



THE RIGHTS OF THE NIGERIAN CHILD AND THE ROLE OF COURTS: SPECIAL CATEGORIES OF CHILDREN IN FOCUS

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Abstract

Children need support from every sector for their well-being and adequate development. The mental and physical immaturity of the child requires that all stakeholders in the chain of the development of the child, as well as the pillars in the justice system, play an active role in the protection of the rights of the child. The court as a pillar of justice and hope of the common man is very key in the quest for promotion and protection of the rights of the child. There are categories of children who are very vulnerable, and the role of the court in ensuring their human rights protection and adequate development is indispensable. The court is to ensure that it considers the best interest of the child in issues concerning the child in accordance to international standards. Using doctrinal methodology, the work discusses the different ways the court can through its judicial duties as provided under the law ensure adequate protection and development of some categories of children - adopted children and fostered children. The work found that these categories of child are in some cases subjected to exploitative labour, human trafficking, sexual abuse and molestation, maltreatment, denial to inherit property, and inability to live with their parents abroad due to irregularities in processes. There are other cases of illegal adoption and child stealing etc. These situations expose the child to lack of proper development. The paper calls for active judicial intervention on the cases of these special categories of children and severe punishment of perpetrators of crimes against these children.

Key Words: Courts, Children, Child Rights, Adoption, Fostering.

1. Introduction

The Constitution vested the court with judicial powers.¹ The essential powers extend notwithstanding anything to the contrary, to all inherent powers and sanctions of a court of law. The judicial powers also extend to all matters between government and authority and any person in Nigeria, and to all actions and proceedings relating thereto for the determination of any question as to the civil rights and obligations of that person.² Ahmed posited that in order to actualise and enforce the rights of the child provided by various laws in Nigeria, some mechanisms have been put in place, and those mechanisms include Courts of Law, National Human Rights Commission, Legal Aid Scheme, Remand Homes and Reformatory Schools.³ Similarly, the Court in *Zekeri v Alhassan*⁴, declared the fact that:

In a democratic society as ours, where the rule of law prevails, the court is the hope of the common man. It plays an important role in the interpretation of the Constitution, protects the rights of citizens from encroachment by any organ of the government, and generally has the inherent jurisdiction to determine cases between persons and persons and government.

The courts play a primeval role in the dispensation of justice. The court is one of the basic institutions with the role of promoting the rights of citizens, which the child is inclusive. In doing so

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¹ Constitution of the Federal Republic of Nigeria, 1999 (CFRN) (as amended) ss 6(1) & (2).

² *Ibid*, s 6(6)b.

³ A B Ahmed, *The Law and Child Rights in Nigeria* (Lagos: Malthouse Press Limited, 2015) p99.

⁴ (2009) 52 W.R.N 119(CA) at 141.



for the child, the best interest of the child, as provided in United Nations Convention on the Rights of the Child⁵, African Charter on the Rights and Welfare of the Child (ACRWC)⁶ and the Child Rights Act (CRA)⁷, shall be the guiding principle. According to the Child Rights Act and in line with international and regional standards, in every action concerning the child, whether undertaken by an individual, public or private body, institutions or service, court of law, or administrative or legislative authority, the best interest of the child shall be the paramount consideration. The best interest of the child describes the well being of the child. This is determined by a variety of individual circumstances: age, the level of maturity of the child, the presence or absence of parents, the child's environment and experience. The Committee on the Rights of the Child insists that the best interest principle requires active measures by the Government, Parliament and the Judiciary as follows:

Every legislative, administrative and judicial body or institution is required to apply the best interest principle by systematically considering how child's rights and interests are or will be affected by their decisions and actions-for example, a proposed or existing law or policy or administrative action or court decision, including those which are not directly concerned with children, but directly affect children.⁸

The court has enormous role to play in the process of adoption and fostering of children in Nigeria, which roles are indispensable and are geared towards ensuring the protection of the adopted and fostered child from eventualities that will hamper the development and wellbeing the child. The adopted and fostered child's right to life, right to family life, right to education, right to good health care, right to inheritance, right to freedom from discrimination etc, are very crucial for the child's survival and development. Irregularities in adoption process, illegal adoption and cultural perceptions among others can deprive the child of the enjoyment of these rights. In view of the foregoing, the roles of the Court towards promoting the rights of the adopted and fostered children will be discussed in the work.

2. Definition of Relevant Concepts.

2.1 Who can be said to be a Child in Nigeria?

According to the Child Rights Act, 2003, a child is any person under the age of eighteen years⁹. This definition by the Child Rights Act, is in line with international standard¹⁰. By Article 1 of the United Nations Convention on the Rights of the Child, a child is every human being below the age of eighteen years unless the law applicable to the child, majority is attained earlier. The Worst Forms of Child Labour Convention, another international instrument for the protection of the child, has the definition of the child as any person under the age of eighteen years. Optional Protocol to the Convention on the Rights of the Rights of the child on the involvement of children in Armed conflicts, Article 3 provides for eighteen years of age as the age of maturity. African Charter on the Rights and welfare of the Child, 1990 in its Article 2 defines the child to mean every human being below the age of eighteen years. A child is thus a person bellow the age of eighteen years of age.

2.2 What is Child Adoption and Child Fostering? The Black Law's dictionary defines adoption as the creation of a parent-child relationship by judicial order between two parties who are unrelated; the relation of parents and child created by law between persons who are not in fact parent and child.¹¹

⁵ UN CRC 1989, Article 3.

⁶ ACRWC 1990, Article 4.

⁷ CRA 2003, Article 1. Article 4(1) of the African Charter on the Rights and Welfare of the Child, Article 3 of the Convention on the Rights of the Child.

⁸ General Committee No. 5 (CRC/GC/2003/5 para. 45-47.

⁹ CRA, 2003, section 277.

¹⁰UNCRC, 1989.

¹¹B A Garner, *Black's Law Dictionary* (9th edn, USA: Thomas Reuters,2009) p55.



Adoption is also described as a process that allows a person or persons to legally take responsibility for a child¹². Adoption is also described as the legal transfer of all parental rights, responsibility and roles from one parent or parents usually biological to non-biological parent or parents¹³

Child Fostering on the other hand is defined as giving parental care to a child who is not one's natural or legally adopted child.¹⁴ A foster child is a child whose care and upbringing are entrusted to an adult other than the child's natural or adoptive parents usually by an Agency.¹⁵ Thus, adoption or fostering of a child in this work, refers to adoption or fostering of persons below eighteen years of age. The court has a role in the promotion of the rights of the adopted child and the fostered child as a legal child of the adoptive parents

3. Child Adoption in Nigeria under the CRA, 2003

The law regulating child adoption in Nigeria is the Child Rights Act, 2003, and the Child Rights Laws of various States, which are domestication of the CRA, 2003. . Under the CRA, Adoption order can only be made in respect of a child where the parents of a child, or where there is no surviving parent, the guardian of the child consents to the adoption; or the child is abandoned, neglected or persistently abused or ill- treated, and there are compelling reasons in the interest of the child why he should be adopted. Persons who may apply for adoption include: a married couple where each of them has attained the age of twenty-five years, and there is an order authorising them jointly to adopt a child; or a married person if he has obtained consent of his spouse; a single person if he has attained the age of thirty-five years, provided that the child to be adopted is of the same sex as the person adopting; or in all cases; or a person found suitable to adopt the child in question by the appropriate investigating officers.¹⁶ The roles of court under the provisions of this Law will be discussed.

2.1 The Role of Court in promoting the protection of the rights of the adopted child under the CRA.

The role of the court is indispensable in the promotion of the rights of the adopted child in Nigeria, through interpretation of the extant law and in the exercise of discretionary powers in the interest of the child.¹⁷

2.1.1 Investigation

The court plays a role in getting all the required information of the child, to enable it reach a decision about the adoption of the child, and to ensure it is done in the best interest of the child. On receipt of an application for adoption, the court is required to order an investigation to be conducted by a child development officer; a supervision officer; and such other persons as the court may determine to enable the court to assess the suitability of the applicant as an adopter and of the child to be adopted.¹⁸ The court shall in reaching a decision relating to the adoption of a child, have regard to the following circumstances: consider the need to safeguard and promote the welfare and the best interest of the child throughout the childhood of that child, and ascertaining as far as practicable, the wishes and feeling 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.¹⁹ The court shall also, in placing a child for adoption, have regard to, as far as is practicable, the wishes, if any of the parents or guardian of the

¹² Roma Kunde, What are the types of Adoption, webmd , <https://www.webmd.com>. Accessed on 29th of March, 2025.

¹³ Adoption, Britannia Kids, kids.britannia.com, Accessed 29th March, 2025.

¹⁴ B A Garner, *op cit*, p727.

¹⁵ *Ibid*, p271.

¹⁶ Child Rights Act, 2003, ss. 128 & 129.

¹⁷ Child Rights Act, 2003; Adoption Law, CAP A25 of Lagos State.

¹⁸ *Ibid*, s. 126(2).

¹⁹ *Ibid*, s. 126(3).



child as to the religious upbringing of the child.²⁰ If the court orders and ensures that the investigation is done effectively and in accordance with the provisions of the law, it will guide the court in making the adoption order in the best interest of the child. This will automatically ensure proper welfare and protection of the child throughout his or her childhood with the adopters. To ensure effective investigation, the court is at liberty to request for every information that he deems proper and useful for determining the adoption of the child, and the officer is mandated to conduct such investigation to the satisfaction of the court. This role of the court is very crucial and important in the promotion and protection of the rights of the adopted child, because it will help place the child in the care of adoptive parents who will ensure the proper development and welfare of the child.

2.1.2 Adoption Order

The court plays a role by making adoption orders in respect of a child after satisfying itself of the basic requirements. The provision of the Child Rights Act is clear on this role. The court shall before making an adoption order, satisfy itself that: (a) Every consent required where a married person is the sole applicant for an adoption order, the court may, if it thinks fit, refuse to make the order if the consent of the spouse of the applicant to the making of the order is not first 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 for this purpose the relevant adoption service shall provide adequate counselling for the parties involved in the adoption; (c) the order, if made, shall be for the welfare and best interest of the child, due consideration for this purpose being given to the wishes of the child giving regard to his age and understanding; and (d) the applicant has not received or agreed to receive; and no person has made, given or agreed to make or given to the applicant any payment or other reward in consideration of the adoption other than what they may approve.²¹ According to section 128 of the Act, the Court shall not make an adoption order in respect of a child, unless the parents of the child, or where there is no surviving parent, the guardian of the child consents to the adoption; or the child is abandoned, neglected or persistently abused or ill treated, and there are compelling reasons in the interest of the child why he should be adopted. In effect, the court has the powers to refuse to make adoption orders if any of these conditions are not met. This role is very important, because once an Adoption order is made, the child becomes the legal child of the adoptive parents. It beholds on the court to exercise this power in the best interest of the child, and refuse to make the adoption order once the requirements are not met.

2.1.3-Declaration of the Welfare of the Child

The court plays a role in the declaration of the welfare of the adopted child. The Child Rights Act, provides that in making the adoption order, the court may exercise the power to 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 option of the court, are just and expedient.²² Similarly, the Act mandates the Court, that in reaching a decision relating to the adoption of the child, the court should have regard to all the circumstances, and give consideration to the need to safeguard and promote the welfare and the best interest of the child throughout the childhood of that child, and ascertaining, as far as practicable, the wishes and feeling of the child regarding the decision and giving due consideration to those wishes and feelings, having regard to the age and understanding of the child²³. The court will have to consider the religious upbringing of the child²⁴ etc. The court in exercising its role as specified in these provisions will be promoting the rights of the child if done well and in the best interest of the child.

²⁰*Ibid*, s. 127.

²¹ Child Rights Act, 2003, s 133.

²² Child's Right Act 2003, s 134.

²³ *Ibid*, s. 126(3).

²⁴ *Ibid*, s. 127.



2.1.4 Pronouncement of the Status of the Adopted Child

The court plays the role in pronouncing the status of the adopted child. On this issue, the Child Rights Act²⁵, provides that in cases where husband and wife are joint adopters, the court will make orders as to the custody and maintenance of the rights of access to the children. It provides that the husband and wife will stand to each other and to the child in the same relationship as they would have stood if the child were their natural child, and in respect of those matters, the child shall stand to them in relationship of a child born to the adopters. And for the purposes of the devolution of the property of the intestacy of the adopter, an adopted child shall be treated as a child born to the adopter. Upon an adoption order being made, all rights, duties, obligations and liabilities, includes any other under the personal law applicable to the parents of the child or any other person in relation to the future custody, maintenance, supervision and education of the child. All religious rights, rights to appoint a guardian and rights to give consent for marriage shall vest in and be exercisable by and enforceable against the adopter. Furthermore, all rights, duties, obligations and liabilities in respect of the future custody, maintenance, supervision and education of the child will vest in the adopter as if the child were a natural child of the adopter, and the child shall stand to the adopter in the relationship of a child born to the adopter.²⁶ For the purposes of the devolution of the property of the intestacy of the adopter, an adopted child shall be treated as a child born to the adopter²⁷. In *Duru v Duru*²⁸ in examining the rights of an adopted child to the estate of the adopting parent, the court held to the effect that the situation of application of adoption law by which a parent adopts and integrates a child adopted into his/ her family, the child is entitled to all rights, privileges and obligations in the estate of the adopter, including the right to inherit or share in inheritance of the adopting parent. Furthermore, the court recognised the right to non- discrimination in *Igbozuruike v Onuador*²⁹ where it was held thus:

The 1999 Constitution of the Federal Republic of Nigeria must have had the likes of the plaintiff/Appellant in contemplation, when it enacted in Section 42(1)(a) and (2) as follows: (1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex religion or political opinion shall not, by reason only that he is such a person- (a) Be subjected either expressly by or in the practical application of any law..... to disabilities or restriction to which citizens of Nigeria or other community's ethnic groups, places of origin, circumstances of birth, sex, religious or political opinions are not made subject, or (b)(2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

The above decision establishes the position and the status of the adopted child as a legal child of the adopters and is entitled to share in the estate of the parents. The female adopted child is not left out, having been covered by the decision in *Ukeje v Ukeje*³⁰ where the Supreme Court nullified the Igbo customary law which discriminates against and denies female children of rights to the estate of their parents.

2.1.5 Conviction and Punishment of Offenders against Child Adoption

The court has the powers to convict and punish any offender who contravenes the provisions the Act with respect to adoption. For example, persons who receive payment or reward for the facilitation of the adoption of a child under the Act, commits an offence and is liable upon conviction to fine or imprisonment or both³¹. The Act also prohibits the permission and procurement of a child to a person outside the State or Nigeria for the adoption without a licence as provided under the Act, and any person

²⁵CRA, s 141(2 & 3).

²⁶*Ibid*, s 141(1)(a& b).

²⁷ *Ibid*, s. 141(3)

²⁸ (2016) LPELR -40444(CA).

²⁹2015) LPELR -25530(CA).

³⁰ (2014) LPELR-42.

³¹ CRA, 2003, s, 143.



that contravenes this provision commits an offence and is liable upon conviction to a fine or imprisonment or both.³² To promote the protection of the rights of the child to dignity of human person and freedom from being sold, and trafficking, the court will convict and punish offenders envisaged here.

The court has a role to play to uphold these rights in the best interest of the child. In view of the proactive judgements of courts in recent times especially in property and inheritance cases as discussed earlier, it can be inferred that the court to a large extent is exercising this role in the best interest of the child especially in maintenance cases. The court should continue to be liberal and proactive to evolving family issues in order to ensure the enhancement of the implementation of the rights of the adopted child and other children in general. In furtherance to that, the court should ensure that the adopted child enjoys equal status as the natural child of the adopter by making decisions in the best interest of the child. To give weight to this, the Child Rights Act, requires that no payment or reward or consideration should be received or agreed to be received for the facilitation of the adoption of a child by any person and the contravention of which is an offence, and is liable on conviction to a fine not exceeding thirty thousand Naira or to imprisonment for a term not exceeding three years imprisonment.³³ The effect of this provision is to discredit the perception that the child is bought, and thus not treated as the biological child of the adopter. It is unfortunate that in practice, payments are made for the facilitation of the adoption processes in many cases of adoption. Cases of sale of children are on the increase, where stolen children are sold to married couples that are childless or by people who run motherless babies' home at a very high price. Most of these homes, harbour and care for young girls who get pregnant out of wedlock until they are delivered of their babies, and the babies will be taken away from them, and sold to childless couples or others seeking for a child. In most of these cases, formal adoption processes are not followed thereby exposing the adopters to criminal charges and separation from the children. Moreover, the children are left devastated. Proper public enlightenment of the relevant provisions of the law and implementation of the law can save the situation. The court while upholding the legal status of the adopted child in any adoption cases before it, to ensure non-discrimination of the child, promotes the protection of the rights of the child.

3. Child Fostering in Nigeria under the Child Rights Act, 2003

The Child Rights Act provides that a person may foster a child by making an application to the court within the jurisdiction in which the person and the child resides, and the court on receipt of the application for fostering will make an order authorising the application to foster the child.³⁴ By a foster order made by the court, all rights, duties, obligations and liabilities, including any arising under customary law applicable to the parents of the child, or any other person or persons in relation to the custody, maintenance and education of the child; and all rights to appoint a guardian and to the consent or give notice of consent or marriage, shall be suspended and there shall vest in and be exercisable and enforceable against the foster parents, all such rights, duties, obligations and liabilities in relation to custody, maintenance and education of the child as if the child were a child to the foster parent in lawful marriage. A child shall, in respect of his custody, maintenance and education, stand to the foster exactly in the position of a child born to the foster parent in lawful marriage.³⁵

³² Ibid, s. 144(1).

³³ Ibid, s 143(1).

³⁴ CRA, ss 100&102.

³⁵ Ibid, s. 110.



3.1 The Role of Court in promoting the protection of the rights of a Fostered Child under the CRA

From the above provisions and other relevant provisions under the Act, the court has the following roles under the Act towards the protection of the rights of the fostered child:

3.1.1 Fostering Order

The court has the power and the duty to make a fostering order. The categories of children that can be fostered include: (a) a child who is abandoned by his parents; or (b) is an orphan and is deserted by his relatives, or voluntarily presented by his relatives for fostering, where no relatives of his can be found; or (c) has been abused, neglected or ill-treated by the person having care and custody of him; or (d) has a parent or guardian who does not or cannot exercise proper guidance over him; or (e) is found destitute; or (f) is found wandering, has no home or settled place of abode, is on the street or other public place, or has no visible means of subsistence; or (g) is voluntarily presented by his parents for fostering.³⁶

The court can refuse to grant a fostering order if it is not satisfied that: (a) every consent required under the Act by the party or parties applying, which has not been dispensed with, had been obtained and every person who has given his consent understands the nature and effect of the fostering order for which the application is made; (b) the order, if made, will be for the maintenance, care, education and general welfare and the best interest of the child; and (c) the applicant has not received or agreed to receive and no person has made or given or agreed to make or give to the applicant, any payment or other reward in consideration of the fostering. This role is very important, for if a child is fostered by a person or persons who do not meet the requirements of the provisions of the Act, the child will be exposed to a lot of human rights violations ranging from inhuman and degrading treatment, discrimination, sexual abuse and molestation, torture, no education, etc and these will hinder the growth and development of the fostered child. The court will to a great length protect and promote the rights of the child, by refusing to grant an application for fostering when the requirements are not made, and in the best interest of the child.

3.1.3 Pronounce of Status and Order for Maintenance of the Child

The court can also like in the case of adoption uphold the rights of the foster child, the court may, in fostering order, impose such terms and conditions as it may think fit and in particular, may require the foster parent by bond or otherwise to make for the child such provisions as in the opinion of the court is just and expedient.³⁷ Upon making a fostering order, (a) all rights, duties, obligations and liabilities, including any arising under customary law applicable to the parents of the child, or any other person or persons in relation to the custody, maintenance and education of the child, and all rights to appoint a guardian and to consent or give notice of consent or marriage, shall be suspended ; and (b) they shall vest in and exercisable by and enforceable against the foster parents, all such rights, duties, obligations and liabilities in relation to custody, maintenance and education of the child as if the child were a child born to the foster parent in lawful marriage. A child shall, in respect of his custody, maintenance, education; stand to the foster parents exactly in the position of a child born to the foster parent in lawful marriage. Where a husband and wife are joint foster parents, they shall, in respect of the custody, maintenance and education of the child, and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of a right of access to the child, stand to each other and to the child in the same relationship as they would stood if the child were a child born to them in lawful marriage³⁸. The foster parents upon the pronouncement of the status of the child to the foster parents, must obey the orders of the court and ensure they carry out their duties towards the child, failure of which amounts to a revocation or other necessary actions.

³⁶ *Ibid*, s 101.

³⁷ *Ibid*, s 106(1) and (2).

³⁸ CRA, s 101 (2)& (3).



3.1.3 Revocation of Fostering Order

The court can also revoke a fostering order in the interest of the child, where it is proved to the court that the foster parent has abandoned, neglected or persistently, ill-treated a fostered child. Thus on the revocation of a fostering order, the court shall cause the fact of the revocation to be communicated to the Chief Registrar and the appropriate child development service who shall cancel or cause to be cancelled the entering in the Fostered Children Register relating to the fostered child.³⁹ In exercising this role, the court will be restoring the protection of the rights of the fostered child who was not properly fostered in accordance to the law, thereby promoting the rights of these vulnerable child victims.

3.1.4 Conviction and Punishing of Offenders under the provisions of the Act in the best interest of the Child

The court has the role to convict and punish offenders of the provision of the Act, against the fostered child. Some of the instances envisaged here include section 118(1) where the Act prohibits a foster parent from marrying any child fostered by him under the Act, this amounts to a crime and is punishable upon conviction to imprisonment for a term not exceeding fourteen years⁴⁰. Again under section 115, a person who receives or agrees to receive money or a reward as an inducement to foster a child; or receives or agrees to receive money or a reward to facilitate arrangements to foster a child; or gives or agrees to give money or reward to secure consent of a person to foster a child, commits an offence under the Act and is liable on conviction to a fine not exceeding thirty thousand Naira or imprisonment for a term not exceeding three years or to both such fine and imprisonment. Under section 116(1) a foster parent that intends to take a fostered child outside the state or Nigeria, should give notice to the court of his intention to do so and shall on return to the State or Nigeria, notify the court of their return. Thus, if a person permits or causes or procures the possession of a child to be given to any person outside the State in which the fostering order was made or outside Nigeria, with intent to getting that child fostered by that person commits an offence and is liable on conviction to imprisonment for a term of ten years and a term of fifteen years imprisonment.

4. Challenges to the exercise of these roles by the Court

The court can perform its roles only and when adoption matters are brought before the court in accordance with the provision of the law. Furthermore, in the cases of contravention to the provisions of the law with respect to the wellbeing and development of the child, when the offenders are arraigned before the court, and when infringements of the rights of adopted and fostered children are before the court. In view of these, challenges affecting the exercise of these roles include:

1. Illegal Adoption and Irregularities in Adoption Processes: Child adoption has become a lucrative business for both officers responsible for adoption processing, as well as many individuals indulging in illegal adoption and sale of children. Adoption processes are marred with irregularities, making adopters and adopted children go through a lot of difficulties, especially in cases where the adopters are travelling with the adopted children to their destinations outside Nigeria. These issues put the adoptive parents and the adopted children in a dilemma, confusion and untold devastation. These adopted children are therefore separated from their parents who live outside the country as a result of irregularities found in the adoption processes and documents. To buttress this concern, the US Department of State in June, 2023 in its notices and news titled "Ongoing concerns related to intercountry adoptions from Nigeria", made recommendations to prospective parents to reconsider plans to adopt in Nigeria, stating that notices has been issued in 2014 and 2016 respectively to concerns about practices that may place adopted children and their families at risk and result in difficulty

³⁹*Ibid*, s 112(10).

⁴⁰ CRA, S. 118.



immigrating an adopted child to the United States. They pointed out the following reasons: evidence of systematic fraud in adoption process throughout the country, marked by poor record keeping and unreliable or non-existent documentation of the child's background, birth parents consent and other documents material to the adoption and immigration process, and based on these, many adoptees have been found ineligible for an immigrant visa following the denial of the underlying orphan petition, because the child did not meet the definition of orphan under immigration law. The US further stated that in cases where the immigration petition is denied, even if the adoption is legally completed in Nigeria, the consular office in Nigeria will not be able to issue the child a visa to immigrate to the United States⁴¹. This is very worrisome, especially when the adopters made efforts to follow the legal procedures in their application processes. This issue is a serious clog to the role of the court to protect the rights of these children, whose adoption orders have been made, yet they face these challenges.

On the other hand, illegal adoption and sale of children is another concern. According to the U.S. Department news mentioned earlier, organised illegal adoption through imprisonment of pregnant women, coercion and bribery and child buying happen in Nigeria too. ⁴²In June, 2024, it was reported that the National Agency for the Prohibition of Trafficking in Person (NAPTIP) arraigned Clara Chinwe Deborah Ogo, an 83 year old woman and owner of an orphanage at the court in Awka Nigeria, in connection with buying and selling of a five months baby girl, an offence under the Trafficking in Person's (Prohibition) Enforcement and Administrative Act, 2015⁴³.

In all these, the children are put at risk. In some of the cases of illegal adoption, the children become victims of child labour, child trafficking, or used for criminal activities. The court has a special role of giving the maximum penalty or adequate punishment to all illegal groups or individuals involved in any form of illegal adoption, and kidnapping for the purposes of adoption to deter prospective offenders and protect children.

2. Illiteracy and Poverty- In a society like ours with many illiterate and poor people, cases of fraudulent people taking advantage of illiterate or uninformed people by defrauding them. Orphanage homes and hospitals engaging in selling and buying of children. They request large sums of money as payment for the purported adoption despite the provision of the child's Rights Act prohibiting that. Many adopters and adopted children are victim of these people, and the role of the court in giving deserving punishment to these people when arrested and arraigned before the court will go a long way to promote the protection of the child and deter prospective offenders.

3. Culture and Societal Perception

The cultural and societal perception surrounding adopted children has made adoption to be done in secret, thereby making adoptive parents seek illegal adoption to keep the adoption a secret. More enlightenment campaign is still needed to change this perception to enable people feel free to do adoption openly, thereby reducing secrecy and the dire consequences that comes with it. The court has a role to continue to rule against any form of discrimination or denial of rights meted to the adopted child due to culture or societal perception of adopted children.

6. Conclusion and Recommendations

Though, child adoption is a permanent arrangement while fostering is a temporary arrangement for a child's care and upbringing, they both affect the child. The role of the court in promoting the rights

⁴¹ Travel. State.Gov, U.S Department of State- Bureau of Consular Affairs, '>Travel.state.Gov> Intercountry Adoption News and Notices> Ongoing Concerns Related to Intercountry Adoptions from Nigeria'. June, 30, 2023. <https://travel.state.gov>. accessed on 30th of March, 2025.

⁴² Ibid.

⁴³ V. Adekoye, Buying and Selling of a Child, 2nd June, 2014, <https://naptip.gov.ng>. accessed 30th March, 2025.



of both the adopted and fostered child is very important. In the exercise of these roles, the court is expected to consider the best interest of the child, which is basically the protection of the rights of the child. The roles of the court in protecting the rights of the adopted child and the fostered child has been discussed in this work and the challenges to its actualisation also highlighted. Accordingly, it is recommended that the court satisfies itself of all the requirements provided under the law for adoption and fostering before an adoption order will be made. The court should be minded to give the maximum punishment to offenders under the various laws in relation to child adoption and fostering, as well as to illegal adoption perpetrators to deter prospective offenders. There is need for an efficient and effective processing of adoption and fostering matters by appropriate personnels to check issues of irregularities in adoption processing. Increased public enlightenment on adoption laws and procedures; access to justice; and reportage of incidences of illegal adoption and fostering to appropriate authorities, by all stakeholders in the campaign for child rights protection is imperative. Provision of Legal Aid to indigent victims of illegal adoption to give the court opportunity to exercise its roles in this regard. Investigation and prosecution of offenders by law enforcement agents will save adopted and fostered children and their adoptive parents from harm. Adequate protection and development of the child is very key to development of a society; therefore, all hands must be on deck towards this very course.