

**FORMATION AND DISSOLUTION OF STATUTORY MARRIAGE IN NIGERIA:
CHALLENGES AND PROSPECTS**

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JUNE, 2026.

DECLARATION

I hereby declare that this Long Essay titled “**Formation and Dissolution of Statutory Marriage in Nigeria: Challenges and Prospects** ” is my original work and has not been submitted, either wholly or in part, for the award of any degree in this or any other institution. All sources of information used in this work have been duly acknowledged and referenced.

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CERTIFICATION

This is to certify that the research work titled “Formation and Dissolution of Statutory Marriage in Nigeria: Challenges and Prospects” was carried out by **MARY CHIAMAKA AGBO** under the supervision of **MISS. FLORENCE AKUBILO**, in partial fulfillment of the requirements for the award of Bachelor of Laws (LL. B) Degree.

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DEDICATION

This Long Essay is dedicated to God Almighty, whose grace and guidance made this achievement possible, and to my beloved parents and siblings for their unwavering love, sacrifices, and support.

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LIST OF ABBREVIATIONS

ADR - Alternative Dispute Resolution	12
BVN - Bank Verification Number	78
CAJAR - Centralized Automated Judgments and Assets Registry	78
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women ..	58
CRA - Child Rights Act.....	43, 44, 59, 60
eCITIBIZ - Electronic Citizenship and Business Platform.....	53, 79
FIDA - International Federation of Women Lawyers.....	60, 61
HB - House Bill	51
INTERAS - Interior Electronic Records and Archival System	52, 67
LFN - Laws of the Federation of Nigeria ...	8, 10, 11, 14, 35, 46, 47, 54, 59, 62, 66, 68, 69, 71, 72
MCA - Matrimonial Causes Act	10, 11, 31, 39, 40, 47, 49, 71
NBA - Nigerian Bar Association	61, 63, 70
NGO - Non-Governmental Organisation	58
NIMC - National Identity Management Commission	78
NWLR - Nigerian Weekly Law Reports ..	2, 4, 7, 15, 22, 31, 40, 41, 42, 43, 47, 48, 55, 67, 69, 70, 71
OP-CEDAW - Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.....	58
SLP - Section on Legal Practice	61, 63
UK - United Kingdom	50, 56, 79
UN - United Nations	58

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ABSTRACT

This study examines the legal and institutional framework regulating the formation and dissolution of statutory marriage in Nigeria against the background of the country's plural family-law system, where statutory, customary and Islamic marriage regimes coexist and frequently collide. The research aims to analyze the rules governing valid statutory marriage, interrogate the grounds and procedures for dissolution under the Matrimonial Causes Act, and assess how present laws and institutions respond to conflicts involving consent, age, property, maintenance, inheritance and foreign divorce recognition. A doctrinal methodology is adopted, drawing on statutes, decided cases, textbooks, journal articles, treaties, policy materials and credible online legal commentary, and applying statutory interpretation, case-law synthesis, gap analysis and legal pluralism as the guiding theoretical lens. It is established in this study that while the present system aims at seeking assurance and monogamy in theory, its performance is quite uneven in practice due to archaic laws, divorce based on faults hidden under irretrievable breakdown of marriage, inefficiency in marriage registries, clash between federal and local institutions, ineffective enforcement of matrimonial offenses and maintenance orders, as well as ongoing clash between statutory marriage and customary/ Islamic marriage. The study further establishes that women and children are particularly vulnerable when it comes to property division through stringent title-based approach and when it comes to child marriage prohibition. Therefore, the study recommends reforming the Marriage Act and Matrimonial Causes Act, unifying marriageable age laws, shifting towards a truly no-fault divorce scheme, giving more weight to non-economic contributions in a marriage, regulating technologically registries, strengthening enforcement of financial remedies, and updating private international law laws for foreign divorces.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

Marriage is an universal institution, in the sense that it is ubiquitous in nature. It is also an age-long institution which existence has outlived a lot of systems and changes in those systems, transcending many milieux. In Nigeria, marriage as an institution predates the creation of the country. What this means is that before the white men came with religion; be it Christianity or Islam, marriage took place in all forms traditionally in Nigeria and it was only with the English invasion that a new form was introduced. Despite the invasion it is not strange that traditional form of marriage remained intact, resulting in the creation of a system in Nigeria wherein marriage is subject to a threefold legal system, namely Statutory law, Customary law, and Islamic law.

“A testament that what becomes the law depends on the the spirit of the people” - Volksgeist.¹

The formation of Statutory marriage, as enshrined and regulated by the Marriage Act², is a uniform and monogamous form of marriage. The Court in *Hyde vs Hyde* ruled that it is a voluntary union between one man and one woman to the exclusion of all others³. The creation of this form of marriage is subject to the rigid adherence to formal rules such as notice, consent of parents in certain circumstances, and solemnization by a licensed registrar⁴ or religious minister or under the minister's license⁵

¹ Friedrich Carl von Savigny, *Of the Vocation of Our Age for Legislation and Jurisprudence* (Abraham Hayward tr, The Lawbook Exchange Ltd 2002) 24.

² Marriage Act Cap M6 Laws of the Federation of Nigeria 2004

³ *Hyde v Hyde* [1866] LR 1 P&D 130.

⁴ Marriage Act, 2004 s27

⁵ Marriage Act, 2004 s21

Further, the dissolution of the statutory marriage in Nigeria is regulated by the Matrimonial Causes Act,⁶ a law dating as far back as 1970 and has been criticized for being too intricate, thereby causing delays in the administration of justice⁷, understood as the proper and timely resolution of marital disputes that fairly protects the rights of both spouses, ensures equitable distribution of property, and safeguards the welfare of any child involved.

These laws are quite outdated and the problem facing statutory marriage both in its creation and dissolution are further compounded by the fact that many individuals, particularly men, enter into customary or Islamic marriages without first dissolving their existing statutory marriages, thereby creating conflicts with the law, which recognizes statutory marriages as monogamous, and generating complications in matters of property rights, child custody, and inheritance.⁸

The reason for the above is apparent as most Nigerians opt for statutory marriage for their benefits alone and despise the restrictions imposed but the Marriage laws are 60 years old and are yet to evolve in a society where traditional and religious values still hold a very important place in the lives of the people it intends to govern.⁹ “Nigerians are made to observe a law that has not taken the time to reflect and inculcate the traditional values they are raised with, so it is not strange that they yearn for the other type of marriages as well, and thus indulge in it. This practice is encouraged by a plural legal framework in which statutory marriage, rooted in English law, exists side by side with customary and Islamic marriages, each governed by different norms, procedures, and consequences and the people rely on this lacuna to violate the laws knowing there would be no severe consequences.

⁶ Matrimonial Causes Act, Cap. M7, Laws of the Federation of Nigeria 2004.

⁷ J O Asein, *Introduction to Nigerian Legal System* (2nd edn, Ababa Press Ltd 2005) 248.

⁸ *Mojekwu v. Mojekwu* (1997) 7 NWLR (Pt. 512) 283 at 295.

⁹ T O Elias, *The Nature of African Customary Law* (Manchester University Press 1956) 12-15.

1.2 Statement of the Problem

It is a known fact that the legal frameworks for the regulation of statutory marriages in Nigeria, while designed to bring certainty and security, has been associated with a series of operational challenges. The first challenge came with the enactment of these Acts. The wordings and terms reflect colonial influences or inclinations. A law thrust on a people hardly ever receive full recognition and compliance; hence, the absence of prosecution for matrimonial offenses such as bigamy, adultery, and desertion, which impacts the effectiveness of the statutory system¹⁰. This is further compounded by the nature of society, which gives more importance to customary and religious laws than statutory laws, hence the absence of compliance, conflict of laws, and challenges in enforcing court decrees on matters pertaining to maintenance, custody, and property. Consequently, the statutory system, which is meant to offer clarity and protection, finds it difficult to achieve its intended goals.

The second issue comes from dissolution of statutory marriages. Sections 15 and 16 of the Matrimonial Causes Act state that the dissolution of a marriage can only be achieved on certain grounds, including adultery¹¹, unreasonable behavior¹², desertion¹³, and incurable insanity¹⁴. These restricted grounds enshrined for the dissolution of a marriage does not always accurately represent the reality of the dissolution of marriage in contemporary Nigerian society, where the grounds for the dissolution of marriage may not always be easily accommodated within the statutory framework¹⁵. This has led to couples seeking the dissolution of their marriages experiencing protracted periods of litigation, lack of sufficient proof to satisfy the court, and emotional pain, further delaying the administration of justice and the protective role of the law.

¹⁰ T O Elias, *Nigerian Land Law and Custom* (Rutledge & Kegan Paul 1962) 3–10

¹¹ Matrimonial Causes Act 1970, s. 15(2)(a) (adultery).

¹² Ibid s. 15(2)(c) (where the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with him or her).

¹³ Ibid s. 15(2)(d) (desertion for a continuous period of at least one year immediately preceding the presentation of the petition)

¹⁴ Ibid s. 15(2)(f) (incurable unsoundness of mind and continuous care and treatment).

¹⁵ Matrimonial Causes Act 1970, s. 15

The process for dissolving a statutory law marriage under the Matrimonial Causes Act is perceived to be cumbersome, costly, and time-consuming. The limitations in the administration of justice not only fail to satisfy but also deny people access to justice, particularly the less affluent.

Thirdly and most intricately, the problem centers on the intricacies that arise due to the dual legal system in Nigeria. It is not uncommon to find that after a statutory law marriage under the Matrimonial Causes Act, the parties entered into a customary or Islamic law marriage without dissolving the first marriage legally.¹⁶ This creates serious conflicts in law regarding the rights and obligations of the subsequent spouses and children, and the equitable sharing of property upon the death or dissolution of the union and especially the children given that the constitution recognizes their right to inherit their father estate irrespective of the circumstances of their birth. This constitutional provision reinforces and encourages the continuous affront in statutory marriage in no small way. The court decisions in some cases have been inconsistent and not dissatisfying.¹⁷

1.3 Research Questions

This study is guided by the following research questions:

1. How do the formal requirements for a valid statutory marriage under the Marriage Act contribute to the incidence of legally invalid marriages and what are the consequences for the affected parties?
2. What are the principal procedural and substantive obstacles in obtaining a decree of dissolution under the Matrimonial Causes Act, and how do these obstacles affect litigants?

¹⁶ (n8)

¹⁷ *Okonkwo v. Okagbue* (1994) 9 NWLR (Pt 368) 301 at 310-312.

3. In what ways does Nigerian law resolve conflicts arising when a customary or Islamic marriage is contracted during the subsistence of a statutory marriage, particularly regarding property rights and maintenance.
4. To assess whether recent efforts made by relevant institutions have helped to curb the challenges facing formation and dissolution of marriage in Nigeria today.

1.4 Aim and Objectives of the Study

The aim of the study is to critically examine the legal processes involved in the formation and dissolution of a statutory marriage in Nigeria, with the view of establishing recommendations on the prevailing problems and the way forward.

The objectives of the study are;

1. To examine the conceptual and theoretical aspects involved in the formation and dissolution of a valid statutory marriage in Nigeria and the consequences of failure to comply with the same.
2. To examine the legal processes involved in the formation and dissolution of a valid statutory marriage and the prevailing problems encountered by the petitioner.
3. To establish recommendations on the prevailing Marriage Act and the Matrimonial Causes Act with the aim of improving the same.
4. To understand the challenges and prospects affecting the formation and dissolution of statutory marriage in Nigeria today.

1.5 Scope and Limitations of the Study

This study is limited to the legal regime of statutory marriages in Nigeria. It covers the Marriage Act, which deals with the formation of marriages, and the Matrimonial Causes Act, which deals

with the dissolution of marriages. Any reference to customary and Islamic laws is only where they intersect and influence the outcome of the statutory marriages.¹⁸

In addition, the study is limited to Nigeria in geographical scope, although some references may be made to other jurisdictions for a comparative study. Lastly, the study covers the period from the enactment of the major laws to the present.

The limitation of this study arises from the fact that it adopts a traditional approach to the research methodology of the study of the subject. This means that the study relies on existing texts and does not have any empirical data to present". As a result, although the study can identify the problems and offer solutions to the problems, it cannot quantify the impact of the laws on the people. In addition, the study is limited by the fact that the common law is evolving, and new decisions may be reached after the completion of the study.

1.6 Significance of the Study

This research is important for a number of reasons. On a theoretical level, it is a contribution to the ongoing discussion of legal pluralism in African legal systems.¹⁹ It also adds to the discussion on how a law that has not evolved contributes or makes negative impact on the formation and dissolution of social institutions like Marriage.

On a policy level, the study hopes to be of use for policy makers who may take up the uphill task necessary to amend the legislation and laws governing the formation and dissolution of marriage.²⁰

Ultimately, the study hopes to be of use to individuals and families who have to navigate the system of matrimonial law, as well as students and academics of family law in Nigeria

¹⁸ I O Agbede, *Themes on Conflict of Laws* (Safari Books Ltd 2011) 89-91.

¹⁹ S E Merry, 'Legal Pluralism' (1988) 22 *Law & Society Review* 869, 870-872.

²⁰ C N Okeke, 'Matrimonial Property Distribution in Nigeria: Towards a More Equitable Regime' (2019) 63(1) *Journal of African Law* 134, 140-145.

1.7 Research Methodology

This research employs a doctrinal methodology. This approach involves the systematic analysis of existing legal authorities and scholarly writings. Primary sources include Nigerian legislation (the Constitution, the Marriage Act, the Matrimonial Causes Act) and relevant case law from superior courts. Secondary sources comprise authoritative textbooks, peer-reviewed journal articles, and credible legal commentaries.²¹ The collected materials are subjected to critical analysis. This involves:

- a) Statutory Interpretation: Examining the wording, intent, and application of relevant statutory provisions;
- b) Case Law Synthesis: Analysing judicial decisions to identify established principles, evolving trends, and points of contradiction.²²
- c) Gap Analysis: Comparing the stated objectives of the law with its practical outcomes to identify deficiencies and areas for reform.
- d) Theoretical Lens: The analysis is informed by the theory of legal pluralism, which helps frame the conflicts between statutory and other marriage system
- e) Ethical Compliance: The research upholds academic integrity through proper citation and acknowledgement of all sources, ensuring originality in analysis and argument.

1.8 Literature Review

Based on the existing literature on the formation and dissolution of statutory marriage in Nigeria, it is evident that the subject matter has been addressed in three areas,

²¹ W Twining and D Tiers, *How to Do Things with Rules* (5th edn, Cambridge University Press 2010) 78-82.

²² For an example of such synthesis in practice, see the analysis of *Williams v. Williams* (1987) 2 NWLR (Pt. 54) 66 across various texts.

1.8.1. Legal Framework for the Formation of a Statutory Marriage:

Most texts have provided a comprehensive "black letter law" analysis of the requirements of the Marriage Act.²³ According to E.I. Nwogugu,²⁴ the formation of marriage in the statutory context is the voluntary union for life of one man and one woman to the exclusion of all others. The learned author opined on the formation of marriage and dissolution *vis-à-vis* the Marriage Act and Matrimonial Causes Act²⁵ that while the Marriage Act provides the procedural "building blocks," the Matrimonial Causes Act serves as the "litmus test" for validity, particularly regarding the grounds upon which a marriage is void *ab initio*, voidable and valid as well as bringing a marriage to an end.²⁶

E.I. Nwogugu, further argues that the creation of a statutory marriage is strictly regulated by the Marriage Act, which he defines as a "monogamous union" that must fulfil both "essential" and "formal" requirements to be considered valid.²⁷ Nwogugu argues that the failure to meet formal requirements, such as the Registrar's certificate or the performance of marriage in a licensed place, may result in the marriage being declared void, a situation also highlighted by Itse Sagay.²⁸

Sagay argues that statutory marriage in Nigeria is an "imported institution" from English law and that the creation of a statutory marriage is therefore regulated by the common law principle of the definition of marriage in the case of *Hyde v. Hyde*, which states that marriage is the "voluntary union for life of one man and one woman to the exclusion of all others."²⁹

²³ Marriage Act 2004.

²⁴ E.I. Nwogugu, *Family Law in Nigeria* (3rd edn, Heinemann Educational Books 2014) 21.

²⁵ Matrimonial Causes Act, LFN 2004.

²⁶ *Ibid*, s 3.

²⁷ E.I. Nwogugu (n24)4-5; 42-52

²⁸ Marriage Act, Cap M6, Laws of the Federation of Nigeria (LFN) 2004, ss 7-13.

²⁹ Itse Sagay, *Nigerian Family Law* (Renaissance Law Publishers 2007) 12; see also *Hyde v Hyde* (1866) LR 1 P & D 130.

M.A. Onokah adds a layer to this by discussing the sociopolitical implications of "Double-Decker" marriages—where couples undergo both customary and statutory rites. Onokah argues that while this is common, the legal formation of the statutory marriage effectively "supersedes" the customary one, subjecting the union exclusively to the jurisdiction of the High Court for any subsequent legal actions.³⁰

Chianu Emeka,³¹ in his work, opined that the formation of marriage in Nigeria under the Marriage Act is a rigid, multi-stage process involving the publication of notice, the issuance of a registrar's certificate, and the celebration of the marriage in a licensed place of worship or a marriage registry. He argues that any fundamental departure from these steps, especially where both parties "knowingly and willfully" acquiesce in the irregularity, renders the marriage a nullity under Section 33 of the Marriage Act. "In these texts, the process of a valid marriage has been outlined in great detail. However, the courts have often had to intervene to interpret the strictness of these formations. Despite this wealth of information, it has also been argued in some texts that the absence of a deeper exploration on the reasons for non-compliance and the socio-economic consequences to a wife who finds out that the marriage is void is an area that has not been adequately addressed."³² For instance, while Section 3(1) of the Matrimonial Causes Act lists the grounds for a void marriage (such as bigamy or lack of consent), the literature often fails to address the "limping marriage" syndrome—where a marriage is valid in the eyes of the community but a nullity in the eyes of the law.

While Anyaduba touches on the "vampire" nature of these legal loopholes, there remains a gap in literature regarding legislative reforms that could provide a "safety net" for parties who

³⁰ M Onokah, *Family Law in Nigeria* (Spectrum Books 2003) 45.

³¹ E Chianu, 'Formality of Statutory Marriage in Nigeria: Need for a Policy-Driven Construction of the Marriage Act' (2016) 19 *Recht in Afrika*

³² I Anyaduba, 'Ghost Marriages and Vampire Wives: Problems with the Law of Marriage in Nigeria' (2007) 1(1) *Nigerian Journal of African Law* 145.

innocently enter into void marriages, similar to the "putative marriage" doctrine found in other jurisdictions.

1.8.2. Dissolution of Marriage

Dissolution of Marriage: The subject matter has been adequately addressed in the Matrimonial Causes Act³³ and in the basic texts, where there has been an extensive explanation of the reasons for a divorce. Under Nigerian law, there is only one ground for the dissolution of a marriage: that the marriage has broken down irretrievably.³⁴ However, to establish this ground, the petitioner must prove one or more of the "facts" listed under Section 15(2)(a)–(h) of the MCA, such as adultery, desertion, or the parties having lived apart for a continuous period of at least two or three years.

Despite this clear statutory framework, it has been argued in recent texts that the system remains too adversarial. This is because, while the law ostensibly recognizes a single ground, the requirement to prove specific "faults" (like adultery or intolerable conduct) often compels parties to cast aspersions on one another, further embittering the process.

Professor Gab Agu, in discussing the dissolution of marriage, wrote that the Nigerian matrimonial causes law is "essentially a fault-based system masquerading as a no-fault regime."³⁵ He observed that the rigorous requirements of proving specific facts under Section 15(2) often lead to protracted litigation, which is inconsistent with the modern global trend towards "no-fault" divorce. This resonates with the argument that the current system takes too long to be resolved, often causing unnecessary emotional and financial strain on the parties and their children.

³³ Cap M7, Laws of the Federation of Nigeria (LFN) 2004. See also JO Asein, (*n7*) 240-265.

³⁴ Matrimonial Causes Act, s 15(1).

³⁵ GO Agu, *Family Law in Nigeria* (Enugu: Chenglo Limited 2012) 112.

Legal Pluralism and Inter-System Conflicts: This is the most contentious area. In the texts, the authors examine the theoretical conflicts between the systems.³⁶ The problem of a subsequent customarily valid marriage subsisting during the subsistence of a statutory valid marriage is often examined using landmark cases. The debate is sharply divided among the authors. The more rigorous statutory approach is adamant that the subsequent marriage is void for bigamy. In contrast, the more pragmatic approach is that the law should recognize the reality of the relationships and protect the equitable interests of all the parties involved, particularly in the area of property—a principle that the Nigerian courts have been reluctant to adopt compared to other jurisdictions such as Kenya and South Africa.

The dissolution of statutory marriage is centred on the "irretrievable breakdown" principle introduced by the Matrimonial Causes Act (MCA) of 1970. Scholars like Itse Sagay argue that the MCA successfully moved Nigerian law away from the archaic "fault-based" system of the English common law, though the petitioner must still prove specific facts under Section 15(2) of the Act to establish this breakdown.³⁷

However, recent literature has pointed out that there are major obstacles in the dissolution process. Onyi-Ogelle and Nwawulu point out the shortcomings of the existing regime in failing to safeguard women's proprietary rights during dissolution. They contend that the Nigerian courts' adoption of the "strict property rights" principle, whereby one spouse must demonstrate direct financial input, tends to put women who have made non-financial contributions (as homemakers) to the marriage at a disadvantage.³⁸ Likewise, Aina and Oniyire point out the "half-hearted" approach of the reconciliation provisions in the MCA, observing that by the time

³⁶ I O Agbede (n 18); G B Ozumba, *Philosophy of Legal Pluralism* (Osprey Publications 2015) 101-115.

³⁷ Matrimonial Causes Act, Cap M7, LFN 2004, s 15; see also I Sagay (n29) 215.

³⁸ O Onyi-Ogelle and N Nwawulu, 'An Appraisal of the Legal Framework for the Protection of Women's Proprietary Rights in Marriages in Nigeria' (2020) 114 *African Journal of Law and Human Rights* 118.

legal action is initiated, the confrontational aspect of the court process tends to render nugatory the legislative intent of marriage preservation.³⁹

1.8.3. Emerging Trends and Reform

Recent literature indicates a rising need for legal reform. Jude Ezeanokwasa draws attention to the jurisdictional problem, observing that only the State High Courts possess the power to dissolve statutory marriages, making the process costly and out of reach for many compared to the dissolution of customary marriages.⁴⁰ Moreover, the literature increasingly emphasizes the need to incorporate Alternative Dispute Resolution (ADR) processes to minimise the animosity involved in statutory divorce, since the existing litigation process is considered "destructive" to the family structure.⁴¹

³⁹ I Aina and O Oniyire, 'Marriage Disputes in Nigeria: Alternative Dispute Resolution Mechanisms as a Means of Resolution' (2025) 2(4) Fountain University Law Journal 78.

⁴⁰ J Ezeanokwasa, 'Statutory Marriage Dissolution in Nigeria: An Analysis of the Legal Framework' (2024) 12(1) Journal of Law, Innovation and Development 132.

⁴¹ Samphina Academy, 'Dissolution of Marriage: Problems and Prospects' (2024) Samphina Law Projects 45 available at < <https://samphina.com.ng/dissolution-marriageproblems-prospects/>> accessed 20 February 2026.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework

Analysing the establishment and dissolution of statutory marriages in Nigeria is crucial, and this lengthy essay aims to do just that. Clarifying and explaining some of the phrases that will be utilised and repeated in this discourse is equally necessary in order to eliminate any ambiguity and improve comprehension of the essay.

2.1.1 Marriage

According to Oxford Dictionary, Marriage can be defined as;

*"The condition of being a husband or wife; the relation between persons married to each other; matrimony."*⁴²

Generally speaking, marriage is characterised as a legally and socially accepted union between two people that creates rights and responsibilities for both parties, as well as for their offspring and in-laws. In *Hyde v. Hyde*⁴³, Lord Penzance defined marriage as the voluntary union for life of one man and one woman to the exclusion of others. The definition given above has to do with marriage under the statute⁴⁴. Westermarck has defined marriage as a "relation of one or more men to one or more women which is a recognised custom or law, and involves certain rights and duties, both in the case of the parties entering the union and in the case of the children born of it".⁴⁵ Marriage is also the state of being united as spouses in a consensual and

⁴² Oxford English Dictionary (OED), 'Marriage' (3rd edn, Oxford University Press 2015).

⁴³ (n3).

⁴⁴ Marriage Act Cap M6 Laws of the Federation of Nigeria 2004

⁴⁵ E Westermarck, *The History of Human Marriage*, vol 1 (5th edn, Macmillan 1922) 170.

contractual relationship, recognised by law.⁴⁶ It is universally accepted that marriage, being a union of a man and a woman, involves two persons of the opposite sex.⁴⁷ The three fundamental components of a marriage are:

- (1) the parties' legal capacity to wed,
- (2) their mutual consent, and
- (3) a legally mandated marriage contract.

Though its definition, function, and traits have changed dramatically throughout time, marriage has historically been a fundamental institution in all societies. Traditionally understood as a union between a man and a woman, marriage is now understood to encompass same-sex couples in many jurisdictions worldwide. Whether civil or religious, marriage usually entails a formal ceremony and creates a legally binding connection that influences inheritance, property rights, tax status, and other legal issues.

Section 18 of the African Charter on Human and People's Rights (Ratification and Enforcement) Act⁴⁸ guarantees the preservation of family life. This is mostly accomplished through the sacredness of marriage. Laws that govern and advance the institution of marriage are enacted by every community.⁴⁹ Numerous laws in Nigeria are designed to encourage marriage and render any action that would undermine the institution of marriage unlawful.⁵⁰ Depending on the society or subculture, marriage is an institution where interpersonal relationships, typically intimate and sexual, are recognised in a number of ways.

⁴⁶ Merriam Webster Dictionary.

⁴⁷ E I Nwogugu (n24) 28.

⁴⁸ Cap. A9, Laws of the Federation of Nigeria (LFN), 2004.

⁴⁹ E I Nwogugu (n24) 27.

⁵⁰ Ibid.

In Nigeria, marriages can be lawfully celebrated under statutory or customary law. A person must be legally married under one of the three recognised marriage systems in Nigeria in order to be eligible for marital rights. Nigeria has three different legal systems: Islamic law, customary law, and statutory (English) law. These legal frameworks regulate various facets of society, such as succession, inheritance, and family law.

Therefore, a person can be legally married under Islamic law, customary law, statute law, or a mix of two or more of these systems.⁵¹ Customary marriage is a marriage contracted under the native law and customs of any place in Nigeria. Customary and Islamic laws govern polygamous marriages, whilst the Marriage Act⁵² and the Matrimonial Causes Act⁵³ govern monogamous marriages.⁵⁴ The custom of the people where such marriage was contracted governs such marriage including its validity and its dissolution. However, this work will focus solely on the statutory type of marriage.

2.1.2 Statutory Marriage

A statutory marriage is essentially monogamous, but monogamous marriage celebrated and regulated by statutory law of a country, which means that a woman can only be married to one man at a time and a man can only be married to one woman because a law in the country says so, in this Context the Marriage Act in force in Nigeria. The Interpretation Act⁵⁵ defines a monogamous marriage as:

“A marriage which is recognised by the law of the place where it is contacted as a voluntary union of one man and the woman to the exclusion of all others during the continuance of the marriage”

⁵¹ E Nwebo *Eastern Nigerian Family Law* (University of Ibadan Press, 1967) 30.

⁵² Cap M6 Laws of the Federation of Nigeria 2004

⁵³ Cap. M7 Laws of the Federation, 2004.

⁵⁴ *Jadesimi v Okotie-Eboh* (1996) 2 NWLR (Pt. 429) 123 ; Chapter 4 verse 3, Holy Koran

⁵⁵ Section 18.

Three characteristics of statutory marriage are shown by this definition: exclusion of all others, voluntary union, and union for life.⁵⁶ In order for a marriage to be considered voluntary, both parties must have chosen to get married. The desire to join the union cannot result from coercion, threats of violence, fraud, dishonesty, or deception.⁵⁷ The premise of Union for Life is that the couple will stay wed until one of them passes away. This clearly has an ecclesiastical history and goes back to the time when the Church governed marriage.

Today, it would be incorrect to claim that marriage is for life because the law has established alternative ways to dissolve a connection, such as divorce. Lastly, a union of one man and one woman is referred to as statutory marriage. This indicates that a man and a woman, not two people of the same sex, are united. The Supreme Court in *Meribe v. Egwu*⁵⁸ held that the supposed marriage between two women was repulsive. Also, in *Corbett v. Corbett*⁵⁹, Due to the respondent's male sex, the petitioner sought to have the marriage annulled. In order to marry a guy, the respondent, who was born a man, had his sex changed to a woman. According to the judge, the marriage being basically a marriage between a man and a woman, and the legitimacy of the union hinged on the respondent's gender. The so-called marriage was null and void because the respondent was a man at birth.

Because it is subject to the Marriage Act, the marriage Act rules and regulations, statutory marriage is most times referred to as marriage under the Act. In terms of inheritance, wills, and other family issues, it offers the couple and their kids many advantages and rights. In Nigeria,

⁵⁶ N Tijani, *Matrimonial Causes in Nigeria. 2nd Edn. (Lagos: Renaissance Law Publishers Limited, 2017)p. 4-8*

⁵⁷ Matrimonial Causes Act.3(1)(d) invalidates a marriage whose consent was procured by fraud, duress or a mistaken identity of the other party or as to nature of the ceremony performed or where the other party has mental incapacity of understanding the nature of the marriage contract.

⁵⁸ (1976) 1 All NLR 266 at 275

⁵⁹ (1970) 2 All ER 33

statutory marriages can take place in any licensed public location, including places of worship, but they must begin at the Marriage Registry.⁶⁰

2.1.3 Monogamy and Polygamy

Marriage is a common social institution that is present in all societies and at all developmental stages. Although the precise forms or arrangements of marriage may vary from one society to another, the basic idea is generally the same. Group marriage, polygamy, and monogamy are the three primary categories.

One popular and respected type of marriage that is thought to be logical and ideal is monogamy. When it comes to the meaning of monogamy, Merriam-Webster Dictionary states that it is the practice of only having one partner⁶¹. The union of one man and one woman is known as monogamy. A person who practices monogamy can only have one partner at a time”. Under this arrangement, a woman can only have one husband and a man can only have one wife at a time. In contrast, a marriage in which a spouse of either gender has multiple wives or spouses at the same time is known as polygamy. While polygamy may be condemned or misinterpreted in many civilisations, monogamy is valued. It is evident in every civilised society. In reality, monogamy is more common, even in places where polygamy is legal. Serial monogamy and non-serial monogamy are the two types of monogamy.⁶²

In the event of a divorce or the death of a spouse, a serial monogamous marriage permits remarriage. The person is still monogamous even after being married again. However, The idea

⁶⁰ Marriage Act, Laws of the Federation of Nigeria, 2004, s. 27.

⁶¹ Merriam-Webster Dictionary, 'Monogamy' (Merriam-Webster), available at <https://www.merriam-webster.com/dictionary/monogamy>, accessed 15 June 2026

⁶² Eric Gould, Omer Moav and Avi Simhon, 'From Polygyny to Serial Monogamy: A Unified Theory of Marriage Institutions' (2008) 75(3) Review of Economic Studies 817.

of remarriage has no bearing on either spouse in non-serial monogamy. A person in this kind of relationship stays married to the same person for the duration of their lives.

Contrary to monogamy, the term "polygamy" describes a type of marriage in which there are several partners. It allows a woman to marry more than one man at once or a man to marry more than one woman⁶³. There are two types of polygamy: polygyny, in which a man has several wives, and polyandry, in which a woman has several spouses.⁶⁴

2.1.4 Marriage Under the Act

As stated earlier, the law in Nigeria essentially recognises three different kinds of marriage. These include Islamic marriage, customary marriage, and statutory marriage. Marriage under the Act focuses on statutory marriage, which is governed by the Marriage Act 2004⁶⁵ (including other legislative acts⁶⁶), and is also known as marriage under the Act. According to the law, this kind of marriage is monogamous, meaning that only one man and one woman are united. Statutory Marriages necessitate compliance with certain legal conditions, such as capacity, parental consent (for individuals under 21), mutual consent, and adherence to bigamy bans and particular levels of consanguinity and affinity. For the marriage to be deemed legally valid, it must be performed in a registrar's office or a licensed house of worship. Under Nigerian law, this type of marriage carries obligations and legal protections

2.1.5 Essential Requirements for a Valid Statutory Marriage

Prior to the solemnisation of a statutory marriage, a number of requirements have been established by the Marriage Act. Because of their significance in determining whether a

⁶³ Miriam Zeitzgen, 'Polygamy (Polygyny, Polyandry)' in *The International Encyclopedia of Anthropology* (Wiley 2018) <https://onlinelibrary.wiley.com/doi/abs/10.1002/9781118924396.wbiea1377> accessed 15 June 2026.

⁶⁴ Ibid.

⁶⁵ Cap M6 Laws of the Federation of Nigeria 2004

⁶⁶ Which includes but is not limited to the Matrimonial Causes Act Cap. M7 Laws of the Federation, 2004.

marriage is deemed valid or void, they are referred to as essential requirements. Despite their apparent similarity, it is crucial to remember that the Essential Requirements for a Valid Statutory Marriage and the Formal Requirements for a Marriage are not the same. The distinction is that if one of the essential requirements is not met, the marriage is null and void⁶⁷, but if the formal requirements are not met, the marriage remains lawful and voidable.⁶⁸ Nonetheless, the Marriage Act's sections 12 and 33(2) expressly declare that a marriage is null and unlawful if certain legal conditions are not met.⁶⁹

Formal Requirements include;

1. Notice of Marriage

According to the Marriage Act, either party may fill out and sign a notification of marriage in the required format.⁷⁰ Those who apply for notice forms will receive them from the registrar⁷¹. Following completion, the form must be entered into the marriage notice book, which is open for free inspection during business hours. It is also required that the registrar post this notice on the door of his office until either his certificate is issued or three months have passed.⁷²

2. Registrar's Certificate

According to the Marriage Act, the certificate in Form C of the First Schedule can only be issued after twenty-one days have passed but before three months have passed after the notice

⁶⁷ I Sagay (n29) 51.

⁶⁸ Ibid 50.

⁶⁹ Ibid

⁷⁰ Marriage Act, ss 7.

⁷¹ Section 2 of the Marriage Act defines a registrar as a registrar of marriages, and includes a deputy registrar, when acting in the position of a registrar. While Section 9, Marriage Act, Laws of the Federation of Nigeria, 2004, provides that each registrar is required to provide notice forms at no cost to anyone who requests them.

⁷² Ibid ss 10.

date; additionally, the required fee must be paid.⁷³ Please take note that the Minister may waive the Registrar's Certificate by issuing a special license in accordance with Section 13 of the Marriage Act.

The Registrar must be satisfied with the following details in the affidavit before issuing the certificate:

1. That at least fifteen days prior to the certificate's issuance, one of the parties must reside in the region where the marriage is planned to be celebrated.
2. Unless a widow or widower, the parties must be at least 21 years old, and where any individual under the age of 21 has had the necessary written consent acquired and appended to the affidavit.
3. That there are no legal obstacles to the marriage, such as kinship or affinity; and
4. That according to customary law, neither of the parties to the planned marriage is already married to someone else.⁷⁴

Before a registrar, administrative official, or accredited religious leader, the affidavit is sworn. According to the legislation, the person taking the affidavit must inform the maker of the forbidden levels of consanguinity and affinity as well as the consequences that contracting a marriage while already married is illegal. Failing to provide the aforementioned justifications is a crime that carries a two-year prison sentence.⁷⁵ The individual providing the explanations must sign a statement attesting to his fulfilment of this duty and the affiant's apparent comprehension of the explanations.⁷⁶ The wedding ought to happen within three months of the

⁷³ Ibid ss 11.

⁷⁴ The proviso to Marriage Act 2004, s.11(1).

⁷⁵ Marriage Act 2004, s.11(3).

⁷⁶ Marriage Act 2004,s.11(4).

notice date. The notice and all actions resulting from it are null and void if this requirement is not met. To have a legal marriage in such a situation, the parties need to give new notice.⁷⁷ Keep in mind that the Registrar's Certificate merely grants the parties the right to get married; it is not proof that the marriage was celebrated.⁷⁸

3. Caveat

According to the Marriage Act, Interested persons⁷⁹ whose approval of the marriage is legally necessary or who has a valid reason why the marriage shouldn't be celebrated may enter a caveat against an issue of the registrar's certificate.⁸⁰ Until the High Court orders the removal of the caveat, the Registrar is not permitted to issue the Registrar's Certificate authorising the celebration of the marriage. If the judge decides that the Certificate should be granted, he will remove the caveat by writing "cancelled by order of the High Court" beneath the entry and erase the phrase "forbidden" from the marriage notice book in ink and proceed to sign his name.⁸¹ However, when there are good reasons to enter the proviso, the court upholds the caveat.⁸² Until the obstacle is removed, the couple cannot get married. It should be noted that caveats are typically made based on a claim that the person laying the complaint and one of the parties to the intended marriage already had a marriage. According to native law and custom, the Caveatrix in *Ogunremi v. Ogunremi*⁸³ asserted that she was legally married to Lawrence Ogunremi. The customary marriage was deemed unproven by the court. The caveat was taken out.

⁷⁷ Marriage Act 2004,s.12

⁷⁸ *Sofela v Sofela* (1976) 7 CCHCJ 1923

⁷⁹ Person whose consent to the marriage is required by law or anyone who knows of any just cause why the parties should not be joined in marriage

⁸⁰ Marriage Act 2004,s.14(1)

⁸¹ Marriage Act 2004,s.16; *Awobokun v. Adeyemi* (1970) NSCC 260.

⁸² One of these reasons is that, either in accordance with the Act or customary law, one of the parties to the planned marriage is already wed to a third person. See *Ogunremi v. Ogunremi* (1972) 2 UILR 466.

⁸³ *Supra*.

4. Special License

The process for the registrar's certificate and the marriage notice may be skipped in certain situations. The Minister of Interior may provide parties a special license to get married without previously meeting the requirements of providing notice and obtaining certificate from the registrar. However, the Minister must be satisfied by affidavit that there are no legal obstacles to the intended marriage and that all necessary permission has been received before he may award such a license. The marriage between the couples listed in Form D of the First Schedule to the Marriage Act may be authorised by the Minister through the issuance of his license.⁸⁴ When a public figure wishes to get married without the associated publicity or when the parties are unable to wait the required 21 days after filing a notification with the registrar, a special license is given.

However, Essential Requirements include :

1. Age;

Despite the fact that the Marriage Act does not state the minimum age required for marriage,⁸⁵ given that the Marriage Act stipulates that any party under the age of 21 must acquire the approval of their parents or legal guardian, the minimum age is 21 years old as a result of the combined effects of Sections 11 (1) (b), 18, 19, and 20 of the Act.⁸⁶ In addition to this, the provision of Child's Right Act⁸⁷ states that eighteen is the minimum age of marriage.

⁸⁴ Marriage Act 2004,s.13

⁸⁵ E I Nwogugu ,*What Next in Nigerian Family Law?*(Nigerian Institute of Advanced Legal Studies, 2006)13.

⁸⁶ *Marriage Act Cap. M 6 Laws of the Federation of Nigeria, 2004.*

⁸⁷ Child's Right Act 2003. Cap C50, Laws of the Federation of Nigeria, 2004, ss 21.

When one of the parties is not of marriageable age, the Section 3 (1) (e) of Matrimonial Causes Act 2004⁸⁸ declares the marriage null and void. “In *Elias v Elias*⁸⁹, the court determined that, regardless of the voting age of 18, the common law age of 21 (twenty-one) years is the full age under Nigerian law. There is an existing conflict between the both provisions in the Child Rights Act and the Marriage Act. Because the Marriage Act is a specialised law pertaining to marriage, renowned author Nasiru Tijani has argued that it should take precedence over the Child Rights Act.⁹⁰ Anyone found guilty of marrying an infant or encouraging their marriage faces a fine or even a prison sentence.⁹¹

2. Consent;

Since a marriage cannot be deemed lawful unless both parties agree to marry each other, consent is required. The validity of a statutory marriage does not require parental consent. This means that a marriage is not void because the parents did not approve of it.⁹² However, express consent from both parties is required. The marriage may be null and void if the consent is corrupted by or gained through deception, coercion, or duress. If one of the partners is mentally ill, misidentified, or misunderstands the ceremony, the marriage may also be null and void.⁹³

The court ruled in *Agbo v. Udo*⁹⁴ that the Marriage Act's Section 33(3), which can declare a marriage void after celebration, is not violated by the absence of parental consent. The only exception to this rule is if the party is younger than 21.⁹⁵ The plaintiff and his spouse entered into a statutory marriage contract. Afterwards, the plaintiff asked the court to dissolve the

⁸⁸ Cap. M7 Laws of the Federation of Nigeria, 2004

⁸⁹ (2001)9 NWLR (Pt. 718) 429

⁹⁰ *op cit* p. 9

⁹¹ Constitution of the Federal Republic of Nigeria ss 23; 29 (4).

⁹² N Tijani (n56) pg 9.

⁹³ Matrimonial Causes Act 2004,s. 3(1)(d) *Buckland v Buckland* (1967); *Mehta v Mehta* (1945) 2 All ER 690

⁹⁴ (1947) 18 NLR 152.

⁹⁵ N Tijani (n56) pg 9.

marriage because his wife was having an affair with a co-respondent. The co-respondent argued that no legal parental consent was acquired because the wife was a juvenile at the time of the marriage and argued that the court should dissolve the petitioner and respondent's marriage because it was invalid. According to section 33(3) of the Marriage Act⁹⁶, the Court determined that the marriage was lawful even in the lack of parental approval. In other words, none of the provisions of section 33 of the Marriage Act that can declare a marriage void after celebration is violated by the absence of parental consent. Although the lack of parental consent does not nullify the marriage, it is a crime that carries a two-year prison sentence for anyone who knows full well that parental consent is missing and who marries a minor or helps or procures someone else to do so⁹⁷. When approval is needed, it must be in writing from the mother or father, if the father is not in Nigeria or is deceased or mentally ill. The guardian's approval is necessary in cases where both parents are deceased, mentally ill, or not in Nigeria. If no guardian or parent is accessible to provide consent, a state governor, a high court judge, or any civil service officer higher than the rank of assistant secretary may provide consent.⁹⁸

3. Prohibited Degree of Consanguinity and Affinity

The parties shall not fall within the forbidden degrees of affinity⁹⁹ (marriage-based relationships) and consanguinity¹⁰⁰ (blood connections) listed in Schedule 1 of the Matrimonial Causes Act.¹⁰¹ If the woman is or has been the man's ancestress, descendent, sister, mother's

⁹⁶ All marriages are legitimate under this section, with the exception of those that were declared invalid in the section's earlier subsections.

⁹⁷ Marriage Act ss 48 - 49.

⁹⁸ Marriage Act, s.20

⁹⁹ Affinity refers to the relationship created by marriage between a spouse and the blood relatives of the other spouse. For example, a man and his wife's daughter (stepdaughter), or a woman and her husband's father (father-in-law). Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria 2004, s. 3(1)(a), Sch. 1.

¹⁰⁰ Consanguinity refers to a blood relationship between persons descended from a common ancestor. Examples include brother and sister, father and daughter, mother and son, or uncle and niece. Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria 2004, s. 3(1)(a), Sch. 1.

¹⁰¹ E I Nwogogu (n24) 38.

sister, father's sister, brother's daughter, or sister's daughter, a marriage is forbidden.¹⁰² Whether the relationship is half-blood or entire blood, or if it is traced through an illegitimate individual, is irrelevant. The affinity prohibition rule has an exception. Those who are within the forbidden degree of affinity and want to get married can submit a written application to a High Court judge asking for permission to get married to one another.¹⁰³ A judge who is convinced that the unique circumstances of the case warrant granting the requested permission may issue an order allowing the applicants to marry.¹⁰⁴ In *Re P. And P's Application*¹⁰⁵, a father-in-law and his daughter-in-law applied to get married after the latter's divorce due to adultery with the former. After seducing his son's wife, the father-in-law lived with her and the son's small children as a husband and wife. However, in order to justify the use of the court's discretion, the application was denied on the grounds that the circumstances could not be considered extraordinary.

4. Single Status

Any previous marriage, whether statutory or customary, between a party and another individual prevents that party from entering into a future statutory marriage with another individual.¹⁰⁶ It is also stated in Section 3 of the Matrimonial Causes Act¹⁰⁷. As stated by the court in *Onwudinjoh v. Onwudinjoh*,¹⁰⁸ It will also constitute bigamy. Additionally, the party may face a five-year prison sentence under the Marriage Act or a seven-year sentence under the Criminal

¹⁰² Matrimonial Causes Act s 3(1) 1970.

¹⁰³ Matrimonial Causes Act 2004, s.4(2)

¹⁰⁴ E I Nwogogu (n24) 39.

¹⁰⁵ (1973) 2 F.L.R. 450.

¹⁰⁶ I Sagay (n29) 52, *Obeleiniya v Obele* (1973) 1 NMLR 155.

¹⁰⁷ Matrimonial Causes Act s. 3(1)(a)

¹⁰⁸ (1957-58) 11 E.R.L.I

Code Act.¹⁰⁹ There is an exemption, though, if the same people who were married under customary law later get married under statute.¹¹⁰

5. Sanity

Statutory marriage requires both partners to be sane. The marriage is null and void if one of the parties is mad and hence unable to comprehend the terms of the marriage contract.¹¹¹

2.2 Theoretical Framework

2.2.1 Marriage Theory

Marriage is an age-old social institution that is legalised by laws and religion, among others. Marriage can be made between individuals according to statutory law, customary law and/or Islamic law in Nigeria. A number of theories have emerged to describe the true nature of marriage as well as the purpose of marriage throughout history. These theories explain how marriage ought to be seen as and also seek to explain the legal relationship created between parties upon marriage and the role of society and the state in regulating that relationship.

1. Contract Theory of Marriage: The Contract Theory as propounded by Sir Henry Maine, views marriage as a civil union voluntarily made between two individuals¹¹². The Contract Theory believes that the basis of marriage is consent. In this respect, just as in other contracts, people who wish to get married should do so through mutual agreement and not by use of force, threats or deception.

¹⁰⁹ Marriage Act section 46, Criminal Code Act section 370; I. I Sagay (n29) 52.

¹¹⁰ N Tijani (n56) 8.

¹¹¹ Matrimonial Causes Act 2004, s. 3(1)(d)

¹¹² G W Paton, *A Textbook of Jurisprudence* (4th edn, Oxford University Press 1972) 412.

Nigerian law recognises this theory as evidenced in statutory marriage which is regulated by the Marriage Act. It provides that for a valid marriage to be celebrated, there must be free consent of the parties.¹¹³ The parties must also have attained the age for marriage. However, unlike commercial contracts where parties have the liberty to terminate their contractual relationship, divorce must be done in accordance with the Matrimonial Causes Act.¹¹⁴ The importance of this theory lies in the fact that it emphasises voluntariness and equality of parties in marriage.

2. Status Theory of Marriage: This Theory is also associated with Sir Henry Maine as well. The Status Theory considers marriage a status rather than a mere agreement.¹¹⁵ After the marriage has been solemnised, the two parties enter into a legal relationship as husband and wife with certain rights and responsibilities. Marriage gives rise to some legal obligations like; Cohabitation, Fidelity, Maintenance, and Parental obligations. This theory clarifies the regulation of marriage by the state and also clarifies why spouses have no liberty to change the fundamental duties arising out of the marriage. Sir Henry Maine provided strong support for this theory as he opined that marriage and family relations arise out of status rather than consent.¹¹⁶
3. Institutional Theory of Marriage: This theory is not attributed to one specific scholar but was developed through the works of various scholars such as Émile Durkheim, Bronisław Malinowski and Claude Lévi-Strauss. According to the Institutional Theory of marriage, marriage is a social institution that has been created to serve a specific social function within society.¹¹⁷ Therefore, according to the theory, marriage should not be regarded as a private union between two people – male and female; rather, it is

¹¹³ Marriage Act, ss 18–33.

¹¹⁴ Matrimonial Causes Act, Cap M7 Laws of the Federation of Nigeria 2004, s 15.

¹¹⁵ Sir Henry Maine, *Ancient Law* (1861) 163.

¹¹⁶ Ibid.

¹¹⁷ P M Bromley, *Family Law* (8th edn, Butterworths 1992) 3.

an institution that touches the family, community, and state. Some of the social functions performed by marriage, according to the theory, include; birth, child upbringing, social companionship, control of sexual conduct, family lineage, and maintenance of social order.¹¹⁸ The theory underscores the importance of marriage in maintaining social stability and continuity. This is the reason the law regulates marriage through the definition of who is eligible for marriage, how marriage ought to be contracted, and under what circumstances it can be dissolved. Some elements of the theory can be seen in some provisions in Nigeria's laws on marriage. For instance, the Marriage Act and Matrimonial Causes Act¹¹⁹ have laid down the statutory conditions that must be fulfilled for a valid marriage. In addition, under Nigerian law, there are duties that must be performed by spouses. Some of those duties include maintenance, fidelity, parental care, and responsibility for children.¹²⁰ These duties are not only meant to serve their own purposes, but they are also meant to serve the interests of children and the wider society.

Finally, customary law in Nigeria embodies the Institutional Theory in a significant manner since marriage is considered more as an institution where two lineages come together, not two individuals. Marriage helps to consolidate the community as well as preserve lineage. The Institutional Theory accounts for the fact that, under the Matrimonial Causes Act, Nigerian courts take an interest in protecting marriage and reconciliation between individuals prior to divorce.¹²¹ Nevertheless, the Institutional Theory has received criticism in the sense that it puts the welfare of society above individual happiness. It could be said that too much stress has been laid on marriage

¹¹⁸ E I Nwogogu (n24)12.

¹¹⁹ Marriage Act, Cap M6 Laws of the Federation of Nigeria 2004; Matrimonial Causes Act, Cap M7 Laws of the Federation of Nigeria 2004.

¹²⁰ Matrimonial Causes Act, ss 70–71.

¹²¹ Matrimonial Causes Act, s 11.

preservation, which can lead people to remain in unhappy marriages. Notwithstanding, the Institutional Theory plays a significant role in shaping marriage under the Nigerian law as marriage is viewed as the basis of family and society.

4. **Sacramental Theory of Marriage:** The sacramental theory of marriage is primarily associated with St. Augustine of Hippo and was later developed by St. Thomas Aquinas. According to this theory, Marriage is considered a sacred and divine relationship according to the Sacramental Theory. This implies that the institution of marriage is not just a legal contract but an aspect of religion. In Christianity, the marriage is seen as a divine covenant which should be lifelong. The sacramental theory holds that marriage is established through; Love, fidelity, indissolubility, and divine approval. This theory has a great influence on marriages in Nigeria, especially those performed within church settings. Most religious institutions are opposed to divorce since marriage is a sacred affair and cannot be terminated unless there are compelling reasons. The sacramental theory is one reason why marriage vows are often exchanged in religious ceremonies.¹²² While the law provides for divorce through the Matrimonial Causes Act in Nigeria, religious beliefs formed on the sacramental theory continue to shape people's perception of marriage and divorce.
5. **Social Exchange Theory:** This theory was primarily associated with George C. Humans, who developed Social Exchange theory, and was later expanded by Peter M. Blau. Social Exchange Theory perceives marriage as an exchange of gains and losses between husbands and wives. In the case where one is getting more rewards in the marriage than burden, he or she stays in the marriage. Some examples of gains from marriage may include love, companionship, emotional support, financial assistance,

¹²² *The City of God*, bk XIV; see also St Augustine of Hippo, who regarded marriage as a sacred and divinely ordained union characterized by fidelity, permanence, and procreation.

and social respect. While some burdens/ losses may include conflict, abuse, neglect, emotional stress, and financial hardship¹²³. According to Social Exchange Theory, marital success hinges greatly on happiness, and both parties benefitting in the marriage.¹²⁴ In the case of Nigerian law, this theory ties into the provisions of the Matrimonial Causes Act in regards to maintenance, best interest of the child, and divorce. Where the burdens of marriage become unbearable through cruelty, desertion or intolerable behaviour, the law permits dissolution of marriage on the ground that the marriage has broken down irretrievably. The theory helps explain why some marriages succeed while others fail despite legal recognition.

6. Economic Theory of Marriage: The Economic Theory of Marriage as propounded by Gary Becker, perceives marriage as a business relationship that people enter into for economic cooperation¹²⁵. As per this theory, marriage is all about resource sharing, division of labour, and economic responsibilities among the two spouses.¹²⁶ In Nigeria, the concept of economic cooperation has been inherent in marriage from times immemorial. In the marital relationship, the male partner provides economic assistance, whereas the female partner works hard economically at home or elsewhere. Under Nigerian law, the theory is reflected in provisions relating to:

- maintenance of spouses,¹²⁷
- child support,¹²⁸

¹²³ George C Homans, *Social Behavior: Its Elementary Forms* (Harcourt, Brace & World 1961) 13–24; Peter M Blau, *Exchange and Power in Social Life* (John Wiley & Sons 1964) 88–114.

¹²⁴ Homans (n 122) 60–75; Blau (n 122) 118–125.

¹²⁵ Gary S Becker, *A Treatise on the Family* (Harvard University Press 1981) 3–5.

¹²⁶ Ibid 14–32.

¹²⁷ Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria 2004, ss 70–71 (maintenance of parties to a marriage).

¹²⁸ Ibid ss 69–70.

- settlement of matrimonial property,¹²⁹
- and welfare of the family.¹³⁰

The Matrimonial Causes Act empowers courts to make financial orders for the benefit of spouses and children after divorce. This shows that marriage is not only an emotional relationship but also an economic unit recognised and protected by law. However, critics argue that marriage should not be reduced merely to financial calculations because emotional, moral and spiritual elements are also important.

2.2.2 Irretrievability Theory

Irretrievability Theory of Marriage has no single proponent; it was developed through modern family Law reform and was popularised by law reform commissions and legislators rather than by one individual scholar. The first country to rely on it is New Zealand in the case of *Lodder vs Lodder*.¹³¹ It is however a contemporary theory on which the concept of divorce is based in Nigeria. According to the theory, whenever a marriage is irreparably broken to an extent where it can never be reconciled between the parties anymore, the marriage should be dissolved by law¹³². Therefore, the key idea behind this theory is not the punishment of any offences committed in the marriage but rather the breakup of the marriage itself. The theory forms the core of Nigerian legislation, specifically the Matrimonial Causes Act (MCA). The statutory foundation of the Irretrievability Theory is contained in section 15(1) of the Matrimonial Causes Act which provides:¹³³

¹²⁹ Ibid s 72.

¹³⁰ Matrimonial Causes Act, ss 70–72.

¹³¹ *Lodder v Lodder* [1921] NZLR 876 (SC)

¹³² Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria 2004, s 15(1), which provides that a petition for dissolution of marriage may be presented on the ground that the marriage has broken down irretrievably.

¹³³ Ibid.

“A petition under this Act by a party to a marriage for a decree of dissolution of the marriage may be presented to the court by either party to the marriage upon the ground that the marriage has broken down irretrievably.”

This means that a divorce may be granted on the ground of irrevocable breakdown of the marriage. The theory of irretrievability holds that if a marriage has become unsustainable, it must be terminated when it becomes impossible for the individuals involved to cohabit as husband and wife. Therefore, the crucial question that must be answered by the court is whether there is a permanent breakdown of marriage that makes it unsolvable.¹³⁴

Despite the fact that the law in Nigeria acknowledges the principle of irretrievability, the dissolution of marriage is not automatic once it is alleged by the parties that the marriage has been unsuccessful. To enable the court to decide that the marriage has irretrievably broken down, the petitioner must establish at least one or several statutory grounds enumerated under Section 15(2) of the Matrimonial Causes Act.¹³⁵

Facts Constituting Irretrievable Breakdown Include;

1. Wilful Refusal to Consummate the Marriage; Where the respondent has wilfully and repeatedly refused to consummate the marriage, the court can annul such a marriage.¹³⁶

By consummation, we mean having completed sexual intercourse between the couple after marriage. The refusal may be an indication that the marriage is irretrievably broken.

¹³⁴ *Harriman v Harriman* (1989) 5 NWLR (Pt 119) 6.

¹³⁵ Matrimonial Causes Act, s 15(2).

¹³⁶ *Ibid*, s 15(2)(a).

2. Adultery; Where the respondent commits adultery and the petitioner cannot bear to live with him/her any longer, the marriage can be dissolved.¹³⁷ Proof of adultery and intolerability is required by the petitioner.
3. Intolerable Conduct; It is possible for the court to rule that there has been an irremediable breakdown of marriage in cases where the respondent has indulged in intolerable behaviour, making it impossible for the petitioner to cohabit with him or her.¹³⁸ Such intolerable behaviour includes cruelty, domestic violence, psychological abuse, neglect, and continuous humiliation.
4. Desertion; If the respondent has deserted the petitioner for one whole year preceding the filing of the petition, then the marriage is capable of being dissolved.¹³⁹
5. Separation for Two years with Consent; A marriage can be dissolved if the two spouses lived separately from each other for more than two consecutive years without the opposition of the defendant to the dissolution.¹⁴⁰
6. Three Years of Separation; The union can also be annulled if the couple has been living separately for at least three years before the filing of the case, regardless of the consent of the respondent.¹⁴¹
7. Non-compliance with a Restitution of Conjugal Rights Order; Non-compliance by either party to a decree for restoration of conjugal rights for more than one year can be considered proof of an irretrievable breakdown.¹⁴²
8. Death Presumed; In cases where one of the spouses has been lost due to reasonable assumptions of death, divorce proceedings can take place.¹⁴³

¹³⁷ Ibid, s 15(2)(b).

¹³⁸ Ibid, s 15(2)(c).

¹³⁹ Ibid, s 15(2)(d).

¹⁴⁰ Ibid, s 15(2)(e).

¹⁴¹ Ibid, s 15(2)(f).

¹⁴² Ibid, s 15(2)(g).

¹⁴³ Ibid, s 15(2)(h).

Apart from the aforementioned grounds, Section 16 of the Matrimonial Causes Act recognizes the following circumstances for the purposes of defining the breakdown of marriage, which include:

- rape,
- sodomy,
- bestiality,
- habitual drunkenness,
- imprisonment,
- attempt to murder,
- insanity, etc.¹⁴⁴

The courts of Nigeria have always been consistent in stating that irretrievable breakdown is the sole ground for the dissolution of statutory marriage. In *Harriman v Harriman*, it was held by the Court of Appeal that the circumstances set out under sections 15(2)(a) to (h) are not grounds for divorce, but only forms of irretrievable breakdown.¹⁴⁵ In like manner, in *Sowande v Sowande*, the court stressed the need for the petitioner to establish at least one statutory ground before a decree of dissolution can be granted.¹⁴⁶

Though the Irretrievability Theory is accepted, the legal provisions of divorce in Nigeria have a lot in common with the old fault-based theory, since one has to prove statutory facts which are mostly fault-based. As a result, divorcing couples frequently make exaggerated claims against each other, trying to meet all the conditions of divorce.

¹⁴⁴ Matrimonial Causes Act, s 16.

¹⁴⁵ (*n134*).

¹⁴⁶ *Sowande v Sowande* (1969) 1 All NLR 482.

Complementing the aforementioned theories, the regulations that currently regulate statutory marriage in Nigeria were formed as a result of historical contributions rather than being a recent innovation. The historical evolution of statutory marriage from traditional or indigenous traditions to its contemporary status must also be examined in order to comprehend it.

2.2.3 Historical Background of Statutory Marriage in Nigeria

The Marriage Ordinance No. 10¹⁴⁷ was the first colonial law to be implemented following Lagos' secession in 1861. The ordinance allowed marriage licenses to be granted in the Lagos settlement. Marriage registration and solemnisation were covered by Registration Ordinance No. 21¹⁴⁸. All of these were repealed in 1884, with the exception of Divorce Ordinance No. 10, which was passed in 1873.¹⁴⁹ The first complete piece of legislation addressing different types of marriages was Marriage Ordinance No. 14 of 1884. Despite Lagos' separation from Gold Coast Colony in 1886, the 1884 Ordinance remained in effect there.

Marriage Proclamations No. 20 of 1900 and No. 10 of 1906 expanded the 1884 Ordinance to include both the Northern and Southern regions. With the combination in Northern and Southern Nigeria, the Marriage Ordinance of 1914 Cap 115 1958, which is now Cap M6 of the Laws of the Federation of Nigeria 2004, was simplified and implemented across the country. The Foreign Marriage Ordinance of 1913, the Marriage Proclamation of 1907, and the Marriage Ordinance of 1908 were all repealed by this ordinance.

The Marriage (principal registrar application, etc.) Notification was added in 1971. Decree No. 14 of 1971, which amends the Marriage Act, allows for the celebration of weddings under the Marriage Act in Nigeria, Diplomatic Mission in Nigeria, and the Marriage (Validation

¹⁴⁷ Marriage Ordinance 1863 (Ordinance No 10 of 1863) (Lagos).

¹⁴⁸ Registration Ordinance 1863 (Ordinance No 21 of 1863) (Lagos).

¹⁴⁹ Divorce Ordinance 1873 (Ordinance No 10 of 1873) (Lagos).

Act)¹⁵⁰ nevertheless, the 2004 LFN does not contain this legislation. The purpose of this statute was to legalise those marriages that were allegedly consummated in accordance with the Marriage Act.¹⁵¹

¹⁵⁰ Marriage (Amendment) Decree 1971 (Decree No 14 of 1971).

¹⁵¹ University of Maiduguri 'HIST 101: *Overview of Statutory Marriage Laws in Nigeria*' available at <https://www.studocu.com/row/document/university-of-maiduguri/law-and-enter/statutory-marriage/93296689?origin=course-highest-rated-2> accessed 10 February 2026.

CHAPTER THREE:

INSTITUTIONAL AND LEGAL FRAMEWORK FOR THE FORMATION AND DISSOLUTION OF STATUTORY MARRIAGE IN NIGERIA

3.1 Legal Framework Governing Statutory Marriage in Nigeria

The Nigerian legal system is famously pluralistic, and this is particularly true with regard to the regulation of domestic relationships. There are three modes of valid marriage under the law: statutory, customary, and Islamic.¹⁵² Marriage under the Act is one of the modes of valid marriage. The conceptual basis of statutory marriage is rooted in English common law, as encapsulated in the famous English case where: "Marriage, was defined by Lord Penzance in the nineteenth-century case of *Hyde v. Hyde*: 'the voluntary union for life of one man and one woman to the exclusion of all others.'"¹⁵³ This definition is significant as it points to the monogamous nature of the statutory union, which is unique and possesses rights and obligations that differ from those of polygamous unions.¹⁵⁴

The relevance of the statutory framework lies in its ability to provide a certain, uniform, and globally recognized marital status.¹⁵⁵ By choosing to marry under the framework of the Act, the couple agrees to an institution in which the state, in addition to the family and the community, becomes a key player in the celebration and dissolution of the marriage. The framework grants rights to spouses, particularly in the maintenance and distribution of property, and confers legitimacy and inheritance rights on children through standardized rules

¹⁵² Ifeoma U Ononye and Nwamaka A Iguh, 'Conduct of Statutory Marriage in Nigeria in Accordance with the Marriage Act' (2019) 3 *African Journal of Comparative Law (AJCAL)* 15.

¹⁵³ (1866) LR 1 P&D 130

¹⁵⁴ *Onwudinjoh v Onwudinjoh* (1957) II ERLR 1.

¹⁵⁵ S M Oyeghe, 'Marriage and the Law Part I' (Oyeghe Law, 2024) <<https://oyeghelaw.com/marriage-and-the-law-part-1/>> accessed 9 March 2026.

of evidence.¹⁵⁶

3.1.1 Marriage Act, Cap M6, Laws of the Federation of Nigeria 2004

The Marriage Act (MA) is the main legislation in the regulation of the creation and solemnization of statutory marriages in Nigeria.¹⁵⁷ The Act is designed in such a way that the marriage is not only a personal agreement between the parties involved, but it is a public institution with formal strictities. These formal strictities are further broken down into the formal and essential validities of the marriage.

In respect of the issue of essential validity, the Act and the accompanying Matrimonial Causes Act stipulate that the parties to a proposed marriage should be legally capable of marrying. This includes being of "marriageable age," having a "single status" (meaning that they are not in a statutory or customary law marriage with another person), and not being within the "prohibited degrees of consanguinity and affinity."¹⁵⁸ Pursuant to sections 18, 19, and 20 of the Marriage Act, if either party to a proposed marriage is under the age of twenty-one years, such party must obtain the written consent of his or her father. However, if the father is not available or dead, the consent of the mother or the party's guardian will be required. Whilst section 49 of the Act¹⁵⁹ makes it a criminal offense to marry or assist in the marriage of a minor without such consent, the Courts have adopted a nuanced approach to the validity of the marriage. In the case of *Agbo v Udo*,¹⁶⁰ the Court clarified that the non-availability of parental consent does not invalidate a marriage since it is not one of the grounds for nullity under section 33¹⁶¹ The formal validity of a marriage is determined by the "preliminaries" under sections 7 to 17.¹⁶² One

¹⁵⁶ H O Obi, 'Statutory Divorce in Nigeria: A Rethink of Division of Marital Property in Accordance with Global Trend' (2021) 7 UNIZIK Law Journal 1879.

¹⁵⁷ 1999 Constitution of the Federal Republic of Nigeria (as amended), Item 61, Exclusive Legislative List.

¹⁵⁸ Marriage Act, Cap. M6, Laws of the Federation of Nigeria 2004, ss. 11, 18-20.

¹⁵⁹ Ibid s. 49.

¹⁶⁰ (1947) 18 NLR 152.

¹⁶¹ Ibid s.33.

¹⁶² Ibid s. 7 – 17.

party to the intended marriage has to give a "Notice of Marriage" to the Registrar of the district where the marriage will be celebrated. The notice will be recorded in a Marriage Notice Book and publicly displayed on the outer door of the Registrar's Office for a period of twenty-one days. ¹⁶³The main purpose of this display is to give the public an opportunity to raise a "caveat" if they are aware of any legal reason why the marriage should not take place. After twenty-one days, if no one has objected to the marriage, a "Registrar's Certificate" (Form C) will be issued to the couple, which will allow them to go ahead with the celebration within a period of three months.

The other crucial aspect of law in this matter is the interpretation of the provisions of Section 33(2) of the Act, which states that "a marriage is null and void if both parties knowingly and willfully acquiesce in the celebration of the marriage without a certificate, in an unlicensed place, or before an unauthorized person." ¹⁶⁴According to academic writings, particularly those of Professor Emeka Chianu, it is submitted that the courts have "whittled down" the importance of the aforementioned provisions by adopting a liberal interpretation of the law. For example, in the case of *Onwudinjoh v Onwudinjoh*, ¹⁶⁵the Court presumed the marriage was valid as it was performed in the church, despite the absence of records. Further, in the case of *Akuwudike v Akuwudike*, ¹⁶⁶the Court presumed the marriage was valid as it was performed in the church, despite the absence of records, reasoning that the wife was ignorant of the legal requirement. This "judicial laxity" has been criticized for allowing the parties to "honour the Act as much in the breach as in the observance," giving preference to the "sanctity" of the union over the need to comply with the law". However, other jurists such as Araka J. in *Ajih v. Ajih* ¹⁶⁷ contended that allowing ignorance to be a defense equates to a repeal of the law by judicial interpretation,

¹⁶³ *Marriage Act, s 7.*

¹⁶⁴ E Chianu, (n31) 49-61.

¹⁶⁵ (1957) II ERLR 1.

¹⁶⁶ (1963) 7 ENLR 5.

¹⁶⁷ (1975) 5 ECSLR 6.

as the provisions of the Act are public knowledge.

But for what it is worth, a cursory look at the section 33 makes an exception for those who did not willingly and knowingly commit the blunder, thus this exception is legislative and therefore the Court may only interpret in accordance with same except where application renders it unreasonable.

3.1.2 Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria 2004

The Matrimonial Causes Act (MCA) is the leading legislation that deals with the dissolution, annulment, and ancillary reliefs of statutory marriages.¹⁶⁸ The enactment of the MCA is a significant shift from the pre-1970s law that adopted the English law of "matrimonial offense." In the pre-1970s law, the dissolution of a marriage is only possible where one party is found "guilty" of a particular act or offense, which may amount to adultery or desertion.¹⁶⁹ However, the MCA introduced the "breakdown principle," which holds that the only basis upon which the dissolution of a statutory marriage is granted is that the marriage has "broken down irretrievably."¹⁷⁰

However, the Act does not leave the determination of "irretrievable breakdown" to the subjective whims of the parties. Section 15(2) of the Act provides that the Petitioner must satisfy the Court that one or more of eight factual situations exist. These situations include: the willful refusal of the respondent to consummate the marriage; adultery committed by the Respondent which the Petitioner finds intolerable; the conduct of the Respondent which renders it unreasonable for the petitioner to live with the Respondent; or the separation of the parties for two years with the consent of the respondent, or three years without the consent of

¹⁶⁸ Matrimonial Causes Act, Cap. M7, Laws of the Federation of Nigeria 2004.

¹⁶⁹ A Adewuyi, *'Examining Dissolution of Marriage and its Effect on Custody in Nigeria and USA' (2023) ResearchGate 3.*

¹⁷⁰ Matrimonial Causes Act s. 15(1).

the respondent¹⁷¹ The interpretation of "intolerable behavior" in section 15(2)(c) has been particularly vital. In the case of *Adetule v. Adetule*,¹⁷² it was held that "while the Act provides examples in section 16(1) such as rape, sodomy, or frequent convictions, this is not exhaustive." "The test is both objective and subjective: whether the behavior of this Respondent is such that this Petitioner cannot reasonably be expected to tolerate."

The MCA also enforces a "two-year rule" under section 30, in that a divorce petition cannot be filed within the first twenty-four months of marriage "without the leave of court."¹⁷³ This rule is an example of a legislative policy of deterrence, in that the government is attempting to ensure that couples do not "rush out" of a marriage as quickly as they "rushed into" it.¹⁷⁴ Leave is granted in cases involving "exceptional hardship" or "exceptional depravity."

Aside from the dissolution of the marital status, Part IV of the MCA deals with "ancillary reliefs" such as maintenance, custody, and settlement of properties. Under section 70, the High Court shall have the power to order the maintenance of a spouse or the children of the marriage, considering the ability to maintain and the earning capacities of both parties.¹⁷⁵ With regard to custody, section 71(1) states, "The court shall regard the interests of those children as the paramount consideration." This so-called "Best Interest" principle is a powerful tool for the court to move away from rigid customary laws, which might favor the rights of the father over the child.¹⁷⁶ In regard to property, section 72 grants the court the power to make a "just and equitable" settlement.¹⁷⁷ In spite of this, the Nigerian courts have traditionally been accused of

¹⁷¹ 'Nigerian Courts and the Adoption of Strict Property Title Rights Approach' (2021) <https://www.researchgate.net/publication/356781476_NIGERIAN_COURTS_AND_THE_ADOPTION_OF_STRICT_PROPERTY_TITLE_RIGHTS_APPROACH_IN_THE_SETTLEMENT_OF_PROPERTY_IN_DIVORCE_PROCEEDINGS_RELATING_TO_STATUTORY_MARRIAGE_THE_NEED_TO_JETTISON_THE_A_PPROACH> accessed 14 March 2026.

¹⁷² *Yemisi Tayo Adetule V. Segun Tayo Adetule*(2021) JELR 111466(SC)

¹⁷³ (A Adewuyi (n169)).

¹⁷⁴ *Anyaegebunam v. Anyaegebunam* (1973) 4 SC 121

¹⁷⁵ *Otti v Otti* (1992) 7 NWLR (pt. 252) 187

¹⁷⁶ *Nwosu v Nwosu* (2012) 8 NWLR Pt 1301

¹⁷⁷ M C Onokah, (n30) 142.

applying a "strict property rights approach," where property rights are based on legal title and/or direct financial contribution, often leaving the non-earning spouse (previously the wife) without any claim to property acquired during the marriage".¹⁷⁸

3.1.3 Constitution of the Federal Republic of Nigeria 1999 (as amended)

The 1999 Constitution serves as the primary source of jurisdictional authority over marital matters. The relevance of the Constitution is found in Item 61 of the Exclusive Legislative List, whereby the National Assembly has the exclusive legislative authority to legislate on "marriages other than marriages under Islamic law and Customary law." This constitutional provision ensures that the laws relating to the formation and dissolution of statutory marriages are uniform throughout the thirty-six states of the Federation, effectively isolating these marriages from the variability of local customary laws.¹⁷⁹

However, the Constitution also establishes a complex system of dual responsibility. While the federal government controls legislation, section 7(5) and the Fourth Schedule, Paragraph 1(i) of the Constitution mandate the responsibility for the "registration of all births, deaths, and marriages" to the "Local Government Councils." This dual system of responsibility gave rise to the controversy over the right to conduct marriages and issue marriage certificates, as exemplified by the "Ikoyi Marriage Registry controversy." In the case of *Haastrup v Eti-Osa Local Government Council*,¹⁸⁰ the court held that the federal minister, being the federal government, has the authority to issue licenses for the celebration of marriages, but the act of registration after the celebration of the marriage is a responsibility of the local government.¹⁸¹ This controversy was clarified by the court in the case of *Olumide Babalola v Ikeja Local*

¹⁷⁸ *Sodipe v. Sodipe* (1990) 5 NWLR (Pt. 150) 441.

¹⁷⁹ E I Nwogogu, (n24) 150.

¹⁸⁰ (2004) Suit No. FHC/L/870/2002.

¹⁸¹ *'The Ikoyi Marriage Registry Fiasco: An Analysis'* (S.P.A. Ajibade & Co., 2021)

<https://www.mondaq.com/nigeria/family-law/1145810/the-ikoyi-marriage-registry-fiasco-an-analysis-of-the-federal-high-courts-decision> accessed 15 June 2026.

Govt,¹⁸² where the Court held that the local government, though responsible for the act of registration, cannot issue a "modified form of the certificate" different from the statutory form of the certificate, i.e., Form E, as provided for by the Marriage Act.

Furthermore, the Constitution's Fundamental Rights (Chapter IV) provide a protective shield in matrimonial proceedings. Section 34 (Right to Dignity of Human Person) and Section 42 (Right to Freedom from Discrimination) are frequently invoked to strike down customary practices or legal interpretations that might subject a spouse to inhuman treatment or gender-based discrimination during or after a marriage.

3.1.4 Evidence Act, 2011

The Evidence Act, 2011 forms part of the procedural law which gives us the "machinery" to "prove" the existence of a marriage or the legitimacy of offspring. The importance of this legislation can be appreciated when we are dealing with cases involving marital disputes or where evidence of the marital status has been destroyed.¹⁸³

Section 166 of the Evidence Act gives us the "Presumption of Marriage." It states: "When evidence has been given of the celebration of a regular ceremony of marriage, or when it has been shown that a man and woman have lived together as husband and wife, and been treated by the community as such, then the court shall presume that they are validly married."¹⁸⁴ This presumption gives us protection against marriages which might be declared invalid due to trivial procedural errors. However, this presumption has been carefully examined in the context of the Marriage Act. For instance, in *Ijioma v Ijioma*,¹⁸⁵ it was held that although the church "blessing" of the customary law marriage was not in keeping with the very stringent rules laid

¹⁸² [Suit No. LD/1343GCM/2016].

¹⁸³ Evidence Act 2011.

¹⁸⁴ Evidence Act s. 166.

¹⁸⁵ (2009) 12 NWLR (Pt. 1156) 593.

down in the Marriage Act, the presumption of a statutory law marriage could not be sustained.

Another important provision is Section 165, which creates the Presumption of Legitimacy. This section stipulates that a child born within the duration of a valid marriage or within 280 days after the dissolution thereof shall be presumed to be legitimate.¹⁸⁶ This is a strong legal presumption based on public policy to protect children from the social and legal disability of "illegitimacy." Although this presumption can be rebutted, the burden of proof to disprove the presumption is extremely high, requiring a showing that the parties had no access to each other when the child was conceived.¹⁸⁷

The Evidence Act protects the privacy and "sanity of the home" through the doctrine of Spousal Privilege. Section 187 of the Evidence Act stipulates that a person who is or has been married shall not be compellable to disclose any communication which he received from his spouse. This encourages free communication within a marriage by providing that such communications cannot be used as evidence in subsequent legal actions, although this rule does not apply to communications before the marriage or after the dissolution thereof by death or divorce.¹⁸⁸

3.1.5 Child Rights Act, 2003

The Child Rights Act (CRA) 2003 is a landmark piece of legislation that has significantly refined the rules surrounding the formation of marriage and the legal regime applicable to the welfare of children, especially as regards the implications of the dissolution of marriage in Nigeria, without changing the rules relating to the dissolution of marriage.¹⁸⁹

Its primary relevance to the formation of statutory marriage is the establishment of a national minimum age. While the Marriage Act requires parental consent for those under twenty-one,

¹⁸⁶ Evidence Act s. 165.

¹⁸⁷ *Sgt. Stephen Idahosa v. Christopher Idahosa* (2020) 10 NWLR (Pt. 1731)

¹⁸⁸ Evidence Act s. 187.

¹⁸⁹ Child's Rights Act, No. 26 of 2003.

it is famously silent on a definitive minimum age below which marriage is impossible. Section 21 of the CRA fills this gap by stating that "no person under the age of 18 years is capable of contracting a valid marriage."¹⁹⁰ Any marriage involving a person below this age is declared "null, void and of no effect." This has created a statutory conflict with the older Marriage Act, but the prevailing legal and human rights consensus is that the CRA effectively sets 18 as the minimum age for all statutory marriages.

In the case of dissolution of marriage, the Child Rights Act 2003 Nigeria has introduced a major change in the legal scenario by focusing on the protection of the child rather than maintaining and preserving marital relationships. This can be explained with regard to the establishment of Family Courts that have exclusive jurisdiction over all matters relating to children.¹⁹¹ It is a notable feature of this Act that these matters can now be instituted independently rather than merely as an ancillary relief to matrimonial cases under the Matrimonial Causes Act Nigeria, as was explained in *Otti v Otti* (1992)¹⁹² While this Act places greater value on the "best interests of the child" while dealing with all matters concerning children, it does not apply to or decide cases on dissolution of marriage; rather, it aims to ensure that matters relating to children are not linked with the marital status of their parents if their marriage was statutory, customary, or not legally solemnized at all.

3.2 Institutional Framework Governing Statutory Marriage in Nigeria

The institutional framework for statutory marriage in Nigeria appears to be a structured intervention by the State to control the inception and dissolution of monogamous marriages. This framework is informed by a "monogamy policy" aiming to create a legally predictable alternative to the traditionally flexible systems of customary and Islamic law, which emphasize

¹⁹⁰ Ibid s.21.

¹⁹¹ CRA 2003, s 149.

¹⁹² (n175).

polygamy. While customary marriages are typically private agreements between families involving the exchange of bride price and the symbolic "giving away" of the bride, statutory marriage, also referred to as "marriage under the Act," is a status-granting contract between the state and the parties as a principal party through its administrative and judicial organs.¹⁹³ The validity of the marriage impacts the status of the parties and the public interest, requiring a "triadic relationship" in the event of marital dissolution to ensure the reduction of inequality in wealth and improvement of economic performance between the parties.¹⁹⁴

This framework is comprised of executive bodies like the Ministry of Interior, which manages the "preliminaries" and publicity requirements, and the judiciary, which holds the exclusive mandate for dissolution and the protection of ancillary rights through the High Courts and specialized Family Courts.¹⁹⁵ The publicity scheme of the Marriage Act (MA) is uncompromising; it mandates that a notice of marriage be entered in a Marriage Notice Book which any person may inspect, ensuring that the public is not misled into bigamous arrangements.¹⁹⁶ This systemic oversight is further supported by international standards, such as Article 1 of the United Nations Convention on Consent to Marry, Minimum Age for Marriage and Registration for Marriages 1962, and Article 6(d) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, both of which emphasize that no marriage shall be legally entered into without due publicity and registration.

3.2.1 The Ministry of Interior (Marriage Registry)

¹⁹³ E Chianu, (n31) 48-49.

¹⁹⁴ 'Divorcing Marriage from Marital Assets: Why Equity and Women Fail in Property Readjustment Actions in Nigeria' (2025) *Journal of African Law* <<https://www.cambridge.org/core/journals/journal-of-african-law/article/divorcing-marriage-from-marital-assets-why-equity-and-women-fail-in-property-readjustment-actions-in-nigeria/B512621F1AB0FEC1BFF99ABD01B9F471>> accessed 11 March 2026

¹⁹⁵ IU Ononye and NA Iguh, (n152) 15.

¹⁹⁶ E Chianu, (n31) 56.

The Ministry of Interior serves as the principal administrative custodian of the Marriage Act. Its role is systemic, beginning with the designation of marriage districts and the appointment of registrars. Under Section 3 of the Marriage Act, the President is empowered to delineate the federation into various marriage districts, while Section 4 provides for the appointment of a Principal Registrar of Marriages, traditionally the Permanent Secretary of the Ministry, and district registrars¹⁹⁷. The Ministry's supervision guarantees that the state's interest in publicity will be upheld through a thorough process of notification and certification.

The machinery of administration involves a set of mandatory statutory forms. The process begins with the "Notice of Marriage" (Form A), which should be received by the Registrar of the district where the intended marriage will be celebrated.¹⁹⁸ This will be recorded in the Marriage Notice Book and should be prominently displayed on the outer door of the registration office until the Minister grants the certificate, or until three months have elapsed.

¹⁹⁹ This emphasis on publicity is not merely a procedural necessity; it serves as a safeguard to allow the public to enter a "caveat" if legal impediments exist, such as a previous marriage or degrees of consanguinity. Section 14 of the Act permits a party whose consent is necessary or one who possesses knowledge of a just cause to write the word "forbidden" in the Notice Book.

²⁰⁰ This process will immediately stop the process, and the case will be submitted to a High Court judge to determine the validity of the objection before a Certificate (Form C) issued by the Registrar can be issued.²⁰¹

A persistent institutional conflict exists regarding the powers of Federal versus Local Government registries. This friction is rooted in the constitutional overlap between Item 61 of

¹⁹⁷ Marriage Act, Cap M6 Laws of the Federation of Nigeria (LFN) 2004, ss 3-4.

¹⁹⁸ *Ibid* s 7.

¹⁹⁹ *ibid* s 10.

²⁰⁰ Marriage Act s 14.

²⁰¹ *ibid* ss 15-16.

the Exclusive Legislative List and Paragraph 1(i) of the Fourth Schedule to the 1999 Constitution.²⁰² The judicial consensus established in *Hon Minister of Interior v Eti-Osa Local Government* and *Olumide Babalola v Ikeja Local Government* formulated a "shared authority principle."²⁰³ The courts opined that "the exclusive federal concern is the 'formation' of statutory marriage, but the 'registration' of all marriages, statutory, customary, and Islamic, is the concern of the Local Governments." The Ministry of Interior was restrained from establishing registries in areas other than the Ikoyi and Abuja registries, while affirming that both tiers are entitled to celebrate marriages provided they use the statutory Form E certificates.²⁰⁴

3.2.2 High Court

The jurisdictional boundary between High Courts and Customary Courts in Nigeria is strictly delineated by the nature of the marital contract and the specific enabling laws. Under Section 2 of the Matrimonial Causes Act (MCA) 1970, the High Court of a State or the Federal Capital Territory possesses exclusive original jurisdiction over all "matrimonial causes" arising from statutory marriages.²⁰⁵ Conversely, Customary Courts and Area Courts are limited to matters arising from marriages contracted under native law and custom or Islamic personal law.²⁰⁶ This boundary is so rigid that the High Court lacks the jurisdiction to dissolve a purely customary marriage, just as a Customary Court is incompetent to dissolve a statutory union; any attempt by the latter to do so is a nullity *ab initio*.²⁰⁷

²⁰² Constitution of the Federal Republic of Nigeria 1999, Fourth Sch, para 1(i).

²⁰³ *Hon Minister of Interior v Eti-Osa Local Government* LPELR-9199(CA); *Olumide Babalola v Ikeja Local Govt & Anor* (2021) 12 NWLR (Pt 1789) 26.

²⁰⁴ 'FACT-CHECK: Court did not declare marriages conducted at Ikoyi Registry illegal' *Premium Times* (15 December 2021).

²⁰⁵ Matrimonial Causes Act, Cap M7 LFN 2004, s 2.

²⁰⁶ 'Dissolution of Customary Law Marriages' *Library of Congress Report* (2019) <<https://tile.loc.gov/storage-services/service/ll/lglrd/2019670455/2019670455.pdf>> accessed 11 March 2026.

²⁰⁷ *Adegoroye v Adegoroye* (1996) 2 NWLR (Pt 433) 712.

A critical tension arises in "double-decker marriages"—where parties marry first under custom and later under the Act. There are three primary theories regarding the legal effect of this transition. The "Conversion Theory," as propounded in the case of *Odivo v. Nweke Obor*²⁰⁸, suggests that the subsequent statutory marriage converts and merges the earlier customary union into its legal framework, causing the customary marriage to lose its distinctiveness. This is based on the fact that the subsequent statutory marriage converts and merges the previous customary marriage into the new marriage, thus rendering the previous marriage devoid of its distinctive features. The "Co-existence Theory" is based on the fact that the two marriages co-exist, as was held in the case of *Afonne v. Afonne*²⁰⁹, where the court held that the dissolution of an Act marriage does not ipso facto dissolve the customary marriage unless specifically prayed for. The "Abeyance Theory" is based on the fact that the customary marriage is in a state of suspended animation, while the statutory marriage remains valid.²¹⁰ However, the most accepted theory is the "Statutory Precedence" theory, which holds that once the statutory ceremony is performed, only the High Court can dissolve the marriage.²¹¹

This is reinforced by the "mode of life" test, whereby a Nigerian may be exempted from the personal jurisdiction of the Customary Court on the basis that his mode of life has become "highly sophisticated and Europeanized."²¹² By opting for an "Act marriage," parties are presumed to have voluntarily embraced a sophisticated legal regime, thereby opting out of informal customary dissolution methods like the refund of a bride price. Furthermore, the High Court has considerable equitable powers under Section 72 of the MCA to order the "settlement

²⁰⁸ (1974) JELR 46186 (SC)

²⁰⁹ (1975) E.C.S.N.L.R. 159

²¹⁰ 'Double-Decker Marriages in Nigeria: Nature and Effect' (2020) *Journal of Law, Innovation and Development* 132 - 133.

²¹¹ 'A Comparative Analysis of Statutory and Customary Law Marriage in Nigeria' (2025) Alex Ekwueme Federal University Thesis.

²¹² 'Dissolution of Customary Law Marriages' Library of Congress Report (2019) <<https://tile.loc.gov/storage-services/service/ll/lglrd/2019670455/2019670455.pdf>> accessed 11 March 2026.

of property," a power which *Oghoyone v Oghoyone* asserts even when a marriage is declared void.²¹³

Interestingly, the High Court's jurisdiction is further limited by the "Two-Year Rule" under Section 30 of the MCA, which prohibits filing for divorce within the first two years of marriage without leave of court, except for persistent refusal to consummate, adultery, or serious criminal acts.²¹⁴ This rule serves to force couples to work through early marital difficulties, a process not encountered under the more flexible Customary Court system.

Therefore, while statutory marriage offers greater legal protection of property and spousal rights, it is subject to a more formal, acrimonious, and time-restricted judicial process than the customary alternative.²¹⁵

²¹³ *Oghoyone v Oghoyone* (2010) LPELR-4689(CA).

²¹⁴ Matrimonial Causes Act s 30(1); 'When to File for Divorce in Nigeria: A Comprehensive Guide' ELawFirm (2023) <<https://www.elawfirm.ng/when-to-file-for-divorce-in-nigeria-a-comprehensive-guide/>> accessed 14 March 2026.

²¹⁵ 'Judicial Dissolution of a Statutory Marriage in Nigeria: Making a Case for Lessening the Legal Constraints' (2023) ResearchGate <https://www.researchgate.net/publication/397772474_JUDICIAL DISSOLUTION OF A STATUTORY MARRIAGE IN NIGERIA MAKING A CASE FOR LESSENING THE LEGAL CONSTRAINTS ADEGBI TE NATHAL KEHINDE> accessed 11 March 2026.

CHAPTER FOUR

PROSPECTS AND CHALLENGES OF STATUTORY MARRIAGE IN NIGERIA

4.1 Prospects of Statutory Marriage Regulation in Nigeria

The law governing statutory marriage in Nigeria has been experiencing a gradual transformation brought about by administrative reform efforts, judicial interpretations, and the demand for gender equality. While the Marriage Act and Matrimonial Causes Act, which form the bulk of the law governing statutory marriage in Nigeria, have remained largely unchanged since the 1970s, it is important to understand that the society within which the law functions has changed greatly. Recently, Issues like digital administration of marriage, human rights, and protection of the rights of women will continue to influence the future development of statutory marriage laws in Nigeria.²¹⁶

4.1.1 Legislative Reform of the Marriage Act and Matrimonial Causes Act

The two main statutes governing statutory unions, namely, the Marriage Act²¹⁷ and the Matrimonial Causes Act²¹⁸ are now viewed by many as outmoded laws that do not adequately address current socio-economic developments. The Matrimonial Causes Act was initially established as a decree in 1970, based largely on the English Matrimonial Causes Act 1965 and the Divorce Reform Act 1969.²¹⁹ While it introduced the concept of “irretrievable breakdown” as the sole ground for divorce, it retained a series of “facts” under Section 15(2) that are fundamentally fault-based, such as adultery, desertion, and unreasonable behavior.²²⁰ It is suggested that such fault-based grounds brought about by this requirement under the law compels people to exaggerate their spouse misconduct in the marriage in order to be considered

²¹⁶ Emeka Chianu, (n31) 48–61.

²¹⁷ Marriage Act, Cap M6, Laws of the Federation of Nigeria 2004.

²¹⁸ Matrimonial Causes Act, Cap M7, Laws of the Federation of Nigeria 2004.

²¹⁹ E I Nwogugu, (n24) 4.

²²⁰ Matrimonial Causes Act 2004, s 15(2).

within the facts stated.²²¹

The Reforms urged is expected to be focused on moving towards a purely no-fault divorce process as seen in England through the Divorce, Dissolution and Separation Act 2020.²²² Both the Law Reform Commission of Nigeria and many other legal experts agree that the obligation to lay blame during a divorce process can be seen to escalate hostility and create challenges for divorced spouses to act effectively as parents to their children.²²³ The introduction of an updated law should address the need to expunge the particular matrimonial faults but rather rely on new objective basis as evidence of the marriage break down or irretrievable breakdown of marriage.²²⁴ It is also notable to highlight the introduction of the Matrimonial Causes Act (Amendment) Bill 2025 (HB 2425).²²⁵ This bill proposes the inclusion of violence and threats to life as additional grounds for divorce, which will improve the existing legal approach to domestic violence cases.²²⁶

The passage of the Nigerian Law Reform Commission Act 2022 also marks an indication that Nigeria now has greater capabilities to make these changes to its legislation.²²⁷ This Act replaced the previous Act of 2004 and is geared towards making the implementation of these reforms easier by enabling the commission to ensure that federal legislation is in accordance with societal norms at all times.²²⁸ For such changes to be made possible, there needs to be institutional fortification which will enable Nigeria to develop its family laws systematically. In this way, any amendments made to the Marriage Act and Matrimonial Causes Act will be

²²¹ Osifunke Ekundayo 'Ending Divorce without Bitterness: Making a Case for Only No-Fault Divorce under the Nigerian Matrimonial Law' (2021) 11(6) International Journal of Humanities and Social Science 89<https://ijhss.thebrpi.org/journals/Vol_11_No_6_June_2021/9.pdf> accessed 11 April 2026.

²²² Divorce, Dissolution and Separation Act 2020 (UK), s 1.

²²³ Osifunke Ekundayo (n221) 45.

²²⁴ Ibid. 50.

²²⁵ Matrimonial Causes Act (Amendment) Bill 2025 (HB 2425), cl 1.

²²⁶ Ibid. cl 2.

²²⁷ Nigerian Law Reform Commission Act 2022, s 1.

²²⁸ Ibid. s 5.

proactive rather than reactionary.²²⁹ The law requires that the commission must consider reform proposals presented to it by the Attorney General and the National Assembly.²³⁰

4.1.2 Digitization and Modernization of Marriage Registries

Marriage administration within Nigeria is experiencing what could best be termed a silent revolution as spearheaded by the digitalization efforts of the Ministry of Interior. “At the center of these efforts stands INTERAS²³¹, a paperless initiative that was rolled out in the latter part of 2025 with the aim of achieving a fully paperless ministry.²³² This initiative comes as a remedy to the vulnerability that the Nigerian marital system has had to contend with for many years in regard to fragmented and unreliable manual record keeping. Through the use of the portal @ectibiz²³³, applications for ordinary marriages and special marriages, document verification services, and the issuing of certified true copies of marriage certificates have been made automatic.²³⁴ From December 1, 2025, the Ministry has declared all official correspondences to be done electronically.²³⁵

The introduction of an 8.3 Petabyte, Tier 4 solar-powered data center marks a huge step forward in terms of infrastructure, as it will guarantee security and ownership of the national register for legally recognized marriages.²³⁶ The significance of such a change for marriage validation cannot be overstated; by ensuring "a single source of truth," the electronic registry makes it difficult for fake certificates to exist, allowing for immediate validation of a couple's marriage

²²⁹Bonnievololo E Ecoma, *'The Nigerian Law Reform Commission Act 2022: Old Wine in a New Bottle?'* (2024) 1(2) Fountain University Law Journal 112

<https://www.fountainjournals.com/index.php/FULAJ/article/download/551/309> accessed 12 April 2026.

²³⁰ Nigerian Law Reform Commission Act 2022, s 5(2).

²³¹ The full meaning of INTERAS is the Interior Electronic Records and Archival System.

²³²PRNigeria News *'Interior Ministry Launches Electronic Records System, Plans Mobile Offices'*, (Abuja, 1 September 2025) < <https://prnigeria.com/2025/09/01/interior-ministry-launches/>> Accessed 12 April 2026.

²³³ <https://candb.interior.gov.ng/marriage/> accessed 29 May 2026.

²³⁴ Ibid.

²³⁵ Ministry of Interior Press Release *'Mandatory Electronic Correspondence with the Ministry of Interior Takes Effect 1st December, 2025'*, (1 November 2025) < <https://interior.gov.ng/mandatory-electronic-correspondence-with-the-ministry-of-interior-takes-effect-1st-december-2025/>> accessed 12 April 2026.

²³⁶ (n253).

by foreign embassies and other relevant organizations. Additionally, due to automation, it becomes possible to set up "mobile and on-the-move offices" that will make it much easier to deal with applications.

The Ministry of Interior has not only worked toward making its system compatible with other government organizations like the Nigeria Immigration Service but also made sure that the process of quota management and marital status check is immune to any type of fraud.²³⁷ By ensuring compatibility between systems, the Ministry makes sure that the information about marital status is consistent throughout all the databases, thus protecting against any form of marital fraud or even bigamy. As per February 2026, the portal has received well over 30,000 application submissions.²³⁸

4.1.3 Harmonization of Statutory, Customary, and Islamic Marriage Laws

The three legal traditions of Nigeria have often led to what is known as "a limping marital relationship," in which one form of marriage may be recognized in one legal tradition but not in the other.²³⁹ In any case, there is an urgent need to harmonize the laws of statutory, customary, and Islamic marriages into a single set of laws within a federal family system, which would be known as a "strong legal pluralism model."²⁴⁰ Harmonization of these laws entails harmonization into a single system, in which the basic rules apply to all types of marriages,

²³⁷ Ibid.

²³⁸ 'Marriage & Civil Registry Services', eCITIBIZ Portal <https://candb.interior.gov.ng/marriage/> accessed 12 April 2026.

²³⁹ OS Oyelade and Ayoola Abuloye, 'Juxtaposing Statutory and Customary Marriages In Nigeria: Challenges And Prospects' (2023) 1(2) African Journal of Law and Justice System 111 https://www.academia.edu/100642553/Juxtaposing_Statutory_and_Customary_Marriages_In_Nigeria_Challenges_And_Prospects accessed 15 April 2026.

²⁴⁰ Muhammad Kamaldeen Imam-Tamim, 'Multi-Tiered Marriage Contracts in Nigeria and the Need for Reforming Nigerian Family Law' (PhD thesis, University of Ilorin 2015) 10 https://www.researchgate.net/publication/287642964_Multi-Tiered_Marriage_Contracts_in_Nigeria_and_the_Need_for_Reforming_Nigerian_Family_Law accessed 15 April 2026.

regardless of their religious affiliation.²⁴¹

The recommendations of the Nigerian Law Reform Commission indicate that giving full recognition to customary marriages and Islamic marriages as valid for all legal purposes would greatly help to safeguard the interests of the women and children married under these systems.²⁴² The implementation of a uniform matrimonial code would solve the "dual marriage problem" by mandating the couple who solemnizes both customary and statutory forms of marriage to make clear which of the two would be the legal system that will control property and inheritance.²⁴³ The recent rulings in *Adekunle & 2 Ors v. Ahmad*, have made this relationship clearer.²⁴⁴ The Court of Appeal decision was that where a man marries according to Islam after he had earlier married statutorily, the subsequent Islamic marriage is legal and the previous statutory marriage cannot prevent the family from coming under the rules of Islamic law since Islamic marriages are complete in themselves.²⁴⁵

The idea of unifying the law in line with this principle is also fortified by the constitutional provision of equality under Section 17 (2) of the 1999 Constitution.²⁴⁶ This section will serve as a legal basis to unify the effect of marriage. The upgrade from the poor pluralist model will serve to protect the basic human rights of couples, irrespective of the marriage ceremony they opt for.²⁴⁷ There are examples of proactive legislations within the State level like the Customary Marriage Special Provision Law regulating marriage age and dowry costs.²⁴⁸

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ OS Oyelade and Ayoola Abuloye (n239) 115.

²⁴⁴ *Adekunle & 2 Ors v Ahmad* (2025) LPELR-81978(CA).

²⁴⁵ Ibid.

²⁴⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 17 (2).

²⁴⁷ Muhammad Kamaldeen Imam-Tamim (n240).

²⁴⁸ Customary Marriages (Special Provisions) Law 2025 (Anambra State), s 3.

4.1.4 The Role of Judicial Activism in Expanding Spousal Rights

The Nigerian judiciary has been a significant instrument for social transformation in light of the lack of legislative revisions.²⁴⁹ The Matrimonial Causes Act of Nigeria includes Section 72, which gives the court the ability to make orders on the settling of property that may be “just and equitable.”²⁵⁰ In the past, this section of the Act was utilized sparingly, necessitating evidence of financial contribution by either partner to a marriage. But there has been a marked change in recent times with the inclusion of domestic services within this provision.²⁵¹

The landmark case of *Essien v. Essien*, which marked a departure from a strict focus on receipts as the basis for determining contributions, provides a basis for this new approach.²⁵² In addition, the 2025 case of *Aguolu v. Aguolu* reinforced this principle by emphasizing that marriage does not automatically entitle one to an equal division of property based on a contribution that is not documented through credible means.²⁵³ According to the Court of Appeal decision in *Aguolu*, while the contribution need not necessarily involve a monetary transaction, it needs to be evidenced by something like assistance to the spouse in his or her business endeavors. This trend shows that the courts now seek to debunk the 50:50 myth for the economic evaluation of a housewife.²⁵⁴

Moreover, judicial activism has played an essential role in declaring customary practices that discriminate against statutory spouses and their offspring unconstitutional. The case of *Ukeje*

²⁴⁹ Odia Tiyosayi Pearl, 'Matrimonial Property Rights in Nigeria: Comparing Statutory and Customary Marriage Systems' (2026) 12 Record of Law Journal 1,10 <https://recordoflaw.in/matrimonial-property-rights-in-nigeria-comparing-statutory-and-customary-marriage-systems/> accessed 15 April 2026.

²⁵⁰ Matrimonial Causes Act, Cap M7, LFN 2004, s 72.

²⁵¹ Adedolapo Adeyosoye, 'Settlement of Property in Matrimonial Proceedings: Proving Non-Financial Contributions in Light of *Aguolu v. Aguolu*' (Lehi Attorneys, 25 February 2026) <https://lehiattorneys.com/settlement-of-property-in-matrimonial-proceedings-proving-non-financial-contributions-in-light-of-aguolu-v-aguolu/> accessed 15 April 2026.

²⁵² *Essien v. Essien* (2009) 9 NWLR (Pt 1146) 306 (CA).

²⁵³ *Aguolu v. Aguolu* (2025) LPELR-80269 (CA).

²⁵⁴ Roseline Omoye Ehiemua, 'Advancing Women's Rights to Joint Ownership of Matrimonial Property in Nigeria: Using Kenya as a Model' (2024) 31(1) African Journal of International and Comparative Law 68 https://www.researchgate.net/publication/378248965_Advancing_Women's_Rights_to_Joint_Ownership_of_Matrimonial_Property_in_Nigeria_Using_Kenya_as_a_Model accessed 16 April 2026.

v. Ukeje, which upheld the right of females to inherit property, is proof of the judiciary's readiness to apply Section 42 of the Constitution in order to annul discriminatory patriarchal practices.²⁵⁵ Such a progressive approach to the law guarantees that the statutory system will continuously develop and safeguard marginalized individuals even if the legislature does not react promptly. Through applying the concepts of equity and constructive trust, courts are now better equipped to distribute property in the event of divorce to avoid leaving the less fortunate spouse impoverished.²⁵⁶

4.1.5 Comparative Prospects: Lessons from England, Kenya, Ghana, and South Africa

The efforts toward matrimonial law reforms in Nigeria can be tremendously aided through an analysis of other jurisdictions' experiences. The example of England's Divorce, Dissolution and Separation Act 2020, which came into force in April 2022, offers a powerful lesson on how to transition to a no-fault approach.²⁵⁷ By eliminating the need to prove certain facts and introducing "joint applications" for divorce, the legislation successfully helped to mitigate conflicts and simplify the procedure".²⁵⁸ The introduction of a 20-week cooling off period ensures proper reflection and demystification of the procedure through the use of terms like "conditional order" and "final order" rather than the traditional "decree nisi" and "decree absolute" with the aim of modernizing and simplifying the language of divorce proceedings rather than altering the substantive law.²⁵⁹

As far as African experience is concerned, the Kenyan Matrimonial Property Act 2013 clearly defines matrimonial property and enshrines the principle of recognizing non-financial

²⁵⁵ *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1418) 384 (SC).

²⁵⁶ *Oghoyone v Oghoyone* (2010) LPELR-4689 (CA).

²⁵⁷ Boyes Turner 'Impact of No-Fault Divorce in England', (2025) <https://www.boyesturner.com/news-and-insights/impact-of-no-fault-divorce-in-england> accessed 16 April 2026.

²⁵⁸ Divorce, Dissolution and Separation Act 2020 (UK), s 1(2).

²⁵⁹ *Ibid.* s 1(5).

contribution, bringing clarity to judges which the Nigerian Matrimonial Causes Act lacks.²⁶⁰ In Kenya, previous common law cases that required proof of direct finances are regarded as "bad law", since the focus shifts to joint enjoyment of benefits from expenditure during marriage. This represents a significant departure from the restrictive approach reflected in earlier judicial decisions such as *Echaria v Echaria*, which placed considerable emphasis on direct financial contribution.²⁶¹ Although Nigerian law already recognizes the capacity of married women to own and manage property independently of their husbands, the Kenyan legislation provides a more detailed framework for assessing spouses' respective interests in matrimonial property upon dissolution of marriage.

South Africa presents another useful example of legislative harmonization within a plural legal system. The Recognition of Customary Marriages Act 1998 formally recognizes valid customary marriages as legally binding marriages.²⁶² Section 2 of the Act provides for the full legal recognition of customary marriages that comply with the requirements of the legislation²⁶³. Furthermore, the Act regulates the proprietary consequences of customary marriages and requires a court decree for their dissolution, thereby providing greater certainty regarding the rights and obligations of spouses upon divorce.²⁶⁴ This approach demonstrates how customary marriage can be integrated into a modern legal framework while preserving its cultural legitimacy.

The Ghanaian experience is also instructive. Judicial developments, particularly the decision in *Sarpong v Sarpong*, illustrate a growing recognition of both financial and non-financial contributions in determining spouses' interests in matrimonial property.²⁶⁵ From the foregoing

²⁶⁰ Matrimonial Property Act 2013 (Kenya), s 6.

²⁶¹ *Ibid.* s 7; *Peter Mburu Echaria v Priscilla Njeri Echaria* [2007] eKLR.

²⁶² Recognition of Customary Marriages Act 1998 (South Africa).

²⁶³ *Ibid* s.2.

²⁶⁴ *Ibid* s.2.

²⁶⁵ *Amma Owusu Sarpong v. Kojo Owusu Sarpong* (2025) JELR 114538 (SC).

discussion, it is clear that a combined approach of codification, registration, and judicial supervision would be best suited to bring about an equitable system of marriage that is geared towards protecting the nuclear family. This shows a fair system of property allocation that recognizes the realities of marital relationships and the role played by spouses other than their financial contribution.

Based on these examples, one can note that a well-defined legislation, proper registration, consideration of the roles played by spouses apart from financial contribution, and appropriate judicial regulation can provide a better legal guarantee to protect the spouses' interests. These can serve as useful lessons in the future regulation of marriage and family matters in Nigeria.

4.1.6 The Influence of International Human Rights Instruments

International law plays an increasing role in shaping the future trajectory of statutory marriage legislation in Nigeria. Various instruments including CEDAW,²⁶⁶ the African Charter on Human and Peoples' Rights²⁶⁷, and the Convention on the Rights of the Child²⁶⁸ have emerged as normative standards for development at home.

Even though CEDAW itself has not been domestically implemented as a stand-alone piece of legislation in Nigeria due to the restrictive requirements of Section 12 of the 1999 Constitution,²⁶⁹ references to the Convention in judicial discourse have successfully been made by progressive jurists to challenge discriminatory clauses in the Marriage Act and the Matrimonial Causes Act.²⁷⁰ In its independent shadow report submissions, the Nigerian NGO CEDAW Coalition demanded strict accountability to gender equality within the domestic legal

²⁶⁶ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

²⁶⁷ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217.

²⁶⁸ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.

²⁶⁹ Constitution of the Federal Republic of Nigeria 1999, s 12(1).

²⁷⁰ See (n255); and (n8).

system.²⁷¹ Civil society explicitly called for the full domestication of the Optional Protocol to CEDAW (OP-CEDAW) to ensure that Nigerian citizens can bypass local bottlenecks and lodge human rights grievances directly with the international UN Committee.²⁷²

The Maputo Protocol²⁷³ (the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa), which Nigeria ratified in 2004, specifically mandates that states parties ensure women enjoy equal rights in marriage and at its dissolution.²⁷⁴ Article 9 of the Protocol, which establishes the rights of women to life, liberty, and property, serves as an important foundation for the present-day efforts towards gender-sensitive family policies.²⁷⁵ Furthermore, according to the definition provided by the Protocol, any "harmful practices," including practices that have a negative impact on physical and psychological integrity, must be prohibited in domestic legislation, thus eliminating both child marriage and domestic violence from Nigerian families.²⁷⁶

Additionally, the African Charter on Human and Peoples' Rights, which was the first document adopted by Nigeria as part of national legislation in its entirety, offers another powerful tool for safeguarding human rights and interests.²⁷⁷ Domesticating the African Charter allows the state to establish a legal environment where the principles of human dignity and equality can be used against patriarchal family relations and norms.²⁷⁸ At the same time, the continued involvement of civil society organizations in Nigeria in the work of

²⁷¹ Nigerian NGO CEDAW Coalition, Shadow Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in Nigeria.

²⁷² Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW), adopted 10 October 1999, 2131 UNTS 83.

²⁷³ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) 2003

²⁷⁴ Ibid; art 6.

²⁷⁵ Olubukola S Adesina, 'Article 9 of the Maputo Protocol and the Advancement of Political Rights for Women in Nigeria' (2024) 27(1) African Journal for the Psychological Study of Social Issues 146, 150..

²⁷⁶ Maputo Protocol, supra, art 1(g).

²⁷⁷ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9, LFN 2004.

²⁷⁸ 'Eghosa O Ekhatior, 'The Impact of the African Charter on Human and Peoples' Rights on Domestic Law: A Case Study of Nigeria' (2015) 41(2) Commonwealth Law Bulletin 253, 260.

International Human Rights monitoring institutions creates additional motivation for further development of the legislative framework and the evolution of statutory marriage on a foundation of universal human dignity.²⁷⁹

4.1.7 Child Rights Act 2003: Eliminating Child Marriage and Strengthening Consent

Undoubtedly, one of the major laws that have been enacted to regulate marriage recently is the Child Rights Act (CRA) 2003. Not only does the Act fix the age of marriage at 18 but also bans child marriage. It thus fills a lacuna that existed in the earlier Marriage Act with regard to the fixation of an age for marriage.²⁸⁰ Moreover, it improves the provision regarding the "consent" to marriage since a minor is considered incompetent to give consent to enter into such a contract.²⁸¹ This aspect of the law becomes all the more important considering the fact that some customs or religion permit guardians to betroth children against their will.²⁸²

As at April 2026, the Child Rights Act had been domesticated in all of the 36 states of the federation except for Gombe State which is yet to assent to the Act.²⁸³ It is important to note that this national agreement is crucial in order for children's rights to be achieved uniformly within Nigeria's multi-jurisdictional framework.²⁸⁴ In addition to prescribing penalties for those found guilty of aiding the process of child marriages, the Act also enables the courts to make child assessment and emergency protection orders on children who may be vulnerable.²⁸⁵ Through the enforcement of the CRA throughout the nation, the definition of "marriageable age" is harmonized to fit international standards based on maturity and competence.²⁸⁶

²⁷⁹ Ibid.

²⁸⁰ Child Rights Act 2003, s 21.

²⁸¹ Ibid. s 22.

²⁸² Kolawole Kazeem Oyeyem 'Nationwide Application of the Nigerian Child's Rights Act 2003: Constitutional Thoughts and Possibilities' (2023) 5(3) International Journal of Law, Policy and Social Review 144, 146.

²⁸³ 'Child Rights Act Tracker', Partners West Africa Nigeria <https://www.partnersnigeria.org/child-rights-act-tracker/> accessed 18 April 2026.

²⁸⁴ Kolawole Kazeem Oyeyem (n282).

²⁸⁵ Child Rights Act 2003, ss 54-55.

²⁸⁶ Ibid. s 21.

The emphasis by the CRA on "the best interest of the child," which should be the overriding principle in all decisions made on children, has also impacted on how the courts decide on custody and maintenance in cases of matrimonial disputes.²⁸⁷ Through its extension of the same human rights accorded to adults to children, the Act ensures that divorce will not amount to the negligence or exploitation of the children borne out of the marital relationship.²⁸⁸

4.1.8 The Role of Advocacy by Legal Practitioners and NGOs

Statutory marriage reforms have received great impetus from the advocacy role played by professional and non-governmental associations. The International Federation of Women Lawyers (FIDA) Nigeria has consistently advocated for legislative amendments, especially those relating to the enactment of the Special Seats for Women Bill (HB1349).²⁸⁹ Some of the initiatives undertaken by FIDA include offering free legal assistance to impoverished women facing matrimonial issues, organizing national leadership training programs, and calling for the revision of the Matrimonial Causes Act with provisions that favor victims of gender-based violence. Its theme for 2026, "Rights, Justice and Action for All Women and Girls," emphasizes its resolve to minimize delays in processing and providing greater access to justice to the most vulnerable groups.²⁹⁰

In addition, the Nigerian Bar Association Section on Legal Practice (NBA-SLP) is another organization that plays an important part in the modernization of matrimonial law practice. The 2026 conference held by NBA-SLP in Lagos with the theme "Evolving Trends: Nigerian Legal Practice, Global Perspective" allowed lawyers to interact with global standards and legal

²⁸⁷ Ibid. s 1.

²⁸⁸ Ibid. s 2.

²⁸⁹ FIDA Nigeria, 'FIDA Nigeria Urges National Assembly to Pass Special Seats for Women Bill (HB1349) Ahead of 2027 Elections' (Press Statement, 18 February 2026) <<https://fida.org.ng/fida-nigeria-urges-national-assembly-to-pass-special-seats-for-women-bill-hb1349-ahead-of-2027-elections/>> accessed 18 April 2026.

²⁹⁰ FIDA Nigeria, 'International Women's Day 2026 Theme: Rights, Justice and Action for All Women and Girls' (Press Statement, 8 March 2026) <https://fida.org.ng/international-womens-day-2026-theme-rights-justice-and-action-for-all-women-and-girls/> accessed 18 April 2026.

technology trends in the field of family law.²⁹¹ This conference emphasized the need for legal practitioners to domesticate International legal standards and adopt legal technology in order to compete in the contemporary environment.

By forming partnerships with entities such as UNICEF, the NBA is lobbying for changes within the justice system, emphasizing the importance of protecting children's interests and advocating for a shift away from confrontational processes to mediation and arbitration in matrimonial cases.²⁹² This approach seeks to change the justice system in order to ensure that "justice protects rather than punishes" so that every child enjoys justice and is served by a child-friendly system. Partnerships between professional associations and international organizations serve to ensure that the law remains at the vanguard of reforming the marital system.

4.1.9 Prospects for Gender Equality and Spousal Rights Improvements

Marriage in Nigeria is slowly becoming more of a union between two equals, especially in relation to property rights and mutual obligations. This process is facilitated not only by sociological processes but also by the court's acknowledgment of "the economic value of the household woman's contribution." In light of this, there is an increasing possibility of property redistribution in the event of a separation, contrary to the former "property rights," which disadvantaged the economically weaker partner – usually the wife.

The increasing educational and economic status of Nigerian women has necessitated a rethink of spousal maintenance and alimony.²⁹³ The courts are increasingly viewing maintenance not

²⁹¹ 'NBA-SLP Opens Free Registration for Webinar on Nigeria's Marriage Framework' (NBA Blog, 27 January 2026) <<https://blog.nigerianbar.org.ng/2026/01/27/nba-slp-opens-free-registration-for-webinar-on-nigerias-marriage-framework/>> accessed 6 May 2026.

²⁹² UNICEF Nigeria, 'UNICEF and Nigerian Bar Association Join Forces to Reform Justice System for Children' (Press Release, 29 August 2025) <<https://www.unicef.org/nigeria/press-releases/unicef-and-nigerian-bar-association-join-forces-reform-justice-system-children>> accessed 6 May 2026.

²⁹³ Olusola Johnson Jegede, Esq 'Spousal Maintenance and Alimony in Nigeria: A Brief Overview' <https://www.resolutionlawng.com/spousal-maintenance-and-alimony-in-nigeria-a-brief-overview/> Accessed 23 April 2026.

as a "punishment" for the husband but as a tool to provide for the basic needs of the wife and children, ensuring their standard of living is maintained post-divorce.²⁹⁴ The shift toward economic security for the less privileged spouse is a critical component of social justice within the matrimonial framework.²⁹⁵ Future reforms are likely to formalize these equitable principles into statutory law, providing more certain and predictable outcomes for parties seeking the dissolution of a statutory marriage and recognizing prenuptial agreements as a valid tool for safeguarding assets and preventing acrimony.

4.1.10 Technology and E-Governance for Compliance and Fraud Reduction

The use of technology in marriage administration goes further than mere administrative convenience; it includes compliance with the laws governing marriage. The e-government application system is used to combat instances of bigamy and matrimonial deception by recording the marital status of individuals in various government databases. By automating marriage licenses and cooperating with the Nigeria Immigration Service, the Ministry of Interior enables greater scrutiny of marital status during passport and visa issuance, making it harder for people to enter a new marriage while hiding their statutory marriage.

Moreover, the creation of a database on all places of worship licensed by the government guarantees that couples will only marry at churches that comply with statutory requirements.²⁹⁶

It is now possible for couples to log on to websites and check whether their church or registry is licensed before proceeding with their wedding ceremony. This helps them avoid entering into an invalid marriage due to licensing irregularities. Similarly, the digital transformation of the legal profession through projects such as the National Law Firm Directory contributes

²⁹⁴ Matrimonial Causes Act, Cap M7, LFN 2004, s 70.

²⁹⁵ Abdu-Salaam Abbas & Co, '*Principles Guiding the Award of an Order for Maintenance in Divorce Proceedings in Nigeria*' (Abdu-Salaam Abbas & Co, 18 September 2018) <<https://abdu-salaamabbasandco.com/principles-guiding-the-award-of-an-order-for-maintenance-in-divorce-proceedings-in-nigeria/>> accessed 23 April 2026.

²⁹⁶ Ministry of Interior, '*Federal Marriage Registries Database*' (eCitiBiz Portal, 2025) <<https://ecitibiz.interior.gov.ng/marriage/>> accessed 6 May 2026.

positively to the reform of matrimonial practices.²⁹⁷ As technology acts as an engine for governance, the dream of establishing a transparent, fraud-free, and compliant statutory marriage regime in Nigeria becomes increasingly achievable.

The analysis of the prospects of statutory marriage regulation in Nigeria demonstrates a clear trajectory toward modernization and inclusivity. While the legislative framework remains in need of urgent reform, the combination of judicial activism, administrative digitization, and international human rights advocacy is creating a more equitable environment for Nigerian families. The successful realization of these prospects is contingent upon addressing the deep-seated structural and institutional challenges that continue to plague the Nigerian matrimonial system.

4.1.11 Other Contemporary Initiatives by Relevant Institutions in Dealing with Problems Related to the Formation and Dissolution of Statutory Marriages in Nigeria.

Over the past few years, some of the initiatives that relevant organizations have come up with include the provision of comprehensive pre-marital counseling services by licensed religious organizations and professional marriage counselors. Such programs inform future spouses about issues such as communication, money management, conflict resolution, reproductive health, and the legal aspects of marriage.²⁹⁸

Moreover, there have been increased campaigns for public education by government and nongovernmental organizations regarding matters related to marriage and family relations. Campaigns for public enlightenment include domestic violence, early marriages, gender equality, family responsibility, and legal rights of spouses in Nigeria. The aim is to minimize

²⁹⁷ NBA-SLP, '*NBA-SLP NLFD Alignment with RPC 2023*' (Notice, 21 January 2026) <nbaslp.org> accessed 6 May 2026.

²⁹⁸ E I Nwogugu (n24) 68-71.

marital problems and improve family relations.²⁹⁹

Another important trend includes the passing and enforcement of laws designed to ensure spouses are not subjected to any form of abuse or any kind of practice which could harm their relationship. For instance, there is the "Violence Against Persons (Prohibition) Act 2015" which guarantees legal protection against domestic violence and other types of abuse that lead to divorce.³⁰⁰ Another effort is the "National Strategic Plan to End Child Marriage" which involves collaboration between government, religious institutions and NGOs to discourage child marriage.³⁰¹

Furthermore, the family courts and judiciary have also been able to ensure easy access to justice through mechanisms which have made provision for dispute resolution regarding divorces, custody, maintenance, and other ancillary issues. The courts have increasingly focused on the welfare of children and the fairness of parties in matrimonial cases.³⁰²

These developments illustrate that there is an effort being made by relevant authorities to make statutory marriages stronger and protect the rights of the spouses and resolve other socio-economic problems relating to marriage.

4.2 Challenges Affecting the Formation and Dissolution of Statutory Marriage in Nigeria

In spite of the potential benefits of modernity, the present marriage by statute system in Nigeria still faces a number of structural, institutional, and social-culture hurdles. These difficulties pose a considerable gap between theory and practice, leading to injustice in many situations.

²⁹⁹ Federal Ministry of Women Affairs and Social Development, National Strategic Plan to End Child Marriage in Nigeria 2016–2021 (Federal Government of Nigeria 2016) 10–15. <
https://www.girlsnotbrides.org/documents/633/Strategy-to-end-child-marriage_for-printing_08-03-2017.pdf>
Accessed 23 June 2026.

³⁰⁰ Violence Against Persons (Prohibition) Act 2015, ss 1–46.

³⁰¹ Federal Ministry of Women Affairs and Social Development, National Strategic Plan to End Child Marriage in Nigeria 2016–2021 (Federal Government of Nigeria 2016) 16–20.

³⁰² Matrimonial Causes Act, ss 69–71.

However, the issue of regulating statutory marriages in Nigeria is faced with problems such as a pluralistic legal system in the country, inconsistencies between statutory and non-statutory marriages, inefficiency in the registration of marriages, and uncertainties surrounding the legal consequences of marriages contracted under different systems of law.

4.2.1 The Conflict of Legal Pluralism and Limping Marriages

The first issue that exists in the regulation of marriages in Nigeria is the presence of three main types of laws; statutory law, customary law, and Islamic law which at times may overlap in ways which generate legal conflicts.³⁰³ Sometimes, the presence of the laws generates legal problems when one type of marriage is recognized under one law, while being disregarded under another.³⁰⁴ Under the Marriage Act, it is possible for a person who has been married according to customary law to enter into a statutory marriage with the same individual as long as the requirements are met.³⁰⁵ Additionally, Section 35 of the Marriage Act bars an individual who is in a statutory marriage from entering into a marriage according to customary law with another individual.³⁰⁶

Even with the statutory provisions, there have been several queries about the legal repercussions of a new customary union or Islamic marriage entered into during the existence of statutory marriage. In addition, issues about the rights of children born of such marriages are another concern.³⁰⁷ The 2025 case of *Adekunle & Ors v Ahmad* has contributed to this complexity by upholding the validity of subsequent marriages according to Islamic law for a man who is already married under the statutory law when dealing with estate succession based on the Sharia law provision, highlighting how challenging Nigeria's dualistic nature of its legal

³⁰³ E I Nwogogu (n24) 4.

³⁰⁴ O S. Oyelade and Ayoola Abuloye (n239) 111.

³⁰⁵ Marriage Act, Cap M6, Laws of the Federation of Nigeria 2004, s 33(1).

³⁰⁶ Ibid. s 35.

³⁰⁷ Muhammad Kamaldeen Imam-Tamim, (n240).

system remains.³⁰⁸ This legal attitude, even as a response to social reality, contradicts the concept of exclusivity established by the *Hyde v Hyde* judgment as a locus classicus of statutory marriage.³⁰⁹ Such situations have given rise to issues regarding the protection of the rights of those who got married according to the Marriage Act.³¹⁰

4.2.2 Widespread Ignorance and the Formalism of Formation

One of the difficulties faced in the establishment of legitimate statutory marriages is the ignorance among the masses concerning the rigorous formalities required by the Act.³¹¹ Many people in the rural and semi-urban areas of Nigeria are under the misconception that performing a religious ceremony in a church equates to conducting a statutory marriage.³¹² But according to Section 33(2) of the Marriage Act, Where both the contracting parties knowingly and willfully acquiesce in a marriage being celebrated in any place other than the office of the registrar or a licensed place of worship, or without a certificate of notice from the registrar, such marriage is void.³¹³

It has been difficult for the courts to apply the provision of the law on whether or not there was "knowing and willful" participation, leading to conflicting judgments. In *Akparanta v. Akparanta*, the court upheld a case in favor of a wife, who had unknowingly conducted the preliminaries based on her husband's assurance.³¹⁴ On the other hand, in *Chukwuma v. Chukwuma*, the failure to observe procedural formality resulted in a marriage being voided as a nullity.³¹⁵ As a result of their illiteracy in legal issues, many couples in Nigeria exist in unions that they think are legally binding while, in truth, their unions do not even have a legal

³⁰⁸ *Adekunle & Ors v Ahmad* [2025] LPELR-81978(CA).

³⁰⁹ (n3).

³¹⁰ Muhammad Kamaldeen Imam-Tamim, (n240).

³¹¹ Emeka Chianu, (n31) 52.

³¹² Ibid. at 53.

³¹³ Marriage Act, Cap M6, LFN 2004, s 33(2)(c).

³¹⁴ *Akparanta v Akparanta* (1972) 2 ECSLR 779.

³¹⁵ *Chukwuma v Chukwuma* 1 NWLR (Pt 426) 543.

recognition. This makes it impossible for them to claim any kind of inheritance or custody rights in the event of the death of one of them or the breakdown of the relationship.³¹⁶ The need for posting "Notice of Marriage" for 21 days further adds to bureaucratic delay, making couples opt for quicker but relatively insecure custom marriage ceremonies.

4.2.3 Bureaucratic Bottlenecks and Registry Corruption

The INTERAS 2025 initiative to digitalize registries could be seen as a step forward; yet, the existing registration process still suffers from numerous bureaucratic obstacles and rampant corruption.³¹⁷ Indeed, journalism reports of Taiwo Adebulu have revealed the "cash cow" nature of the Ikoyi Marriage Registry, where the officials have been noted for blocking the electronic portals in order to make couples follow manual registration procedures and engage in extortion.³¹⁸ For example, individuals often pay much higher amounts of money, up to ₦150,000 for the change of a venue and ₦45,000 for routine requests, but receive official receipts only for the minimal sum.

Moreover, the ongoing corruption has a serious impact on the accuracy of data contained within the national marital database. The long-standing dispute between local government councils and the Federal Ministry of Interior over the authority and locations where the Ministry may conduct and register statutory marriages has created an additional layer of complexity within Nigeria's marriage administration system.³¹⁹ Even after the Court of Appeal overturned the ruling, providing an option for both levels to set registries, the "war" left its mark in the form of numerous conflicting marriage certificates that are hardly ever verified.³²⁰ In turn, it is hard

³¹⁶Emeka Chianu, (n31) 55.

³¹⁷ 'Interior Ministry Launches Electronic Records System, Plans Mobile Offices', PRNigeria News (Abuja, 1 September 2025).

³¹⁸ Taiwo Adebulu, 'Nigeria | Love remains a cash cow' (ZAM, 25 June 2024) <zammagazine.com> accessed 27 April 2026.

³¹⁹ Court nullifies judgement restraining FG from registering marriages (7, August 2023) <https://tribuneonline.ng/court-nullifies-judgement-restraining-fg-from-registering-marriages/> accessed 27 April 2026.

³²⁰ *Minister of Interior & Ors v Eti-Osa Local Government & Ors* [2023] LPELR-60830(CA).

for embassies or banks to validate these documents, and therefore, the Nigerian statutory framework does not seem credible internationally.

4.2.4 The Challenge of Polygamous Cohabitation

Polygamy as a social practice in many Nigerian societies tends to override the requirement for monogamy that is stipulated in statutory marriages.³²¹ The occurrence of polygamy comes about when the male spouse who is currently in a marriage relationship legally decides to marry a second woman without breaking his previous ties. Such cases of polygamous unions are common occurrences in both Western and Northern Nigeria, and involve the use of customary rituals. Monogamous unions lead to great difficulties for the statutory wife since property belonging to the spouses tends to be redirected to support the hidden family structure.³²²

The inability to criminalize bigamy in accordance with section 370 of the Criminal Code Act has resulted in the ineffectiveness of the monogamous policy.³²³ Where the statute mandates that any attempt by a person who is in a statutory marriage to marry again would result in a sentence of imprisonment for up to seven years, the act of prosecuting such cases rarely ever happens in Nigerian history.³²⁴ The lack of punishment in such instances has created a scenario where there is the existence of two lifestyles in which the statutory marriage has been maintained in terms of monogamy. However, in reality, the lifestyle is based on a polygynous family setting, which causes great difficulties especially when trying to divide marital assets in accordance with section 72 of the Matrimonial Causes Act.³²⁵ The courts often refuse to grant maintenance if they perceive the wife's conduct as contributory to the breakdown, ignoring the

³²¹ I N George, D E Ukpong, E E. Imah, *'Cultural Diversity of Marriage Sustainability in Nigeria: Strengths and Challenges'* (2014) 2(1) Sociology and Anthropology 9.

³²² Odia Tiyosayi Pearl (n249).

³²³ Criminal Code Act, Cap C38, LFN 2004, s 370.

³²⁴ Action4Justice Nigeria, *'Rights against bigamy'* (Action4Justice Nigeria, 2025)

<https://nigeria.action4justice.org/legal_areas/womens-rights-focusing-on-marriage-rights/right-to-freely-enter-into-marriage/> accessed 1 May 2026.

³²⁵ O S Oyelade, Ayoola Abuoye, (n239) 115; Matrimonial Causes Act, Cap M7, LFN 2004, s 72.

psychological trauma of the husband's bigamous conduct.³²⁶

4.2.5 Enforcement Gaps and the Garnishee Conundrum

There are still issues related to the execution of court orders regarding maintenance and division of property in matrimonial cases in Nigeria.³²⁷ In some cases, judgment debtors may frustrate enforcement efforts by concealing assets, transferring property to third parties, or making it difficult for creditors to identify assets available for execution.³²⁸ While it is generally understood that garnishee proceedings through the Sheriffs and Civil Process Act are considered to be among the efficient ways to enforce monetary judgments, challenges persist.³²⁹ Under this process, the judgment creditor will apply to the court for a garnishee order nisi, and after proving the presence of assets in attachable form, an order absolute may be issued.³³⁰

The principal challenge is not necessarily delay in obtaining the orders but rather the identification of accounts containing sufficient funds and the costs incurred by financial institutions in responding to garnishee proceedings. Nigerian courts have also cautioned that garnishee proceedings should not be used as a fishing expedition to search indiscriminately for a debtor's assets where there is no reasonable basis for believing that funds are held by the garnishee concerned.³³¹ Consequently, while the legal framework for enforcement exists, practical obstacles in locating and attaching assets may reduce the effectiveness of

³²⁶ *Damulak v Damulak* 8 NWLR (Pt 874) 151.

³²⁷ Adedolapo Adeyosoye, 'How to Enforce Divorce Decrees Under Nigerian Law' (Lehi Attorneys, 28 October 2025) <https://lehiattorneys.com/enforcing-divorce-decrees-in-nigeria-nigeria-divorce-decree-enforcement-enforcement-of-divorce-orders-nigeria/> accessed 1 May 2026.

³²⁸ Aluko & Oyeboode, 'Garnishee Proceedings in Nigeria: The Need for Reform' (Aluko & Oyeboode, 10 June 2021) <aluko-oyebode.com> accessed 1 May 2026.

³²⁹ Sheriffs and Civil Process Act, Cap S6, LFN 2004, s 83.

³³⁰ *Ibid* ss 83–86.

³³¹ See generally *Purification Techniques (Nig) Ltd v Attorney-General of Lagos State* [2004] JELR 57715 (CA); *Zenith Bank Plc v John* (2015) 2 CLRN 1 (SC). Nigerian courts have consistently emphasized that garnishee proceedings are intended to attach identifiable debts owed to a judgment debtor and should not be employed as speculative asset-tracing exercises.

maintenance and property distribution orders in some cases.

During the 2026 conference on Legal Practice organized by the NBA Section, the necessity of rethinking "net casting" and proof requirements in garnishee cases to avoid debtors from circumventing court orders was discussed. There is currently no registry of judgments and properties. Thus, if the debtor relocates to another jurisdiction, the creditor has to restart the whole enforcement process.³³² Consequently, a spouse might win a case against his/her partner in court but end up poorer because he/she never receives any maintenance benefits.³³³ As observed in the *Odusote v. Odusote* case, although the purpose of maintenance is to cater for the essential needs of the spouse, the mechanism used to enforce the judgment is extremely ineffective, leaving the destitute individual with fewer resources than the amount of litigation costs incurred.³³⁴

4.2.6 The Hardship of the Fault-Based Divorce System

The fact that the Matrimonial Causes Act contains fault-based provisions even in its irretrievable breakdown provisions presents a challenge to humane dissolving of marriages.³³⁵ For instance, as per section 15(2), a petitioner has to show that one of the following eight facts exists: adultery, desertion, unreasonable behavior, etc.³³⁶ Fault-based system means that both separating parties will be forced to place blame on each other which will only result in increased tension and "shocking stories" of their failures during the marriage proceedings.³³⁷ As mentioned above, the prescriptive facts may sometimes constitute cultural mismatches due to

³³² Opemipo Omoyeni and Ibrahim Haroon, 'Enforcement of Judgment in Nigeria and the "Multiplicity Challenge"' (G. Elias, January 2023) https://www.gelias.com/images/Newsletter/Enforcement_of_Judgment_in_Nigeria_Paper.pdf accessed 4 May 2026.

³³³ Abdu-Salaam Abbas & Co, 'Principles Guiding the Award of an Order for Maintenance in Divorce Proceedings in Nigeria' (Abdu-Salaam Abbas & Co, 18 September 2018) <abdu-salaamabbasandco.com> accessed 4 May 2026.

³³⁴ *Odusote v Odusote* [2012] 3 NWLR (Pt 1288) 478 (CA) 509–510.

³³⁵ Osifunke Ekundayo, (n221) 44.

³³⁶ Matrimonial Causes Act, Cap M7, LFN 2004, s 15(2).

³³⁷ Osifunke Ekundayo, (n221) 45.

the fact that many of the reasons for which Nigerian marriages end in failure cannot be accommodated in the 1970 statute.³³⁸ Indeed, the necessity to prove "adultery and intolerability" or "desertion for one year" places high demands on the evidentiary value which means prolonged litigation.³³⁹ However, Nigerian courts have made it clear that allegations such as adultery need not be proved by direct evidence of the parties being caught in the act. In *Alabi v Alabi*, the court recognized that adultery, by its nature, is often established through circumstantial evidence from which a reasonable inference of sexual misconduct may be drawn.³⁴⁰

Moreover, such a fault-based adversarial approach is especially traumatizing for children as it leads to the creation of "a war of attrition".³⁴¹ In addition, there is the so-called "two-year rule" in section 30 of MCA which makes it impossible to dissolve a marriage in the first two years unless there is exceptional hardship proved.³⁴²

4.2.8 The Challenge of Foreign Divorce Decrees (Section 81 MCA)

In the modern era of globalization, one of the significant issues related to divorce in Nigeria is that of the recognition of a foreign decree of divorce in Nigeria. Section 81 of the Matrimonial Causes Act states that a foreign dissolution can be recognized only where such a decree was made in the country where the domicile of the parties was situated or where the law of their domicile recognizes such a decree.³⁴³ This domicile-based rule is often too rigid for the thousands of Nigerians in the diaspora who maintain their Nigerian "domicile of origin" while

³³⁸Michael Attah, *'Prescriptive and Evidential Challenges in Nigeria's Fault Divorce Regime'* (2017) 20 Nigerian Law Journal 512.

³³⁹ *Ibid* pg 515.

³⁴⁰ *Alabi v Alabi* [2007] 9 NWLR (Pt 1039) 297 (CA).

³⁴¹Osifunke Ekundayo, (n221) 50.

³⁴² Matrimonial Causes Act, Cap M7, LFN 2004, s 30.

³⁴³ Matrimonial Causes Act, Cap M7, LFN 2004, s 81.

living abroad.³⁴⁴

This leads to what has been referred to as “limping divorces.” Whereby the couple gets divorced legally in England or America but is still considered married under Nigerian laws. This peculiar legal situation leads to many complex issues, especially when it comes to inheritance rights, legitimacy of children conceived through subsequent marriages, and increased chances of bigamy.

In the case of *Gray v. Formosa*, the judge was highly critical of the domicile rule by referring to it as “the last barbarous relic of a wife’s servitude.” Under the domicile rule, the wife is forced to follow her husband’s domicile even if they are separated.³⁴⁵

4.2.9 Impact of Poverty and Economic Instability

Economic volatility is both a cause and a consequence of marital dissolution in Nigeria. According to sociologists, more than 85% of divorces in Nigeria occur because of poverty, as money difficulties lead to domestic violence, suspicion, and desertion.³⁴⁶ In cases of economic turmoil, the breadwinner system of the officially married couple falls apart, resulting in lengthy and bitter cases that pile up at courts.³⁴⁷

More importantly, the inability to initiate divorce because of lack of funds has the effect of placing many Nigerians in a situation of legal limbo. They may be informally separated for decades, yet remain legally married, preventing them from accessing formal maintenance or property settlements. The high cost of “Virtual Hearing Fees” (may be up to ₦100,000

³⁴⁴ Abiodun Odusote, ‘*The Concept of Domicile in Matrimonial Causes in Nigeria: A Critique of the Status Quo*’ (2025) 7(1) African Journal of Inter/Multidisciplinary Studies (AJIMS) 138.

³⁴⁵ *Gray (Orse. Formosa) v Formosa* [1963] P. 259; [1962] 3 W.L.R. 1246.

³⁴⁶ C Anagbogu, ‘*A Legal Appraisal of the Economics of Divorce in Nigeria*’ (2014) 2(1) JOCINL 28.

³⁴⁷ C O Oseghale, *Unpacking the Socio-Economic and Psychological Dimensions of Divorce in Nigeria: Pathways to Understanding and Intervention*

https://www.researchgate.net/publication/396289559_Unpacking_the_Socio-Economic_and_Psychological_Dimensions_of_Divorce_in_Nigeria_Pathways_to_Understanding_and_Intervention Accessed 6 May 2026.

depending on the state in which the case is being filed eg Ogun State)³⁴⁸ and newspaper publications for substituted service (up to ₦50,000) are insurmountable for the average Nigerian.³⁴⁹ This makes the formation and dissolution of statutory marriage a privilege of the economically stable few, while the poor are relegated to the unprotected fringes of the legal system.

An analysis of the problems facing statutory marriage in Nigeria reveals a situation where there is a large gap between legal practice and reality. Legal pluralism, corruption, strictness of the fault-based system, and economic disenfranchisement are major problems that stand between Nigeria and the development of a system of family law that suits contemporary society. For Nigeria to make progress, it is necessary not only to pass new legislation but also to transform the administration and judiciary in order to achieve fair treatment for everyone through statutory marriage.

³⁴⁸ *How to obtain virtual hearing in Ogun State* <https://ekosolicitors.com/how-to-obtain-virtual-hearing-in-ogun-state-steps-you-need-to-know/> accessed 6 May 2026. (However it is important to note that in some states like Enugu, virtual hearing does not cost any fee).

³⁴⁹ *Cost of Divorce in Nigeria 2026: Complete Breakdown (What You'll Actually Pay)* (LawClinicPro), <lawclinicpro.com> accessed 6 May 2026..

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

The primary aim of this study was to undertake an extensive analysis of the legal and institutional framework that exists in Nigeria concerning statutory marriage formations and dissolutions. Through this process, which involved studying the Marriage Act and the Matrimonial Causes Act, among others, as well as the role played by customary and Islamic personal laws, one is able to gain insights into the practicality of family law, the shortcomings it faces, and the socio-legal issues associated with modern day family law in Nigeria. From the findings presented in the different chapters, it can be seen that the statutory framework, despite being aimed at ensuring certainty and protection of monogamous marriages, fails due to a number of factors including statutory contradictions, systemic corruption, and some notable barriers to justice, etc.

The principal finding of this paper revolves around the huge discrepancy between the purpose of divorce under Section 15(1) of the Matrimonial Causes Act 1970 which recognizes only one ground on which divorce can be granted; namely, the marriage having irretrievably broken down. However, the requirements of Section 15(2)(a)-(h) and Section 16 of the Act strictly mandates the proof of specific, fault-based facts. As articulated by judicial precedents like *Harriman v. Harriman* and *Sowande v. Sowande*, failure to prove any of the aforementioned facts constitutes an obstacle to granting the divorce, and examples of these facts include adultery, cruelty or unreasonable behavior. This research finds that this architecture creates a system that is essentially a fault-based regime masquerading as a no-fault system. Such legal framework fosters dispute among parties, encourages exaggeration of facts and provokes lengthy and bitter court proceedings.

Secondly, there is an obvious inconsistency regarding the statutory marriageable age and the validity of minor consent. The inconsistency arises between the provisions of the Marriage Act, which provides for minors below 21 years of age to seek parent's approval for their marriage without providing any provision regarding their lowest marriage age, and the Child Rights Act 2003's Section 21, which sets the minimum marriage age at 18 years and renders all child marriages void. This challenge is further aggravated by the Nigerian federal system because the Child Rights Act has not been adopted in the Gombe State as of April 2026.

Thirdly, the study reveals grave cases of institutional dysfunction and jurisdictional disputes within the administrative organs charged with overseeing the regulations on marriage. It is worth noting that there have been clashes arising from the overlapping nature of Item 61 of the Exclusive Legislative List, which gives exclusive legislative authority to the Federal Government on statutory marriage laws, and the Fourth Schedule of the 1999 Constitution, which grants powers to the local government to register all marriages. Although previous judicial pronouncements in the cases of *Hon. Minister of Interior v. Eti-Osa Local Government* and *Olumide Babalola v. Ikeja Local Government* have helped create a "shared authority" system, the efficiency of the latter arrangement is greatly questionable. As Taiwo Adebulu has reported in several investigative reports, federal registries such as Ikoyi suffer from significant cases of administrative malfunctions and corruption, with officers deliberately working to undermine electronic systems, including the IntERAS paperless project introduced in late 2025, in order to extract bribes from applicants.

Fourthly, this study finds that the pluralistic legal landscape of Nigeria results in substantial clashes among conflicting laws leading to the "limping marriage" issue. Despite the fact that the practice of bigamy is outlawed under sections 370 of the Criminal Code Act as well as section 35 of the Marriage Act, the state's total failure to prosecute matrimonial offenses

has allowed de facto polygamy to thrive within a framework of statutory monogamy. This situation becomes even more complicated owing to recent judicial decisions and particularly due to the landmark judgment *Adekunle & 2 Ors v. Ahmad* (2025) that made it possible for second Islamic marriages to be considered valid in respect to the inheritance of an estate while the first marriage based on civil law remains valid. As a result, the immunity provided in the *Hyde v. Hyde* decision was considerably weakened by prioritizing religious norms of inheritance rather than marriage laws. Wives married according to civil laws find themselves unprotected against sudden economic disenfranchisement, asset diversion, and intense inheritance disputes with subsequent customary or Islamic spouses.

It is also pertinent to state that the private international law provisions of recognizing foreign divorces in accordance with the provisions of Section 81 of the Matrimonial Causes Act are very archaic and do not correspond to our modern international world. The provision that the recognition of foreign divorces may take place on the grounds of the dependent or original domicile of the husband leads to difficulties for Nigerian citizens who live outside Nigeria. Nigerians who obtain their divorces overseas might still be recognized as being married in Nigeria; this would most likely lead to accidental bigamy and other complications in matters of succession. This dynamic reinforces the severe judicial criticism leveled in *Gray v. Formosa*, which condemned the dependent domicile rule as a "barbarous relic of a wife's servitude."

Furthermore, there is the issue regarding the enforcement of financial remedies after divorce and distribution of matrimonial property. The courts in Nigeria mostly apply the doctrine of strict property rights, such that the ownership of property is established based on having legal title or direct financial contribution documented through receipts. This adversely affects the disadvantaged party, who is more often than not the woman by completely

disregarding non-financial domestic labor and childcare. Despite efforts by the courts in some cases like *Essien v. Essien* and *Aguolu v. Aguolu* (2025), the law is not well defined and is applicable only when one spouse is helping in their business. Furthermore, the process of enforcement of financial maintenance is quite tedious due to what is referred to as the "garnishee conundrum" in the Sheriffs and Civil Process Act. The debtors may be able to evade paying through transferring properties to many accounts and making them be under the title of a relative.

5.2 Recommendations

Given the many areas of concern discussed above including the legal vacuum, inconsistencies in existing laws, and poor enforcement, the following measures are proposed in the process of updating Nigerian marriage laws:

1. Reform of Private International Law and Domicile via “Habitual Residence”: In order to make an immediate amendment to Section 81 of the Matrimonial Causes Act, the National Assembly needs to take action. It will allow getting rid of the discriminatory gender-based doctrine whereby the domicile of the wife is decided upon the domicile of the husband, and the exclusive focus on the domicile of origin. Nigeria should adapt private international law through the adoption of the concept of “habitual residence.”

2. A Legislative Act Instituting a Unified Federal Family Code and Compulsory Election of Legal Regime: As an effective response to counter the disruptive consequences of the judgment in *Adekunle & 2 Ors v. Ahmad* (2025), the Federal Legislature should pass a unified Federal Family Act, which will adopt the concept of a "strong legal pluralism model." This The law will make it mandatory for spouses who are into sequential marriages to sign a mandatory cryptographic statutory declaration, choosing a single, exclusive legal regime (statutory,

customary, or Sharia) that will govern their proprietary rights, maintenance, and estate succession, preventing inter-system conflict ab initio.

3. Establishment of a Centralized Automated Judgments and Assets Registry (CAJAR):

To resolve the "garnishee conundrum" and halt the evasion of financial remedies under the Sheriffs and Civil Process Act, there is need for an automated asset monitoring system to be put into place by the federal government. Such a system will allow specialized family law judges immediate access to the BVN database of the Central Bank of Nigeria and the NIMC identity database, enabling the instantaneous tracking and computerized execution of maintenance and property settlement orders via automated garnishee orders absolute.

4. Statutory Codification of Non-Financial and Domestic Contributions: Section 72 of the Matrimonial Causes Act must be amended to explicitly codify domestic labor, childcare, elderly care, and emotional or career-sacrificing support as quantifiable, legally recognized non-financial contributions to the acquisition of matrimonial assets. The amendment shall put an end to the application of the strict property right approach, ensure that family law moves away from unpredictable judicial activism, and create equitable guidelines based on examples of Kenya's Matrimonial Property Act of 2013 and Ghanaian jurisprudence.

5. Transition to a Purely No-Fault Divorce Framework: There is need for the National Assembly to abolish the contentious and fault-based "facts" listed in Sections 15(2)(a)-(h) and 16 of the Matrimonial Causes Act. As has been done in the UK under the Divorce, Dissolution and Separation Act 2020, there should be a shift to an administrative and no-fault divorce regime triggered by the uncontested irretrievable breakdown of the marriage. In any case, there should be an obligatory twenty-week reflection period to reduce litigious hostility and speed up justice delivery.

6. Blockchain-Backed E-Governance and Registry Compliance Enforcement: For starters, the Ministry of Interior should institute the use of a tamper-proof blockchain ledgers that should be used across all 774 registries in the Local Government Areas to support the IntERAS and eCITIBIZ platforms. The blockchain ledgers shall ensure that no manual interventions occur, no paper-based records are used, and there is no further case of registry extortion (eg the manual manipulation at the Ikoyi Registry). There shall be severe punishment, which shall be incorporated in the new Marriage Act, for registry officials or religious marriage officers who fail to submit documents within seven days.

7. Universal Harmonization of Minimum Age and Consent Legislation: It is imperative that Sections 11, 18, and 19 of the Marriage Act are amended to include the removal of the need for parental consent for individuals below the age of twenty-one years as well as instituting a universal and absolute statutory minimum marriageable age of eighteen years, reinforcing Section 21 of the Child Rights Act 2003. Simultaneously, the federal government together with civil society organizations need to use legislative and constitutional pressure to compel Gombe State to domesticate the Child Rights Act, thus ensuring total national consistency.

5.3 Conclusion

In conclusion, the regulation of statutory marriages in Nigeria finds itself at a crucial junction of structurally imposed choice between its imported colonial legal heritage, socio-cultural realities, and the emerging electronic governance mechanisms. The research has illustrated how the interplay between legal pluralism, the outdated fault system used in the Matrimonial Causes Act, and rigid judicial approaches to property division has been

instrumental in undermining the protective purpose behind statutory family legislation. Current family laws continue to penalize weak partners, leaving children victims of marital disputes, and tolerating corrupt practices within the marriage registries. For Nigeria to progress towards its future, it will be essential to commit itself to the complete transformation of existing legislation through the introduction of a no-fault divorce system, recognition of the financial role of women, creation of electronic asset execution registries, and solving of private international law problems. Ultimately, the law must evolve to ensure that the institution of marriage is governed by principles of universal human dignity, equality, and accessible justice for all strata of Nigerian society.

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