

# **SITUATION REPORT ON CHILD MAINTENANCE IN AFRICA: REPORT ON NIGERIA**

**By**

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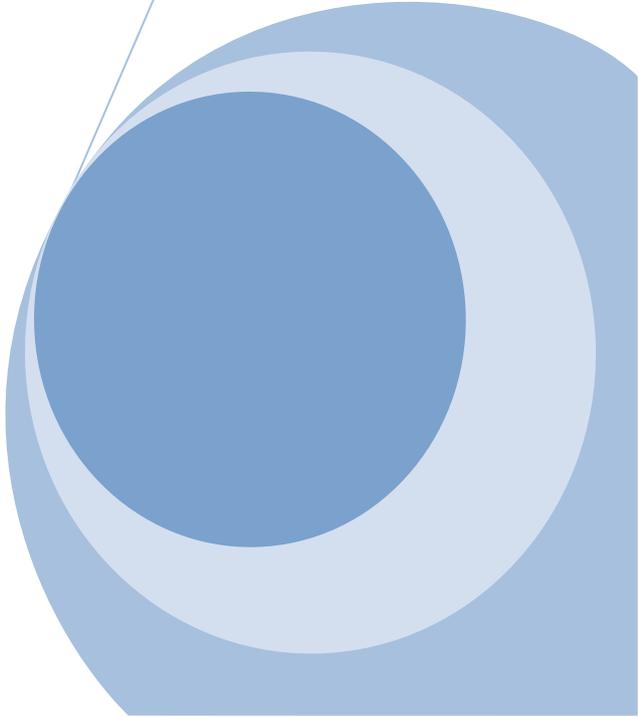
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## **SUBSTANTIVE ISSUES**

### **CONCEPT OF MAINTENANCE AND MAINTENANCE OBLIGATIONS IN NIGERIA**

The concept of child maintenance stipulates an ongoing, periodic payment made by a parent for the financial benefit of a child following the end of a marriage or other relationship. Child maintenance is paid directly or indirectly by an obligor to an obligee for the care and support of children of a relationship that has been terminated, or in some cases never existed.

Basically there are three different types of marriage that a man and a woman can contract in Nigeria which are statutory marriage, customary marriage and Islamic marriage. Nigeria being a multi tribal society, the customs of its people are as varied as the number of ethnic societies. In other words, there is no single customary law for Nigerians. The various ethnic communities have their different customs as they relate to marriage. I shall only explore this topic in a generalized form alluding to the accepted customs within a few communities especially as recognized by the Courts of the land.

Marriage under Customary Law is largely polygamous. A polygamous marriage is the union for life of one man with several wives. There is no limit to the number of wives a man can marry under customary law. Islamic Law marriage possesses most of the features of Customary Law marriage with the man taking up to four wives if he desires.

There seems to be a presumption that all child custody and maintenance matters in Nigeria will be decided in favour of the father. While it is true that under some customary law systems the father is privileged in custody matters, this is not uniform or universal and does not apply to any statutory marriage under the Matrimonial Causes Act. Under the Shariah law that is applicable in the Northern region of Nigeria, custody is usually granted to the mother and the father is under an obligation to maintain the

child(ren); under Yoruba customary law of the Western Nigeria, mothers are granted custody of female children and fathers of male children. In some cases, the father is mandated to pay certain sum on a regular basis to maintain the children in the custody of the mother. In the Igbo customary law of the Eastern Nigeria, custody of weaned children is usually given to the father.

The obligation to claim child maintenance in Nigeria would depend largely on whether the claim is based on the English law, Islamic law, or customary law as applicable.

Maintenance obligation under the English law must conform to the provisions of the Matrimonial Causes Act and Rules and the Child's Rights Act. The maintenance obligation under Nigerian statutes would depend largely on the custody of the child and other factors which shall be discussed in the course of this paper.

Islamic law does not view maintenance of wife and children as recommended but mandatory. Where the father reneges in this function, the law will compel compliance to fulfil the obligation. The husband subject to Islamic law is under a legal mandate to maintain his wife no matter how wealthy the wife may be and to maintain his children who have not attained the maturity age. For the female children, maintenance obligation of the father continues towards them for as long as they are unmarried and remain under parental care.

Physical maturity in either gender establishes majority age in Islamic law. There is a difference of opinion in the legal schools about the exact age, but it ranges from nine for girls to eighteen for boys, although for girls the age of menstruation is generally acceptable. If there is doubt, however, a statement by the child in question that he or she has reached puberty is adequate.

The Northern region of Nigeria operates Islamic law as a result of which the Islamic law position applies. However, some populace of the region are not subject to Islamic law. This few populace either apply their ethnic law or the statutory law on child maintenance and this would be determined by the nature of the marriage conducted by the parties in question.

Maintenance obligations under customary laws of Nigeria differ depending on the customary law to which the parties are subject to. The prevalent customary law of the southern Nigeria on maintenance obligation vary. However, the common practice is for the customary court to mandate the father to pay child maintenance to a mother who has custody of the children. In cases where the father has the custody, the law does not impose payment of maintenance on the mother. However, the mother can do whatever she feels like towards maintaining the children though this is a voluntary act and not mandatory as it is on the father.

Under the customary law of the Eastern Nigeria, women have no custody rights except of children who are still being breastfed. Immediately after weaning such children, the custody reverts to the father. This is based on the premise that upon payment of the bride price, a wife becomes the property of the husband. On child maintenance claims, the mother is under no obligation at all to maintain or contribute towards the upbringing of the child. However, where the bride price had not been paid, such a child is deemed to be the child of the wife's father who would bear the child maintenance responsibilities with the biological father under no legal obligation to maintain the child. In fact, the biological father has no paternal right over the child until he pays the bride price in full.

## **THE REQUIREMENTS TO CLAIM MAINTENANCE IN THE CASE OF CHILD SUPPORT/CHILD MAINTENANCE IN NIGERIA**

In statutory marriage, application for maintenance of a child will normally arise in proceedings for a matrimonial cause which, inter alia, includes divorce and judicial separation. The Matrimonial Causes Act<sup>1</sup> provides that both the mother and the father have equal responsibility to maintain the children of their marriage. Where however a parent or both parents fail to maintain the children, such children cannot enforce their right to maintenance in the absence of a proceeding for a matrimonial cause. Where a parent omits to provide the necessaries of life for his or her child under the age of 14 years thus resulting in injury to the child's life and health, proceedings may be brought by the relevant authorities to punish and deprive the parent of his or her custodial rights.<sup>2</sup>

Section 14 (2) of the Child Rights Act has further extended the child's right by providing that the child's right to maintenance by his parent or guardian can be enforced by the child in the Family court whether or not there is proceeding for a matrimonial cause. Thus, if a child is of the view that the parents are not fulfilling their obligation to take care of him, the child can initiate an action in court to mandate maintenance on the parents.

However, in practice this may seem difficult because the society would frown at any child who takes a legal action against his parents in a court of law. The traditional belief tilt towards viewing such a child as an enemy of the parent and the societal belief that parties to a court matter cannot be friends thereafter would hinder the development of this aspect of the law, thus the need to further educate the public on the objective of the Child's Rights Act and the need to take care of children.

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<sup>1</sup> 1970

<sup>2</sup> *Head of Federal Military Government v. Warri Juvenile Court, Ex parte Saka* (1981) 3 L.R.N. 208

Basically under the various customary laws of Nigeria, paternity of a child is the most important requirement to pay child support. Once a claimant can show that the spouse against whom the claim is sought has always been responsible for the maintenance of the child(ren) in question before the divorce or separation or pending suit, the claimant is entitled to claim child support. It is immaterial that the child is born out of wedlock so far as the father had acknowledged paternity.

### **AGE LIMIT FOR A CHILD TO BENEFIT FROM SUPPORT/MAINTENANCE**

Under section 277 of the Child's Rights Act,<sup>3</sup> a child is a person under the age of eighteen years and by virtue of section 55(15) of the same Act, orders relating to maintenance of a child shall cease to have effect when the child attains the age of eighteen except otherwise directed.

However, by virtue of section 70(4) of the Matrimonial Causes Act, the power of the court to make an order with respect to maintenance of children of a marriage shall not be exercised for the benefit of a child who has attained the age of twenty one years.

In attempting to solve this contradiction of both statutes, recourse has to be made to the Nigerian constitution which stipulates the age of minors to be persons under the age of eighteen years. In practice, the courts have the discretion to decide the age of a child as regards the maintenance of such child between the stipulated ages by the statutes having recourse to the circumstances of each matter before it.

In the Northern region of Nigeria where Islamic law operates, child maintenance would continue till the child attains puberty age. For the female children, child maintenance continues for as long as they are unmarried and remain under parental care. There is no specific age to determine majority age under Islamic law. The age ranges from nine for

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<sup>3</sup> 2003

girls to eighteen for boys, although for girls the age of menstruation is generally acceptable. Where there is doubt as to the majority age, a statement by the child in question that he or she has reached puberty is adequate.

Under the various customary laws of Nigeria, there is no uniform marriageable age and this is causing conflict in Nigerian laws. Generally, it is accepted that marriageable age is the maturity age. However, marriageable age in the Eastern region of Nigeria has been fixed by statute and thus by virtue of section 3(1) of the Age of Marriage Law, Eastern Nigeria, marriageable age has been fixed at 16 for both gender.

The law regarding marriageable age in the Western Nigeria is not laid down in any legislation. Puberty age and financial capacity are the determining factors. However in *Labinjoh v. Abake*,<sup>4</sup> marriageable age under the Yoruba customary law of Nigeria (Western Nigeria) was held to be fourteen years old for female and sixteen years for male.

Under the various customary laws, there is no stipulated age limit to benefit for child maintenance but in the light of the marriageable age, it can be safely argued that the age limit to benefit for child maintenance is the marriageable age as applicable under the various customs.

### **MEANS OF SECURING DEBTOR'S SUBSISTENCE**

The courts have wide powers in this respect under sections 73, 92, 93, and 105 of the Matrimonial Causes Act.

Statutorily, where a party has defaulted in paying maintenance as ordered by the court, an application may be made ex parte to the High Court for an attachment of earnings order. The affidavit in support of the application shall state the particulars of the

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<sup>4</sup> 5 NLR 3

maintenance order, the amount of the arrears due to the applicant under the maintenance order, particulars of any proceedings taken by the applicant to enforce the maintenance order, particulars of the employer of the defendant to the application and particulars of the defendant and of his work.<sup>5</sup>

Where the earnings order is made, the applicant shall deposit a copy of the order with the Registrar of the court and the Registrar of the court shall see to it that sealed copy of the order is served on every person on whom sealed copy is required by law.<sup>6</sup>

Also, by virtue of section 4 of the third schedule to section 92 of the Matrimonial Causes Act, where a person has been in default of payment of maintenance to the tune of four payments in the case of a weekly payment or two payments in any other case, or where it can be shown that the defendant had wilfully and persistently refused to pay maintenance, the court may give an order to the person who appears to be the defendant's employer in respect of his earnings or part of his earnings to make out of the earnings the payment as prescribed by the court.<sup>7</sup>

Where this kind of order is made, the order shall stipulate the amount so attached and that the payment should be made to a named officer of the court. The payment is deemed to be made by the defendant in discharge of the maintenance payment in respect of the amount so paid by the employer.

Failure to comply with an attachment order is an offence punishable on conviction with a fine of not more than two hundred naira. The defence available to such defendant is that he took reasonable steps to comply with the order. It is obvious that this area of our law is inadequate and vague. With the present Nigerian economy, it is a mockery on the justice system to place a fine of two hundred naira for non compliance of an important

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<sup>5</sup> Order XVII, Rule 8, Matrimonial Causes Rule

<sup>6</sup> Order XVII, Rule 10, Matrimonial Causes Rule

<sup>7</sup> Bairbre Oloyede v. Hector Oloyede (1971)2 UILR 13

statutory provision. Also, the law did not give an insight into what 'reasonable steps' is. A defendant could easily take advantage of this provision of the law and claim based on any excuse that he took reasonable steps to comply with the law. Thus the duty to determine what qualifies as reasonable steps is left at the discretion of the courts.

Under the Western Nigerian customary law, the appropriate mode to enforce a debtor's subsistence is to re-approach the customary court that gave the maintenance order after which both parties would be invited and the judges would try to mediate and appeal to the father's conscience to continue payment. Alternatively, the father may be mandated to make payment into court where the claimant can always receive the payment. Where this also fails, there does not appear to be any judicial machinery in place for the enforcement of child maintenance at the customary court level. The only available remedy is for the claimant to express her grievances to the husband's direct parents or the husband's extended family that may be forced to take up the responsibility of maintain the children.

In the Northern region of Nigeria where Islamic law operates, the practice is to approach the Shariah court that gave the maintenance order and file an enforcement application. This application will be heard and the party in default would be instructed to pay the arrears and where circumstances allow, the order as to maintenance may be varied especially if the defaulting party is out of a job.

### **GUIDELINES OR CHARTS TO CALCULATE CHILD SUPPORT/MAINTENANCE**

The main area of contention as regards maintenance is the basis for the calculation of the amount due. Up till 1971, it would seem that the old rule that a wife should be granted so much maintenance as would bring her income up to one third of the husband

held sway.<sup>8</sup> However section 70 of the Matrimonial Causes Act does not lay down any such criterion. Actually, the position in England has moved generally to a starting point of 50% of the assets of the family going to the other spouse as maintenance and settlement of assets. It would therefore seem that as at now, in most cases, the women are worse off in Nigeria when the issue of maintenance is being considered.

There is also the provision in the Law by virtue of section 70(2) of the Matrimonial Causes Act for maintenance pending determination of proceedings for divorce.

While the court has discretion in granting maintenance orders, there are nevertheless clear principles for the assessment of maintenance. The principles are clearly stated under section 4 of the first schedule to section 55(14) of the Child's Rights Act in conjunction with section 70 of the Matrimonial Causes Act to the effect that the court shall have regard to all circumstances of the case including **the income, earning capacity, property and other financial resources of the party to which maintenance order applies as well as his financial needs, obligations and responsibilities.** Also, the **financial needs of the child, the income, earning capacity, property, physical or mental disability of the child and the manner in which the child is being or is expected to be trained** must all be considered in calculating child maintenance. (Emphasis mine)

This would make assessment of maintenance easy where the claimant provides adequate information backed with evidence as to the earnings of the respondent. However, where the court is unable to make an assessment due to lack of adequate information or for any other reason, the claimant shall make an application to the court to obtain a certificate of means of the respondent. The court shall, upon this application, inquire into the resources of the parties to the marriage to which the application relates

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<sup>8</sup> *Negbenebor v. Negbenebor* 1971 1 ANLR 210

and to the capability of each of the parties to earn income, and issue a certificate of means with respect to those resources and capabilities.<sup>9</sup>

Under the customary law of the Western Nigeria, the guide to calculating child maintenance is very similar to the provision under the Act. The amount which the father had always been committed to before the divorce or separation would be a starting point in assessing the maintenance amount. However, the father would be given the opportunity to volunteer the amount he can afford as child maintenance. If he volunteers an inadequate amount, his income and other circumstances would be considered in calculating the child maintenance. In practice however, most courts agree with the amount volunteered except in cases where the father in question is a well known man in the society and the amount volunteered cannot be justified in relation to his societal status.

Under the customary law of the Eastern Nigeria, child custody lies with the father and the mother is under no obligation to pay child support to the father. The father has the sole responsibility of maintaining the child and where he is not capable, the obligation shifts on the child's paternal grandfather. If the child is being breastfed as a result of which custody lies in the mother, the father is duty bound to provide for the sustenance of the child to the tune of whatever he can afford.

Under Islamic law which is prevalent in the Northern Nigeria, maintenance of children includes accommodation, food, drink, clothing and education, and everything that the child needs, and the calculation of the payment is to be based on what is reasonable, paying attention to the husband's financial situation. This is based on the Quranic provision that *"Let the rich man spend according to his means; and the man whose resources are restricted, let him spend according to what Allah has given him. Allah puts*

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<sup>9</sup> Order XIV, Rule 18 of the Matrimonial Causes Rules

*no burden on any person beyond what He has given him. Allah will grant after hardship, ease.”<sup>10</sup>*

If the parties cannot decide on the amount payable as child maintenance, then the judge is to decide the amount after considering the means of the father. In calculating child maintenance based on this requirement, the status of the husband and the standard of living that the child had been placed on would be put into consideration in determining the value of child support.

### **THE EXTENT TO WHICH THE PUBLIC SECTOR PROVIDE FINANCIAL SUPPORT IN PLACE OF CHILD SUPPORT/MAINTENANCE**

In Nigeria, an assessment of orphans and vulnerable children conducted with UNICEF support in 2004 showed that there were about 7 million orphans and this number keeps rising by the day. Hence Section 50 of the Child’s Rights Act provides that a child development officer, a police officer or any other person authorized by the Minister may bring a child before the Court if *“he has reasonable grounds for believing that the child is an orphan or is deserted by his relatives...”* The Court may then commit the child to the care of any person whether a relative or not, who is willing to undertake the care of the child.

In the light of this there are several non governmental agencies and orphanages with the sole purpose of providing care and education for the vulnerable children. However, the orphanages that exist are not government funded and they are not enough to cope with the situation. They largely rely on funding from international and domestic volunteers. The public sector especially religious groups make donation to these vulnerable children from time to time but the number of people willing to make such donations is few compared to the number of vulnerable children.

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<sup>10</sup> chapter 65 verse 7

Also, the fact that most Nigerians are not very welcome to the idea of taking in a child that is not biologically theirs have contributed to the low level of public support towards child maintenance. Several reasons have been given to defend this position but top on the list is that it is neither religiously nor culturally acceptable. In Nigeria, the culture and tradition are strong points that do not support adoption. It is viewed that any couple that adopts a child before they can have their own children is infertile and that is not the kind of stigma anyone would like to have.

## **PROCEDURAL LAW ISSUES**

### **DOES COMPETENCE TO RECOGNIZE AND ENFORCE A CHILD MAINTENANCE DECISION LIE WITH JUDICIAL OR WITH ADMINISTRATIVE AUTHORITIES?**

Basically relying on child support related statutes in Nigeria, the judicial authorities are saddled with the competence to recognize and enforce child maintenance decisions. However where a matter of child maintenance is referred to an administrative body, the administrative body is duty bound to advise the parties to seek recourse in the courts. For instance, section 73(1)(h) of the Matrimonial Causes Act empowers the court to make a permanent order, an order pending the disposal of a proceeding, or an order for a fixed term or for a life or joint lives or until further order. The section further empowers the court to vary the terms of an order made upon the satisfaction of certain criteria. The courts also have the competence to determine the mode and manner of payment of maintenance in the best interest of the child.

Furthermore, jurisdiction of enforcement of maintenance orders by registration or by attachment of earnings or by other means lies in the courts. Also, matters of assessment of maintenance, default in payment of amount assessed, determination of claim for maintenance and other related issues are the responsibility of the court.

From the above arguments, it is clear that statutorily, the competence to recognise and enforce a child maintenance decision lie with judicial body in Nigeria.

In the western region of Nigeria, competence to recognise and enforce a child maintenance decision lies with both judicial and administrative bodies. The customary courts have the powers to recognise and enforce a child maintenance decision. Likewise, where a child maintenance decision has been made, local administrative bodies such as the community leaders can step in to enforce the maintenance decisions. This is done mainly by calling the parties and appealing to the party in default to obey the decision laid down by the courts. Where this fails, the only recourse is to seek redress in the court of law for enforcement.

In the eastern region of Nigeria, where a child that has not been weaned is in custody of the mother, the elders of the community are saddled with the responsibility of enforcing a maintenance decision until the father gains custody of the child. Elders of the community in this respect mean the family head or the village head.

### **HOW DOES THE STATE PROVIDE APPLICANTS WITH EFFECTIVE ACCESS TO PROCEDURE (FOR EXAMPLE FREE LEGAL ASSISTANCE)?**

The Legal Aid Council (LAC) of Nigeria was established under the Legal Aid Act No. 56 of 1976 which was amended by Cap 205, 1990 Laws of the Federation of Nigeria, and repealed in 2011 by the Legal Aid Act 2011.

The centre focuses on the provision of relief for victims of arbitrary arrest, unlawful detention and prosecution and minimising the abuses of human rights. The organisation also provides mediation centres for minor civil disputes such as civil claims arising from criminal activities against persons who are qualified for Legal Aid under the Act;

mediation on disputes on various issues such as Landlord/Tenant, Master/Servant, Employer/Employee, Husband/Wife, inheritance and family matters etc.

Category of services provided by legal aid council are representation at the Police Station and in Courts, advice and assistance (written or in conference) including writing letter, negotiating, mediation and provide a wide range of services which include legal counselling, financial/welfare assistance to a target group namely, women and children either standing trial or in custody, payment of convicts fines, and integration into the society and provision of Mobile Legal Aid Clinics.

The service is free for Nigerian citizens where the individual's income does not exceed the minimum wage, or those with higher incomes who cannot afford to pay private legal practitioners. The service is limited due to a shortage of state funding and skilled personnel.

It is noteworthy at this juncture to state that most Nigerian citizens are unaware of the Legal Aid Scheme as a result of access to justice becomes impossible for the indigent citizens. For those that are aware of the existence of the Legal Aid Council, the average Nigerian mentality is that anything that has to do with the court is trouble. Most Nigerians, and sadly some educated citizens too, believe that having a matter in court gives a bad publicity and that they cannot get justice. This is due to the fact that many have lost faith in the system due to slow dispensation of justice and corruption. Even now that the judiciary is being reformed and more reliable, many Nigerians still prefer to seek justice outside the system or to let go of their rights rather than enforce it in a court of law.

This is the reason why the Legal Aid Council have kicked off a project to sensitize the public of their existence and their services to the citizens of Nigeria. As a matter of fact,

the project has been helpful in making Nigerians aware of their rights and on the approach to take to seek legal redress.

**DOES THE STATE FACILITATE ACCESS TO INFORMATION SUCH AS INCOME AND ASSETS CONCERNING THE DEBTOR FOR THE PURPOSE OF CHILD SUPPORT/MAINTENANCE?**

Where a party is seeking a decree with respect to the maintenance of a party to a marriage or with respect to a child of the marriage or where the court has informed the claimant that it cannot make an assessment without a certificate of means, the claimant may make an application to court for a certificate of means with respect to the pecuniary resources of the parties to the marriage and the capabilities of each of the parties to earn income.<sup>11</sup>

The procedure is usually to mandate the defendant to disclose his assets under oath, with the consequence of perjury. Also, the evidence relied on in the matrimonial proceedings will be taken into consideration in determining the income and assets of the defendant.

This system is inadequate in assisting the courts to adequately assess the defendant's income in order to make a maintenance order. It appears this is an urgent area which the government must look into and this is a strong conviction that the Nigerian maintenance laws need urgent review.

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<sup>11</sup> Order XIV, Rule 17, Matrimonial Causes Rules

## **PRIVATE INTERNATIONAL LAW ISSUES**

### **WHAT ARE THE INTERNATIONAL JURISDICTION RULES IN MATTERS RELATING TO CHILD SUPPORT/MAINTENANCE?**

Nigeria as a member of the African Union ratified the African Union (AU) Charter on the Rights and Welfare of the Child (AUCRWC) on 23rd July 2001. As such, the African Court on Human and People's Rights have jurisdiction on child maintenance issues where the national courts have failed to mete out justice in this respect.

Nigeria is also a signatory to the United Nations Convention on the Rights of the Child. These international instruments have been ratified and domesticated in Nigeria by the Child's Rights Act 2003.

The question now is if a Nigerian child takes a matter to the African Court saying that his state or persons responsible for his maintenance have not provided accommodation or maintenance as provided for in their Child Rights Law, what can happen?

It is however worthy of commendation that recently in 2010, the ECOWAS Community Court of Justice in Abuja, Nigeria has ordered the Nigerian government to provide as of right, free and compulsory education to every Nigerian child. The court had earlier in a ruling declared that all Nigerians are entitled to education as a legal and human right. This can be said to be a starting point in recognising and enforcing child's rights and this would lead to a further development of private international law in Africa.

## **WHAT ARE THE APPLICABLE LAWS/RULES REGARDING CHILD SUPPORT/MAINTENANCE?**

The Child's Right Act<sup>12</sup> is a law which incorporates all the rights and responsibilities of children and consolidates all laws which provide for the protection and care of the Nigerian child into one single legislation.

On 20th November 1989, the United Nations General Assembly adopted the Convention on the Rights of the Child (CRC), whilst the African Union Assembly of Heads of States and Governments adopted the African Union Charter on the Rights and Welfare of the Child (AUCRCW) in July 1990. Nigeria signed both instruments and ratified them in 1991 and 2001 respectively. In 2003, Nigeria domesticated the UN Convention on the Rights of the Child with the Child Rights Act.

Under Part IV of the MCA a court can make an order for maintenance for *'a party to the marriage or of children of the marriage'* suggesting that a maintenance order could potentially be made in favour of the male spouse and a mother could be ordered to pay maintenance for children. It could be considered quite progressive that Nigerian matrimonial law has removed a common law distinction that reinforced women's lower status.

Part IV of the Matrimonial Cause Act provides for the making of orders for maintenance, custody and settlements in favour of a husband, wife, children or adopted children of a marriage. In respect of maintenance, the Matrimonial Causes Act by virtue of section 70(1) makes provision for the maintenance of a spouse or children of a marriage.

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<sup>12</sup> Which came into force on 31 July 2003

**WHAT ARE THE RULES ON RECOGNITION AND ENFORCEMENT OF FOREIGN  
JUDGMENTS, OF AUTHENTIC INSTRUMENTS AND OF OTHER MAINTENANCE  
AGREEMENTS?**

The recognition and enforcement of foreign judgement on maintenance would depend on the reciprocal arrangement between Nigeria and the nation seeking enforcement. A reciprocal arrangement is governed by international conventions, which means that foreign maintenance orders in favour of individuals abroad can likewise be registered and enforced by Nigerian courts against Nigerian residents. The precise nature of reciprocity available between the Nigeria and another jurisdiction depends on the convention or agreement to which the other country is a signatory.

Under the Maintenance Orders Act 1921,<sup>13</sup> a maintenance order made by any court in England or Ireland may be registered and enforced in Nigeria. Once the order is registered in a Nigerian court, it has the force and effect of an order as if it was originally obtained in the court that registered it. If the original order was issued by a superior court, it will be registered in a High Court but in other cases, the registration will be made at the Magistrate court.

Under section II of the Act, the reciprocal recognition and enforcement shall extend to any Commonwealth country or British possession which has reciprocal provisions for the enforcement of maintenance orders made by courts in Nigeria.

The Act has been extended by proclamation to The Gambia, Ghana, Sierra Leone, New South Wales, St. Vincent, Grenada, British Guiana, Victoria, Australia, Northern Rhodesia, South Africa, New Zealand and Island of Jersey.

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<sup>13</sup> Cap. M1, Laws of the Federation of Nigeria, 2004

**ARE THERE ANY CURRENT PLANS TO RATIFY THE HAGUE MAINTENANCE  
CONVENTION AND PROTOCOL OF 2007?**

The Hague Maintenance Convention is one of the conventions in the area of Private International Law of the Hague Conference on Private International Law in 2007. The convention is open to all states as well as to Regional Economic Integration Organizations as long as they exist of sovereign states only and have sovereignty in the content of the convention.

Though Nigeria is a sovereign state, she is not a signatory to the Hague Maintenance Convention and presently, there are no current plans to ratify this important convention. Thus it is important for Nigeria as a country to consider being a signatory to this important convention.

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