THE PRESIDENT'S NEWSLETTER
VOL. 5 NO. 4, OCT.-DEC, 2026

Child Adoption & Guardianship in Nigeria: Statutory Mandate and Procedures



FEAUTRUED ARTICLE
CHILD ADOPTION AND GUARDIANSHIP IN NIGERIA: STATUTORY MANDATE AND PROCEDURES
Page 4

PRESS RELEASE
COURT VOIDS MOVEMENT RESTRICTIONS DURING SANITATION EXERCISE
Page 25

HEALTH
WATERMELON WONDERS: EXPLORING THE HEALTH BENEFITS OF NATURE'S HYDRATOR
Page 28

A PUBLICATION BY RURAL DEVELOPMENT INFORMATION AND LEGAL ADVOCACY (RUDILAC)

Table of Contents

FEATURED ARTICLE · CHILD ADOPTION & GUARDIANSHIP IN NIGERIA

Statutory Mandate and Procedures	4
Guardianship: Responsibility Without Severance	6
Adoption and the Court	8
Eligibility for Adopters and Guardians	9
Case Law: Waived Requirements	10
Documents Required for Guardianship	11
Family Identity: Who the Child Becomes	16
Who May Adopt	20
The Shadow System: Customary Law, Informal Adoption, and Trafficking Risk	22
Informal Channels and Trafficking	23
Press Release: Court Voids Movement Restrictions During Sanitation Exercise	25
Law Nugget: Osakue & 8 Ors. v. EDOSACA	27
Watermelon Wonders: Exploring the Health Benefits of Nature's Hydrator	28
Our Gallery	30
Endnotes	31
Have You Had Any Experiences with FOI Counsel? Please Share	32

Copyright © 2026 FOI Counsel

All rights reserved. No part of this publication may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other noncommercial uses permitted by copyright law. For permission requests, write to the publisher via email to: info@foicounsel.com

Editor-in-Chief
President Aigbokhan

Deputy Editors
King Aigbokhan
Robinson Otuakhena Esq.
Happiness Aigbokhan
Oritsegbemi Solomon Esq.

Assistant Editors
Emmanuel Ozonuwe Esq.
Daniel Chisom Idimogu
Eyekomogba Victory
Omonuwa Ihensekhien
Lawson.O Sorhue
Marvellous Anthony
Goodnews Orode

Publication Design & Layout
Omotola David Ajayi

Publication Consultant
Kelvin Odumero

Vol. 5 No. 4, 2026

From the Editor's Desk

This edition takes on a question many families face quietly: what is the difference between adoption and guardianship, and why does it matter? Adoption gives a child a new legal family, with a new surname, a place in the Adopted Children Register, and full inheritance rights from the adopter. Guardianship protects a child while preserving the birth parents' legal status and the possibility of return. Both are legitimate and both serve real needs, but they are not interchangeable. Caregivers who want the permanence of adoption but only secure the status of guardianship, or who rely on informal arrangements, can leave a child without a name, an inheritance, or the protection of the law.

We also examine the distance between the statute and daily practice. Requirements are waived, post-adoption supervision is thin, and social welfare departments are stretched beyond their capacity. These gaps are not harmless. The trafficking syndicate uncovered by NAPTIP last October, with over 300 children trafficked and 274 still missing at the time of the arrests, is a sobering reminder that where oversight is weak, children pay the price. Our hope is that this article helps families, practitioners and officials see why the safeguards exist and why they must be enforced.

Closer to home, our press release reports the Edo State High Court's ruling in Curtis Ogbebor & ORS v. AG Edo State, which declared the restriction of movement during sanitation exercises unlawful. Public health is a legitimate concern, but rights are not suspended for convenience. Our Law Nugget on the Supreme Court's decision in Osakue & 8 Ors. v. EDOSACA shows once again how the Constitution resolves conflicts between federal and state law. We close with a lighter page on the health benefits of watermelon and a gallery of the work behind the headlines.

Whether you are a lawyer, a caregiver, or a concerned citizen, I hope this edition leaves you better informed and better equipped to protect the vulnerable

President Aigbokhan LLB, BL, LLM, FCAI
Editor-in-Chief

Vol. 5 No. 4, 2026

Child Adoption & Guardianship in Nigeria

Statutory Mandate and Procedures



Under Nigerian law, adoption is entirely a creature of statute. Nigeria's common law did not recognize adoption; it deemed the parent-child relationship inalienable.[1] This statutory foundation means that no adoption in Nigeria is valid unless it complies precisely with the legislative scheme governing it.

The principal federal legislation is the Child Rights Act 2003 (CRA), a federal law applicable nationwide. As of this writing, twenty-five of Nigeria's thirty-six states have adopted the law. The remaining eleven states, all in northern Nigeria, have not, leaving a significant geographic and jurisdictional gap that this article examines later.[2] In states that have adopted the law.

No analysis of Nigeria's adoption and guardianship framework can ignore the federal dimension. The Child Rights Act 2003 is federal legislation, but under Nigeria's constitutional structure, child rights fall under the residual list. Because the federal Child Rights Act is unconstitutional, it is inapplicable until states domesticate it, and as of today, eleven states, all in northern Nigeria, have not adopted the law. But the federalism problem is not simply a north-south divide. Even in southern states that have domesticated the CRA, older state-level legislation may continue to operate alongside the newer framework, creating internal conflicts. The Delta State Children and Young Persons Law illustrates this. It



defines a *"child"* as under fourteen and a *"young person"* as fourteen to seventeen, whereas the CRA (as domesticated in Delta State) defines a child as any person below eighteen. It establishes juvenile courts with a different composition and procedure from the Family Court envisioned by the CRA.

It empowers the Commissioner for Social Development and probation officers rather than child development officers.[4] And it provides for *"corrective orders"* committing children to approved institutions or fit persons—a mechanism that overlaps with, but is not identical to, the CRA's fostering and guardianship provisions.[5]

Section 125 of the CRA requires every state government to establish and maintain adoption services designed to meet the needs of children who have been or may be adopted, their parents and guardians, and prospective adopters. These services must include temporary board and lodging where needed, arrangements for assessing children and prospective adopters, counseling for persons with problems relating to adoption, and the placement of children for adoption. An application for adoption is made to the Family Court, established under Part XIII of the CRA. The court operates at two levels: as a division of the High Court (the High Court level) and as a Magistrate's Court (the Magisterial level). The High Court level deals with more serious matters and hears appeals from the Magisterial level.

Adoption and guardianship are complementary, each serving different needs.

Guardianship:
Responsibility Without Severance

Under Part VIII of the CRA (Sections 80–92), a guardian is appointed to assume responsibility for the care, custody, education, and property of a child, typically until the child reaches majority. Guardianship may be appointed by will, by court order (especially where parents are deceased or unfit), or occasionally by the child under customary or Islamic law where the child has attained maturity.[6]

The guardian's powers are more circumscribed than those of an adoptive parent. The biological parents retain their legal status; guardianship is often temporary or limited in scope. A child under guardianship retains the name of the birth parents. The biological parent may visit the child without restriction. Guardianship is thus the preferred arrangement where the objective is to provide care and material support without permanently displacing the child's existing legal and familial identity. Section 92 preserves the court's jurisdiction to appoint guardians by saving existing orders and recognizing the continuing jurisdiction of courts under High Court Laws until the Family Court is fully established in all jurisdictions.

Under Delta law, a guardian is anyone who has *"the charge of or control over"* a child.

How much of the parent's status is kept?

Four arrangements, from most to least parental status retained.



Vol. 5 No. 4, 2026

Key terms

Guardian: a person appointed to take responsibility for a child's care, custody, education, and property.

Fostering: placement with foster parents while natural parents' rights are suspended.

Wardship: a child placed under the court's protective supervision. Fit person: a relative or other willing person entrusted with a child under Delta law.

Fit person: a relative or other willing person entrusted with a child under Delta law.

The Delta State Children and Young Persons Law adopts a markedly different conception of guardianship. Under that law, *"guardian"* is defined expansively to include *"any person who, in the opinion of the Court having cognizance of any case in relation to a child or young person ... has for the time being the charge of or control over the child or young person."*[7]

This functional definition—focusing on actual charge and control rather than formal legal status- reflects an older protective paradigm in which the state intervenes where a child lacks proper supervision, rather than a modern family-law paradigm in which guardianship is a carefully allocated legal status. The Delta law's approach fits its broader framework: Section 33 empowers the juvenile court to commit a child found destitute, neglected, or without proper guardianship to *"the care of any fit person, whether a relative or not, who is willing to undertake the care of him."*

This *"fit person"* mechanism is not adoption (it does not sever parental rights) and not quite guardianship in the CRA sense (it is triggered by state intervention rather than private application), but it occupies a similar space in the child protection continuum.

The CRA also provides for fostering (Part XI, Sections 100–124) and wardship (Part X, Sections 93–99). Fostering suspends but does not extinguish the rights of natural parents and places the child with foster parents who assume day-to-day care. Wardship makes a child a ward of court, bringing the child under the court's protective supervision. These institutions sit adjacent to adoption and guardianship, and courts sometimes use them as stepping stones or alternatives. Indeed, Section 131(2) requires a court to dismiss a step-parent's adoption application if it considers the matter better dealt with under the guardianship provisions.

Vol. 5 No. 4, 2026

Adoption and the Court

The Family Court occupies the center of the statutory architecture. It has exclusive jurisdiction under Section 162 over matters relating to children as specified in the CRA. conducted in camera; the press is excluded; and publishing a child's name, address, school, or photograph is prohibited on pain of criminal penalty.

In adoption proceedings, the court's role is multifaceted. It must order an investigation by a child development officer, supervision officer, and such other persons as it determines, having regard to all circumstances, with first consideration given to safeguarding and promoting the child's welfare and best interests throughout childhood. The court may also impose terms and conditions, require the adopter to give bond, make interim orders postponing determination for up to two years, and dispense with consent where the person required to consent cannot be found, is incapable of giving consent, or is unreasonably withholding it.

The court must also be satisfied that every required consent has been obtained or lawfully dispensed with, that the persons giving consent understand the nature and effect of the adoption order, that the order will serve the child's welfare and best interests, and that no prohibited payment has been made. The effect of an adoption order is that all rights, duties, obligations, and liabilities of the natural parents are extinguished, and there vest in the adopter all such rights, duties, and liabilities as if the child were born to the adopter in lawful wedlock. The adopted child stands in the same position as a natural child for purposes of intestate succession. The court is not merely a rubber stamp for social welfare recommendations; it is an independent arbiter with a statutory duty to protect the child's interests. Yet the breadth of its discretionary powers, particularly the power to waive requirements and dispense with consent, creates space for divergence between statutory text and judicial practice.[8]



Vol. 5 No. 4, 2026

The effect of an adoption order is that all rights, duties, obligations, and liabilities of the natural parents are extinguished, and there vest in the adopter all such rights, duties, and liabilities as if the child were born to the adopter in lawful wedlock.

Natural parents
Rights, duties, obligations and liabilities are extinguished

→

Adopter
Rights, duties and liabilities vest, as if the child were born in lawful wedlock

The adopted child stands in the same position as a natural child for purposes of intestate succession.

Eligibility for Adopters and Guardians

The law imposes demanding eligibility criteria on prospective adopters and guardians. They must demonstrate age, citizenship, residence, financial capacity, physical and mental fitness (certified by a government medical officer), and *"unquestionable integrity."*[9]

1. **Age**
2. **Citizenship**
3. **Residence**
4. **Financial capacity**
5. **Physical and mental fitness**
6. **Unquestionable integrity**

They must submit marriage certificates, birth certificates, passport photographs, medical certificates, and such other documents as the court requires. For guardianship, the court critically examines the applicant's personality and capacity to provide educational welfare, medical care, food, and shelter. The applicant's character is scrutinized to determine fitness for the responsibility.

ADOPTION PROVES
Permanent suitability

GUARDIANSHIP PROVES
Necessity, relationship and immediate capacity to act in the child's best interest

These requirements reflect a legislative intent to ensure that only suitable persons assume responsibility for vulnerable children. But they also create barriers that can prolong the process, discourage prospective parents, and in some cases drive applicants toward informal arrangements outside the statutory framework.[10]

Case Law: Waived Requirements

In Re X (A Child) [2026] EWHC 638 (Fam)

3 Months fostering waived **5 year residence via sister's Home** **Father never travelled**

In Re X (A Child) [2026] EWHC 638 (Fam), the English High Court examined an adoption from Imo State in which the three-month fostering period had been waived, the five-year residence requirement was satisfied only by the applicants' maintenance of a sister's home in the state, and the adoptive father had never traveled to Nigeria during the process. The Nigerian court had nonetheless found the requirements satisfied and made the order.

ELO v CLO [2017] EWHC 3574 (Fam)

Similarly, in ELO v CLO [2017] EWHC 3574 (Fam), the English High Court recognized a Nigerian adoption from Anambra State in which residence and care period requirements had been *"lawfully waived by the Nigerian court in the best interests of the child, consistent with the discretion granted under local law."*[11] The court found the involvement of senior Nigerian officials and a guardian ad litem persuasive and noted no suggestion of deception or procedural irregularity.

Viewed from abroad, these cases test Nigerian legal compliance and illuminate a domestic judicial culture in which the "best interest of the child" functions not merely as a paramount consideration but as a solvent capable of dissolving otherwise mandatory procedural requirements. Nigerian courts have broad discretion under the CRA and appear to exercise it liberally.[12]



Vol. 5 No. 4, 2026

Documents Required For Guardianship

Guardianship under Nigerian law is a fiduciary relationship, not a substitution of parentage. Under Part IX of the CRA, a guardian has parental responsibility for the child (s. 82),[13] but the child's legal relationship with the birth parents remains intact unless severed by adoption.[14] Consequently, the documentary focus shifts from proving permanent suitability to proving necessity, relationship, and immediate capacity to act in the child's best interest.[15]

WHAT THE APPLICANT MUST SHOW

WHY THIS CHILD?
Relationship
The applicant's connection to the child

WHY NOW?
Necessity
The need for guardianship at this time

WHY THIS APPLICANT?
Capacity
Immediate ability to act in the child's best interest

Unlike adoption, guardianship proceedings are governed by the Family Court procedural rules of the relevant state, which tend to be more prescriptive about documentary content. The Lagos State Family Court (Civil Procedure) Rules 2012[16] and the Oyo State Family Court Procedure Rules 2020[17] require that an originating motion for guardianship be supported by:

Guardianship documentation is, in many respects, more narrative than adoption documentation. While adoption petitions are heavily standardized, reflecting the state's interest in creating a new, legally indistinguishable parent-child relationship, guardianship applications require the applicant to tell a story: why this child, why now, and why this applicant.

> **...why this child, why now, and why this applicant.**





Why this matter: The Statement of Case and supporting affidavit are therefore not mere formalities; they are the evidentiary heart of the application.[18] Section 126(1) of the CRA prescribes the minimum evidentiary foundation that must accompany every adoption petition: [19]

A THE APPLICANT'S DOCUMENTS

Who you are, and that you can provide

01	**Marriage certificate or sworn declaration of marriage**	Marriage certificate or sworn declaration of marriage (for joint applicants). If the marriage was contracted under the Marriage Act, the marriage registry must issue a certified certificate. For customary or Islamic marriages, courts accept a sworn declaration of marriage, though they increasingly require corroborating evidence such as wedding photographs or affidavits from witnesses to the union.[20]
02	**Birth certificate or sworn declaration of age**	Birth certificate or sworn declaration of age of each applicant. This document serves the dual purpose of establishing identity and verifying the age-differential requirement: the adopter must be at least 25 years old and at least 21 years older than the child (CRA, s. 131(1)(a)).[21]
03	**Passport photographs**	Two recent passport photographs of each applicant.

04	**Medical certificate of fitness**	Medical certificate of fitness from a government hospital. The statute specifies *"government hospital,"* reflecting legislative skepticism toward private medical assessments whose provenance may be difficult to verify.
05	**Formal application letter**	Formal application letter addressed to the Director of Social Welfare or the Commissioner responsible for child welfare, expressing the intention to adopt.
06	**Police clearance certificate**	Police clearance certificate (or *"character certificate"*) confirming the absence of a criminal record, particularly for offences involving children, violence, or moral turpitude.[22]
07	**Evidence of means of livelihood**	Evidence of means of livelihood: bank statements (typically 6–12 months), employment letters, or Corporate Affairs Commission (CAC) documents for self-employed applicants. Some states require a sworn affidavit of financial capability.
08	**Proof of residency**	Proof of residency: utility bills, tenancy agreements, or affidavits of residence, used to satisfy the statutory requirement that the applicant has been resident in the state for at least five years
09	**Tax clearance certificate**	
10	**Letters of reference**	Letters of reference or character attestation, commonly from clergy, employers, or community leaders.
11	**Psychological or psychiatric evaluation**	Psychological or psychiatric evaluation report, required by some states as an additional safeguard, though not expressly mandated by the CRA.



B THE CHILD'S DOCUMENTS
The child's circumstances and why guardianship is needed

12	**Evidence of abandonment, orphanhood, or parental relinquishment**	Where the child was abandoned, a police report and a certification from the social welfare department confirming that the child's relatives are unknown or cannot be traced after due enquiry (see Adoption Law, s. 1(1), Lagos State[23]
13	**Written consent of the biological parents or guardian**	Where known. Under CRA section 132, this consent may be given without the parents knowing the adopter's identity.[24]
14	**Death certificate(s)**	Death certificate(s) of the child's parent(s), where applicable.[25]
15	**Medical report on the child's health status**	Medical report on the child's health status, typically prepared by a government hospital. applicable.[26]

C STATUTORY & PROCEDURAL DOCUMENTS
What the court and the ministry will look for

16	**Proof of pre-adoption fostering**	Section 131(1)(e) of the CRA requires that the child has been in the applicant's care for at least three consecutive months immediately before the adoption order.[27] The applicant must therefore file evidence, usually a fostering order or a social welfare placement report, demonstrating this probationary period[28]
17	**Evidence of statutory notice**	The applicant must show that at least 12 months before the adoption order, he or she informed the social welfare officer of the intention to adopt (CRA, s. 131(1)(j)).[29] This is typically proven by a certified acknowledgment letter from the Ministry.[30]

18	**Social welfare / home study report**	Although not explicitly listed in section 126, section 126 mandates a court-ordered investigation by a child development officer.[31] In practice, the report must be filed with the application; courts rarely grant adoption orders without it.[32]
19	**Petition in the prescribed form**	Filed at the High Court or Family Court.
20	**Undertaking to care for the child**	Sometimes required by the court as a condition precedent.[33]
21	**For non-citizens**	Proof of Nigerian citizenship of at least one applicant is required (CRA, s. 131(1)(d)).[34] Where one applicant is not a citizen, additional documentation, including proof of legal residency and, in some states.



THE TAKEAWAY

The divergence between the CRA's concise list and the extensive administrative checklist illustrates a tension in Nigerian adoption law: the federal statute sets the framework, but state-level welfare departments operationalize it through documentary gatekeeping. Prospective adopters should treat the ministry's checklist as binding, even where it exceeds the statutory minimum, because the court typically will not hear an adoption petition unless the applicant has first secured a favorable report from the child welfare department.

Family Identity:
Who the Child Becomes

Adoption does something guardianship cannot do: it rewrites the child's legal identity. The adopted child takes the adopter's surname.[35] The birth register is marked *"Adopted,"* and a new entry is created in the Adopted Children Register.[36] For purposes of intestate succession, the child is *"treated as a child born to the adopter"* [37] a principle the Court of Appeal affirmed in Anthony Aduba & 2 Ors. v. Titus Aduba (2018), where it held that an adopted child inherits from the adoptive parent alongside biological children.[38]

> **....It is existential. The law is saying: this child belongs to this family, permanently and completely.**



This identity transformation is not merely administrative. It is existential. The law is saying: this child belongs to this family, permanently and completely. The prohibition on marriage between the adopted child and the adopter's natural children (Section 147, Child's Rights Act) reinforces this by treating the relationship as one of full consanguinity.[39]

Vol. 5 No. 4, 2026

Guardianship offers no such transformation. The child retains the biological parent's surname, remains unchanged in the birth register, and inherits from the biological family. The guardian is a caretaker, not a creator of family identity. As the distinguished family law scholar E.I. Nwogugu observed, "cases of alleged adoption sometimes turn out, on closer examination, to be in fact guardianship arrangements," a confusion that arises precisely because caregivers often desire the emotional permanence of adoption while only obtaining the legal temporary status of guardianship.[40]

> **"cases of alleged adoption sometimes turn out, on closer examination, to be in fact guardianship arrangements,"**
>
> E.I. Nwogugu

At a Glance · Adoption or Guardianship

	ADOPTION	GUARDIANSHIP
SURNAME	Takes the adopter's surname	Retains the biological parent's surname
BIRTH REGISTER	Marked "Adopted"; new entry in the Adopted Children Register	Remains unchanged
INHERITANCE	Treated as a child born to the adopter	Inherits from the biological family
ROLE	Creator of family identity	Caretaker

For a child who has been abandoned, orphaned, or permanently removed from abusive parents, the best interest may require a new family completely, irrevocably, and without lingering ties to a past that offers only harm or absence. Adoption meets this need by creating an unbreakable bond. The child is not merely placed; they are claimed.

For a child whose parent is temporarily incapacitated, perhaps hospitalized, imprisoned, or seeking rehabilitation, the best interest may require continuity with the biological family while ensuring immediate care. Guardianship meets this need by preserving the parent's rights and the child's original identity, while providing a stable interim caregiver. The child is not transferred; they remain in the parent's care.

The Matrimonial Causes Act 1970 (Section 71) reinforces this distinction in the context of divorce, empowering courts to make custody and access orders that preserve the child's relationship with both parents.[41] Guardianship operates in a similar spirit: it supplements, rather than supplants, the biological family.

When Adoption or Guardianship is Appropriate

Understanding the distinction is not merely academic; it has profound practical consequences for lawyers, social workers, and families.

Adoption is the appropriate mechanism when: - The child is orphaned, abandoned, or permanently removed from parents who cannot be traced or rehabilitated. The caregiver seeks full legal parentage, and the child requires permanent belonging; - Inheritance, name, and family identity need to be aligned with the caregiving family; - The biological parents have consented (or their consent has been validly dispensed with) to a permanent severance of rights.



Guardianship is the appropriate mechanism when: The biological parent is temporarily unable to care for the child but retains a meaningful relationship; - The caregiver is a relative or family friend who does not seek to replace the parent but to supplement their care; - The child's inheritance ties to the biological family need to be preserved; - There is a realistic prospect of reunification, and the law should not foreclose that possibility.

This customary adoption practice creates a dangerous legal limbo. Such a child has no inheritance rights in the adoptive family (because no statutory adoption order exists),[42] yet may have lost practical ties to the biological family. The statutory frameworks exist precisely to prevent this: they force a clear choice. Either the relationship is formalized as adoption (with all its permanence), or it remains guardianship (with all its protections for the biological family).

Two Instruments, Two Questions

A

Adoption answers

"How do we give this child a new family when the old one is gone?"

G

Guardianship answers

"How do we protect this child while preserving the possibility of return?"

Adoption and guardianship are not competitors. They are complementary instruments in the legal toolkit for child protection, each designed for a different configuration of need. Adoption answers the question: *"How do we give this child a new family when the old one is gone?"* Guardianship answers: *"How do we protect this child while preserving the possibility of return?"* The law distinguishes between them not because it enjoys technical complexity, but because children need different things at different times. Some need to be claimed forever. Others need to be held in trust until their parents can claim them again. The wisdom of Nigerian law, from the Child's Rights Act to the state adoption laws, lies in recognizing that both needs are legitimate, both require legal structure, and neither can be met by pretending that one mechanism is the other.

Some need to be claimed forever. Others need to be held in trust until their parents can claim them again.

Vol. 5 No. 4, 2026

Who May Adopt

Adoption is for a married couple and a single person who has attained the age of thirty-five years, provided the child to be adopted is of the same sex as the adopter. Under Section 131, an adoption order shall not be made unless the applicant is at least twenty-five years old and at least twenty-one years older than the child, the applicant and the child are resident in the same state for at least five years, and the applicant is a Nigerian citizen. Other factors include that the child has been in the applicant's care for at least three consecutive months immediately preceding the order; and that, at least twelve months before the order, the applicant informed the social welfare officer of the intention to adopt.

Section 131 · Checklist for an Adoption Order

- **25** — **Age 25+** — At least twenty-five years old
- **21** — **21 years older** — At least twenty-one years older than the child
- **5** — **5 years** — Applicant and child resident in the same state
- **NG** — **Citizenship** — The applicant is a Nigerian citizen
- **3** — **3 years** — Child in the applicant's care, immediately preceding the order
- **12** — **12 years older** — Notice of intention given to the social welfare officer

Social welfare officers sometimes treat the twelve-month notice period as a technicality.

State social welfare departments frequently operate with limited capacity and resources.[43] Home studies may be perfunctory. Requiring applicants to be certified as physically and mentally fit by a government hospital can become a bureaucratic checkpoint rather than a genuine health assessment.[44] Social welfare officers sometimes treat the twelve-month notice period as a technicality.[45]

Vol. 5 No. 4, 2026

Time in Care vs Time Required



In January 2020, a Family Court in Owerri, Imo State, made an adoption order in favor of a married couple residing in the United Kingdom.[46] The child, an infant girl, had been in the applicants' care for only two weeks, far short of the three consecutive months the Child's Rights Act 2003 requires as a precondition for adoption.[47] The court waived the requirement. Although Nigerian citizens, the applicants had not lived in Imo State for the statutory minimum of five years; they had only arranged for the child to stay at the wife's sister's home.[48] The court found the residence requirement satisfied. A welfare officer investigated, observed the mother with the child on three occasions, and reported that her care was *"good enough."*[49] The adoption order was made. The child remained in Nigeria, cared for by relatives and nannies, while the adoptive parents returned to England.

The CRA requires periodic visits to adopted and fostered children until they attain the age of eighteen. In practice, post-adoption supervision is often minimal or non-existent.[50] Once the adoption order is made and the birth records updated, the child frequently disappears from the administrative radar.[51] The Adopted Children Register, maintained by the Chief Registrar, records the legal fact of adoption; it does not track the child's lived experience.[52] This post-order vacuum is particularly concerning given the growing phenomenon of intercountry and interstate adoptions in which children are placed with parents who reside far from the jurisdiction that granted the order.[53] The CRA's restriction on taking adopted children out of the state or Nigeria without notice (Section 144) is routinely breached, as the cases discussed above demonstrate.



The CRA requires periodic visits to adopted and fostered children until they attain the age of eighteen.

The Shadow System: Customary Law, Informal Adoption, and Trafficking Risk

The Shadow System: Customary Law, Informal Adoption, and Trafficking Risk Statutory adoption, for all its procedural rigor, captures only a fraction of the children in Nigeria who are raised by adults other than their biological parents. Customary law adoption, formal or informal, remains the dominant mode of non-parental child-rearing in many communities. Formal customary adoption involves a meeting of the child's and the adopter's families, a public declaration of intent, and the transfer of parental rights and duties, often sealed by ritual.[54] Informal customary adoption requires no ceremony; a child is simply received into a household, often a relative's, and treated as the adopter's own.

The effects of customary adoption differ fundamentally from statutory adoption. Under customary law, the adopted child typically takes the adopter's name and may inherit from the adopter's estate. But the severance of ties with the natural family is not as absolute as under statute. As the leading text on Nigerian family law notes, *"one major defect of customary law adoption is that, unlike its statutory counterpart, it does not seem to effect a clear and permanent severance of the parental rights and obligations between the infant and natural parents."* The child may retain succession rights in both families.[55]

The persistence of customary adoption creates a dual-track system. For families integrated into the statutory world- urban, literate, legally sophisticated- formal adoption offers clarity, security, and full legal parentage. For families in rural communities or those following traditional practices, customary adoption provides a culturally resonant alternative that avoids bureaucratic entanglement.[56] Yet this alternative leaves children legally vulnerable. Without a court order, the arrangement may be challenged, the child's status may be uncertain for inheritance purposes, and there is no state supervision to guard against abuse or neglect. This has a huge impact on migration applications. The law's failure to integrate customary practice into a regulated framework represents a significant protection gap.

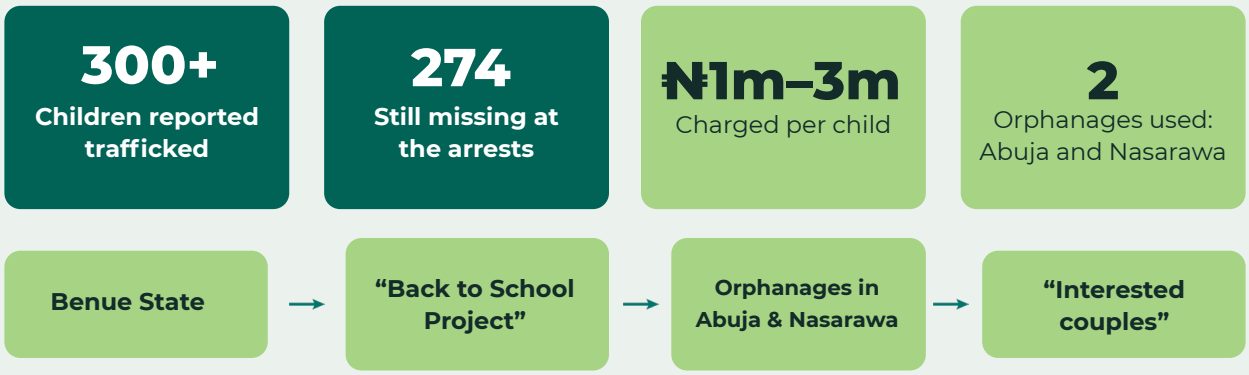


Alarming Consequence

Informal Channels and Trafficking

The most alarming consequence of the gap between statutory mandate and administrative reality is the exploitation of informal adoption channels for child trafficking. In October 2025, the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) uncovered a large-scale syndicate operating between Benue State and the Federal Capital Territory. The suspects, including a prominent orphanage owner and founder of a child rights NGO, allegedly recruited children from crisis-ridden communities under the guise of a "Back to School Project," trafficked them to orphanages in Abuja and Nasarawa, and sold them to "interested couples" for between ₦1 million and ₦3 million per child under the pretext of legal adoption.[57] The syndicate altered children's identities, issued falsified birth certificates, and exploited the very infrastructure of formal adoption, orphanages, consent forms, and official documentation to launder trafficking as legitimate child placement. NAPTIP reported that over 300 children had been trafficked, with 274 still missing at the time of the arrests. This case is not an isolated aberration. A 2023 joint report by UNICEF and NAPTIP estimated that thousands of Nigerian children are trafficked annually through fake orphanages, often in collaboration with corrupt officials who manipulate adoption documents.[58] The United Kingdom's Special Restrictions on Adoptions from Abroad (Nigeria) Order 2021 specifically identifies Nigeria as a jurisdiction where adoption processes are vulnerable to abuse.[59]

The Case in Figures



Section 38 of the Delta State Children and Young Persons Law criminalizes the informal custody transfers routine in many Nigerian communities, the gap between formal law and lived practice this article identifies. It explicitly acknowledges customary law as a legitimate basis for such transfers, provided the custom passes the*W* test. This law predates the NAPTIP trafficking framework by decades, suggesting that the problem of informal child dealing was recognized long before the current crisis. Yet there is little evidence that Section 38 has been actively enforced; it sits on the statute book as a dormant sentinel while the trafficking syndicates operate with impunity.

The trafficking syndicate exploited three weaknesses simultaneously: the genuine demand for adoption among childless couples; the porous boundary between formal and informal child placement; and the administrative incapacity of social welfare authorities to verify the provenance of children in orphanages or the bona fides of prospective adopters.[60] When courts waive requirements without robust investigative foundations, and when post-order supervision is nominal, the system becomes not merely inefficient but dangerous.[61] Provisions like Section 38 of the Delta State law show that some jurisdictions already have legislative tools to combat informal child dealing; what they lack is the political will and institutional capacity to deploy them effectively.

Beyond the formal distinction between adoption and guardianship lies the question of effective implementation. A legal framework can only protect children when its procedures are accessible, its institutions are adequately resourced, and its safeguards are consistently enforced. State social welfare departments must be equipped to conduct meaningful home studies, verify the circumstances surrounding a child's placement, and provide adequate supervision after an order is made. Equally important is public awareness. Families who take in children through customary or informal arrangements may act out of genuine concern, yet remain unaware of the legal consequences of their decisions. Making reliable legal information available to prospective adopters, guardians, and caregivers would help prevent avoidable disputes over parental responsibility, inheritance, and the child's identity.

Vol. 5 No. 4, 2026

Press Release

COURT VOIDS MOVEMENT RESTRICTIONS DURING SANITATION EXERCISE IN EDO BENIN CITY, NIGERIA



The Edo State High Court has declared unlawful the restriction of human and vehicular movement during the state's environmental sanitation exercise in the case of Curtis Ogbebor & ORS v. AG Edo State (Suit No: B/473/2025) delivered on Thursday, 26th March, 2026. Justice Isoken Urhomwen Erameh ruled that the enforcement of a stay-at-home order between 7:00 a.m. and 10:00 a.m. on sanitation days violates citizens' constitutional rights.

In its decision, the court held that such restrictions are inconsistent with Section 41(1) of the Constitution of the Federal Republic of Nigeria 1999, which guarantees freedom of movement. It further found the measures to be in breach of Articles 12 and 13 of the African Charter on Human and Peoples' Rights. Justice Erameh consequently issued a declaration that the prohibition of movement during the sanitation period is unlawful and unconstitutional. The court also granted a perpetual injunction restraining the Edo State Government, its agents, officers, and privies from restricting or interfering with the movement of persons or vehicles within the state on account of any environmental sanitation exercise or related regulation.

In addition, the court awarded ₦200,000 to the applicants as costs for instituting and prosecuting the action. The ruling is expected to have far-reaching implications for environmental sanitation enforcement in Edo State, particularly in how authorities balance public health initiatives with constitutionally guaranteed freedoms. Reacting to the judgment, Curtis Ogbebor, Executive Director of

the Incorporated Trustees of Freedom Ambassadors Organization, commended the judiciary, noting that *"in a constitutional democracy, rights are not suspended by convenience; governance must align with the rule of law, ensuring that even genuine health interventions respect legality, necessity, and proportionality."* Counsel to the applicants, President Aigbokhan, also praised the court, emphasizing that while public health remains a legitimate government concern, it must be pursued within the bounds of the law and supported by clear statutory authority and proportionate safeguards.

He criticized the state government for failing to provide basic logistics, such as waste collection trucks and supervisory personnel, for the monthly sanitation exercise, arguing that enforcement has been reduced largely to movement restrictions carried out by law enforcement agencies relying on broad directives that undermine constitutional guarantees.

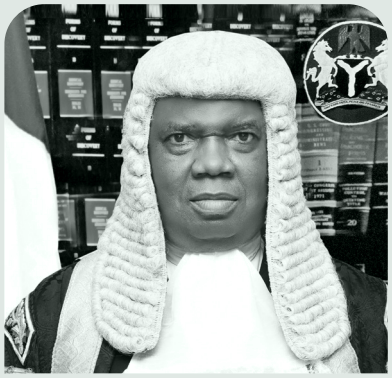
On his part, Robinson Ayodele Otuakhena Esq., Senior Legal Officer of Rural Development, Information, and Legal Advocacy Centre/FOI Counsel, who supported the case, clarified that the judgment does not abolish sanitation exercises but rather invalidates the restriction of movement. *"The court's decision,"* he said, *"reorients the state government to its primary responsibility of supporting and supervising sanitation activities, instead of pursuing and arresting citizens for exercising their fundamental right to freedom of movement."*



Vol. 5 No. 4, 2026

LAW NUGGET

Comrade Austin Osakue & 8 Ors. v. EDOSACA (Appeal No. SC/614/2018), judgment delivered on 11th April 2025



Hon. Justice Obande Festus Ogbuinya, JSC

Flowing from the import of *"subject to",* as catalogued in the above oracular authorities, which wear the insignia of finality in our corpus juris, the provision of item 5 has to play a second fiddle, bow and genuflect before the provision of item 4. In other words, the provision of item 4 supersedes, holds dominion, superintends and lords over the provision of item 5 vis-à-vis legislative authority to make laws with respect to archives and public records in the Federation and States. Put bluntly, the expression *"subject to",* which the lawmaker patronized in item 5, neutralizes and drowns its application with item 4 as in the instant case which midwifed appeal.



Hon. Justice Mohammed Lawal Garba

By the use of expression "subject to" in Item 5 of Part II of the Second Schedule of the Constitution, made any law made by the state subordinate and inferior to the law made or enacted by the National Assembly with respect to the archives and public. The law made by the National Assembly prevails, overrides, supersedes and applies where the laws made by a State Assembly exist and/or are in conflict or inconsistent with the laws made by the National Assembly



Hon. Justice Abubakar Sadiq Umar, JSC

Once there is an enactment by the National Assembly, the State law ceases to operate and regulate the subject matter. The only situation where a law made by the House of Assembly of a state can regulate such matters on the Concurrent Lists is where there is no law passed by the National Assembly or the law passed by the National Assembly is repealed without a replacement in which case the state law that has been abeyance becomes revived.

Vol. 5 No. 4, 2026



Watermelon Wonders

Exploring the Health Benefits of Nature's Hydrator

Watermelon is more than a sweet treat on a hot afternoon. Made up of about 92% water, it is one of the most refreshing fruits you can eat, and it carries vitamins, antioxidants and amino acids that support your heart, skin, muscles and overall hydration. Here is why this juicy fruit deserves a regular place on your table.

Fit & Fresh

Eases Muscle Soreness

Watermelon contains citrulline, an amino acid that may help reduce muscle soreness after workouts. It makes a good natural post-exercise snack.

Light on Calories

A cup of watermelon has under 50 calories, which makes it a good choice for a refreshing snack if you are watching your weight

Enjoy watermelon fresh, blended into juice or added to a fruit salad. People with diabetes or on special diets should check portions with a health professional.



Vol. 5 No. 4, 2026





Keeps You Hydrated

With its very high water content and natural electrolytes like potassium, watermelon helps you stay hydrated, especially in hot weather or after exercise. Eating it also adds to your daily fluid intake, which supports energy levels, concentration and healthy kidney function.

Glowing Skin and Healthy Hair

Vitamins A and C support skin repair and collagen production, while the high water content helps keep skin hydrated and fresh-looking.

Good for Your Heart

Watermelon is a source of lycopene, the antioxidant that gives it its red colour. Lycopene is linked to better heart health, and the potassium helps support healthy blood pressure. It also contains citrulline, an amino acid that may help blood vessels relax and support healthy blood flow.

Supports a Strong Immune System

Watermelon provides vitamin C, which helps your body fight off infections and heal wounds. Together with its other antioxidants, it supports your immune defences, especially when eaten regularly as part of a balanced diet.

Our Gallery

Every project we take on is shaped by the people who show up for it, in courtrooms, workshops, community visits and the quiet preparation that comes before each event. This page brings together some of the official activities our organisation has taken part in, many of them attended by our leadership and joined by our staff and interns. Each photograph is a record of the work behind the headlines, and of the team that carries it forward.



President Aigbokhan Esq. with VeryDarkman after a court section



President Aigbokhan Esq. with other representatives at the Ministry of Justice conference supported by ROLAC



FOI COUNSEL legal team with Comrade Austin Osakwe after a court victory



FOI COUNSEL Celebrates Victory Eyekomogban as she successfully completed her 3-month internship program at FOI Counsel!



Advocacy visit to the office of the Accountant General of the Federation

Endnotes

1. Law Library of Congress, Nigeria: Adoption (2002), p. 2, citing E.I. Nwogugu, Family Law in Nigeria (Ibadan: HEBN Publishers, 1990), p. 312: "Under the common law, the legal relationship between a child and his parents is inalienable. The result was that common law neither provided for nor recognized adoption. Hence the institution of adoption is wholly a statutory creation."

2. The Conversation, supra n. 11; see also I.P. Enemo, "The Challenges of Implementation of The Child's Right Act in Northern Nigeria: A closer look at the Almajiri System" (2018), noting that 11 states had not adopted the CRA.

3. Children and Young Persons Law, Cap C7, Laws of Delta State, s. 2(1).

4. Ibid., ss. 2(1) (definition of "authorised officer"), 17 (appointment of probation officers), 33 (powers of authorised officers).

5. Ibid., ss. 14, 26, 33(2)(a).

6. See Greenage Attorneys, "Adoption Process in Nigeria: Complete 2025 Step-by-Step Legal Guide" (23 December 2025); Harlem Solicitors, "Distinguishing Between Adoption And Legal Guardianship" (10 October 2019).

7. Children and Young Persons Law, Cap C7, Laws of Delta State, s. 2(1) (definition of "guardian").

8. See Re X (A Child) [2026] EWHC 638 (Fam), paras 41–44 (documenting the exercise of discretion to waive residence and fostering requirements).

9. Child's Rights Act 2003, ss. 104(1)(e)–(f) (fostering); ss. 129–131 (adoption).

See OAL Law, supra n. 64; Greenage Attorneys, supra n. 36 (noting "prolonged judicial processes and bureaucratic delays" as common challenges).

10. ELO v CLO (Recognition of a Nigerian Adoption Order) [2017] EWHC 1733 (Fam).

12. See also KN & Anor v RN & Ors [2023] EWHC 712 (Fam), in which MacDonald J examined the legality of a Nigerian adoption under local law; and KA & Anor v B [2024] EWHC 2855 (Fam), in which Trowell J considered the recognition of a Nigerian adoption where statutory requirements had been addressed by the Nigerian court.

13. Child's Rights Act 2003, s. 82(1).

14. Ibid., s. 84; contrast s. 12 (effect of adoption order extinguishing prior parental rights).

15. See Harlem Solicitors, "Distinguishing Between Adoption and Legal Guardianship" (10 October 2019).

16. Family Court of Lagos State (Civil Procedure) Rules 2012, Order 6.

17. Oyo State Family Court Procedure Rules 2020, Order 6, Rule 3.

18. See Harlem Solicitors (n 39): "Contingent on the mode of commencement adopted by the State, these requisite documents are to be accompanied by a statement of case, explaining the circumstances surrounding the applicant's desire to be the child's guardian."

19. Ibid., s. 126(1)(a)–(e).

20. See generally, Mondaq, "Adoption in Nigeria: The Legal Procedure and Requirements" (27 February 2025), noting that customary marriage declarations are accepted subject to corroboration.

21. Child's Rights Act 2003, s. 131(1)(a); see also Lagos State Adoption Law, s. 3(1)(a).

22. See Adekoya (n 3) 45; Mondaq (n 8).

23. Lagos State Adoption Law, s. 1(1); Child's Rights Act 2003, s. 128(b).

24. Child's Rights Act 2003, s. 132(1)–(6).

25. See Aekley Solicitors (n 16).

26. See Black Oak Legal (n 13).

27. Child's Rights Act 2003, s. 131(1)(e).

28. See Lagos State Adoption Law, s. 3(1)(c) (requiring three consecutive months in care); Child's Rights Act 2003, s. 131(1)(e).

29. Child's Rights Act 2003, s. 131(1)(j).

30. See Adekoya (n 3) 49.

31. Child's Rights Act 2003, s. 126(2).

32. See Adekoya (n 3) 45: "failure of which may invalidate the adoption process."

33. See Child's Rights Act 2003, s. 134 (court may impose terms and conditions); Lagos State Adoption Law, s. 5(2).

34. Child's Rights Act 2003, s. 131(1)(d).

35. Adoption Law (Lagos State), s. 16(3); Child's Rights Act 2003, s. 142(3).

36. Adoption Law (Lagos State), s. 16(3); Child's Rights Act 2003, s. 142(3).

Child's Rights Act 2003, s. 142(1)–(3).

37. Child's Rights Act 2003, s. 141(3).

38. (2018) LPELR-45756 (CA).

39. Child's Rights Act 2003, s. 147(1)

40. E.I. Nwogugu, Family Law in Nigeria (3rd ed., HEBN Publishers, 2014) 384.

41. Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria 2004, s. 71.

42. Child's Rights Act 2003, s. 141(3)–(4); see also Anthony Aduba & 2 Ors. v. Titus Aduba (2018) LPELR-45756 (CA).

43. OAL Law, supra n. 64.

44. Child's Rights Act 2003, s. 104(1)(f) (requiring medical certification for fostering; similar requirements apply to adoption by analogy).

45. Re X (A Child) [2026] EWHC 638 (Fam), para. 42 (expert evidence noting uncertainty about whether the twelve-month notice was given).

46. Re X (A Child) (Recognition of Nigerian Adoption) [2026] EWHC 638 (Fam), paras 1–2, 16, 22 (Mr Justice Harrison, 17 March 2026).

47. Child's Rights Act 2003, s. 131(1)(e). See also Imo State Child's Rights Law 2004, s. 130(e) (replicating the federal provision).

54. Osondu A.C., Modern Nigerian Family Law & Practice, p. 257; see also Law Library of Congress, Nigeria: Adoption, p. 7 (describing the formal meeting of families and transfer of parental rights).

55. E.I. Nwogugu, Family Law in Nigeria, p. 327, cited in Law Library of Congress, Nigeria: Adoption, p. 7.

56. See Law Library of Congress, Nigeria: Adoption, p. 8 (noting that customary adoption is prevalent in southern Nigeria but unknown in the predominantly Muslim north).

57. NAPTIP, supra n. 97.

58. UNICEF & NAPTIP, Joint Report on Child Trafficking through Fake Orphanages (2023), cited in The Whistler, supra n. 97; see also RSIS International, "The Security Implications of Child Trafficking In Nigeria" (citing NAPTIP data).

59. Special Restrictions on Adoptions from Abroad (Nigeria) Order 2021 (UK); see also Re X (A Child) [2026] EWHC 638 (Fam), para. 25 (noting the refusal of a British passport application on the basis that the adoption did not comply with the 1993 Hague Convention).

60. See NAPTIP, supra n. 97; UNICEF & NAPTIP, supra n. 101.

61. See Greenage Attorneys, supra n. 36 (listing "incidents of child trafficking, often disguised as informal adoptions" among the challenges facing the system).

Have you had any experiences with FOI COUNSEL? Please Share

Your feedback helps us improve our services and promote access to justice.

Your Feedback Matters

Share your experience with FOI Counsel. Your feedback helps us serve you better.

★★★★★

E EMENIKE JOSHUA

" FOI COUNSEL delivers legal support that actually moves business forward. Their team handled our commercial transaction with a rare mix of precision and strategy....."

How can we help you

- **Freedom of Information Advocacy & Litigation**
- **Human Rights Litigation**
- **Land Law**
- **Research & Policy Advocacy**

LEAVE US A REVIEW

Scan the QR code to share your feedback.

Google Review

CONNECT WITH US

Scan to visit our website and learn more about our work.

Our Website

info@foicounsel.com | www.foicounsel.com | foicounselng

Find us on Google!!!



About Us

FOI Counsel is a law group established primarily to provide legal assistance to NGOs and the media seeking for information, under the Freedom of Information Act 2011. We are also, the first Freedom of Information Act (FOIA) Liigation-specialized firm in Africa. As the demand for our services increased we billowed into four thematic areas of work and these are:

FOI Advocacy & Litigation

We focus on ensuring transparency and accountability in government processes. This includes challenging government agencies that have refused to disclose information and litigating on behalf of individuals and organizations seeking to obtain government-held information.

Human Rights Litigation

We protect the fundamental rights of individuals and groups who have been subjected to violations involving a wide range of issues such as discrimination, police brutality, and freedom of speech, among others, and seek to bring justice to those who have suffered harm through legal means.

Land reforms & rural development

We promote equitable access to land resources and support the sustainable growth of rural communities. This involves advising on land ownership and tenure, supporting land-based livelihoods, and advocating for policies and programs that support rural development and the rights of rural communities.

Research & Policy Advocacy

We empower change and justice through in-depth analysis of laws, precedents, and regulations, and effective advocacy strategies to shape policies and promote equitable outcomes in society.

FOI Counsel is a law group established primarily to provide legal assistance to NGOs and the media seeking for information, under the Freedom of Information Act 2011. We are also, the first Freedom of Information Act (FOIA) Litigation-specialized firm in Africa. As the demand for our services increased we billowed into four thematic areas of work and these are: FOI Advocacy & Litigation, Human Rights Litigation, Land reforms & rural development and Research & Policy Advocacy.



This current newsletter edition and all previous editions can be downloaded for free online via: www.foicounsel.com/publications

---

Contact Us Today

FOI HOUSE: 4 Ikpokpan Street off Sapele Road,Opposite Edo State Ministry of Infrastructure, Benin City. Edo State Nigeria.
Abuja Office: No. 6 Gongola Street, Area 2 Garki, Nigeria
info@foicounsel.com | +2348032683434