to 45 percent of her homes (Okonofua, 2003). The childless home suffered from the conflux of personal, interpersonal, social, and religious expectations thus bringing a sense of failure to them (Rutstein and Shah, 2005).

In some cultural settings in Africa, childless couples (homes) are even not allowed to take lead role in important family functions and events. In addition, these couples are often socially ostracized by their immediate families. These challenges are not only restricted to the developing world (Rutstein and Shah, 2005). Although, there are many management options for childless homes, the outcome of the treatment depends on the aetiological factors, available diagnostic tools, skills of the attending physician and above all the financial status of the couple (Okonofua, 2003; Okunlola, Adebayo, Odukogbe, Morhason-Bello and Owonikoko, 2005).

In Africa, there are limited assisted reproduction centres because they are mostly private sector driven (Okonofua, 1996; Giwa-Osagie, 2004). Even, where they exist, the cost of accessing them and the low success rate despite the huge financial resources constitute a major hindrance for most desiring homes. They are therefore left to suffer from the agony of childbearing failure and this is manifested in form of emotional disturbances, depressive illness and marital disharmony (unhappy home) (Aina, 2007). In addition, these homes are often socially annihilated by immediate families and their community at large (Ameh, Kene, Onuh, Okohue, Umeora and Anozie, 2007). Adoption is an alternative strategy in the management of childlessness or infertility aimed at bringing succor to the affected homes.

Today, however, infertility is the main reason parents seek to adopt children to whom they are not related. Other motivations for adoption could be a desire to provide a home to a homeless child, desire to replace a dead child or to acquire a companion for an only child, to gain a child of the other sex in a family where the children are of same sex, advanced age and the possibility of genetic problems in the person's biological child.

7. PROBLEMS ASSOCIATED WITH ADOPTION

Many adoptive parents complain of certain barriers to choosing adoption as management option to childlessness. These barriers were noted to include fear of disloyalty by the child, future claim by the biological parents, lack of genetic linkage with the child, and religious reasons (Van der Akker, 2001). Other fears are genetically inherited traits. These concerns could best be handled by counseling prior to the consummation of adoption.

According to Amobi and Igwegbe (2004), denial of inheritance is also a factor that hinders the successful acceptance of child adoption. Many traditional communities do not allow an adopted child to participate in sharing communal land. Also, they are not qualified to inherit the staff of office of the family. This type of attitude towards the adopted child discourages childless couples who may desire to adopt children that will inherit their property when they (adoptive parents) pass away.

In Nigeria, public opinion states that an adopted child is a bastard, because the child does not know his or her background. He is not seen as a bonafide son or daughter of the soil. Because of this bastard syndrome everybody wants a child that is recognized as biological son or daughter by the society. This attitude towards the adoptee also discourages child adoption. (Alomih, 2011). Also, the age of the adoptive parent is another social problem that destabilizes the successful practice of child adoption. Adoption Act stipulates that the maximum age limit for those wishing to adopt a child is 45 years if one is adopting a first child, but if the adoptive parent already has other children and wants to adopt more, the maximum age is 50 years. However, for the adoption of new born babies, the age limit imposed is usually 35-40 years so that the adoptive mother will be able to take adequate care of the child.

Unfortunately, here in Nigeria, the practice of child adoption is alien to our culture, many infertile couples delay a lot before they take decision to adopt because biological children are more preferred. They usually exhaust all the avenues of giving birth before they opt for adoption. Sometimes you see couples retiring from their jobs and adopting children they may not have the physical and economic strength to take care of. Adopting at an old age does not give the adoptive parents enough time to train their adopted child in school or nurture them enough to face the challenges in the world. (Awake publication, 1996). Other social problems of child adoption are the establishment of illegal agencies and orphanage homes that do not have legal backings to run child adoption services. The perpetrators indulge in this crime partially due to poverty and partially as a result of materialism.

In 2012, 2,500 pregnant teenagers were rescued from baby factories in Nigeria. According to source, most of the teenage mothers were lured into the infamous trade with monetary offers by the baby factory operators, while some others were forced into the trade

by poverty and illiteracy. These issues are a dangerous development and a criminalization of child adoption laws. People see adopted children as being bought from baby factories, and there are confusions everywhere. (<http://www.inferonationg.com>)

A lot of misconceptions and wrong information concerning child adoption still abound in our society. Also, fear of confidentiality makes prospective adoptive parents to patronize unregistered adoptive agents who contract the adoption for them at very exorbitant rates without proper pre-placement medical examination and no official records. Chukwu (2003) in his paper titled adoption of children in Nigeria under the Child's Right Act 2003 had noted that social stigmatization is a major factor contributing to the unpopularity of adoption in Nigeria.

8. CONCLUSION AND SUGGESTIONS

From the discourse presented herein, this study concludes that child adoption is indeed a panacea to a childless couple, since it has the capacity to bring some form of succor and happiness to such homes despite perceived challenges of adoption which can be handled with correct counselling services. Through the process of adoption, the adopted child has the privilege to a parent, a family, a home and ultimately a reason to live. Even the biological parents of the adopted child are happy to see their child get a home and a new life. When everybody is happy the society at large is happy. So adoption is a solution to many problems and should be embraced by the entire society.

Consequently, the researchers suggested that homes without a child should avail themselves to appropriate counselling services before adopting a child. Moreover, couples who agree to adopt a child should be guided appropriately for fostering services and the appropriate places for these services. In addition, there is a need for further studies to understand the complex socio-economical and religious understanding of child adoption among childless homes.

- There is need to reform any culture that is against a global change which is beneficial to humanity such as adoption.
- Non-governmental organizations and the church should organize seminars and create awareness in the rural and urban areas about the process of adoption and its benefits.
- The public should create awareness about the ills of running a baby factory.
- Government should ensure that laws guiding child adoption should be enforced and defaulters should be penalized.

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