

Policies and Practices of Child Adoption in Nigeria: A Review Paper

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Abstract

Child adoption, which could be a socially-responsive gesture or a solution for infertility, is gradually becoming culturally acceptable in Nigeria. This paper focuses on analyzing policies and practices of child adoption in Nigeria. It examines policies regulating adoption practices and explores knowledge and attitude towards child adoption, as well as socio-cultural issues in child adoption practices across Nigeria. Secondary data mainly policy documents, existing studies and reviews from scholars, local and international organizations were explored. Nigeria has a National Child Right Act enacted in 2003 that seeks to regulate the welfare of children including child adoption practices. Despite this legislation, most Nigerians are only aware of the term "child adoption" barely few understand the concept of child adoption and the policy regulating it. More so, a large number of infertile couples are familiar with the term "child adoption", but various social and cultural factors and misconceptions associated with adoption have impaired its full acceptability as a management option for infertility. Adequate support by social welfare system, non-government organizations and health practitioners involved in infertility management will ease pre-existing fears and socio-cultural misconceptions and allow for improved child adoption practices.

Keywords: Child adoption, policy, socio-cultural, infertility, child trafficking

1. Introduction

Child adoption is a universal concept that provides legal rights for adopter and adoptee to become a family. It is a unique form of child care because it does provide permanent care and parenting for the adopted child as compared to other child care institutions that provide substitute family/home to a child (Aniebue & Aniebue, 2008). Thus, the adopted child is able to access quality life in a family setting (Dimkpa, 2010). More so, the child becomes a complete member of the adopter's family, takes on the adopter's surname and assumes the rights and privileges of a biological child, including the right of inheritance. Additionally, a relationship of consanguinity between the adopted child and all members of the adopter's family is established. As a result, marriage or sexual relationship between the adopted child and any member of the adopter's family is absolutely prohibited (Federal Ministry of Women Affairs, 2005). Upon complete adoption procedure, the transfer of right by the adoptee and the responsibility assumed by the adopter become sealed and irrevocable (Tajudeen, 2013). The only possible exception is where it is discovered that fraud, duress or undue influence was exerted on any of the party involved.

A number of studies have stated their general view on adoption both within and outside Nigeria. Cretency and Massion (1997) dealt extensively on adoption as an aspect of family law, contemporary adoption issues, process of adoption as well as parties to an adoption process. Nwogugu (1990), Chukwu (2012) investigated adoption of children in Nigeria under the Child's Right Act 2003 and Oladokun et al (2009) assessed the acceptability of child adoption as management option for infertility in Nigeria. On the other hand, Omosun and Kofoworola (2011) investigated knowledge, attitude and practice towards child adoption amongst women attending infertility clinics in Lagos State, Nigeria while Eke and colleague (2014) studied perception of child adoption among parents/care-givers of children attending pediatric

outpatients' clinics in Enugu, South East, Nigeria. All these studies acknowledge the implications of culture in the practice of child adoption. This is not surprising since every aspect of child-bearing and rearing in Nigeria is largely influenced by culture (Avidime et al., 2013). The Nigerian culture holds procreation in high esteem and children are seen as priceless benefits of marriage (Aniebue & Aniebue, 2008). Unfortunately, the rate of infertility among couples is constantly rising with more than 70 million couples infertile globally and Nigeria been one of the hardest hit in sub-Saharan Africa with 20%-45% infertility (Adetoro & Ebomoyi, 1991; Adewunmi et al., 2012). Though, management of infertility has advanced through the Assisted Reproductive Technologies (ART), however many Nigerians cannot afford its high cost (Adewunmi et al., 2012).

In Nigeria, the practice of child adoption is growing with improved public awareness through media, personal testimony, social research and other sources. Government and non-governmental agencies are also promoting child adoption as a substitute to abortion in unintended/unwanted pregnancy (Aniebue & Aniebue, 2008). In particular, the cultural preference for children in the family, increased intractable infertility and limited access to ART have also upsurge the acceptability of child adoption in Nigeria. Furthermore, careful review of literature consistently show that positive attitude and acceptability of child adoption are heightened by prolong infertility, level of education, the lack of a living child, annual income of the household and poor knowledge of adoption policies and process (Adewunmi et al., 2012; Oladokun et al., 2009; Omosun & Kofworola, 2011). On the other hand, the common reasons for unwillingness to adopt range from socio-cultural, psychological to religious belief and bias. For instance, Islam prohibits adoption because it is unjust to assign paternity of a child to another beside the biological father (Ladan, 2007). Similarly, Christianity encourages trusting and waiting on God for a child. Thus, to some Christians adopting a child mean disbelief in God's ability to bless them with their own child (Nwaoga, 2013). Also, in a study among infertile women in South Eastern Nigeria by Ezugwu et al, (2002), most of the study participants perceive child adoption as psychologically unacceptable and they felt it may be impossible to love an adopted child as their own. Major socio-cultural concerns also include: stigmatization associated with adoption, unknown parental background and possible negative genetic composition or inherited diseases (psychiatric or epilepsy), confidentiality about adopters decision, future claim by the biological parents, and disloyalty or abandonment by the child especially when the child learns that he/she was adopted (Adewunmi et al., 2012; Eke et al., 2014).

These salient factors and other discreet issues continue to affect the proper acceptability of child adoption in Nigeria. As a result, this study aims to analyse policies and practices of child adoption in Nigeria. To achieve this, the study examines policies regulating child adoption practices, evaluate knowledge and attitude of Nigerians towards child adoption and explore socio-cultural issues surrounding child adoption practices in Nigeria. Understanding these dynamics of child adoption is essential in a contemporary society where cultural values and norms are rapidly changing. Hence, this study will help to further educate the public on the concept of child adoption and disabuse their minds from long held socio-cultural misconceptions about child adoption. It will provide policy guideline towards formal child adoption practice and provide information useful for identifying informal and illegal child adoption processes. Also, it will re-emphasize the need for Nigerian States to adhere to the provisions of the National Child Right Act 2003 regarding adoption, as well as promotes child adoption as a management option for infertility. More so, the study will challenge social welfare system, non-government agencies and health practitioners involved in infertility management and adoption processes to adequately support child adoption in Nigeria. Finally, it will contribute to existing knowledge on child adoption; provide material for teaching and serve as bases for further academic study.

2. Material and Methods

This study is based on secondary analysis of existing data, which focused on review and synthesis of qualitative and quantitative data of existing studies in the area of child adoption and practices in Nigeria. In order to accurately search for relevant information, a literature review was conducted using search words such as 'Child adoption', 'orphans' and 'adoption', 'adoption policy', 'illegal adoption', 'fostering', 'baby selling', 'child trafficking', 'infertility management', 'socio-cultural beliefs and values' alone and in combination with 'child adoption in Nigeria'. Searches were conducted in all databases available including Medline (www.medline.com), PubMed (www.pubmed.gov), Dovepress (www.dovepress.com), Wiley Online Library (onlinelibrary.wiley.com) and Google scholar. All relevant documents such as Child's Right Act 2003, Adopted Children's Registry, Bye-Laws, the Constitution of Federal Republic of Nigeria, newspapers and relevant materials from the internet were also extensively reviewed. To achieve a systematic and replicable review, only studies and documents that relate to the specific aim on child adoption policies and practice in Nigeria were included. Additionally, to minimize the implications of the varied data, we focused on statistics relevant to the study while putting the interest of children first.

3. Child Adoption Policy

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 (Iphey, 2007). 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 right and responsibilities of children and consolidates all laws relating to children into a single law (Unicef, 2011). Part XII of the act provide 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 parent/guidance consent to adoption or those who have compelling reasons to be adopted can be adopted; except the court sanctions it, the Act prohibit 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).

4. Knowledge, Attitude and Practice of Child Adoption in Nigeria

Knowledge and attitude towards child adoption slightly vary across Nigeria. However, most Nigerians have a fair knowledge of the term 'child adoption'. In a number of studies, almost 80% of respondents are aware of child adoption practices (Avidime et al., 2013; Eke et al., 2014; Nwobodo & Isah, 2011; Omosun & Kofworola, 2011). Unfortunately, this high level of awareness does not translate into the actual practice of child adoption. Nonetheless, it is important to note that formal adoption practices is gradually gaining ground in the country but the practice of kinship adoption which originates from extended family system is still being practiced (Aniebue & Aniebue, 2008; Wusu & Isiugo-Abanihe, 2006). This kinship adoption is largely informal but not illegal. It involves mutually agreed placement of children in homes of relatives mostly without the services of public agencies. In most cases what is called kinship adoption can be likened to fostering. Lately, this practice is slowly declining and formal child adoption is increasingly becoming popular. However,

this popularity only portrays an awareness of the term 'child adoption' as compared to understanding the true meaning of the concept of child adoption, its legality and process. In fact, in a study by Omosun and Kofoworola (2011), study participants thought child adoption meant buying a motherless baby and majority did not know what requirement is needed, who may be adopted or who can adopt. Despite this ignorance, it is impressive to know that more Nigerians are aware of the possibility of adopting a child. Whether this has a lot to do with the enactment of 2003 Child Right Act, is yet to be proven, nevertheless, the successful enactment of the 2003 Child's Right Act is a positive move to strengthen the process and practice of child adoption in Nigeria. Additionally, knowledge and practice of child adoption has taken another dimension as an alternative option for infertility management (Adewunmi et al., 2012). This option of child adoption is recently becoming acceptable and more successful and affordable for infertile couples compare to ART. It gives them the unique opportunity to be parents without the financial and the emotional rigors of the uncertain assisted reproductive process. Unfortunately, acceptability and practice of child adoption among infertile couples is relatively low (Omosun & Kofoworola, 2011). Most couples are discouraged by cultural implications of child adoption, misconceptions and stigmatization, financial burden and procedural bottle-necks (Avidime et al., 2013; Eke et al., 2014). On the other hand, women/couples with previous orthodox specialist treatment, tubal infertility, maternal age above 35, protracted infertility, absence of living children, secondary and tertiary education, and those with correct knowledge of child adoption are more likely to adopt a child (Ezugwu et al., 2002; Nwobodo & Isah, 2011).

Furthermore, in the practice of child adoption, provisions of part XII of the child right Act stipulate necessary procedures and guidelines. These procedures in actual practice are relatively cumbersome due to various red-tapes in the Nigeria welfare and judicial system (Oladokun et al., 2010). They require adopters to complete lawful process for adopting a child from an authorized and regulated child care facility or orphanage. The social welfare department charged with the responsibility of child adoption in the state will usually assess the capability of prospective adopter. They inspect their living conditions, financial ability and other relevant factors to ascertain their preparedness for their new parenting role (Adewunmi et al., 2012). In addition, pre-adoption and post adoption checks for compatibility and progressive adjustment between the adopted and adopter are sometimes required (Oladokun et al., 2009). As good as this sound, it discourages some couples from adopting and partly encourages unofficial or illegal adoption practices which are often less rigorous and sometimes less expensive (Aniebue & Aniebue, 2008). In recent times, especially in South-Eastern Nigeria, unofficial and illegal child adoption practice has been turned into a "normal business". Unethical individuals set up facilities often called 'baby factories' where they exploit their victims for 'baby harvesting' (Alfred, Francis, & Andeshi, 2014). These victims are mostly young women and teenage girls trafficked through false promises of job and safe abortions (Punch News, 2013). They are confined to these facilities and impregnated by their operators or hired men. When they are delivered of their babies, the infants are sold to desperate infertile couples and other patronizes who seek to avoid the legalities of formal child adoption (Huntley, 2013). Also, these babies are allegedly sold to ritual killers for black magic, sexual exploiters and fake fertility treatment operators. In a news report by BBC NEWS (2012), it was observed that some women seeking fertility treatment in Nigeria are been tricked into thinking they have become pregnant and delivered of a baby. The scam is usually well planned to deceive and exploit unsuspecting and desperate childless couples with babies mostly from the so-called baby factories. This suggests that the practice of unofficial and illegal child adoption is more complicated than imagined. The process is complex with multiplicity of perpetrators and victims, as well as varieties of issues including fake pregnancies, trafficking in-person, deceit, fraud and poverty.

5. Socio-Cultural Aspect of Adoption Practices in Nigeria

Culture is a complex totality of Man's acquisition of knowledge, morals, beliefs, arts, customs and technology which are geared and transmitted from generation to generation (Okpala, 2013). There are varieties of social and cultural issues surrounding child adoption practices and discussions in Nigeria. Just as cultural practices have implication on child-bearing in Nigeria, so also culture influences couple's decision towards adoption. As a matter of fact, most of the circumstances in which adoption occur in Nigeria, that is, infertility, gender completion, desire for an heir to sustain lineage and inherit possessions are culture based (Ezugwu et al., 2002; Nwobodo & Isah, 2011; Wusu & Isiugo-Abanihe, 2006). For example, the Nigerian culture literary perceive infertility as unacceptable, such that upon marriage in-laws, parents, family and friends are not only waiting expectantly for news of pregnancy and subsequent child-birth but making babies. Thus, childless couples would often suffer from a combination of personal, interpersonal, social and religious expectations which brings a sense of failure to them. The social stigma, psycho-social pressures and other consequences often put intense pressure on marriages. In extreme cases, they are excluded from leadership and important social events; women are forced out of their marriages or ostracized by their immediate families (Oladokun et al., 2009). Several studies on child adoption in Nigeria suggest positive attitude, nevertheless, knowledge, acceptability

and practice of child adoption are relatively low among infertile couple (Omosun & Kofworola, 2011). Despite, the increasing acceptability of child adoption a number of socio-cultural practices and concerns still constrain people's attitude in the actual practice and process of adoption (Avidime et al, 2013).

5.1 Cultural issues

Formal child adoption has found its way into the Nigerian culture, although its introduction has not been fully accepted by a lot of people because of the nature of their culture. Therefore, the process of child adoption in Nigeria faces a number of ethnic issues and challenges. In South Eastern Nigeria (Igbo land) for instance, the complex ethno-religious behaviors, beliefs and practices makes the formal practice of child adoption seemingly difficult. The prevailing cultural norms do not literally accept adopted children as born children of their adopter. They are rather treated as outcast and bastard, sometimes hated, disrespected and constantly reminded that they do not belong to the family. Nwaoga (2013), noted that the ingrained Eastern indigenous ideology of "onyebiaraabia" meaning 'the stranger' which generates a caste system might have contributed to the poor acceptance of an adopted child. Thus, to accord such adopted child all the benefits and privileges of a full-fledged member of the community will be seemly rare.

Interestingly, in the South-western part of Nigeria (Yoruba land) they seem to have a more positive disposition towards child adoption. The Yoruba cultural belief that '*ori omo lo npe omo wa'ye*' (meaning a child usually attracts yet to be born children to come to the physical realm) strongly suggests support for child adoption (Oladokun et al, 2009). This belief makes it relatively easier to accept adopted children as a part of the family and community in order to attract the blessings of biological children to the adopters. Nevertheless, some Yoruba cultural belief also perceives adopted children as bastards with likelihood of anti-social behaviors. As a result, men in infertile marriages are rather encouraged to marry another woman (Oladokun et al, 2009) and couples willing to adopt are constrained by the fear of tarnishing their family's good name, should in case the adopted child is indeed anti-social.

5.2 Social issues

Social issues surrounding child adoption ranges from the numerous fears and misconceptions about adoption to the stigma associated with a child whose biological parents are unidentified. Possibility that many Nigerians assume an adopted child would be a child of such persons as drug addicts, criminal convicts, mental retarded, prostitutes and the likes cannot be ruled out. Child abuse by their adopters is another social issue reoccurring in child adoption practice across Nigeria. In a number of cases adopters take advantage of the adoptee either by sexual assault, physical abuse and child labour (house maids, sales girls and boys, sex workers and streets hawkers). Worst still, is the neglect/ abuses experienced by these adopted children simply because the adoptive couples might have regained their fertility and later have their biological children. Additionally, the socio-cultural preference for child bearing among many cultural groups in Nigeria creates a social class on the bases of child bearing. Woman who are mothers are often respected and their status in the community are better enhanced. In fact, many communities would refer to women by the name of their first born, for example, 'mama Bose'- where Bose is her first child and a woman who has no child is made to feel out of place within such neighborhood (Nwaoga, 2013).

Furthermore, the patrilineal and kinship nature of most Nigerian families make it very essential for a woman to gain the full consent and support of the husband and the extended family in a decision to adopt. The importance of this cannot be overemphasized and part XII, section 132 of the Child Right Act 2003 also acknowledges this (Federal Ministry of Women Affairs, 2005). This is because the supreme authority that empowers entitlement to resources flows from the 'father figure' and it is often restricted to only legitimate and biological sons of the family. More so, upon the demise of the father, the extended family heads make most of the decisions with regard inheritance and distribution of his resources. This implies that an adopted child who is not fully accepted into the family may be alienated and neglected by the extended family especially in the event of the death of one or both adoptive parents. This type of treatment is undoubtedly detrimental to the child's proper social and psychological development, thus defeating one of the purposes of adoption.

Another social aspect in the practices of child adoption is the prevailing gender specification during child adoption. Although this has a cultural undertone, it is also largely influenced by the social perception of a perfect family image of mother, father, son and daughter. Thus, couples will decide to adopt primarily to complete the missing gender among their children. In some occasions male children are adopted for the continuity of the family lineage and for inheritance purposes (Eke et al, 2014). Other times, female children are preferred either because of the popular misconception that parental control is less tasking with a female child or because of the cultural implication of having a female child (Avidime, 2013). In the latter, especially among the Igbo cultural group, female children are huge financial asset when they are

giving out in marriage and the possibility of them bearing their children (in other word grandchildren for their parents) during the lifetime of their parents is higher.

6. Implications, Recommendations and Conclusion

Globalization, urbanization, economic and political instability among others has made it difficult to sustain the usual communal spirit which provided support in raising children in Nigeria (Wusu & Isiugo-Abanihe, 2006). Therefore, children who are not properly cared for are likely to end up in homeless institutions and subsequently open for adoption. Likewise, the rate of infertility among Nigerian couples is on the increase and the cost of ART is rather high, making child adoption a preferred alternative for infertility management. In addition, the global call for the right of a child and the commitment of the federal government to the major international treaties on children (CRC and ACRWC) has led to the successful enactment of a Child Right Act in 2003. The provisions of the Act in part XII relates to child adoption and primarily seek to harmonize adoption process in Nigeria. The Act stresses a uniform institutional framework for adoption throughout the country and mandate establishment and maintenance of adoption services and facilities (Chukwu, 2012). Sadly, most states have continued to regulate adoption practices with state legislations, making it nearly impossible to achieve the uniformity desired by the Act. The implication is that illicit adoption practices can prevail while taking advantage of the legal inconsistency and the poor implementation of the Child Right Act 2003 across Nigeria.

Besides, the rising incidence of illegal and unofficial child adoption may become difficult to control. This is because law enforcement officials would likely face the challenge of identifying and prosecuting actions that are contrary to the law, since there are varied child adoption laws operating across states. Worst still, the lack of clarity among Nigeria law enforcement and legal professionals, as to whether "baby factories" constitute human trafficking or merely violation of adoption rules, allow perpetrators to escape prosecution and continue in their illegal activities (Huntley, 2013). Actually, the Child Right Act 2003 prohibits inter-country adoption to curtail such act as 'baby factories' and to prevent child trafficking, except where adopters are Nigerians (Federal Ministry of Women Affairs, 2005). Apparently, this restriction limits potential benefit of inter-country adoption for eligible children (Roby & Shaw, 2006). More so, the restriction has not been so successful in curbing occurrences of child abuse and trafficking by adopters within Nigeria who provide false promises of a better life only to expose the adoptee to hard labour, domestic and physical abuse, and sexual exploit (Jones et al, 2012; Ladan, 2011).

Evidence from a number of studies reviewed in this study reveals Nigerians are fairly aware of the term 'child adoption'. This in itself is exciting; however, Nigerians and infertile couples in particularly need to fully explore the unique and cost effective opportunity of parenting that child adoption provides. Besides financial constrain, socio-cultural issues such as stigmatization and poor family and community support are the major factors hindering the full acceptability of child adoption in Nigeria. As a result, increased enlightenment through local and social media couple with cultural sensitive community awareness is vital to minimize the socio-cultural implications associated with child adoption. Equally, measures to make formal child adoption process more effective and less cumbersome should be considered and religious beliefs and bias towards child adoption practice should be properly understood. More so, aspect of the major religion that can be harnessed to support child adoption practices should be explored.

In conclusion, the improved awareness, acceptability and practice of child adoption in Nigeria are not only favorable to infertile couples and children eligible for adoption. They are also beneficial to the nation because it will provide more opportunity for children to grow in a loving environment that will build them into responsible citizens. To further encourage the practice of child adoption, pre and post adoption support by social welfare system, non-government organizations and health practitioners involved in infertility management should be scaled up. This will go a long way to ease pre-existing fears, social misconceptions and religious bias associated with child adoption. Lastly, it is essential for all states in Nigeria to properly domesticate and implement the Child Rights Act 2003. This will significantly help in prosecuting and curbing activities of illegal adoption agencies as well as provide legal protection for adopters and adoptee against socio-cultural implications of child adoption.

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