



## **PARENTAL CHILD ABDUCTION IN NIGERIA: LEGAL CHALLENGES AND PATHWAYS TO JUSTICE**

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### **Abstract:**

*Parental child abduction has become a pressing concern in Nigeria, although it is not as prominently reported or studied as other forms of abduction. Increasingly, one parent unlawfully takes children out of Nigeria without the authorisation of the other parent, leaving the left-behind parent grappling with legal, emotional, and logistical challenges to recover their children. Often, these efforts are futile, with some parents losing access to their children permanently. This research examines the existing legal frameworks governing child abduction, evaluates their effectiveness, and identifies the gaps that hinder justice for affected families. This research adopts a doctrinal methodology which entails the use of primary sources of data such as the Child Rights Act 2003, Criminal Code Act, United Nations Convention on the Rights of the Child (UNCRC) and the Hague Convention on International Child Abduction, and relevant case laws. The secondary sources include articles, dictionary and internet materials. Findings reveal significant deficiencies in Nigeria's legal framework, including the absence of ratification of key international treaties, limited enforcement mechanisms for court orders, and insufficient collaboration between Nigeria and other jurisdictions. The study also identifies a lack of awareness and support systems for affected families, further complicating recovery efforts. Based on these findings, the research recommends Nigeria's urgent ratification of the Hague Convention, the establishment of a specialised child abduction unit within the judiciary, and enhanced cross-border cooperation through bilateral agreements. It concludes by emphasising the need for a robust legal and institutional framework to safeguard children's welfare and uphold the rights of parents within the evolving dynamics of family disputes.*

**Keywords:** *Child Abduction, Custody, Parental Rights, Families, Legal Framework*

### **1. INTRODUCTION**

It is trite that every child is entitled to parental safeguarding and care. Child abduction violates this right by forcibly separating a child from their parents against their will. The Child's Rights Act outlines specific exceptions to separating a child from their parents for the child's education and welfare, which must prioritize the best interests of the child based on a judicial determination. Child abduction does not fall under these exceptions, thus making it a clear violation of a child's rights.<sup>1</sup>

<sup>1</sup> Section 14(1) of the Child's Rights Act, 2003

Child abduction refers to the unlawful removal or keeping of a young person from a parent or other individual with legal custody of the child.<sup>2</sup> This kidnapping also refers to the capture or confinement of a child under the age of 16, without legal authorization or justifiable reason, so removing the child from or preventing access to the legitimate guardian of the child.<sup>3</sup> It is the crime of removing a child from their rightful home.<sup>4</sup> Child abduction can primarily be categorized into two types within legal and social frameworks based on the relationship between a perpetrator and a child: one involves family members or relatives, while the other involves individuals with no prior connection, such as strangers. Hence, parents or other relatives, individuals familiar with a child but not related, such as neighbors, friends, or acquaintances, as well as strangers, can perpetrate child abduction.

Child abduction is a severe crime that breaches the rights of a child, the child's family, and society at large. Effective legal frameworks must be enacted and enforced to prevent wrongdoers from engaging in such behavior and to bring justice and support to victims. It is indeed a violation of a child's fundamental right to life, liberty and security of the person, as well as, the right to be free from violence, exploitation, and forced separation from family and the community.

The focus of this paper is on parental child abduction in Nigeria. This issue is pervasive in Nigeria, where cultural norms, insufficient enforcement mechanisms, and deficiencies in legal frameworks worsen the situation. Parental child abduction undermines the stability and emotional welfare of a child, while also causing legal complications for parents pursuing remedies. Parental Child abduction has been defined as "the taking, retention, or concealment of a child or children by a parent, other family member, or their agent, in derogation of the custody rights...of another parent or family member."<sup>5</sup> These abductions often occur at a time of high family conflict, that is, during a custody battle or separation. Abductions have become recognized as a significant social problem, as not only the abandoned parent suffers enormously, but also the child involved too.<sup>6</sup>

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<sup>2</sup> Action Against Abduction, <<http://www.actionagainstabduction.org/about-abduction/>>

<sup>3</sup> Oxford Reference, Child abduction - Oxford Reference, <<https://www.oxfordreference.com/display/10.1093/oi/authority.20110803095607227>>

<sup>4</sup> Collins English Dictionary, CHILD ABDUCTION definition and meaning, <<https://www.collinsdictionary.com/dictionary/english/child-abduction>>

<sup>5</sup> Janet Chiancone, Linda Girdner, and Patricia Hoff, 'Issues in resolving cases of international child abduction by parents' U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (2001), <<https://www.ojp.gov/pdffiles1/ojjdp/190105.pdf>>.

<sup>6</sup> Geoffrey L. Grief and Rebecca Hegar, 'Parents Who Abduct: A Qualitative Study with Implications for Practice' *Family Relations* (1994) 43 (3) 283-288.

Cross-border or international parental child abduction occurs when a child is wrongfully removed or emigrated from their home country.<sup>7</sup> A wrongful removal happens when a child is taken out of their country of habitual residence without the consent of everyone with parental responsibility or court approval. A pertinent question usually arises: can a parent legally abduct their offspring? It is not permissible for a parent to legally abduct their child. Regardless of the custodial status of a parent, the removal of the child from their current environment necessitates the explicit consent of the other parent or legal guardian. Should a parent remove a child without obtaining the other parent's consent? They could potentially encounter legal repercussions for child abduction.<sup>8</sup>

In certain instances, a parent may possess a valid justification for removing a child, such as safeguarding the child from danger or fleeing domestic violence. Nevertheless, in such instances, a parent must obtain legal authorization to take a child; they cannot proceed without the cooperation of the other parent or legal guardian.

According to Yinka Olomajobi in *Human Rights and Legal Protection of Children in Nigeria*, there has been an upsurge in the number of cross-border child abductions by a parent or other relatives.<sup>9</sup> The Economic and Social Council expressed concern for the issue of child abduction in Resolution 1982/22 where it was recognized as a “blatant and inhuman abuse” and implores member states to address this social evil.<sup>10</sup>

This article addresses parental child abduction in Nigeria by exploring its underlying motivations and examining the effectiveness of existing legal frameworks, including both national and international laws. It identifies the challenges that hinder the resolution of such cases and proposes actionable legal reforms designed to mitigate the prevalence of parental child abduction and improve outcomes for affected families.

## **2. OVERVIEW OF THE NIGERIAN LEGAL FRAMEWORK AND INTERNATIONAL TREATISE ON PARENTAL CHILD ABDUCTION**

**2.1. Child's Rights Act, 2003:** The Child's Rights Act emphasizes the right to parental care and protection, which is compromised in cases of abduction.<sup>11</sup> Under the Child Rights Act, parental child abduction is treated

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<sup>7</sup> Reunite. (2020). Nigeria - Country Guide [October 2020], <<https://www.reunite.org/wp-content/uploads/2020/10/Nigeria-Country-Guide-Oct-2020.pdf>>.

<sup>8</sup> IMD Solicitors, 'Can a Parent Legally Abduct their Own Child,' (2023) <<https://imd.co.uk/can-a-parent-legally-abduct-their-own-child/>> Accessed on 17/5/2025

<sup>9</sup> Yinka Olomajobi, *Human Rights and Legal Protection of Children in Nigeria* (Princeton, 2022).

<sup>10</sup> Resolutions and Decisions of the Economic and Social Council (1982)  
<<https://documents.un.org/doc/undoc/gen/nr0/767/02/img/nr076702.pdf>>

<sup>11</sup> Child's Right Act 2003, s. 14(1)

as a criminal offence. It specifically addresses the unlawful removal or taking of a child from the custody or protection of a parent, guardian, or other lawful caretaker against their will. According to Section 27 (1):

***No person shall remove or take a child out of the custody or protection of his father or mother, guardian or such other person having lawful care or charge of the child against the will of the father, mother, guardian or other person.***

Penalties for violations of child abduction laws in Nigeria are structured to reflect the severity and circumstances surrounding each offence, with particular emphasis on the intent and impact of the act. When a child is abducted internationally, the punishment varies based on whether the abductor intends to return the child to Nigeria. In situations where there is an intent to hand over the child, the prescribed penalty is fifteen years' imprisonment.<sup>12</sup> However, if the abduction involves taking the child out of Nigeria with no intention of return, the severity increases, warranting a sentence of twenty years' imprisonment.<sup>13</sup> This distinction underscores the gravity of the crime when it involves a permanent severance of the child's connection to their country of origin.

Interstate abduction, which involves taking a child out of their state of usual residence within Nigeria, carries a lesser, but still significant, punishment of ten years' imprisonment.<sup>14</sup> This penalty reflects the recognition that even within a country's borders, such an act disrupts a child's stability and infringes upon their rights. For all other instances of unlawful removal or taking of a child that do not fall under the categories of international or interstate abduction, the general penalty is set at seven years imprisonment.<sup>15</sup>

These penalties deter acts of child abduction while accounting for the varying degrees of harm caused by each offense. By imposing stricter sentences for international abduction, especially when there is no intent to return the child, the law aims to safeguard the basic rights and welfare of children and ensure accountability for actions that jeopardize their well-being and security.

**2.2. Criminal Code Act:** The Criminal Code makes general provisions against child abduction. Section 371 of the Criminal Code Act in Nigeria states that:

**Any person who, with intent to deprive any parent, guardian or other person who has the lawful care or charge of a child under the age of twelve years, of the possession of such child, or with intent to steal any article upon or about the person of any such child- forcibly or fraudulently takes or entices away, or detains the child; or receives or harbours the child,**

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<sup>12</sup> Child's Right Act 2003, s. 27(2)(a)(i)

<sup>13</sup> Child's Right Act 2003, s. 27(2)(a)(ii)

<sup>14</sup> Child's Right Act 2003, s. 27(2)(a)(b)

<sup>15</sup> Child's Right Act 2003, s. 27(2)(a)(c)

**knowing it to have been so taken or enticed away or detained, is guilty of a felony and is liable to imprisonment for fourteen years<sup>16</sup>**

Under this section, it is a defence to the charge if the accused person claimed "in good faith" a right to have the child. This means they genuinely believed they had legal custody or parental rights. This defence could be exploited by controlling parents who may want to circumvent the law and escape prosecution.<sup>17</sup>

**2.3. Matrimonial Causes Act (1960):** The Matrimonial Causes Act (MCA) lacks a particular provision that clearly addresses "parental child abduction." It addresses matters of child custody and visitation rights during marital conflicts. The authority to establish custody and access rights for children in divorce or separation procedures can be utilized to prevent one spouse from unlawfully abducting the child. In proceedings involving custody, the court shall prioritize the interests of the children.<sup>18</sup> In *Williams v. Williams*<sup>19</sup>, the Court emphasized that custody decisions must prioritize a child's welfare over parental disputes; that is, a child's welfare is paramount and supersedes either parent's rights. Thus, if one parent abducts a child, it is generally seen as not being in a child's best interest, especially if it disrupts stability or access to the other parent.

**2.4. Hague Convention on the Civil Aspects of International Child Abduction (1980)<sup>20</sup>:** This is an international treaty that addresses parental child abduction. It aims to shield children from the negative consequences of forcible removal and detention across national borders by guaranteeing the protection of their right to access and offering a process for their timely return. The Convention aims to swiftly reinstate the true state of affairs that existed before a child's removal or retention. The emphasis is on the wrongful removal or retention of a child, rather than assessing underlying custody rights. The Convention aims to promptly send a child to their country of habitual residence, where competent authorities can resolve custody disputes.<sup>21</sup>

The Hague Convention establishes a collaborative framework among member states for resolving international child abduction cases. Its key features include<sup>22</sup>:

- i) **Central Authority Requirement:** Each ratifying or acceding country must designate a Central Authority to serve as the main contact for parents and governments involved in abduction cases.

<sup>16</sup>Section 371 of the Criminal Code Act, Cap C38, Laws of the Federation of Nigeria, 2004

<sup>17</sup> Ibid

<sup>18</sup> Matrimonial Causes Act, M7, Laws of the Federation of Nigeria 2004

<sup>19</sup> (1987) 2 NWLR (Pt. 54) 66

<sup>20</sup> Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11,670, 1343 U.N.T.S. 8

<sup>21</sup> 'Important Features of the Hague Abduction Convention – Why the Hague Convention Matters'

<<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions/legain-info-for-parents/why-the-hague-convention-matters.html>>

<sup>22</sup> Ibid

- ii) Responsibilities of the Central Authority: The responsibilities of the central authority include assisting in locating abducted children, facilitating amicable resolutions to parental abduction cases, and coordinating the safe return of children, where applicable.
- iii) Admissibility of Documents: Documents submitted as part of the application process to the Central Authority are admissible in courts of partner countries without the technicalities typically needed for foreign documents.
- iv) Proof of Custodial Rights: Parents are not required to submit a custody order to prove custodial rights violations. The Convention permits evidence based on the laws of a child's habitual residence, often demonstrated through parenthood or marriage.
- v) Independence from Immigration or Nationality: Decisions concerning the repatriation of a child to their usual domicile or access/visitation rights are unaffected by the immigration status or nationality of the child or their parents.

The Convention stipulates specific exceptions to a child's return, including scenarios where such return would significantly jeopardize a child's physical or psychological welfare, if the child possesses sufficient age and maturity, or if the child has established stability in the new environment, particularly if the return is sought one year after the wrongful removal.<sup>23</sup>

Nigeria is not a party to the Hague Convention; thus, the international legal framework established by the Convention is not relevant to matters involving Nigeria. Consequently, resolving international parental child abduction cases involving Nigeria requires reliance on national legal.<sup>24</sup>

Discussions regarding the potential advantages of Nigeria's accession to the Convention have been ongoing. Proponents assert that membership might offer a more organized and effective approach to resolving international child abduction cases.

**2.5. 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-Operation in Response to Parental Responsibility and Measures for the Protection of Children:** The 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation regarding Parental Responsibility and Measures for the Protection of Children, commonly known as the Hague Child Protection Convention, is a multilateral treaty aimed at enhancing the safety of children in international

<sup>23</sup> 'Important Features of the Hague Abduction Convention – Why the Hague Convention Matters'  
<<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions/legain-info-for-parents/why-the-hague-convention-matters.html>>

<sup>24</sup> Ibid



situations.<sup>25</sup> It provides a framework for international cooperation and helps to ensure that children's best interests are considered in all decisions affecting their lives.

**2.6. The African Charter on the Rights and Welfare of the Child (1991):**<sup>26</sup> The African Charter on the Rights and Welfare of the Child (ACRWC) does not directly address parental child abduction. However, several provisions, such as Articles 4, 19, 29, and 31 within the Charter, can be interpreted to safeguard children from this harm. The Convention complements the 1980 Hague Convention on the Civil Aspects of International Child Abduction, which deals with the wrongful removal or retention of a child.

Article 4 states that the best interests of a child shall be the primary consideration in all actions concerning the child. This principle can be applied to cases of parental child abduction, where the courts would need to determine what is in the best interests of a child. Article 29 prohibits the abduction of children for any purpose or in any form. While it does not explicitly mention parental child abduction, it can be interpreted to include any situation where a parent takes a child away from their legal guardian without their consent, especially if it is done to harm the child or prevent them from having contact with their other parent.

Furthermore, every child has the right to know and be cared for by both parents. This right would be violated if a parent were to abduct a child, preventing them from having contact with their other parent.<sup>27</sup> The charter also states that children should, whenever possible, have the right to live with their parents and should not be separated from their parents against their will, except when authorities believe it would be in the child's best interest.<sup>28</sup>

### 3. CAUSES AND MOTIVATIONS FOR PARENTAL CHILD ABDUCTION

Child abduction represents a significant and distressing issue impacting numerous families globally. Any child may be affected, irrespective of age, gender, race, or nationality.<sup>29</sup> Child abduction can have serious ramifications for an abducted child. The trauma of being separated from their home, family, and friends can have long-term consequences for their physical, emotional, and mental health. Abducted children may have anxiety, depression, post-traumatic stress disorder (PTSD), and other psychological issues.<sup>30</sup> Parental child

<sup>25</sup> 'Manage International Child Protection Matters' <<https://cspm.csyw.qld.gov.au/procedures/engage-with-other-jurisdictions/manage-international-child-protection-matters>>

<sup>26</sup> The African Charter on the Rights and Welfare of the Child (1991)

<sup>27</sup> Article 31 of the Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11,670, 1343 U.N.T.S. 89.

<sup>28</sup> Article 19, Ibid

<sup>29</sup> 'Can a Parent Legally Abduct their own Child' <

<sup>30</sup> *ibid*

abduction, despite its consequences and illegality, stems from various factors. Some of these factors are considered below:

- i) **Disregard for authority and the law:** A blatant disregard for law and authority is a significant motivator for parental child abduction. This can manifest in various ways. Some parents may feel that the legal system is biased or ineffective in resolving custody disputes. They may believe that the courts have not adequately considered their concerns or that their rights as parents are being unfairly disregarded.<sup>31</sup> This frustration and disillusionment with the legal process can precipitate abduction as a means of asserting their perceived parental rights and circumventing the legal system. Additionally, some parents may simply feel above the law or believe they can act with impunity, disregarding court orders and legal consequences in their pursuit of custody or visitation rights. Parental child abduction is a serious crime with significant legal and emotional consequences. Disregarding law and authority is harmful to a child and undermines the rule of law and the integrity of the legal system.<sup>32</sup>
- ii) **Parental disputes over custody or visitation rights:** In custody disputes, there is a potential risk of abduction, especially when one parent feels threatened by the custody arrangements or fears losing access to their child.<sup>33</sup>
- iii) **Domestic Violence:** In cases of domestic violence, the violent parent may abduct a child to gain control, punish the other parent, or prohibit them from having access to the child.<sup>34</sup>
- iv) **Fear of Harm:** A parent may abduct their child because they believe the other parent will physically or emotionally harm the child, by way of molesting, abusing, or neglecting the child.<sup>35</sup>

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<sup>31</sup> E. J. Kiser, *The Moral Life of the Corporation* (New York: Harper & Row 1987) **(Please confirm this reference. It is not online.)**

<sup>32</sup> Ibid

<sup>33</sup> Bolaji Owasanyo, 'The Regulation of Child Custody and Access in Nigeria' *Family Law Quarterly* (2005) 39(2) 405-428.

<sup>34</sup> 'Can a Parent Legally Abduct their own Child' <<https://imd.co.uk/can-a-parent-legally-abduct-their-own-child/>>

<sup>35</sup> ibid



- v) **Mental Health Issues:** Underlying mental health conditions such as depression, anxiety, or personality disorders can all contribute to impulsive or irrational behavior, including child abduction.<sup>36</sup> In some instances, it may arise from a parent experiencing paranoid delusions. These delusions, often stemming from mental health conditions like psychosis or paranoia, can lead to distorted perceptions of reality. A parent suffering from such delusions may firmly believe, often without evidence, that the other parent poses a significant threat to a child's safety and well-being. This perceived threat, fueled by paranoia and fear, can drive the parent to abduct their child as a perceived act of protection, even if it ultimately harms the child and disrupts their life.<sup>37</sup>
- vi) **Desire for Control:** The abducting parent may seek to maintain control over a child's life and upbringing, even if it means violating custody agreements.<sup>38</sup>

#### 4. EFFECTS OF PARENTAL ABDUCTION ON CHILDREN

Research highlights the significant psychological and emotional toll parental abduction imposes on children, particularly when the separation from the left-behind parent is prolonged.<sup>39</sup> According to the Agopian study, the duration of separation plays a critical role in determining the severity of the impact.<sup>40</sup> Children subjected to short-term abductions, lasting less than a few weeks, often retain hope of reuniting with the other parent. These children are less likely to develop a strong loyalty to the abducting parent and may even perceive the experience as an "adventure." In contrast, those who endure long-term abductions face far more severe consequences.

<sup>36</sup> 'Parental Abduction Takes Toll on Kids Mental Health' <<https://adelphipsych.sg/parental-abduction-takes-toll-on-kids-future-mental-health/#:~:text=Causes%20for%20Child%20Abduction%20by%20Parents&In%20some%20cases%2C%20mental%20illness,abuse%20may%20be%20a%20factor>>

<sup>37</sup> M. Agopian, 'Family abduction: A review of the literature' (1984) 33 *Family Relations* 301. (The reference seems incorrect. What we have is **Parental Abduction: A Review of the Literature**, April 2012, [Janet Chiancone](#). Please confirm the reference before going to press.

<sup>38</sup> Genghis Shakhan, 'Understanding Parental Kidnapping: A Legal and Family Law Perspective' (2024) <<https://www.shakhanandwilkersonlaw.com/understanding-parental-kidnapping-a-legal-and-family-law-perspective>>

<sup>39</sup> Janet Chiancone, Linda Girdner, and Patricia Hoff, 'Issues in resolving cases of international child abduction by parents' U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (2001), <<https://www.ojp.gov/pdffiles1/ojjdp/190105.pdf>>.

<sup>40</sup> M. Agopian, 'Family abduction: A review of the literature' (1984) 33 *Family Relations* 301.

They are frequently subjected to deception by the abducting parent and live an unstable, nomadic lifestyle to evade detection, which disrupts their ability to build friendships, attend school consistently, or establish a sense of normalcy.<sup>41</sup>

Over time, younger children tend to forget the abandoned parent, making reunification emotionally challenging. Older children often experience anger and confusion, harboring resentment toward both parents—the abducting parent for their actions and the left-behind parent for failing to rescue them.<sup>42</sup> Psychiatric evaluations of recovered children reveal a range of emotional and behavioral symptoms. Many children exhibit grief, rage, and anxiety. Emotional distress is often compounded by the "mental indoctrination" inflicted by the abducting parent. Common symptoms among recovered children include eating disturbances, nightmares, mood swings, and aggressive behavior. Younger children may also show signs of regression, such as loss of bladder control, thumb-sucking, and clinging behavior.<sup>43</sup>

Further studies have documented additional long-term effects of abduction trauma, such as withdrawal, distrust of authority figures and relatives, difficulty forming personal attachments, and struggles with peer relationships. In some cases, children experience nightmares, anger, and guilt, which can persist into adulthood, manifesting as relationship difficulties and a general mistrust of others.<sup>44</sup>

International abductions can exacerbate these issues, as children may be forced to adapt to unfamiliar cultural norms, values, and languages. This additional layer of adjustment increases the psychological strain, making it harder for the child to reintegrate with their family and community upon recovery. The emotional scars left by parental abduction often require long-term support and intervention to help children process their experiences and rebuild trust and stability in their lives.<sup>45</sup>

## **5. LEGAL CHALLENGES IN ADDRESSING PARENTAL CHILD ABDUCTION IN NIGERIA**

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<sup>41</sup> Janet Chiancone, Linda Girdner, and Patricia Hoff, 'Issues in resolving cases of international child abduction by parents' U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (2001), <<https://www.ojp.gov/pdffiles1/ojjdp/190105.pdf>>.

<sup>42</sup> Ibid

<sup>43</sup> L. Terr, 'Child snatching: A new epidemic of an ancient malady' *The Journal of Pediatrics* (1983) 103(1) 151-156.

<sup>44</sup> Neil Senior, Toba Gladstone and Barry Nurcombe, 'Child snatching; A case report' *Journal of the American Academy of Child Psychiatry* (1982) 21 579-583.

<sup>45</sup> Janet Chiancone, Linda Girdner, and Patricia Hoff, 'Issues in resolving cases of international child abduction by parents' U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (2001), <<https://www.ojp.gov/pdffiles1/ojjdp/190105.pdf>>.

Parental child abduction in Nigeria presents a unique set of legal challenges stemming from gaps in legislation, enforcement mechanisms, and international cooperation.<sup>46</sup> It constitutes a complex issue with both national and international aspects. On the national aspect, Nigerian laws, such as the Matrimonial Causes Act and the Child Rights Act, provide general guidance on custody and the welfare of children but do not explicitly address parental child abduction. This creates ambiguity in handling such cases, particularly when a parent violates custody or access orders.

Furthermore, insufficient enforcement of custody and court orders presents a substantial obstacle domestically. The ineffectiveness of courts in enforcing custody agreements emboldens abducting parents and diminishes the legal system's capacity to safeguard children's rights. Nigerian law enforcement agencies lack dedicated units or training to handle family law disputes, including parental child abduction. This can result in delays or reluctance to intervene in "domestic matters.". Moreover, delays in legal proceedings, frequently intensified by resource limitations within the judicial system, can extend the separation of children from their appropriate caretakers, resulting in considerable emotional pain.<sup>47</sup>

Although parental child abduction can be charged under general kidnapping<sup>48</sup> or child protection laws (like the Child's Rights Act),<sup>49</sup> it is not always seen as a crime because the person taking the child is related to the child. When parents are involved, the police and judges may choose mediation or civil remedies over criminal charges. Parents who abduct their children may feel more comfortable doing so if the system is not strict.

Nigerian societies are also very male-centered, so traditional and societal norms often play a role in custody decisions, which generally favour fathers. Families and communities often use private mediation instead of going to court, which might not put the child's best interests first or solve the abduction dilemma well.<sup>50</sup>

Cross-border child abduction has distinct challenges. Nigeria's failure to ratify the Hague Convention on the Civil Aspects of International Child Abduction considerably obstructs efforts to resolve these cases. The Convention establishes an essential foundation for international collaboration in child abduction cases, and its absence deprives Nigeria of a vital legal instrument to ensure the return of children unlawfully removed or

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<sup>46</sup> The Hague Convention on the Civil Aspects of International Child Abduction: <https://kinderontvoering.org/en/information/central-authority/>

<sup>47</sup> Peggy Malpass, 'The intersection of health and legal issues in a family break-up' *Paediatr Child Health* (2000) 5(4):214-6. doi: 10.1093/pch/5.4.214. PMID: 20177522; PMCID: PMC2817795.

<sup>48</sup> Criminal Code Act 2004, s. 371

<sup>49</sup> Child's Rights Act 2003, s. 27

<sup>50</sup> Nwudego N. Chinwuba, 'Human Identity: Child Rights and the Legal Framework for Marriage in Nigeria' *Marriage & Family Review* (2015) 51(4), 305–336.

kept elsewhere. Furthermore, jurisdictional disputes and insufficient international collaboration between Nigerian authorities and their foreign counterparts can impede the prompt and effective settlement of cross-border abduction cases.<sup>51</sup>

There are no specific bilateral treaties between Nigeria and other countries addressing family matters or child abduction. This results in reliance on case-by-case negotiations, which are time-consuming and unpredictable. The absence of bilateral treaties means there is no structured legal framework for the automatic recognition or enforcement of custody orders or the prompt return of abducted children between the two countries.<sup>52</sup> Furthermore, cases involving international abduction often rely on diplomatic channels or ad hoc litigation, which are time-consuming and lack predictability, which often complicates and delays resolution, as courts lack a clear, binding international framework for cooperation.<sup>53</sup>

## 6. Conclusion and Recommendations

It is noteworthy that while Section 371 of the Criminal Code Act and Section 27 of the Child's Rights Act address child abduction, they lack specific provisions tailored to the unique challenges of parental child abduction. Likewise, the Matrimonial Causes Act of 1970 addresses custody issues during divorce proceedings, but it does not specifically address the issue of parental child abduction. This lack of specificity in the provision of the Criminal Code Act, the Child's Rights Act, and the Matrimonial Causes Act on parental child abduction can hinder effective prosecution and may not adequately address the complexities of family dynamics and custody disputes; hence, these existing laws should be amended and revised. Addressing the challenges of parental child abduction requires a comprehensive approach. Enhancing the capabilities of law enforcement agencies and the judiciary is vital. This involves providing adequate training, resources, and specialized units to effectively handle parental child abduction incidents. Improving the effectiveness of the legal system, reducing delays in judicial processes, and ensuring consistent enforcement of custody orders are also crucial.

Canada operates an effective initiative for locating missing children, known as the 'Our Missing Children' program. This initiative, comprising the Missing Children's Registry, showcases the effectiveness of inter-

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<sup>51</sup> Overview of the Hague Convention and International Child Abduction, 2024 <<https://johndrogerslaw.com/overview-of-the-hague-convention-and-international-child-abduction/>>

<sup>52</sup> A Guide to International Parental Child Abduction to Nigeria <<https://www.reunite.org/wp-content/uploads/2020/07/Nigeria-Country-Guide-2020.pdf>>

<sup>53</sup> Ibid

agency cooperation and centralized data administration in discovering and recovering abducted children. Nigeria should create a specialized national unit, the "Nigerian Missing Children's Registry" (NMCR), to improve its ability to find and retrieve missing children. This unit is intended to function as a central repository for the collection, analysis, and distribution of information regarding missing children across the nation, promoting robust collaboration among law enforcement agencies, pertinent government departments, and non-governmental organizations. The NMCR must prioritize public awareness initiatives, uphold thorough and current records, and utilize data analysis to guide prevention tactics and enhance investigative methods. Moreover, international collaboration with entities such as United Nations International Children's Emergency Fund (UNICEF) is essential for enabling the recovery of children abducted across national boundaries.

Nigeria should consider ratifying the Hague Convention to enhance its ability to address cross-border child abduction cases. Enhancing international coordination with other nations through bilateral and multilateral agreements is essential for the swift and secure repatriation of abducted children. Ultimately, public awareness initiatives regarding legal rights and procedures associated with parental child abduction are essential. In addition, in order to effectively combat parental child abduction in Nigeria, the government should consider implementing a robust and accessible legal aid system, drawing inspiration from models like England and Wales. While the 2011 Legal Aid Act provides a framework, the current eligibility criteria (an annual income of N5,000) are excessively restrictive and likely exclude most individuals from accessing legal assistance in child abduction cases. The government should amend the Act to expand eligibility, particularly for cases involving parental child abduction, and ensure that legal aid is readily available to both parents and children affected by these situations. This would enhance access to justice, ensure children's rights are adequately safeguarded, and promote fairer outcomes in child abduction cases. Furthermore, government parastatals like the Federal Ministry of Women Affairs, National Agency for the Prohibition of Trafficking in Persons (NAPTIP), and Non-Governmental Organisations such as Save the Children, United Nations International Children's Emergency Fund (UNICEF), and Plan International can offer valuable assistance and support in cases of parental child abduction particularly in the areas of guiding legal procedures, offering emotional support to the affected family, and advocating for the safe return of the child.