COMPARATIVE EXAMINATION OF ADOPTION IN NIGERIA AND GREECE

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INTRODUCTION.

In most cultures of the world, a man and a woman are expected to procreate and produce their own children. However, some are not able to do so, due to medical and other reasons. Some have a child or children, but would for one reason or the other, want more, who may not necessarily be their biological offspring. Others have grown up children, but would still want to adopt one or two more, especially in their old age, when their biological children are living with their own

respective families.

Some children are born and abandoned, for economic and other reasons. Such children may find their way into homes and institutions that could put them up for adoption, thereby offering them an opportunity to have a better life. In other words, there are always reasons for people to adopt a child or children. There are also children who need to be adopted, so as to stand a better chance in life. These and other issues connected thereto will engage our attention in this paper, with our focus on Nigeria as well as Greece.

DEFINITION OF TERMS

Adoption is the creation of a parent-child relationship by judicial order, between two parties, who usually are unrelated. It is also the relationship of parent and child created by law, between persons who are not in fact parent and child.[1] It is also the act of adopting, or state of being adopted, the voluntary acceptance of a child of other parents to be the same as one's own child.[2] Adoption is also a legal process, pursuant to state statute, in which a child's legal rights and duties towards his/her natural parents are terminated, and similar rights and duties towards his adoptive parents are substituted. Adoption is the taking of a child of a known or unknown parentage, but known for sure not to be that of the adopter as his or her own child. It takes different and may be done under Statutory or Customary laws.[3]It is also an order vesting the parental rights and duties relating to a child in the adopters, made on their application by an authorized court.

This relationship is brought about only after a determination that the child is an orphan or has been abandoned, or that the parents' parental rights have been terminated by court order. Adoption creates a parent-child relationship between the adopted child and the adoptive parents, with all the rights, privileges and responsibilities that attach to that relationship, though there may be agreed exceptions. [4]

While Nigeria is a sovereign country in West Africa, Greece is a country in Southeastern Europe with thousands of islands throughout the Aegean and lonian seas. Nigeria is officially known as the Federal Republic of Nigeria. It is a country in the Gulf of Guinea and the most populous country in Africa[5]. Greece is officially referred to as the Hellenic Republic (also known as

[1] Black's Law Dictionary, 9th edition, by Bryan A. Garner. West Publishing Co. (2009) page 55.
[2] http://wordnet.princeton.edu v.2.2.1. Accessed on 10th August, 2019.
[3] "Adoption Practice in Nigeria- an Overview" Tajudeen, Ojo Ibraheem. Lecturer Faculty of Law, Adekunle Ajasin University, Akungba Akoko, Ondo State, Nigeria. Accessed through https://iiste.org on 13th August, 2019.
[4] N.1
[5] https://www.infoplease.com > world. Accessed on 10th August, 2019.

Hellas). The capital of Nigeria is Abuja, while that of Greece is Athens. Greece is also the southernmost of the countries in the Balkan Peninsula, with extensive coastlines and islands in the Aegean, lonian, and Mediterranean Seas.[6] Greece was influential in the ancient times and often referred to as the cradle of civilization.[7] While the population of Nigeria is about 201,536,258 people[8], that of Greece is about 11,122,652 people.[9]

ADOPTION, LEGITIMATION AND FOSTERAGE.

Adoption is distinguishable from legitimation and from fosterage. Adoption usually refers to an act between persons unrelated by blood. Legitimation refers to an act between persons related by blood. Universally, a decree of adoption confers legitimate status on the adopted child. While adoption is permanent, fosterage is a temporary arrangement for child's care.[10] **"Although adoption is found in many societies, ancient and modern, primitive and civilized, and is recognized by the civil law, it was unknown at common law. Accordingly, adoption is a creation of statute…"**[11]

An adopted child is a child who has become the son or daughter of a parent or parents by virtue of legal or equitable adoption.[12] On the other hand, a foster child is one whose care and upbringing are entrusted to an adult other than the child's natural or adoptive parents, usually by an agency. A foster child may receive informal, voluntary care by someone (often a grandparent, other relative, or neighbor) who enters into an agreement with the parent or who simply substitutes for the parent as necessary to ensure the child's protection.[13]

Adoption and fosterage are two alternative adaptive mechanisms of child care utilized in many societies, when parents are unable or unwilling to care for their children.[14] Globally, the question always arise on the subject of who takes care of the children when a parent or both parents are "unable" or "unwilling" to care for their children or are required by social norms to give up the care of their children.[15]

One avenue utilized by many societies is adoption, which is a legal process by which a child is taken into a family and raised as a natural offspring. The biological parents give up all rights to the child. Another alternative which only a few scholars and anthropologists have looked at even more in passing is fosterage. This is the raising of a child by people other than his/her natural or adoptive parents. While both practices are adaptive mechanisms, fosterage differs from adoption

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[6] https://www.britannica.com > place. Accessed on 10th August, 2019.
[7] N.5
[8] https://www.worldmeters.info > Nigeria Population (2019). Accessed on 10th August, 2019.
[9] N.6, > Greece Population (2019). Accessed on 10th August, 2019.
[10] N.1
[11] Elias Clark et al., Gratuitous Transfers: Wills, Intestate Succession, Trusts, Gifts, Future Interests, and Estate and Gift Taxation cases and Materials. 73-74 (4th edition 1999). Accessed through N.1
[12] N.1, page 271
[13] N.11
[14] "Etic Variations on Fosterage and Adoption." By Arvilla C. Payne-Price (Howard University). Accessed through www.jstor.org on 11th august, 2019.
[15] N.14

in that the parents do not give up their rights to the child and may retrieve him/her. In a fosterage, there is no permanent transfer of primary parental rights.[16] Fosterage was commonly practiced in Medieval England as a means of guaranteeing an heir.

During colonial times in the United States, the puritans sent their young children to live with relatives in order for the children to receive proper training and to prevent the parents from "spoiling" their children.[17] In the traditional Indian culture of the Pacific Northwest of North America, a boy in his late childhood is sent to live with his maternal uncle's family in order to integrate him into the larger community.[18]

Adoption for the benefit of children is a relatively recent historical development which continues to be influenced by the concept of children as the property of their biological parents. A court cannot make objective findings that a child is abandoned or is need of an adoptive home, or is in fact already a member of a family which does not include his biological parents. The court's attention must be first directed to terminating parental rights, which can be accomplished only in extremes of parental behavior.[19]

In most countries of the world, it is accepted that the basic purpose of adoption of minors is to benefit children in need of parents who will nurture them. Placing major emphasis upon benefiting children, rather than gratifying wishes or meeting needs of would-be adopters, is thus a major characteristic of our modern adoption practice. It is also a relatively recent development which departs radically from older practices in western societies.[20]

Despite our modern acceptance of basically child-oriented goals in adoption, today's adoption practice is still influenced by certain legal vestiges of the past, which seem inconsistent with this approach. For example, there is still considerable judicial unwillingness to break completely with the concept that parents have something closely akin to a legal property, right in their children.[21]

THE HISTORICAL BACKGROUND OF THE ADOPTION OF CHILDREN.

In Roman times, adoption existed almost wholly for the benefit of the adopter, the continuation of family lines and religious rights. These also determined imperial succession on several occasions. Roman tradition influenced the modern revival of adoption in civil law countries such as France, where it was not until 1939 that a young child could be adopted with the goal of the type of family integration characteristic of the institution in the country. Adoption was not recognized by the English common law, from which most of our legal tradition was inherited, and the first English adoption law was not enacted until 1926.[22]

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[16] N.14

[17] N.14

[18] N.14

[19] The Rights of Parents Versus the Best Interests of Their Children by Andre P. Derdeyn, M.D. and Walter J. Wadlington, III, LL.B. Accessed through www.jaacap.org on 11th August, 2019.

[20] N.19

[21] N.19

[22] N.19

Adoption is one of the oldest social institutions. Nevertheless, adoption still raises highly emotive issues because of its fundamental implications for the meaning of familial ties. Questions on whether adoption serves the best interests of children, who should be allowed to adopt and the role of Governments in regulating such decisions are frequent subjects of debate. Yet, despite the heightened attention to these issues, much of the information on adoption remains anecdotal. Data on the number of children adopted domestically are rarely available and when they are, they tend to be out-of-date. Similarly, comparable information on trends in intercountry adoptions- that is adoptions that involve a change of country of residence for the adopted person- is often lacking or is available for just a few countries.[23]

GLOBAL TRENDS AND POLICIES ON ADOPTION.

In 1974, the World Population Plan of Action of the World Population Conference called on countries to facilitate child adoption so that all couples could achieve their desired number of children.[24] By doing so, the Plan of Action recognized that child adoption could play a role in approximating biological parenthood for couples who would otherwise be unable to have children. In the intervening years, many of the demographic trends associated with the demand for adoption have become more accentuated. Delayed marriage, the postponement of childbearing, rising levels of childlessness, high levels of divorce and the wider acceptance of new family forms are just some of the demographic trends associated with a larger pool of people having recourse to adoption.[25]

At the same time, adoption as a legal institution has continued to evolve. Following the entry into force of the 1989 United Nations Convention on the Rights of the Child,[26] the principle of safeguarding the best interests of the child has been firmly established as the paramount consideration in all decisions relating to child adoption. Countries have modified existing legislation to recognize new forms of adoption and to allow adoptions by individuals who had been previously considered ineligible to adopt. A large number of countries have ratified multilateral and bilateral agreements relative to adoption in order to ensure clarity in matters of jurisdiction and applicable law, where intercountry adoptions are concerned and to ensure that the welfare of the children involved is safeguarded.

Despite these developments, the broader demographic context in which adoptions take place remains generally unexplored.[27] The lack of comparable data on the number of children adopted each year and on the characteristics of the individuals involved, namely, the adopted person, the

[23] N.19

[24] See Report of the United Nations World Population Conference, Bucharest, 19-30th August, 1974 (United Nations publication, Sales No. E. 75. XIII. 3).

[25] United Nations Child adoption: Trends and Policies. Accessed online through www.bettercarenetwork.org, on 12th August, 2019.

[26] United Nations (1990), Treaty Series, vol. 1577, No. 27531, p. 3. Accessed through www.bettercarenetwork.org, on 12th August, 2019.

[27] The Program of Action of the 1994 International Conference on Population and Development called on countries to stem the practice of coercive adoption. See Report of the International Conference on Population and Development, Cairo, 5th – 13th September 1994 (United Nations publication, sales No. E.95. XIII.18), chap. I, resolution 1, annex.

adoptive parents and the birth parents, has hindered such exploration. Some important issues remain unaddressed- will the postponement of childbearing result in an ever-increasing number of persons seeking to adopt? How will fertility trends affect the availability of adoptable children? What role, if any, should adoption play in providing care for the nearly 8 million children who have lost both parents due to illness or conflict?[28]

HISTORY AND EVOLUTION OF MODERN ADOPTION LAWS.[29]

Literary and legal sources indicate that adoption was widely practiced in many ancient societies. From the frequently cited Biblical example of the adoption of baby Moses[30] to that of the Emperor Octavian Augustus, adoption played a "major part in the traditional law of many Eurasian societies." [31] While adoption may be as old as human society itself, the motivations for adoption have changed remarkably over time. Today, adoption is undertaken mainly to provide a home for children deprived of parental care and to satisfy the desire of individuals or couples to care for and rear a child.[32] On the other hand, societies of the past regarded adoption as a means of preserving family lineage, enabling the continuation of ancestor worship, creating political alliances and ensuring care for adoptive parents in their old age.[33]

The norms regulating adoption have also shifted over time. In many early laws, persons with children of their own, individuals of reproductive age and women were not allowed to adopt. Furthermore, ancient laws often did not permit the adoption of minors, a clear evidence that the welfare and best interests of children were not the paramount consideration in the decisions related to adoption. Nevertheless, ancient legislation is the source of many of the key features of modern adoption laws, including the acquisition by the adopted person, of the name of the adoptive parents, the right to inheritance from the adoptive family and the termination of the birth parents' guardianship rights.[34]

ADOPTION LAWS IN ANTIQUITY

Clearly, adoption played an important part in ancient life, as attested to by literary and legal sources, dating back almost four millennia. Specific information on ancient adoption legislation remains, however highly fragmented and it is difficult to reconstruct a comprehensive chronology of the history of such laws.[35]

It is necessary to commence this overview of adoption trends and policies by focusing briefly on the past, to uncover the roots of today's norms and practices, with focus on Nigeria and Greece.

GREEK LAWS ON ADOPTION.

[28] N. 25
[29] N.25
[30] The Holy Bible (NIV version) Exodus Chapter 2 verse 10.
[31] N.25
[32] N.25
[33] N.25
[34] N.25
[35] N.25

The laws of ancient Greece provide an additional illustration of some of the earliest adoption legislation. These laws often aimed at providing heirs for childless individuals. Persons who already had legitimate sons were not normally permitted to adopt. According to the laws of Solon,[36] and the Law Code of Gortyn,[37] only adult males who had no legitimate descendants and who were considered to be of sound mind were permitted to adopt.[38] However, if a male offspring was born after an adoption had been concluded, the adopted child and the birth child were entitled to equal shares of the inheritance. Most modern adoption laws have preserved this concept by recognizing that birth descendants and adopted persons have equal rights to inheritance.[39]

According to Solonic law, adoption could take three distinct forms-

1. Children could be adopted by a living person (inter vivos: between living persons)

2. Children could be adopted through testamentary adoption (that is, in the will of a deceased person)

3. Children could be adopted posthumously by a relative in the name of a deceased family member.

Adoption inter vivos was a voluntary contractual relationship entered into by two individuals, while testamentary and posthumous adoptions were legal acts requiring confirmation by the court.[40] Adoption inter vivos was practiced mainly to provide support for older adoptive parents, while testamentary adoption was undertaken for the purpose of ancestor worship.

Regardless of the form, adoption in ancient Greece had the effect of terminating the ties between the adopted person and the birth father's relatives. Adopted sons assumed the full filial status but were only able to perpetuate their new family line by direct male descent.[41]

NIGERIAN LAWS AND PRACTICE ON ADOPTION

Like most of our laws, the laws on adoption in Nigeria are similar to the Received English Law. In Nigeria, adoption may be effected under statutory law.[42] It may also be effected under customary law.[43] However, as with all adoption procedures, rules vary from state to state. Adoptive parents must foster their children for at least three months in Lagos and Ogun states. In Akwa-Ibom state however, such fosterage must be on for at least one year. In the Federal Capital

[36] N.25, 6th Century B.C
[37] N.25, 5th century B.C
[38] N.25
[39] N.25
[40] N.25
[41] N.25
[42] https://resolutionlawng.com Accessed on 13th August, 2019.
[43] https://iiste.org > download. Accessed on 13th August, 2019.

Territory of Abuja, an adoption is only legally possible, if and only if one of the aspiring adoptive parents is a Nigerian. [44]

For an adoption to take place, the Magistrate Court is vested with powers to grant an adoption order, depending on the type of adoption taking place. In Ogun State, such an order is made temporarily, for an initial period of three months. Having satisfied all the conditions and all other things being equal during the three months, a report is made to the court by the Probation Officer.[45] Hence, the court will make the adoption order absolute. The court also has the right to cancel an adoption process, if it is convinced by way of reports, that the adoptive parents applied undue pressure, or were fraudulent in their application for the adoption.[46]

ADOPTION UNDER STATUTORY LAW.

Up to 1965, there was no statutory basis in any part of Nigeria for the adoption of a person. This caused a lot of hardship, because even when couples took children into their household on the understanding that they were being adopted, it could not be regarded as legal adoption. They were regarded as guardians or foster parents. The result was that the child's natural parents could at any time, assert their natural rights, by demanding the return of the child. This was notwithstanding any close relationship that might have developed between the child and the foster parents or guardians.[47]

The first known attempt at providing a statute on adoption was a private member bill presented to the then Eastern House of Assembly in April 1958. Unfortunately, it was not well received and had to be withdrawn.[48] The first adoption legislation in Nigeria was eventually enacted in the then Eastern Nigeria in 1965, and was known as the Eastern Nigeria Adoption Law, 1965 which came into force on 20th May, 1965.[49] The law now applies in Anambra, Abia, Enugu, Imo, Ebonyi, Rivers and Bayelsa States. An adoption law was promulgated for Lagos state in 1968. Subsequently, other states followed suit.[50] There are lots of similarities in these laws, just as there are some striking similarities between the Nigerian laws generally and the English Statutes on this subject, as stated earlier.

By contrast, none of the States in the Northern part of the country (which are in the majority) has any legislation on adoption. Ironically, the largest number of adoptable (and out of school) children i.e., children in dire need of care and protection, come from that part of the country. They are known as "Almajiris."[51] They are commonly found all over the country as street

[44] N.42
[45] Who is a Staff of the Ogun State Ministry of Women Affairs and Social Development
[46] N.42
[47] N.3
[48] Salome Konkat Kigbu (Mrs.), "Child Adoption: Nature and Procedure under Nigerian Law", accessed through http:///wwwdspace.unijos.edu.ng/bitstream/10485/384/1/502-523.pdf on 13th August, 2019.
[49] N.48
[50] N. 48, Bendel (now Edo and Delta) states in 1979, Cross-River in 1981, Ogun in 1983 and Oyo state in 1984.
[51] It is from the Arabic word 'Ala-Muhajir' which means a migrant. Of the 10.5million out of school children in Nigeria, abut 9.5million of them are in Northern Nigeria. – "The Almajiri System and Insurgency in Northern

urchins and beggars being exposed to all kinds of abuse, danger and criminal influences.[52] Though there are no adoption enactments in the northern part of the country, there are adoption procedures being carried out there.[53]

THE CHILD'S RIGHTS ACT AND ADOPTION.

The Child's Rights Act 2003 was enacted by the Nigerian National Assembly, with a commencement date of 31st July, 2003. Part XII of the Act makes elaborate provisions, regulating adoption throughout Nigeria. However, the adoption laws of the various states remain extant, except where such states have domesticated the Act. The reason for this, is because adoption in particular, and the rights and welfare of children, in general, are matters within the legislative competence of the states, under the Constitution of the Federal Republic of Nigeria 1999 (as amended). Hence, the National Assembly has no constitutional power to foist the Act on the States. The Act remain enforceable as such only in the FCT, Abuja for which the National Assembly has powers to make laws. While some states Assemblies have domesticated the Act, others have passed theirs, while some others are in the process of doing so.

Apparently as a means of checking child trafficking under the guise of adoption, the Act as well as States' adoption laws prohibits inter-country adoption as well as the giving and receiving of any payment or reward as a consideration for or to facilitate adoption. The current state of International human rights law is that adoption should be regarded principally as a child care device rather than as a means of providing succor to childless persons or relief to incapable parents, as it was conceived in the old international legal order. Thus, the Act duly recognizes the paramountcy of the welfare and best interests of the child in adoption proceedings, as indeed in "every action concerning a child."[54]

GREEK LAWS AND PRACTICE ON ADOPTION

In Greece, national adoptions of minors pursuant to Law 2447/96 can be concluded either in public through state child protection institutions or privately.[55]

The state institutions which have been approved for the conclusion of adoptions are the following :-

1. The Child Protection Department of Attica "I Mitera."
2. The "Mitera" Infant Center.
3. The Penteli Infirmary
4. The "Angios Andreas"

Nigeria: A Reconstruction of the Existing Narratives for Policy Direction" by Usman Abbo, Ph.D. Candidate, School of Government, Universiti Utara, Malaysia, et al. Accessed through https://researchgate.net on 13th August, 2019.

[52] Adoption of Children in Nigeria under the Child Rights' Act , 2003 by Larry O.C. Chukwu, Esq. available at http://www.law2.byu.edu/isfl/saltlake conference/papers/isfldfs/Chukwu.pdf. Accessed on 13th August, 2019.

[53] N.3

[54] N.52

[55] "Private Adoptions in Greece. In the best interest of the adoptive parent or of the Adopted Child." – Katerina Nanou. Accessed through https://academia.edu on 13th August 2019.

5. The "Angios Stylianos" Institution of Infants in Thessaloniki.[56]

Adoptions through institutions are completed through direct communication between the prospective adoptive parents and the biological parents, without addressing to a social service or organization recognized as specialized in adoptions[57] or through mediation of an intermediary. The Social Welfare Directorates in Prefecture administrations have been approved for the conclusion of adoptions. However, private adoptions were also completed through child protection institutions in 2014, although such adoptions were few in number.[58]

In 2014, 66 children were adopted through child protection institutions in Attica (Centre for Social Welfare of the Region of Attica), while 84 children were adopted in total from the 11 institutions (private and public) running adoption programs in 2014. According to the Hellenic Statistical Authority, 496 adoptions were concluded in 2013 (private and through public institutions).[59]

While the Greek laws stipulating the procedures governing adoptions does not provide for financial transactions or profits for adoption, there are cases on non-compliance, which involves money exchanging hands, especially in private adoptions. Hence, such incidents do not work towards the best interest of the child. [60] Institutions have been accused of delays in the conclusion of adoptions, failing to serve the needs of prospective adopted children.

In the 2012 report of the Committee on the Rights of the Child[61], it was mentioned that "the Committee is concerned at the lengthy procedures and delays in adoption processes, which have a grave impact on the children who remain in institutions for a long time, instead of being integrated into adoptive families in due time." The Committee recommends that all necessary measures be taken to solve the problems of slow procedures, so that the decisions on adoption are taken in due time." The Committee further recommends that Greece must review its adoption legislation, especially with regards to the practice of private adoption, to bring it in line with all United Nations extant Conventions, as well as with the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry adoption.[62]

THE REFORM OF LAW 4774/96 AND PRIVATE ADOPTIONS

During the reform of Law 2447/96, the issue of explicit prohibition of private adoption was raised. The reasons for this prohibition were the possibility of involvement from the part of the parties in baby-selling networks with net money profit for the intermediaries and the biological parents, as well as money transaction between the two parties, i.e. the biological and the adoptive parents and even the intermediaries if any.[63]

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[56] N.55
[57] Article 6 of Law 2447.
[58] N.55
[59] N.55
[60] N.55
[61] A United Nations Committee, 2014 no. 44, 45.
[62] N.61
[63] N.55

However, arguments in favor of the support and continuation of private adoptions were presented. At first, it was argued that the prohibition of private adoptions would limit the natural mother's intention to select the adoptive parents of her child, especially in cases where the biological mother actually intended for the child to be adopted and not abandoned. Secondly, it was argued that baby-selling would not be tackled by prohibiting private adoptions, since any prospective adoptive parents that wished to adopt would resort to other methods, such as virtual labor, a practice which is accompanied by the commitment of a series of recurrent crimes. The notion that the conclusion of adoptions exclusively through institutions would result in great delays and that the children due to be adopted would remain in child protection institutions for a long period of time was also supported. However, this decision can be justified by the failure on the part of the state social services to fulfill their role[64]

These arguments were taken into consideration by the Law-Drafting Committee and finally the Bill did not prohibit private adoptions, but provided for the organization of a strict system, aiming to combat the crimes which can be committed on the occasion of the conclusion of a private adoption.[65]

Contrary to the foregoing arguments, social scientists and jurists have raised serious arguments, regarding the immediate and urgent need to prohibit private adoptions or to regulate such adoptions in a more effective and stricter manner. There were concerns regarding private adoptions. Specific reference was made to financial transactions which may occur in private adoptions as well as to the involvement of private adoption intermediaries in baby-selling networks, especially after the opening of Greek borders. Another argument in favor of the prohibition of private adoptions was the delivery of the child to the adoptive family before the competent Social Worker (hereinafter referred to as "S.W") conducted social enquiries, as opposed to the adoptions concluded through state institutions, where the social enquiries and the evaluation of prospective adoptive parents are concluded before the child is placed in the household. In the former case, the child has already lived with the prospective adoptive family and the S.W. may possibly be obliged to give a positive report in order for the child not to be taken away from the house where he/she already lives.[66]

Consequently, it was suggested that information should be timely provided to the Social Services (hereinafter referred to as the "S.S.") as regards the intention of adoptive parents, to adopt a child in order for the enquiries to be concluded before the child is delivered to the adoptive family. However, unlike this proposal, it was argued that the biological parents could be unable or unwilling to keep the child during the time the S.S. conducted the enquiries. The issues of institutionalization of the child, as well as the possibility that the child might end up to third persons were also raised. In this manner, the final provision provides that where a minor is adopted without the intermediation of the S.S., the biological and the adoptive parents or the guardian of the child must notify the competent S.S. as regards their relevant intention within a reasonable period of time. Article 21 of Law 3719/2008 provides for a one-month time limit

[64] N.55
[65] N.55
[66] N.55

within which the S.S. should be notified. However, the law does not provide for any penalties in case this time-limit is not observed.

LAW 2447/96 IN THE BEST INTEREST OF THE CHILD

In June 1996, the special Law-Drafting Committee of the Ministry of Justice introduced the final Bill, the scope of which was the reform of the adoption and guardianship law, as regulated by Law 1329/1983. The said Bill was published in the Government Gazette under number 2447/1996. The legislative reform aimed to establish a modern take on an institution exclusively geared towards the protection of the child and not the "solace of the childless."[67]

The provisions of Law 2447/96 have been amended sixteen times, due to serious weaknesses and failures, as well as in order to meet the expectations of specific individuals. The initial objective of Law 2447/96 was a child-centered focus on adoption law, turning adoption into a means for implementing social policy. Pursuant to the initial requirements of Articles 1542, Section b of the Greek Civil Code (GCC), the purpose of adoption must be the interest of the child.[68]

However, Law 2447/96 now appears to promote to a greater extent, the interest of the adoptive parent, rather than that of the child to be adopted, contrary to the initial objective of the law (i.e. favor adoptionis). According to Foundedaki, K.,[69] "favor adoptionis", as main legislative objective, raises reservations. This is because it might slide into favoring the adoptive parent, i.e. facilitating any person wishing to adopt a child without giving any consideration, unless adequate safeguards are provided for. Consequently, the interest of the child (especially: certain parameters of this interest) becomes second priority. Unfortunately, the legislative course of Law 2447/96 and the application thereof in case law do not dispel such reservations.

According to Kousidou,[70] private adoptions should not be perceived as a child protection measure, to the extent that they work against the interest of the adopted child. Pursuant to International and European Conventions, the best interest of the child must be primarily considered and ensured in any adoption case.[71] The most important thing in an adoption process is that a family must be given to a child and not that a child is given to a family.[72]

TYPES AND CURRENT CONDITIONS FOR ADOPTION IN NIGERIA AND GREECE?

New Greek laws on adopting and fostering children, which were instituted in May 2018, aim to make the once notoriously onerous procedures less time-consuming and difficult. The new laws

[67] N.55
[68] N.55
[69] "Adoption. Law 2447/96, amendments and implementation thereof." Athens: Sakkoulas. (2010) p.13. Accessed through https://www.academia.edu on 13th August, 2019.
[70] Kousidou, T., "Adoption as a Child protection Service" (1996) Sakkoulas, pp. 71-93. Accessed through https://www.academia.edu on 13th August, 2019.
[71] UNCRC, 1989, Council of Europe 2008, Hague Convention, 1993.
[72] N.70

Have also changed the legal framework of homes for orphaned children, and the very institutions themselves.[73]

Law 4538/2018 simplifies adoption procedures and the registering of orphaned children by eliminating many bureaucratic steps. It also changes the prerequisites needed for prospective parents, while at the same time adding important tools for child protection. In the past, adoption in Greece could take up to six years due to incredible amounts of red tape, and the long waiting period often forced prospective foster parents to resort to illegal methods.

THE NEW CONDITIONS IN GREECE.

1. Under the current law, the new, streamlined adoption procedures will take only a total of eight to twelve months.[74]

2. Research into the social background of prospective parents and the making of the required reports will now be performed by certified social workers.

3. For the first time, it will be possible for parents who already have children to adopt as well.

4. Couples must also be married for three years before they can adopt a child, regardless of their ability to have their own children.

5. People who live together but are unmarried can now also adopt in Greece, but pursuant to court approval.

6. To adopt, you must be at least 30 years old, but less than 60years old

7. The minimum age difference between an adoptive parent and child should be 18 years. It can however be limited to 15 years, if there is an adoption of a child from a previous marriage of the spouse.

8. The biological parents of a minor must consent to the adoption. The consent is given to the court, and can only be replaced by a court order, where the parent is mentally ill or the child is exposed to danger.

9. When the adopted child clocks 12, he/she must also consent to the adoption, for it to subsist. However, the opinion of a child less than 12 years old can also be considered by the court, if he/she is matured enough.

10. The adopted child will cut all ties with his/her biological parents and would also not inherit from them. The exception to this is the adoption of a child of one's spouse.

11. An adopted and foster child can enjoy full inheritance rights from his foster and adopted parents, as well as their uncles, aunts and grandparents.

[73] https://www.greece.greekreporter.com accessed on 15th August, 2019.
[74] N.73

12. Unlike previous laws, adopted children can learn who their natural parents are, once they come of age. For third parties, the adoption is governed by absolute secrecy.

13. Adoption of adults is prohibited, except for the children of spouses.

14. private adoptions, which are made by mutual consent of foster parents and natural parents are permitted.

THREE TYPES OF ADOPTION IN GREECE[75]

1. ADOPTION THROUGH STATE INSTITUTION
   For this, interested parties should contact the Mitera Infant Center. The institution belongs to the Center for Social Welfare of the Region of Attica, and cooperates with parents who wish to adopt a child from a state institution. This includes the "Pepelis" (ex PIKPA), where there are younger children, as well as the churches Aghios Andreas and Aghia Varvara, which take care of school and teenage children. In Northern Greece, interested parties can contact Aghios Stylianos municipal nursery, located in Thessaloniki.

2. PRIVATE ADOPTION
   Here, the biological parents come in contact with prospective foster or adoptive parents (either while the biological mother is pregnant or after child delivery), without the involvement of a social organization, both the biological and the candidate should announce their intention within a reasonable time from the birth of the child. They then collect the supporting documents and file the application form, with Social Welfare Center of their region in order to start the proceedings. In such instances, placement is often made without social service intervention or input. Hence, there have been cases where foster and adopted children stay with families that are not suitable and their removal is almost impossible after the biological parent has consented.

3. TRANSNATIONAL ADOPTION
   If the person concerned wishes to adopt a child from another country, the competent authority is again the Center for Social Welfare of the Region, as well as the Central Authority for Transnational Adoptions at the Ministry of Labor. The Welfare Center first suggests state institutions. Interested parties are required to attend an information session before they apply. All procedures after that point depend on their own country's laws on adoption.[76]

   CONDITIONS FOR ADOPTION IN NIGERIA
   There are two general sets of conditions and procedures in Nigeria. They are- the once for Nigerian residents and those for foreigners seeking to adopt Nigerian children.

[75] N.73
[76] N.73

PROCEDURE FOR NIGERIAN RESIDENTS.

Section 116 of the Child Rights Law of Lagos State 2015, like that of Ogun and many other states in Nigeria provide that an application for an adoption order must be made in the prescribed form, (through officers of the Ministry of Women Affairs and Social Development in Ogun State) to the Registrar of the competent court.[77] Same shall be accompanied with:

1. Marriage Certificate of the adopting couple, or a sworn declaration of marriage
2. The birth certificate or sworn declaration of age of each applicants
3. Two passport photographs of each applicant
4. A medical certificate of fitness of the applicant from a government hospital and
5. Evidence of payment of all prescribed fees
6. Such other documents, requirements and information as the Court may require for the purpose of adoption.[78]

In practice, the adopter cannot make this application to the court on his own without the consent of the government welfare agency or department. In Lagos State, the government department responsible for such a process is the Ministry for Youth and Social Development, located in Ikeja, Lagos.[79] Then, the court will give an order of investigation, to be conducted by Social Welfare Officers, Probation Officers, or any other person(s) as the court may determine to assess the suitability of the applicant as an adopter and of the child to be adopted.

The court may appoint a guardian ad litem for the Juvenile to represent him or her in the adoption proceeding. The person appointed as the guardian ad litem is the Welfare Officer in charge of the area where the juvenile resides, or a Probation Officer or some other person(s) suitably qualified in the opinion of the court for the assignment. The guardian ad litem investigates the circumstances relevant to the proposed adoption and reports in writing to the court. Prospective adoptive parent(s) must inform the Chief Welfare Officer of their intention to adopt at least three months before the court order is made. For at least three consecutive months immediately preceding an adoption order, the juvenile must have been in the care and custody of the applicant. The applicant for adoption must be resident in Nigeria during the entire period.

The confidential report of the Welfare Officer will be written after several visits to the home of the adoptive parents and after he or she is satisfied that the juvenile is settled and that the prospective adoptive parents are capable of looking after him or her. In such a case, a positive recommendation will be sent to the court. In some states, after the

[77] Magistrate Courts.

[78] N.42, accessed on 15th August, 2019.

[79] N.42

adoption has been granted, the adoptive parents must obtain leave of court before the child can be taken out of the jurisdiction of the court either temporarily or permanently.[80]

Every action that occurred in an adoption proceeding and its final outcome must be entered into the Adoption Register. A certified copy of an entry in the Adopted Children's Register, if stamped or sealed by the registrar's office shall be proof of such adoption as is specified therein.[81]

ADOPTION PROCEDURE FOR FOREIGNERS SEEKING TO ADOPT NIGERIAN CHILDREN.

For any foreigner or any Nigerian citizen resident abroad to adopt any child in Nigeria, he/she must do so through an international adoption agency or local foundation. Some of the adoption agencies and foundations are based in Nigeria and many of them are abroad.[82]

A letter from the Social Welfare Officer to the Immigrations office, informing that the adoptive parents are now the legal parents of the juvenile, must be obtained before the adoptive parents will be permitted to obtain a passport to take an adopted child out of Nigeria. The applicant for adoption must be resident in Nigeria during the entire period. Foreigners must seek private legal assistance to facilitate the process of adoption.[83]

Individuals who are not Nigerian citizens are not legally allowed to adopt in Nigeria. When a married couple is adopting, both must be Nigerian citizens. Only U.S. citizens who also have Nigerian citizenship are allowed to adopt children in Nigeria. Nigerian adoption laws are complex and vary from state to state. At the Federal level, adoptions are regulated by the Nigerian Child Rights Act (or the Adoption Act of 1965). Depending on where the adoption takes place, the specific law and regulations, the adoption may differ. Prospective adoptive parents must be available to be interviewed in court by the Magistrate considering the adoption. Proxy adoptions are not valid in Nigeria.[84]

TYPES OF ADOPTION IN NIGERIA

Unlike the three aforementioned types of adoption in Greece, the following are the types of adoption in Nigeria:-

1. Domestic Adoption
2. Foster Care Adoption
3. Relative Adoption
4. International Adoption.[85]

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[80] N. 73
[81] N.73
[82] N.73
[83] N.73
[84] Accessed through https://www.ng.usembassy.gov on 15th August, 2019.
[85] Accessed through https://www.consideradoption.com > types on 15th August, 2019.

WHO MAY BE ADOPTED IN NIGERIA AND GREECE?

Because of the high rate of poverty in Nigeria, many cannot afford quality ante and postnatal care, thus leading to higher rate of maternal mortality, which in turn leads to higher numbers of motherless babies in need of foster care or outright adoption. Generally, it is those children who are abandoned, neglected or persistently abused or ill-treated who are in need of adoption. Some of these babies are born by imbeciles, mentally unbalanced mothers, drug addicts and other types of disabled mothers. Usually, only a juvenile under age eighteen, who is not or has not been married can be adopted. In Anambra, Ogun, Imo, Rivers and Lagos states, a juvenile is defined as a person less than seventeen years of age. In Edo and Delta states, it is eighteen years. In Ogun, Delta, Edo and Lagos states, before an adoption order can be made, such a juvenile must have been abandoned and the parents and other relatives are unknown and cannot be traced by a juvenile court. The adoption of a married person is almost unknown both under Statutory and Customary Laws of Nigeria. [86]

In Greece, a minor can be adopted. Same for a grownup, who is related by blood to the adopter. There is no specific association for families wishing to adopt in Greece, unlike France, Germany, Finland and many other European countries. The adoptive parents do not also need to be trained. However, the social organization who contributed to the adoption process must continue to collaborate with the adoptive family for the first 3 years, with at least one visit per year. In the case of a minor, the biological mother and father must consent to the adoption, at least 3 months after the child's birth date. The consents can only be waived by a court order. In Greece, the consent of the adoptee is also necessary, only when he or she is at least 12years old. While the age of the adopting parents in Greece must be between 30-60, that of the adoptee must be between 18-50.[87]

LGBTs AND ADOPTION.

While homosexuality, etc are totally outlawed and punishable by up to 14years imprisonment in Nigeria, same are allowed in Greece. Hence, it is most unlikely that persons in the LGBT category can adopt a child in Nigeria. In Greece, a single person can adopt a child, same for two married and unmarried heterosexuals. However, two married or unmarried homosexuals cannot adopt in Greece.[88]

PROOF OF ADOPTION

In Nigeria, the best evidence of adoption comes from the Adopted Children Register, wherein all adoptions and their respective details are entered, after the final order of court for same. This Register is created by the extant Adoption Laws in Nigeria. As stated earlier, the Certified True

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[86] N.3

[87] "Synthesis Report" – A comparative study relating to the Procedures of adoption among the member states of the European Union, about Practical difficulties encountered in this field by the European citizens within the framework of the European space of Justice and civil matters, and the possibilities of solving these problems and to protect the Children's rights. – JLS/2007/C4/017-30-CE-0157325/00-64. Accessed through https://www.ec.europa.eu on 25th August, 2019.

[88] N. 87

Copy of the Adoption Register is a proof of adoption in Nigeria. Credible oral and documentary evidence from the adoptive parents, adopted children, government officials or any other person who played a role in the adoption procedure could also be a way of proving same.[89]

In Greece, the Adoption Certificate issued at the completion of the adoption procedures is a proof of same.[90]

CONCLUSION.

The point must be made, that both Nigeria and Greece have robust legislations, on the important subject of adoption. The new laws on same in Greece are commendable in deed. However, there remains room for improvements in the two jurisdictions. Nigerian states need to streamline their laws on adoption more, so as to birth a more efficient and timeous adoption procedure, just as it is in Greece. The situation where a child can be adopted almost from pregnancy and soon after birth in Greece also deserves a second look. It is ones believe that every child deserves the love and care of his/her biological parents as much as possible, before being adopted.

It is hoped that this paper would at least generate further discussions on this topic.

RECOMMENDATIONS

The number of Nigerian children who are destitute, who are roaming the streets in its nooks and crannies without any of hope of being educated is over 10million, as stated earlier. Hence, it behooves governments at all levels, nongovernmental and civil organizations as well as all citizens to increase the level of enlightenment, as far as the adoption of children is concerned. If this is done consistently and more people who need children adopt many of such children as possible, they will stand a better chance of a bright future. Their tendency to take to crime would also be greatly reduced. It is also a clear way of improving their lives on the short run, and also boost the security as well as the future of the nation at large.

It also recommended that Nigerian states who are yet to domesticate the Child Rights Act and also promulgate adoption Laws should do so as a matter of urgency. That way, the interest of children would be further enhanced.

Perhaps Nigeria needs to borrow a leaf from Greece, where at age 12, an adopted child must give his/her consent for the continuation of the adoption. This would emphasis his/her rights. Greece may also need to learn from Nigeria, where proxy adoption is not allowed. Many children have been trafficked, under the guise of adoption.

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[89] N.43

[90] N.87