

International Adoption in Nigeria: Navigating Compliance, Controversies, and Cross-Border Challenges

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Understanding International Adoption

Adoption is a process where individuals legally become the parents of a child who is not their biological child. This process, recognized and sanctioned by law, places a child's parental rights and responsibilities squarely in the hands of the adopters. International adoption, also known as intercountry adoption, offers a crucial pathway for orphaned and vulnerable children to join loving families in a new country.¹ Typically, this involves prospective parents adopting children in need of adoption from another nation and fulfilling the necessary adoption criteria of both the child's home country and the adoptive parents' country.

The decision to pursue international adoption often arises from a variety of motivations, such as the desire to adopt children from particular regions, the socio-economic and political situations in the child's home country or the desire among some couples to expand their families when local adoption options are limited.² Advances in communication and travel technology have simplified the process of exploring international adoption, allowing for easier coordination with agencies and the efficient completion of the adoption process.

Those looking to adopt children from Nigeria might encounter hurdles, including an underdeveloped legal framework, inconsistent procedures, and ethical dilemmas. This article aims to highlight these issues while providing practical advice for successfully navigating the international adoption process, ensuring full legal compliance.

Understanding the Legal Framework for Adoption in Nigeria

In Nigeria, the process of adopting a child is primarily regulated by the Child Rights Act of 2003 ("the Act"), which sets the standard for child adoption procedures across the nation. While the Act provides a national framework, it is important to recognize that the specifics of adoption may be influenced by the laws of the state where the adoptive parents or the child resides. Furthermore, applicants must meet the requirements set by adoption agencies,

¹ "What to Know About International Adoption" by Mahammad Juber. Available at <https://www.webmd.com/parenting/what-to-know-international-adoption>. Date Accessed: 20th March, 2024

² See <https://onlinelibrary.wiley.com/doi/full/10.1002/ajs4.49> Date Accessed: 20th March, 2024

orphanages, foundations, and governmental bodies, such as the Lagos State Ministry of Youth and Social Development.

Eligibility for Adoption³

1. **Married Couples:** A married couple can apply for an adoption order if both partners have reached the age of 25. They must also obtain joint authorization to adopt a child.
2. **Married Individuals:** A married person may apply for adoption with the consent of their spouse.
3. **Single Individuals:** Single applicants are eligible to adopt if they are at least 35 years old. The child to be adopted must be of the same sex as the applicant.
4. **Applicants must demonstrate integrity, financial capability to care for a child, and suitability for adoption as determined by the appropriate investigating officers.**

The Adoption Process

1. **Application:** The adoption process commences with an application to the court, submitted in the prescribed form along with the necessary supporting documents.
2. **Investigation:** The court then orders an investigation by a child development or supervision officer to assess the suitability of both the applicant and the child for adoption.
3. **Court Decision:** Considering the investigation's findings, the welfare and best interests of the child, and the child's wishes and feelings (considering their age and understanding),⁴ the court decides on the adoption application.

Challenges and Controversies in International Adoption under Nigerian Law

- **Limited Legal Framework for International Adoption:** Nigeria not being a signatory/party to the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption⁵ creates a gap in the legal framework

³ Section 129 of the Child Rights Act 2003; Section 121 of the Child Rights Law of Lagos

⁴ Section 126 of the Child Rights Act

⁵ Available at <https://www.hcch.net/en/instruments/conventions/full-text/?cid=69>. Date Accessed: 27th March 2024. The 1993 Hague Adoption Convention is an international treaty that aims to establish safeguards and regulations for intercountry adoptions. It was developed in response to concerns about unethical practices, child trafficking, and the need for consistent standards in intercountry adoption procedures. The Convention sets out principles and procedures to ensure that intercountry adoptions are



for international adoptions. This lack of specific legislation for international adoption leaves many relying on domestic laws that do not address or permit adoptions by foreigners or non-residents of Nigeria. Notably, the domestic laws emphasize that adoption orders will only be considered if the applicant is a Nigerian citizen and has had the child in their care for at least three months, creating a significant barrier to international adoption.⁶

- **Procedural and Legal Inconsistencies:** Procedural inconsistency adds to the confusion, with jurisdiction conflicts and varying practices across states. Despite legal restrictions on international adoptions, some entities, such as the Lagos State Ministry of Youth and Social Development, have been known to grant adoption orders to overseas applicants. These inconsistencies not only confuse prospective adoptive parents but also challenge the uniformity of adoption practices across Nigeria.
- **Concerns of Child Trafficking and Exploitation:** The shadow of child trafficking looms large over the international adoption process, raising ethical questions and prompting stringent regulatory responses. Efforts to combat trafficking, led by agencies such as the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), have intensified legal scrutiny and procedural requirements, potentially elongating the adoption process, increasing costs, and adding layers of complexity for prospective adoptive parents.
- **Immigration and Visa Hurdles:** The intricacies of securing visas for adopted children or gaining parental recognition in the adoptive parents' home country add another layer of difficulty. The requirement for detailed adoption documentation and compliance with specific visa application procedures can introduce delays and uncertainties, complicating the post-adoption transition for both the child and the adoptive parents.
- **Cultural, Financial, and Logistical Considerations:** International adoption also navigates the waters of cultural adaptation, financial burden, and logistic planning. Adoptive parents must consider the impact of cultural differences on the child's adjustment to a

carried out in the best interests of the child, with respect for their fundamental rights. Countries that are parties to the treaty agree to establish central authorities responsible for overseeing adoptions, implementing safeguards, and facilitating cooperation between countries involved in the adoption process.

⁶ Cross Border Adoption in Nigeria by Jennifer Aburime, available at <https://www.thisdaylive.com/index.php/2020/12/01/cross-border-adoption-in-nigeria> (Accessed on 24th March, 2024).



new environment, manage the financial aspects of adoption and relocation, and navigate the challenges associated with bringing a child to their new home country.

While specific, recent data on international adoptions from Nigeria is limited, sources show that in 2016, Nigeria saw a total of 121 children adopted internationally. This number reflects the challenges and the relatively low volume of international adoptions involving Nigerian children, likely due to the complex legal and procedural hurdles highlighted above.⁷

Generally, international adoption in Nigeria, when permitted, presents numerous procedural challenges. For example, one significant issue arises from ensuring compliance with both the laws of the child's country and those of the adoptive parent's country. Nigerian courts or social welfare agencies must be thoroughly convinced that prospective parents possess the moral, legal, and financial capacity to facilitate the child's transition to a new life in another country. Furthermore, adherence to the specific requirements set forth by embassies is imperative.⁸

Comparative Analysis with International Adoption Processes

The international adoption process varies significantly from one country to another, with countries like the United States and India offering more streamlined procedures under the umbrella of the Hague Convention.

This Convention provides a comprehensive framework that safeguards the interests of all parties involved in an adoption—children, birth parents, and adoptive parents alike. The United States of America (USA) and India serve as examples of this streamlined process. The USA, through its compliance with the Hague Convention, ensures a standardized and secure procedure for international adoptions. India, similarly, manages its adoptions through the Central Adoption Resource Authority (CARA), which oversees both domestic and international adoptions in line with the Convention's guidelines.

In contrast, Nigeria's approach to international adoption is more fragmented and complex, highlighting the need for Nigeria to consider international treaties or agreements to enhance its adoption processes.

⁷ Nigerian Adoption Fast Facts, available at <https://www.adoptivefamilies.com/how-to-adopt/nigeria-adoption-fast-facts/> (Accessed on 28th March 2024).

⁸ U.S. Department of State – Bureau of Consular Affairs – Intercountry Adoption, available at <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Intercountry-Adoption-Country-Information/Nigeria.html> (Accessed on 10th April, 2024).



Navigating International Adoption Challenges in Nigeria: Strategic Insights

International adoption in Nigeria, given its legal and procedural complexities, requires a well-considered approach from prospective adoptive parents. Here are strategies to effectively navigate these waters, ensuring a smoother adoption journey while adhering to Nigerian law.

- **Following Established Procedures:** Prospective adoptive parents must follow the established adoption procedures, fulfilling all residency or citizenship prerequisites, submitting necessary forms and documents, and providing comprehensive background information as requested.
- **Preparing for Visa Application:** Obtaining visas for adopted children is an essential step in international adoption. Prospective adoptive parents should be proactive in preparing and organizing the required documents to streamline the visa application process.
- **Cultural Integration Efforts:** To foster a sense of identity and belonging in the adopted child, adoptive families are encouraged to learn about the cultural background of the child.
- **Seeking Legal Guidance:** Given the legal intricacies within Nigerian adoption laws, seeking the advice of a legal expert specialized in child adoption is essential.

Adoption Challenges with Expert Legal Support

At SimmonsCooper Partners, we recognize the complexities and challenges that mark the journey of international adoption in Nigeria. The current legal framework, while intended to protect, often presents obstacles due to its lack of uniformity and alignment with international standards like the Hague Convention. The necessity for clearer legislation and harmonized practices across the country is evident, aiming to protect all parties involved in the adoption process from potential abuses and exploitation.

As legal reforms continue to evolve, the importance of expert legal guidance cannot be overstated. SimmonsCooper Partners offers comprehensive advice and assistance tailored to navigate the complexities of the child adoption process in Nigeria. For individuals seeking legal advice or further information on navigating the intricacies of international adoption in Nigeria, please do not hesitate to reach out to: Funmilola Mesaiyete at lola.mesaiyete@scp-law.com or Adegoke Adedoyin at adegoke.adedoyin@scp-law.com or Oluwaseyi Adebayo at oluwaseyi.adebayo@scp-law.com.