

DISCLAIMER: This document was produced in 2005 and is a summary of the laws of Algeria that appertain to international parental child abduction, contact and relocation as they were at that time. **reunite** International Child Abduction Centre cannot vouch for the accuracy of this information for use in litigation and it is not intended to provide case specific advice.

NIGERIA

Overview

Nigeria is a federation of 36 States, according to the Constitution of 1999. The Nigerian system is based on English common law, Islamic law and customary law. Nigeria is approximately 50% Muslim and the main school of Islamic law is Maliki. Around 40% of the population are Christian and 10% practise traditional or no religion. However, Part 2.10 of the 1999 Constitution reads that neither the Federation nor any State may adopt an official religion.

Foreign Orders

In principle foreign orders are enforceable by virtue of the Foreign Judgements (Reciprocal Enforcements) Act of 1960. In order to be enforceable the foreign judgement must be final and from a country that the Minister of Justice has formally indicated the scope for recognition with. The application for enforcement must be made to the High Court within six years of the foreign judgement being issued.

Court Structure

Nigeria has a Federal and a State Court System. The Federal System has six types of superior court. These are The Customary Court of Appeal, The Sharia Court of Appeal of the Federal Capital Territory of Nigeria, The High Court of the Federal Capital Territory of Nigeria, The Federal High Court, The Court of Appeal and the Supreme Court. There are also the lower courts, which include Magistrate Courts, District Courts, and Customary Courts. The State Court System consists of The High Court of the State,

The Sharia court of Appeal, The Customary Court of Appeal and District Courts. The Northern States have separate Sharia Courts to administer Islamic personal status law.

Filiation

Under Islamic law and civil law a child born out of wedlock is illegitimate and has no legal relationship with the father.

Custody

Sharia Courts apply classical Malaki *fiqh* in personal status matters. Therefore if the parents separate the mother should have custody of female children until marriage and the male children until puberty. If the mother is unable to exercise custody, the right to exercise custody passes to her mother.

Guardianship

Under Islamic law the father is guardian of the person and property of his children.

Access

A parent can be denied access to his or her child if the court considers this to be in the best interests of the child.

Non-Muslim Family Law

In customary law children born out of wedlock are considered legitimate if the father acknowledges them. According to Section 71 (1) of the Matrimonial Causes Act 1970 the best interests of the child are paramount and the court can award custody to one of the parents or to a third party in accordance with the child's welfare.

Nationality

According to Section 25 of the 1999 Constitution either parent can pass on Nigerian nationality to their children if they are born outside of Nigeria. If a

child is born within Nigeria nationality can be acquired through either parent or through the grandparents.

Leaving the Jurisdiction

There are no restrictions on travel.

International Law

Nigeria ratified the Convention on the Rights of the Child in 1991 without reservation.

Child Abduction

Cases of parental child abduction are treated as cases of missing children. The Police Juvenile Welfare Department and Lagos INTERPOL National Central Bureau are responsible for dealing with missing children cases. According to section 371 of the Criminal Code Act Cap.77 any person detains a child under the age of 12 with the intent to deprive any parent, guardian, or other person who has the lawful care of the child is liable to imprisonment for 14 years. It is a defence to a charge of this offence if it can be proved that the abductor claimed in good faith a right to possession of the child.

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