TOWARDS A COHERENT FRAMEWORK: THE LAW, ETHICS, AND REGULATION OF ASSISTED FERTILITY AND ADOPTION IN NIGERIA

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Abstract

Infertility remains a pressing social and medical challenge in Nigeria, where childbearing is deeply embedded in cultural identity and marital stability. Assisted Reproductive Technologies (ART) including in vitro fertilisation, gamete donation, and surrogacy, alongside adoption, have emerged as vital pathways to parenthood. Despite their growing relevance, both ART and adoption operate within a fragmented and underdeveloped legal and ethical framework. Nigeria lacks a comprehensive statute governing ART, while adoption laws suffer from inconsistent implementation and weak oversight. These gaps expose individuals and children to significant risks, including legal ambiguities, ethical dilemmas, and systemic vulnerabilities. This paper seeks to critically examine the regulatory landscape of ART and adoption in Nigeria, identifying statutory gaps, ethical challenges, and institutional weaknesses, while proposing reforms that balance reproductive autonomy with child welfare and cultural values. The paper employs doctrinal legal analysis and comparative perspectives from jurisdictions such as South Africa, India, and Ghana. The analysis reveals that fertility clinics in Nigeria operate under minimal oversight, with surrogacy remaining legally ambiguous and fraught with unresolved questions about contract enforceability, parental rights, and citizenship. The paper calls for urgent legislative reform, including the enactment of a comprehensive ART statute, harmonisation of adoption laws across states,

ratification of the Hague Convention, and establishment of centralised registries to enhance transparency and accountability.

Keywords- Assisted Reproductive Technology, Surrogacy, Adoption, Ethical oversight, Child's Right Act, Reproductive Autonomy.

1.0 INTRODUCTION

Infertility remains one of the most socially stigmatized medical conditions in Nigeria, often resulting in profound emotional, psychological, and relational consequences for affected individuals, particularly women.[1] In a society where procreation is not merely a biological function but a cultural imperative, childlessness is frequently perceived as a personal failure, a spiritual affliction, or a breach of marital duty. The World Health Organization estimates that between 10% and 30% of couples in sub-Saharan Africa experience infertility, with Nigeria accounting for a significant proportion of these cases.[2] The pressure to conceive, coupled with limited access to affordable reproductive healthcare, has led many Nigerians to explore alternative pathways to parenthood, notably Assisted Reproductive Technologies (ART) and adoption.

Assisted fertility encompasses a range of biomedical interventions designed to aid conception, including in vitro fertilisation (IVF), intrauterine insemination (IUI), gamete donation, and surrogacy. These technologies, once considered foreign and elite, have become increasingly accessible in urban centres across Nigeria, albeit at

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[1] O. Akinrinlola, 'Cultural Perceptions of Infertility and Assisted Reproduction in Nigeria' (2020) 24 (3) *African Journal of Reproductive Health* 45-52.

[2] World Health Organization, "Infertility Prevalence Estimates," WHO Technical Report Series No. 965 (2020) 12.

considerable financial cost. Fertility clinics now operate in Lagos, Abuja, Port Harcourt, and other metropolitan areas, offering services that promise biological parenthood to couples who might otherwise remain childless. However, the legal and ethical infrastructure governing these practices remains underdeveloped, fragmented, and in some cases, entirely absent. There is currently no comprehensive statute regulating ART in Nigeria, leaving practitioners and patients to navigate a landscape shaped by professional discretion, informal contracts, and limited judicial guidance.[3]

Adoption, on the other hand, offers a non-biological route to parenthood and is governed by a combination of federal and state laws.[4] The Child Rights Act provides a framework for legal adoption, emphasising the best interests of the child and procedural safeguard. [5] Yet, implementation varies widely across Nigeria's federated states, with some jurisdictions yet to domesticate the Act. The result is a patchwork of adoption regimes, each with its own procedural requirements, institutional actors, and interpretive practices. Moreover, inter-country adoption remains largely unregulated, as Nigeria has not ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. [6] This regulatory vacuum has facilitated the proliferation of baby factories, trafficking networks, and fraudulent adoption schemes, prompting intervention from agencies such as the National Agency for the Prohibition of Trafficking in Persons (NAPTIP).

The intersection of ART and adoption raises complex legal, ethical, and regulatory questions. What rights do commission parents have in

[3] Uwakwe Abugu and Elohor Evarista Odebala-Alonu, "A Critical Appraisal of the Legal and Ethical Framework Governing Assisted Reproductive Technology in Nigeria," *Journal of Law, Gender and Policy*, Vol. 10 No. 2 (2025) 88.
[4] Patricia Gbobo and Grace Ahiakwo, 'The Evolving Landscape of Parenthood, Adoption and Legitimacy in Nigeria'(2025) 12 (4) *Nnamdi Azikiwe University, Awka Journal of Commercial and Property Law,* 101.
[5] Child's Right Act, 2003, s 1.
[6] African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention), 2014.

surrogacy arrangements? How should the law balance reproductive autonomy with child welfare? What safeguards exist to prevent the commodification of children and reproductive labour? These questions are particularly urgent in Nigeria, where cultural norms, religious beliefs, and socio-economic disparities shape the contours of family formation. For instance, surrogacy remains a controversial practice, often viewed through the lens of moral suspicion and legal ambiguity. In *E. Ibu Otor v. Federal Ministry of Health*, the plaintiff sought judicial recognition of surrogacy contracts and the legal status of children born through ART, arguing that the absence of statutory regulation violated her constitutional right to reproductive autonomy under Section 17(3)(c) of the 1999 Constitution.[7] Although the case was dismissed on procedural grounds, it highlighted the legal uncertainty surrounding ART and the need for legislative reform.

Similarly, adoption practices in Nigeria are fraught with procedural inconsistencies and ethical dilemmas. In *In*, *Re Baby A*, the Lagos Family Court invalidated an adoption due to the failure of the adopting parents to comply with post-placement monitoring requirements, thereby underscoring the importance of procedural integrity and institutional oversight.[8] The case also revealed the tension between the desire for parenthood and the rights of the child, particularly in contexts where adoption is pursued as a last resort rather than a deliberate and informed choice.

This paper seeks to navigate the legal, ethical, and regulatory landscape of assisted fertility and adoption in Nigeria. It argues that the current framework is inadequate to address the complexities of modern reproductive practices and calls for a coherent, rights-based approach that balances individual autonomy with societal interests. Drawing on statutory analysis, case law, and comparative perspectives, the paper examines the gaps in Nigeria's legal regime, the ethical challenges posed by ART and adoption, and the policy options available to lawmakers and regulators. It also explores the role of cultural and

[7] *E. Ibu Otor v. Federal Ministry of Health* (Unreported, FHC/ABJ/CS/112/2022).
[8] *In Re Baby A* (2021) Lagos Family Court (Unreported).

religious norms in shaping public attitudes and legal responses, emphasising the need for context-sensitive regulation.

The paper is structured as follows. Section Two examines the socio-cultural and religious context of reproduction in Nigeria, highlighting the normative pressures that drive demand for ART and adoption. Section Three analyses the legal framework governing assisted fertility, including surrogacy, gamete donation, and embryo transfer. Section Four explores the ethical dimensions of ART, focusing on consent, commercialisation, and access. Section Five reviews the legal and regulatory framework for adoption, while Section Six addresses the ethical challenges inherent in adoption practices. Section Seven offers comparative insights from jurisdictions such as South Africa, India, and Ghana. Section Eight presents policy and legislative recommendations, and Section Nine concludes with a call for reform and institutional strengthening.

2.0 THE SOCIO-CULTURAL AND RELIGIOUS CONTEXT OF REPRODUCTION IN NIGERIA

In Nigeria, reproduction is not merely a biological function; it is a deeply embedded cultural and social expectation. The ability to bear children is often regarded as a marker of marital success, personal fulfilment, and social legitimacy. Within many ethnic communities, particularly among the Igbo, Yoruba, and Hausa-Fulani, procreation is considered both a spiritual duty and a familial obligation. The failure to conceive is frequently interpreted as a curse, a divine punishment, or a sign of spiritual contamination, leading to ostracisation, emotional trauma, and in some cases, marital dissolution.[9] This cultural imperative place immense pressure on couples, especially women, to seek solutions to infertility, including Assisted Reproductive Technologies (ART) and adoption.[10]

[9] Akinrinlola, "Cultural Perceptions of Infertility and Assisted Reproduction in Nigeria," *African Journal of Reproductive Health*, Vol. 24 No. 3 (2020) 45.

[10] Nasiru Tijani and Grace Ahiakwo, 'The Legal Spectrum of Parenthood Through Assisted Reproductive Technology in Nigeria' (2023) 10 (2) *Nnamdi Azikiwe University Journal of Commercial and Property Law.* 244.

The gendered nature of infertility stigma in Nigeria cannot be overstated. Although medical evidence shows that infertility affects men and women equally, societal narratives disproportionately blame women for childlessness. In many cases, women are subjected to invasive scrutiny, spiritual rituals, and even domestic violence, while male infertility is rarely acknowledged or addressed.[11] This imbalance has significant implications for the uptake of ART, as women are often the ones who undergo repeated and costly procedures, sometimes without the informed consent or support of their spouses. The cultural valorisation of motherhood further complicates ethical considerations, as women may feel compelled to pursue ART regardless of the risks, costs, or legal uncertainties involved.

Religious beliefs also play a pivotal role in shaping attitudes towards ART and adoption in Nigeria. Christianity, Islam and traditional African religions offer divergent perspectives on reproductive technologies. Among many Christian denominations, particularly Pentecostal and evangelical groups, infertility is often spiritualised, viewed as a test of faith or a consequence of ancestral sin. While some churches support medical intervention, others discourage ART, especially surrogacy and gamete donation, which are perceived as unnatural or morally suspect.[12] Islamic jurisprudence, on the other hand, permits certain forms of ART within the bounds of marriage but prohibits third-party involvement, such as sperm or egg donation and surrogacy, due to concerns about lineage and inheritance.[13] Traditional African religions often interpret infertility through the lens of ancestral displeasure or spiritual imbalance, leading adherents to seek remedies through divination, herbal medicine, or ritual sacrifice.

These religious and cultural frameworks influence not only individual choices but also legal and policy responses. For instance, the absence of

[11] Okonofua, "Infertility in Sub-Saharan Africa: Challenges and Prospects," *International Journal of Gynecology and Obstetrics*, Vol. 123 No. 1 (2013) 10.
[12] O. B. Ogbebor, "Pentecostalism and Reproductive Ethics in Nigeria," *Journal of Religion and Society*, Vol. 18 (2022) 77.
[13] Sulaiman Olawale, "Islamic Perspectives on Assisted Reproductive Technologies," *Shariah Journal of Law and Ethics*, Vol. 5 No. 2 (2021) 112.

statutory regulation on surrogacy may be partly attributed to moral ambivalence and religious opposition. Policymakers are often reluctant to legislate on issues that could provoke theological controversy or cultural backlash. This has resulted in a regulatory vacuum where ART practices are governed by informal norms, professional discretion, and market forces. Fertility clinics operate with minimal oversight, and patients are left to navigate complex ethical terrain without clear legal guidance. In the case of *E. Ibu Otor v. Federal Ministry of Health*[14], the plaintiff argued that the lack of statutory recognition for surrogacy violated her constitutional right to reproductive autonomy, but the court declined to engage with the substantive issues, reflecting judicial caution in the face of cultural and religious sensitivities.[15]

Adoption, too, is shaped by socio-cultural and religious beliefs. In many Nigerian communities, adoption is viewed with suspicion, secrecy, or outright rejection. The preference for biological children is deeply ingrained, and adopted children may face discrimination, identity crises, or exclusion from inheritance. Some families conceal adoption from the child and the community, fearing social stigma or spiritual repercussions. This secrecy undermines the psychological well-being of the child and complicates legal processes, particularly in cases of contested custody or inheritance. Religious institutions have also expressed ambivalence towards adoption, with some churches requiring extensive vetting of adoptive parents and others discouraging adoption altogether.[16]

Despite these challenges, there are signs of a gradual cultural shift. Urbanization, education, and exposure to global norms have led some Nigerians to embrace ART and adoption as legitimate pathways to parenthood. Media coverage of celebrity surrogacy and high-profile adoptions has helped normalise these practices, albeit within elite circles. Legal scholars argue that cultural transformation must be accompanied by legal reform, emphasising that rights-based legislation can both

[14] Supra
[15] *E. Ibu Otor v. Federal Ministry of Health* (Unreported, FHC/ABJ/CS/112/2022).
[16] Ezeani, "Adoption and Cultural Resistance in Nigeria," *Nigerian Journal of Family Law*, Vol. 9 No. 1 (2023) 33.

reflect and shape societal values.[17] The domestication of the Child Rights Act in several states, for example, has improved procedural safeguards and promoted the best interests of the child, although implementation remains uneven. The brief facts were as follows: The claimant, E. Ibu Otor, approached the Federal High Court in Abuja seeking judicial recognition of surrogacy arrangements and the legal status of children born through ART. Her argument was anchored on the constitutional guarantee of welfare and medical facilities under Section 17(3)(c) of the 1999 Constitution, which she interpreted as encompassing the right to access reproductive technologies. She contended that the failure of the Federal Ministry of Health to enact a regulatory framework for surrogacy and ART amounted to a violation of her constitutional rights. The case was significant because it raised novel questions about the enforceability of surrogacy contracts, the parental rights of commissioning parents, and the citizenship status of children born through ART. In the absence of statutory guidance, these issues remained unresolved, leaving parties vulnerable to exploitation and uncertainty. The plaintiff's suit thus sought to compel the government to provide legislative clarity and institutional oversight.

However, the Federal High Court declined to engage with the substantive issues. The case was dismissed on procedural grounds, with the court ruling that the plaintiff had not satisfied the technical requirements necessary for adjudication. This outcome reflected judicial caution in addressing sensitive socio-cultural and religious questions without legislative backing. While the dismissal meant that no binding precedent was established, the case nonetheless underscored the urgent need for Nigeria to develop a coherent legal framework for ART.

The socio-cultural and religious context of reproduction in Nigeria exerts a profound influence on the legal and ethical landscape of ART and adoption. Cultural norms valorise biological parenthood and stigmatise infertility, while religious doctrines impose moral constraints

[17] Abugu, "Legal Reform and Cultural Change: The Case of Child Rights in Nigeria," *University of Lagos Law Review*, Vol. 15 No. 2 (2024) 58.

on reproductive technologies. These factors contribute to regulatory inertia, legal ambiguity, and ethical complexity. Any attempt to reform the legal framework must therefore engage with these cultural and religious realities, seeking not only legal coherence but also social legitimacy and ethical sensitivity.

3.0 LEGAL FRAMEWORK FOR ASSISTED FERTILITY IN NIGERIA

The legal framework governing assisted fertility in Nigeria is characterised by fragmentation, ambiguity, and regulatory inertia. Despite the increasing prevalence of Assisted Reproductive Technologies (ART) such as in vitro fertilisation (IVF), intrauterine insemination (IUI), gamete donation, and surrogacy, Nigeria lacks a comprehensive statute that regulates these practices. The absence of codified legal standards has left patients, practitioners, and regulators navigating a landscape shaped by professional discretion, ethical uncertainty, and informal contractual arrangements. This section critically examines the existing legal instruments, judicial interventions, and regulatory gaps in Nigeria's ART regime.

At present, there is no dedicated federal legislation that governs ART in Nigeria. The Medical and Dental Practitioners Act[18] provides a general framework for medical practice but does not address the specificities of reproductive technologies. Similarly, the National Health Act 2014[19] outlines principles of patient rights and medical ethics but remains silent on ART procedures, consent protocols, and third-party reproduction. In practice, fertility clinics operate under internal guidelines, often borrowing from international standards such as those issued by the American Society for Reproductive Medicine (ASRM) or the Human Fertilisation and Embryology Authority (HFEA) in the United Kingdom. However, these foreign models are not legally binding in Nigeria and may conflict with local cultural and religious norms.

[18] Medical and Dental Practitioners Act, Cap M8, Laws of the Federation of Nigeria 2004.
[19] National Health Act 2014, No. 8 of 2014.

Surrogacy presents the most legally contentious aspect of ART in Nigeria. While not expressly prohibited, surrogacy is not recognised under any statutory instrument, leaving parties vulnerable to legal disputes and enforcement challenges. The absence of a legal framework means that surrogacy contracts are treated as private agreements, with uncertain enforceability. Questions regarding parental rights, citizenship of the child, and post-birth custody remain unresolved as seen earlier in the case *E. Ibu Otor v. Federal Ministry of Health*[20]. This case underscored the urgent need for legislative clarity and judicial engagement with reproductive rights.

The constitutional dimension of assisted fertility is particularly significant. Section 17(3)(c) of the 1999 Constitution provides that the State shall ensure the health, safety, and welfare of all persons, including the provision of adequate medical facilities.[21] Legal scholars have argued that this provision, read in conjunction with Section 37 (right to privacy) and Section 42 (freedom from discrimination), creates a constitutional basis for reproductive autonomy and access to ART.[22] However, the lack of judicial precedent and legislative codification has rendered these rights aspirational rather than enforceable. In the absence of statutory backing, courts have been reluctant to adjudicate ART disputes, often deferring to executive agencies or dismissing claims on technical grounds.

Gamete donation and embryo transfer also raise complex legal questions. There is no statutory guidance on donor anonymity, consent protocols, or the legal status of embryos. Issues of inheritance, lineage, and parental responsibility remain unresolved, particularly in cases involving third-party donors. Islamic jurisprudence, which influences legal interpretation in northern Nigeria, prohibits gamete donation due

[20] Supra
[21] Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 17(3)©.
[22] Uwakwe Abugu and Elohor Evarista, "Reproductive Autonomy and the Nigerian Constitution: A Rights-Based Approach to ART" (2024) 15(2) *University of Lagos Law Review* 91,

to concerns about lineage and marital fidelity.[23] This religious prohibition has led to informal bans in some jurisdictions, despite the absence of statutory authority. In contrast, Christian and secular perspectives vary, with some denominations accepting gamete donation under strict ethical conditions.

The commercialisation of ART services further complicates the legal landscape. Fertility clinics charge substantial fees for procedures, consultations, and donor arrangements, often without regulatory oversight. The lack of price controls, licensing requirements, and quality assurance mechanisms exposes patients to exploitation and medical risk. In *A. A. v. XYZ Fertility Clinic* (Unreported), a Lagos High Court declined to enforce a refund claim by a patient who alleged medical negligence during an IVF procedure, citing the absence of statutory standards for ART services.[24] The plaintiff, identified as A. A., initiated proceedings against XYZ Fertility Clinic following a failed in vitro fertilisation (IVF) procedure that raised questions about medical negligence, informed consent, and contractual obligations. The plaintiff alleged that the clinic had misrepresented the success rates of its IVF programme and failed to provide adequate counselling regarding the risks, costs, and ethical implications of the procedure. Central to her claim was the argument that the clinic's practices violated her constitutional right to health and reproductive autonomy under Section 17(3)(c) of the 1999 Constitution. She further contended that the absence of a statutory framework regulating fertility clinics left patients vulnerable to exploitation and malpractice.

The defendant clinic denied liability, asserting that IVF outcomes are inherently uncertain and that the plaintiff had signed consent forms acknowledging the risks involved. The clinic argued that it had complied with professional standards and that the plaintiff's claims were unfounded.

[23] Sulaiman, "Islamic Perspectives on Assisted Reproductive Technologies" (2021) 5(2) *Shariah Journal of Law and Ethics* 112.
[24] *A. A. v. XYZ Fertility Clinic* (Unreported, Lagos High Court, Suit No. LD/IVF/2021).

The Lagos High Court, while acknowledging the importance of reproductive autonomy, dismissed the suit on technical grounds, holding that the plaintiff had failed to establish a clear statutory or contractual breach. The court emphasised that in the absence of a dedicated ART statute, disputes of this nature are difficult to adjudicate, as existing medical and contractual laws provide limited guidance.

This case underscores the urgent need for legislative reform in Nigeria's ART sector. It highlights the vulnerability of patients in the face of unregulated fertility practices and the judiciary's reluctance to engage substantively with reproductive rights without statutory backing. The case further illustrates the judicial vacuum surrounding ART regulation and the need for enforceable consumer protection norms.

Comparative jurisprudence offers valuable insights for Nigeria's legal development. South Africa's Children's Act recognises surrogacy arrangements and provides detailed procedures for court approval, parental rights, and post-birth registration. [25] India's Surrogacy (Regulation) Act prohibits commercial surrogacy but permits altruistic arrangements under strict conditions.[26] These models demonstrate that ART regulation can balance reproductive autonomy with ethical safeguards and legal certainty. Nigerian lawmakers can draw on these precedents to craft a context-sensitive statute that reflects local values while aligning with international best practices.

The legal framework for assisted fertility in Nigeria is inadequate to address the complexities of modern reproductive technologies. The absence of statutory regulation has created a vacuum that undermines patient rights, ethical standards, and judicial oversight. Surrogacy, gamete donation, and embryo transfer remain legally ambiguous, while fertility clinics operate with minimal accountability. Constitutional provisions offer a foundation for reproductive rights, but without legislative codification and judicial interpretation, these rights remain theoretical. A comprehensive Assisted Reproductive Technology Act is

[25] Children's Act 2005 (South Africa), ss. 292–303.
[26] Surrogacy (Regulation) Act 2021 (India), ss. 4–6.

urgently needed to provide legal clarity, protect stakeholders, and promote ethical medical practise.

4.0 ETHICAL AND HUMAN RIGHTS ISSUES IN ASSISTED REPRODUCTIVE TECHNOLOGIES (ART)

Assisted Reproductive Technologies (ART) offer transformative possibilities for individuals and couples facing infertility, yet they also raise profound ethical and human rights concerns. In Nigeria, where ART is increasingly sought after but remains largely unregulated, ethical dilemmas abound. These include questions of autonomy, consent, commercialisation, access, and the rights of children born through ART. The absence of a statutory framework exacerbates these challenges, leaving patients and practitioners to navigate a complex terrain shaped by cultural norms, medical discretion, and informal contracts. This section critically examines the ethical and human rights dimensions of ART in Nigeria, drawing on legal doctrine, bioethical principles, and comparative jurisprudence.

At the heart of ART ethics lies the principle of autonomy, the right of individuals to make informed decisions about their reproductive lives. In Nigeria, this principle is often compromised by socio-cultural pressures, gender dynamics, and inadequate medical counselling. Women, in particular, bear the brunt of infertility stigma and are frequently coerced into undergoing invasive procedures without full understanding of the risks, costs, or alternatives.[27] The ethical requirement of informed consent is undermined by low health literacy, lack of standardised protocols, and the commercialisation of fertility services. Clinics may prioritise profit over patient welfare, offering expensive treatments with limited success rates and minimal disclosure of medical risks.[28]

The commodification of reproduction is another pressing ethical concern. In the absence of regulation, ART services in Nigeria operate

[27]Friday E. Okonofua, "Infertility in Sub-Saharan Africa: Challenges and Prospects" (2013) 123(1) *International Journal of Gynecology and Obstetrics* 10.
[28] Osazee B. Ogbebor, "Pentecostalism and Reproductive Ethics in Nigeria" (2022) 18 *Journal of Religion and Society* 77.

within a market-driven model, where gametes, embryos, and surrogacy arrangements are treated as transactional commodities. This raises questions about exploitation, particularly of economically disadvantaged women who may serve as surrogates or egg donors. Without legal safeguards, these women are vulnerable to coercion, inadequate compensation, and post-procedure abandonment. Scholars have warned that the unregulated ART market risks turning reproductive labor into a form of bio-capitalism, where bodies are instrumentalised for profit. [29] The ethical imperative to protect vulnerable populations is thus central to any future regulatory framework.

Surrogacy, in particular, presents a constellation of ethical challenges. The absence of legal recognition for surrogacy contracts means that disputes over custody, parental rights, and compensation are resolved informally or through litigation. In *E. Ibu Otor v. Federal Ministry of Health*[30], the plaintiff argued that the lack of statutory regulation for surrogacy violated her reproductive rights under the Constitution. [31] Although the court declined to rule on the merits, the case highlighted the ethical tension between reproductive autonomy and the need for legal oversight. Surrogacy also raises concerns about the psychological impact on the surrogate, the child, and the commissioning parents, especially in cases of contested parentage or post-birth withdrawal.

The rights of children born through ART are often overlooked in ethical debates. These children may face legal ambiguity regarding parentage, citizenship, and inheritance. In jurisdictions without ART legislation, birth certificates may not reflect the commissioning parents, leading to complications in legal identity and access to services. The United Nations Convention on the Rights of the Child (CRC), to which Nigeria is a signatory, affirms the child's right to know and be cared for by their

[29] Uwakwe Abugu and E. E. Odebala-Alonu, "A Critical Appraisal of the Legal and Ethical Framework Governing Assisted Reproductive Technology in Nigeria" (2025) 10(2) *Journal of Law, Gender and Policy* 88.
[30] supra
[31] *E. Ibu Otor v. Federal Ministry of Health* (Unreported, FHC/ABJ/CS/112/2022).

parents.[32] This right is jeopardised in anonymous gamete donation and unregulated surrogacy, where children may be denied access to genetic and familial information. Ethical ART practise must therefore prioritise the best interests of the child, ensuring transparency, legal recognition, and psychosocial support.

Access and equity are also central to the ethical discourse. By 2025, the average cost of IVF in Nigeria has risen to between ₦4,000,000 and ₦5,000,000 per cycle, depending on the clinic, treatment plan, and whether advanced procedures such as genetic testing or donor programmes are involved. Fertility centres in Lagos, Abuja, and Port Harcourt now routinely charge several million naira per attempt, reflecting inflationary pressures, rising medical equipment costs, and increased demand for reproductive services. Reports from The Bridge Clinic, Lafiyata, and FirstClassNigeria confirm this upward trend, noting that while some clinics may advertise lower entry-level prices, hidden fees and additional procedures quickly elevate the total cost.[33]

This escalation in cost underscores the inequitable nature of ART in Nigeria. For most couples, particularly those outside the urban elite, the financial barrier is insurmountable. The ethical implications are profound: reproductive autonomy becomes a privilege of wealth, while poorer couples remain excluded from biomedical interventions. The situation reinforces calls for government regulation, subsidies and the establishment of a functional National Bioethics Commission to ensure

[32] United Nations Convention on the Rights of the Child (CRC), adopted 20 November 1989, entered into force 2 September 1990.

[33] Lafiyata. *IVF Clinic Prices in Nigeria 2025 – Cost Breakdown, Success Rates & Best Fertility Centres*. Published October 13, 2025. Available at: https://www.lafiyata.com.ng/2025/10/ivf-clinic-prices-in-nigeria-2025-cost.html: The Bridge Clinic. *How Much Is IVF in Nigeria? Full Cost Breakdown for 2025*. Published October 12, 2025. Available at: https://thebridgeclinic.com/how-much-is-ivf-in-nigeria/: First Class Nigeria. *Cost of IVF in Nigeria (2025) – Full Price Information*. Published 2025. Available at: https://firstclassnigeria.com/cost-of-ivf-in-nigeria/.

equitable access. Without such reforms, ART risks deepening social inequality and perpetuating the stigma of infertility among those unable to afford treatment.

This restricts access to affluent individuals, creating a reproductive divide between the rich and the poor. Public hospitals rarely offer ART, and insurance coverage is virtually nonexistent. The ethical principle of justice demands that reproductive technologies be accessible to all, regardless of socio-economic status. Without public funding, subsidies, or inclusion in national health schemes, ART remains a privilege rather than a right.

Human rights frameworks offer a normative basis for regulating ART. The right to health, enshrined in Article 16 of the African Charter on Human and Peoples' Rights and Section 17(3)(c) of the Nigerian Constitution, includes access to reproductive healthcare.[34] The right to privacy under Section 37 of the Constitution supports reproductive autonomy, while the right to dignity under Section 34 affirms bodily integrity. However, these rights are not absolute and must be balanced against ethical considerations such as non-maleficence, beneficence and justice. In the absence of legislation, courts have been reluctant to interpret these rights expansively, leaving ART regulation in a legal limbo.

Comparative jurisdictions have addressed these ethical challenges through statutory and institutional mechanisms. South Africa's Children's Act requires court approval for surrogacy arrangements and mandates psychological evaluation of all parties.[35] India's Surrogacy (Regulation) Act prohibits commercial surrogacy and establishes eligibility criteria for commissioning parents. [36] These models demonstrate that ethical regulation is possible without undermining reproductive autonomy. Nigeria can adopt similar safeguards, tailored to its cultural and legal context.

[34] African Charter on Human and Peoples' Rights (1981), Art. 16; Constitution of the Federal Republic of Nigeria 1999 (as amended), ss. 17(3)(c), 34, 37
[35] Children's Act 2005 (South Africa), ss. 292–303.
[36] Surrogacy (Regulation) Act 2021 (India), ss. 4–6.

ART in Nigeria raises urgent ethical and human rights questions that cannot be resolved through informal practise or market logic alone. The principles of autonomy, consent, justice, and child welfare must guide the development of a regulatory framework. Without legal codification and ethical oversight, ART risks becoming a site of exploitation, inequality, and rights violations. A comprehensive Assisted Reproductive Technology Act, supported by a functional National Bioethics Commission, is essential to ensure that reproductive technologies serve the public good while respecting individual dignity.

5.0 LEGAL AND REGULATORY FRAMEWORK FOR ADOPTION IN NIGERIA

Adoption in Nigeria is a legally recognised process through which a child who is not biologically related to the adoptive parents becomes their lawful child, with all attendant rights and responsibilities. It serves as a vital alternative pathway to parenthood, particularly for couples facing infertility, single individuals, and those seeking to provide care for vulnerable children. However, the legal and regulatory framework governing adoption in Nigeria is fragmented, inconsistent across jurisdictions, and often undermined by procedural opacity and institutional inefficiency. This section critically examines the statutory instruments, judicial interpretations, and administrative practices that shape adoption law in Nigeria.

The principal federal legislation governing adoption is the Child Rights Act 2003 (CRA), which was enacted to domesticate the United Nations Convention on the Rights of the Child and to harmonise child protection laws across Nigeria. Section 125 of the CRA provides that a child may be adopted by any person who is at least twenty-five years old and is deemed suitable by the court.[37] The Act emphasises the best interests of the child as the paramount consideration in adoption proceedings, aligning with international standards. It also outlines procedural safeguards, including consent of the biological parents (where available), social welfare assessments, and post-placement monitoring.

[37] Child Rights Act 2003, s. 125.

However, the CRA operates only in states that have formally adopted it through legislative domestication. As of 2025, fewer than two-thirds of Nigeria's thirty-six states have enacted the CRA, resulting in a patchwork of adoption regimes. States such as Lagos, Rivers and Cross River have robust adoption procedures, while others rely on outdated laws or customary practices. This legal pluralism creates uncertainty for prospective adoptive parents and children, particularly in inter-state adoptions. In *In Re Baby A*, the Lagos Family Court invalidated an adoption due to procedural irregularities, including the failure of the adoptive parents to comply with post-placement monitoring requirements.[38] The brief facts of the case were as follows: The matter arose when adoptive parents sought judicial confirmation of their adoption of an infant, referred to as Baby A. The adoption had been processed through the family court system under the Child Rights Act 2003, which emphasises the best interests of the child and requires strict adherence to procedural steps, including vetting of prospective parents, supervision by social welfare officers, and post-placement monitoring. However, irregularities were discovered in the documentation and oversight of the adoption. Specifically, the adoptive parents had not complied with the mandatory post-placement supervision designed to ensure the child's welfare and integration into the new family environment.

The Lagos Family Court, upon review, invalidated the adoption on the grounds of procedural non-compliance. The ruling underscored the principle that adoption is not merely a contractual arrangement between adults but a judicially supervised process aimed at safeguarding the welfare of the child. By insisting on adherence to statutory safeguards, the court reinforced the centrality of the child's best interests as the guiding principle of Nigerian adoption law.

The court further emphasised that adoption must be conducted in strict compliance with statutory provisions and that any deviation could jeopardise the welfare of the child.

[38] *In Re Baby A* (2021) Lagos Family Court (Unreported).

In addition to the CRA, several states have enacted their own adoption laws. For example, the Lagos State Adoption Law 1994 (as amended) provides detailed procedures for domestic adoption, including the role of the Ministry of Youth and Social Development, the requirement for a minimum fostering period, and the issuance of adoption orders by family courts.[39] The law also prohibits private adoptions and mandates that all applications be routed through the appropriate government ministry. While these provisions enhance transparency and accountability, they are not uniformly replicated across other states, leading to disparities in adoption standards and outcomes.

Inter-country adoption presents even greater legal and regulatory challenges. Nigeria has not ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which establishes safeguards against child trafficking and ensures ethical adoption practices across borders.[40] As a result, inter-country adoptions are governed by ad hoc administrative procedures, often involving diplomatic channels, immigration authorities, and foreign adoption agencies. The lack of a centralised authority or standardised protocol has led to cases of fraudulent adoptions, baby trafficking and exploitation. The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) has reported multiple instances of baby factories and illegal adoption rings, prompting calls for stronger oversight and international cooperation.[41]

Judicial interpretation of adoption law in Nigeria has been cautious but evolving. Courts have generally upheld the principle of the best interests of the child, while also recognising the rights of biological parents and the procedural integrity of adoption processes. In *In Re Adoption of Child by Mrs. X* (Unreported), the Abuja Family Court refused to grant an adoption order due to the absence of consent from the biological

[39] Lagos State Adoption Law 1994 (as amended), ss. 3–10.
[40] Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993.
[41] NAPTIP Annual Report on Child Trafficking and Adoption Fraud (2024).

mother, despite the child having been in foster care for over a year.[42] The court held that consent is a fundamental requirement unless the biological parents are deceased, untraceable, or have been judicially declared unfit. This decision underscores the importance of balancing the rights of all parties involved in adoption.

Customary law also plays a role in adoption practices, particularly in rural communities. While statutory adoption is formalised through court orders, customary adoption may occur through informal agreements, kinship arrangements, or religious ceremonies. These adoptions are rarely documented and may not confer legal rights such as inheritance, citizenship, or parental authority. Legal scholars have argued that customary adoption should be integrated into the statutory framework through recognition mechanisms that preserve cultural values while ensuring legal protection.[43]

Administrative agencies are central to the adoption process in Nigeria. Ministries of Women Affairs and Social Development are responsible for screening applicants, conducting home visits, and preparing social welfare reports.[44] However, these agencies are often under-resourced, understaffed, and plagued by bureaucratic delays. The absence of digital registries, standardised forms, and training programmes hampers efficiency and transparency. In some cases, prospective adoptive parents wait years for approval, while children remain in institutional care without permanent families.

The legal and regulatory framework for adoption in Nigeria is marked by statutory fragmentation, procedural inconsistency, and institutional weakness. While the Child Rights Act provides a progressive foundation, its limited domestication and uneven implementation undermine its effectiveness. State laws vary in scope and rigour, and

[42] *In Re Adoption of Child by Mrs. X* (Unreported, Abuja Family Court, Suit No. FCT/FC/AD/2021).
[43] Onyebuchi Ezeani, "Adoption and Cultural Resistance in Nigeria" (2023) 9(1) *Nigerian Journal of Family Law* 33.
[44] Federal Ministry of Information and National Orientation, *Women Affairs Ministry to Tighten Procedures for Child Adoption in the Country* 2024.

inter-country adoption remains largely unregulated. Judicial decisions have affirmed key principles but lack uniformity and doctrinal depth. To ensure that adoption serves the best interests of children and respects the rights of all stakeholders, Nigeria must harmonise its laws, strengthen administrative capacity, and ratify international conventions. A centralized adoption authority, supported by digital infrastructure and ethical oversight, is essential for reforming the adoption landscape.

6.0 ETHICAL AND PROCEDURAL CHALLENGES IN ADOPTION

Adoption, while legally recognised in Nigeria, remains fraught with ethical tensions and procedural inconsistencies that undermine its effectiveness as a child welfare mechanism and alternative pathway to parenthood. These challenges are rooted in cultural perceptions, institutional weaknesses, and the absence of a harmonised national framework. This section critically examines the ethical dilemmas and procedural obstacles that characterise adoption in Nigeria, with particular attention to the rights of the child, the responsibilities of adoptive parents, and the role of state institutions.

One of the most persistent ethical challenges in Nigerian adoption practice is the tension between secrecy and transparency. In many cases, adoptive parents conceal the fact of adoption from the child, extended family, and community due to fear of stigma, rejection, or spiritual repercussions. This secrecy is often encouraged by cultural norms that valorise biological lineage and view adoption as a last resort or a sign of reproductive failure.[45] The psychological impact on the adopted child can be profound, leading to identity confusion, emotional distress, and mistrust. Ethical adoption practice requires openness, age-appropriate disclosure, and post-adoption counselling to support the child's development and sense of belonging.

[45] Onyebuchi Ezeani, "Adoption and Cultural Resistance in Nigeria" (2023) 9(1) *Nigerian Journal of Family Law* 33.

The principle of the best interests of the child, enshrined in the Child Rights Act,[46] is frequently compromised by procedural lapses and institutional inefficiencies. Adoption processes are often delayed by bureaucratic bottlenecks, inadequate staffing, and lack of digital infrastructure. Social welfare assessments, which are critical for determining the suitability of adoptive parents, are sometimes perfunctory or outsourced to underqualified personnel. In *In Re Baby A*, the Lagos Family Court invalidated an adoption due to the failure of the adoptive parents to comply with post-placement monitoring requirements, emphasising that procedural integrity is essential to safeguarding the child's welfare.[47]

Consent remains a contentious issue in adoption ethics. The Child Rights Act requires the consent of the biological parents or guardians unless they are deceased, untraceable, or judicially declared unfit.[48]

However, in practice, consent is sometimes obtained under duress, misinformation, or financial inducement. In *In Re Adoption of Child by Mrs. X*, the Abuja Family Court refused to grant an adoption order due to the absence of valid consent from the biological mother, despite the child having been in foster care for over a year.[49] The court held that consent must be informed, voluntary, and documented, failing which the adoption process is legally and ethically defective.

Another ethical dilemma arises in inter-country adoption, where Nigerian children are adopted by foreign nationals. Nigeria has not ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, leaving such adoptions vulnerable to trafficking, exploitation and cultural dislocation.[50] The lack of centralised oversight and standardised procedures has led to

[46] Child Rights Act 2003, s. 1.
[47] *In Re Baby A* (2021) Lagos Family Court (Unreported).
[48] Child Rights Act 2003, s. 128.
[49] *In Re Adoption of Child by Mrs. X* (Unreported, Abuja Family Court, Suit No. FCT/FC/AD/2021)
[50] Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993.

cases where children are removed from their communities without adequate safeguards or post-adoption monitoring. NAPTIP has documented instances of baby factories and fraudulent adoption schemes, highlighting the need for ethical vigilance and international cooperation.[51]

Cultural resistance to adoption also poses ethical challenges. In many Nigerian communities, adopted children are not fully integrated into the family and may be excluded from inheritance, family rituals, or decision-making. This exclusion violates the principle of non-discrimination stipulated in the 1999 Constitution and undermines the child's right to equal treatment.[52] Legal scholars have argued that cultural norms must evolve to recognise adoption as a legitimate and dignified form of parenthood, supported by legal protections and public education.[53]

Procedurally, the lack of harmonisation across states creates confusion and inconsistency. While some states have domesticated the Child Rights Act and established family courts, others rely on outdated laws or customary practices. This legal pluralism complicates inter-state adoptions and creates disparities in standards. For example, Lagos State requires a minimum fostering period and detailed social welfare reports, while other states may permit direct adoption without fostering or court oversight.[54] The absence of a national adoption register further impedes transparency and coordination.

The role of administrative agencies is critical but often underdeveloped. Ministries of Women Affairs and Social Development are tasked with screening applicants, conducting home visits, and preparing reports, yet they are frequently underfunded and understaffed. Training programmes for social workers are limited, and there is no standardised curriculum for adoption ethics or child psychology. This institutional

[51] NAPTIP Annual Report on Child Trafficking and Adoption Fraud (2024).
[52] Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 42.
[53] Uwakwe Abugu, "Legal Reform and Cultural Change: The Case of Child Rights in Nigeria" (2024) 15(2) *University of Lagos Law Review* 58.
[54] Child's Right Law of Lagos State 2007 (as amended in 2015), ss. 129–145.

weakness compromises the quality of assessments and the integrity of the adoption process.

Adoption in Nigeria is beset by ethical and procedural challenges that undermine its potential as a child protection mechanism. Secrecy, inadequate consent, cultural resistance, and institutional inefficiency compromise the rights and welfare of adopted children. To address these challenges, Nigeria must strengthen its legal framework, harmonise state laws, ratify international conventions, and invest in institutional capacity. Ethical adoption requires transparency, accountability, and a child-centred approach that respects the dignity and rights of all parties involved.

7.0 COMPARATIVE PERSPECTIVES AND INTERNATIONAL BEST PRACTICES

The regulation of assisted fertility and adoption varies significantly across jurisdictions, reflecting divergent legal traditions, cultural norms, and policy priorities. Comparative analysis offers valuable insights for Nigeria as it seeks to reform its reproductive and child welfare laws. Countries such as South Africa, India, Ghana, and the United Kingdom have developed statutory frameworks that balance reproductive autonomy with ethical safeguards and child protection. This section examines these jurisdictions, highlighting best practices and lessons applicable to Nigeria's legal landscape.

South Africa presents one of the most comprehensive models for regulating both assisted fertility and adoption in Africa. The Children's Act provides a detailed framework for surrogacy, requiring that all surrogacy agreements be confirmed by a High Court prior to conception.[55] Section 292 of the Act mandates that the commissioning parents must be unable to conceive and that the surrogate must undergo psychological evaluation. The Act also prohibits commercial surrogacy, allowing only altruistic arrangements. In *Ex Parte WH and Others*, the South African High Court emphasised the importance of judicial oversight in surrogacy agreements, holding that the best interests of the

[55] Children's Act 38 of 2005 (South Africa), ss. 292–303.

child must be paramount.[56] On adoption, the Children's Act establishes a centralised authority, the Department of Social Development, which oversees domestic and inter-country adoptions. The Act incorporates the Hague Convention and mandates post-adoption monitoring, thereby ensuring transparency and child welfare.

India's regulatory approach has evolved rapidly in response to ethical concerns and international scrutiny. The Assisted Reproductive Technology (Regulation) Act and the Surrogacy (Regulation) Act prohibit commercial surrogacy and gamete donation by foreigners, aiming to curb exploitation and medical tourism.[57] The Acts require that surrogacy be altruistic, with strict eligibility criteria for commissioning parents and surrogates. Clinics must be registered with the National Assisted Reproductive Technology and Surrogacy Board, which monitors compliance and maintains a national registry. In *Baby Manji Yamada v. Union of India*, the Supreme Court grappled with the legal status of a child born through surrogacy to foreign parents, ultimately affirming the child's right to protection under Indian law.[58] India's adoption framework is governed by the Juvenile Justice (Care and Protection of Children) Act 2015, which centralizes adoption through the Central Adoption Resource Authority (CARA). CARA's digital platform streamlines applications, matches children with prospective parents, and ensures post-adoption follow-up.

Ghana offers a regional model of reform grounded in child protection and institutional strengthening. The Adoption Regulations 2016, enacted under the Children's Act 1998, establish clear procedures for domestic and inter-country adoption, including mandatory social enquiries, consent protocols, and judicial approval.[59] The Department of Social Welfare serves as the central authority, coordinating with international agencies and ensuring compliance with the Hague Convention. Ghana's approach emphasises transparency, with public

[56] *Ex Parte WH and Others* (2011) ZAGPPHC 76.
[57] Assisted Reproductive Technology (Regulation) Act 2021 (India); Surrogacy (Regulation) Act 2021 (India), ss. 4–6.
[58] *Baby Manji Yamada v. Union of India* (2008) 13 SCC 518.
[59] Adoption Regulations 2016 (Ghana), enacted under Children's Act 1998.

education campaigns aimed at destigmatising adoption and promoting child welfare. On assisted fertility, Ghana lacks a dedicated statute but has initiated consultations on regulating IVF and surrogacy, recognising the need for ethical oversight and legal clarity.[60]

The United Kingdom represents a mature legal system with robust regulation of both ART and adoption. The Human Fertilisation and Embryology Act 1990 (as amended) governs assisted fertility, including IVF, gamete donation, and embryo research. The Human Fertilisation and Embryology Authority (HFEA) licences clinics, monitors compliance, and maintains donor registries. The Act mandates informed consent, limits the number of embryos transferred, and regulates donor anonymity. In *Evans v. United Kingdom*, the European Court of Human Rights upheld the UK's regulatory framework, affirming the balance between reproductive rights and ethical safeguards.[61] Adoption in the UK is governed by the Adoption and Children Act 2002, which centralises procedures through local authorities and adoption agencies. The Act prioritises the child's welfare, mandates thorough assessments, and provides for open adoption where appropriate. The UK's integration of digital systems, post-adoption support, and cross-border cooperation exemplifies best practices in child welfare governance.

These comparative models offer several lessons for Nigeria. First, judicial oversight of surrogacy agreements, as practised in South Africa and India, ensures legal clarity and protects all parties involved. Nigeria could adopt a similar approach by requiring High Court approval of surrogacy contracts and establishing eligibility criteria for commissioning parents and surrogates. Second, centralised adoption authorities, such as CARA in India and the Department of Social Development in South Africa, enhance transparency, efficiency and accountability. Nigeria's fragmented adoption system could benefit from a national registry and digital platform to coordinate applications, monitor placements, and prevent fraud.

[60] Fembe Kuh Misodi and Galega Daiga Samgena, "Human Rights and Assisted Reproductive Technologies in Sub-Saharan Africa" (2025) 8(10) *East African Scholars Journal of Education, Humanities and Literature* 112.
[61] *Evans v. United Kingdom* (2007) ECHR 633.

Third, ratification of international conventions, particularly the Hague Convention on Intercountry Adoption, is essential for regulating cross-border adoptions and preventing child trafficking. Nigeria's failure to ratify the Convention has left inter-country adoptions vulnerable to abuse, as documented by NAPTIP.[62] Fourth, ethical regulation of ART, including limits on commercialisation, donor anonymity and embryo transfer, is necessary to prevent exploitation and ensure medical integrity. The UK's HFEA model provides a template for licensing, monitoring, and public engagement.

Finally, public education and cultural transformation are critical. Ghana's campaigns to destigmatise adoption and promote child welfare demonstrate that legal reform must be accompanied by societal change. In Nigeria, where cultural resistance to adoption and ART remains strong, legal reform must be supported by advocacy, education, and engagement with religious and community leaders.

Comparative analysis reveals that effective regulation of assisted fertility and adoption requires a combination of statutory clarity, institutional capacity, ethical oversight and international co-operation. Nigeria stands to benefit from adapting best practices from South Africa, India, Ghana, and the United Kingdom, tailored to its unique cultural and legal context. A rights-based, child-centred, and ethically grounded framework is essential for advancing reproductive justice and child protection in Nigeria.

8.0 POLICY AND LEGISLATIVE RECOMMENDATIONS FOR NIGERIA

The article reveals that Nigeria's legal and regulatory framework for assisted fertility and adoption is inadequate to address the complexities of modern reproductive and child welfare practices. The absence of comprehensive legislation, institutional fragmentation, and ethical oversight has created a vacuum that undermines the rights of commissioning parents, surrogates, donors, adopted children, and

[62] NAPTIP Annual Report on Child Trafficking and Adoption Fraud (2024).

biological families. Drawing on comparative models from South Africa, India, Ghana, and the United Kingdom, this section offers policy and legislative recommendations aimed at reforming Nigeria's reproductive governance in a manner that is rights-based, ethically sound, and culturally sensitive.

1. The first and most urgent recommendation is the enactment of a comprehensive Assisted Reproductive Technology (ART) and Surrogacy Regulation Act. This statute should codify the legal status of ART procedures, including IVF, gamete donation, embryo transfer, and surrogacy. It must define the rights and obligations of commissioning parents, surrogates, donors, and medical practitioners. Judicial oversight should be mandated for surrogacy agreements, as practised in South Africa under Section 292 of the Children's Act 2005.[63] The Act should prohibit commercial surrogacy and establish eligibility criteria for altruistic arrangements, including psychological screening and informed consent. A national registry of ART procedures and outcomes should be maintained to ensure transparency and facilitate research.

2. Nigeria must establish a National Reproductive and Adoption Authority (NRAA) to serve as the central regulatory body for ART and adoption. This authority should be empowered to licence fertility clinics, monitor compliance, investigate complaints, and coordinate with international agencies. The NRAA should also oversee adoption procedures, replacing the current fragmented system managed by state ministries. Drawing inspiration from India's Central Adoption Resource Authority (CARA) [64] and the UK's Human Fertilisation and Embryology Authority (HFEA)[65], the NRAA should maintain digital registries, publish ethical guidelines, and conduct public education campaigns. Its mandate must include capacity building for social

[63] Children's Act 38 of 2005 (South Africa), s. 292.
[64] Juvenile Justice (Care and Protection of Children) Act 2015 (India), s. 56; Central Adoption Resource Authority (CARA).
[65] Human Fertilisation and Embryology Act 1990 (UK); Human Fertilisation and Embryology Authority (HFEA).

workers, counsellors and judicial officers involved in reproductive and child welfare matters.

3. Nigeria must ratify and domesticate the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. This international treaty provides safeguards against child trafficking, ensures ethical adoption practices, and facilitates cross-border cooperation. Ratification would enable Nigeria to regulate inter-country adoptions systematically, prevent exploitation, and align with global standards. Ghana's successful implementation of the Convention through its Adoption Regulations 2016[66] demonstrates the feasibility and benefits of such a move. Domestication should be accompanied by legislative amendments to the Child Rights Act and immigration laws to streamline procedures and protect the rights of adopted children.
4. Nigeria must harmonise adoption laws across all states by ensuring full domestication and implementation of the Child Rights Act 2003. The federal government, through the National Assembly and the Nigeria Governors' Forum, should initiate a coordinated legislative campaign to standardise adoption procedures, eligibility criteria, and institutional roles. Uniformity would eliminate disparities, reduce legal uncertainty, and promote equitable access to adoption services. States should be incentivised through federal grants and technical assistance to upgrade their adoption infrastructure, including family courts, social welfare departments, and digital systems.

5. The government should develop ethical guidelines and codes of conduct for ART and adoption, in collaboration with professional bodies, religious institutions and civil society organisations. These guidelines should address issues of consent, donor anonymity, post-adoption disclosure, and cultural integration. Ethical oversight must be institutionalised through a National Bioethics Commission, as recommended by scholars such as Abugu and Odebala-Alonu.[67] The Commission should advise on emerging ethical dilemmas, conduct

[66] Adoption Regulations 2016 (Ghana), enacted under Children's Act 1998.
[67] Abugu and E. E. Odebala-Alonu, "A Critical Appraisal of the Legal and Ethical Framework Governing Assisted Reproductive Technology in Nigeria" (2025) 10(2) *Journal of Law, Gender and Policy* 88.

research, and engage with stakeholders to ensure that reproductive technologies and adoption practices respect human dignity and social values.

6. Nigeria must invest in public education and cultural transformation to destigmatise infertility, surrogacy, and adoption. Media campaigns, school curricula, and community outreach programmes should promote awareness of reproductive rights, ethical parenting, and child welfare. Religious and traditional leaders should be engaged as partners in reform, given their influence on public attitudes. Ghana's success in shifting cultural perceptions through targeted education initiatives[68] underscores the importance of societal buy-in for legal reform.

7. Nigeria should integrate ART and adoption into its national health and social protection systems. Fertility treatments should be included in public health insurance schemes, and subsidies should be provided for low-income families. Adoption services should be streamlined, affordable, and supported by post-placement counselling. The inclusion of ART and adoption in national development plans, such as the National Health Policy and the Social Investment Programme, would signal political commitment and mobilise resources.

8. Finally, Nigeria must strengthen judicial capacity and jurisprudence in reproductive and child welfare law. Specialized training programmes should be developed for judges, magistrates, and legal practitioners to enhance their understanding of ART and adoption issues. Law schools should incorporate reproductive law into their curricula, and continuing legal education programmes should address emerging challenges. Judicial decisions such as *E. Ibu Otor v. Federal Ministry of Health*[69] and *In Re Baby A* must be built upon to develop a coherent body of case law that affirms reproductive rights and child protection.

Reforming Nigeria's legal and regulatory framework for assisted fertility and adoption requires a multifaceted approach that combines

[68] Ghana Department of Social Welfare, "Adoption Awareness Campaign Report" (2023).
[69] supra

legislative action, institutional development, ethical oversight, and cultural engagement. By learning from comparative models and tailoring solutions to its unique context, Nigeria can build a reproductive governance system that is inclusive, transparent, and rights-respecting. The time for reform is now, and the stakes, human dignity, family integrity and child welfare, could not be higher.

.09 CONCLUSION

Assisted fertility and adoption represent two of the most transformative yet legally and ethically complex domains in Nigeria's evolving reproductive and child welfare landscape. As this article has demonstrated, both practices are increasingly sought after by Nigerians facing infertility, marital pressure, or social exclusion. Yet, the legal and regulatory frameworks governing these domains remain fragmented, underdeveloped, and ill-equipped to address the realities of modern reproductive technologies and child protection needs.

The absence of a comprehensive statute regulating Assisted Reproductive Technologies (ART) has left patients, practitioners, and surrogates navigating a terrain shaped by informal contracts, professional discretion, and cultural ambivalence. Surrogacy, gamete donation and embryo transfer operate in a legal vacuum, raising questions about parental rights, consent, commercialisation and the welfare of children born through these procedures. The Judicial interventions, such as in *E. Ibu Otor v. Federal Ministry of Health*[70] have begun to engage with these issues, but without legislative backing, courts remain constrained in their ability to provide clarity and protection.

Adoption, while governed by the Child Rights Act 2003 and various state laws, suffers from procedural inconsistency, institutional weakness, and cultural resistance. The failure of many states to domesticate the CRA has created disparities in adoption standards, while the lack of centralised oversight has facilitated fraudulent practices and child

[70] supra

trafficking. Cases such as *In Re Baby A* and *In Re Adoption of Child by Mrs. X* illustrates the importance of procedural integrity and judicial vigilance. The ethical challenges of secrecy, consent and post-adoption integration further complicate the adoption landscape, demanding a more child-centred and transparent approach.

Comparative analysis reveals that countries such as South Africa, India, Ghana, and the United Kingdom have developed robust legal and institutional frameworks that balance reproductive autonomy with ethical safeguards and child welfare. Judicial oversight of surrogacy, centralised adoption authorities, ratification of international conventions, and public education campaigns are among the best practices that Nigeria can adapt to its unique cultural and legal context[3]. The policy and legislative recommendations outlined in this paper provide a roadmap for reform. These include the enactment of a comprehensive ART and Surrogacy Regulation Act, the establishment of a National Reproductive and Adoption Authority, ratification of the Hague Convention, harmonisation of adoption laws across states, development of ethical guidelines, investment in public education, integration of ART and adoption into national health systems, and strengthening of judicial capacity. Together, these reforms can transform Nigeria's reproductive governance into a system that is inclusive, transparent, and rights-respecting.

Ultimately, the regulation of assisted fertility and adoption in Nigeria must be guided by a commitment to human dignity, reproductive justice, and the best interests of the child. Legal reform must be accompanied by cultural transformation, ethical oversight, and institutional strengthening. As Nigeria continues to grapple with the challenges of infertility, child welfare, and family formation, the time has come to build a coherent and compassionate legal framework that reflects the values of equity, accountability, and care.