

A Legal Analysis of the Adoption Procedure in Cameroon

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Abstract

Through the process of adoption, a person takes over the parental responsibilities of another, typically a kid, from that person's biological, or legal parent or parents. Legal adoptions transfer all rights, obligations, and affiliations from the biological parents to the adoptive parents forever. Adoption, as opposed to guardianship or other institutions created for the care of the young, aims to bring about a permanent change in status and, as such, needs society's acknowledgment, either through legal or religious permission. Hence, this paper aims at examining the adoption procedure in Cameroon. We used content analysis and data interpretation from primary and secondary sources in conjunction with strictly doctrinal research strategies to accomplish this goal. The ensuing result reveals that many people are resulting in adoption, and the procedures are becoming more strict and expensive as the days go by. Hence, this study recommends that in Cameroon, there should be a unified and precise law that governs adoption among the two legal systems in Cameroon. If there is a unified law on adoption in Cameroon, it will ease the process of adoption in Cameroon.

Keywords: Adoption, analysis, legal, procedure, legal parent, legal adoptions transfer

INTRODUCTION

Through the legal process of adoption, "a person takes another person into the relationship of a child and thereby acquires the rights and incurs the obligations of a parent in respect of such other person". God desires for every legally married couple to have children of their own. Child adoption in Cameroon remains the only legal means for married couples who cannot procreate. Adoption in Cameroon is a legal procedure in which the parental responsibility of a child is transferred from their birth parents to their adopters [1].

The legal relationship between a kid and his or her biological parent(s) is severed by adoption, and the adopters become the child's legal parent(s); that is, a manufactured family is formed by the establishment of a new, legally binding parent-child connection between the adopters and the adopted child. Any legitimate or illegitimate relationship between the child's biological parents and them must be completely severed, and a new relationship must be established between the child and the adoptive parents. As a result, any rights and obligations that would have previously been exercised by the

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biological parents will now be done so by the adopters [2]. An applicant for adoption in Cameroon must have attained the age of 40, been married for more than 10 years, or have fertility issues, which must be backed by medical proof or evidence. A family lawyer or solicitor ensures that the entire child adoption procedure adheres strictly to Sections 41 and 42 of the civil statute's ordinance [3], which states that "(1) (a) the recognition or legitimation of a child born out of wedlock shall be established by court decision. The same shall apply to cases of adoption".

Section 42 states that “Substantive conditions for adoption shall be those contained in the written law, except where there is provision to the contrary in the present ordinance.

The primary information worth taking note of is the fact that the Republic of Cameroon operates a bi-jural legal system. That is, the common law legal system (derived from Great Britain) exists alongside the civil law legal system (derived from France). The common law system operates in former Southern Cameroon on the one hand, while the civil law system operates in the regions of former Western Cameroon (French-speaking regions) on the other hand.

There are several drawbacks associated with Cameroon’s bi-jural legal system. The understanding of this study may be aided by a quick examination of the development of the legal system in Cameroon. The adoption and implementation of European-imposed legal systems is one of the inevitable outcomes of Africa’s colonial past. The peculiarity of Cameroon’s situation is increased by the fact that, unlike most African nations, where either the common law or the accepted civil law is in effect due to the country’s colonial background, these two legal systems only apply to specific regions of the national territory. Britain and France split up Cameroon after Germany lost the First World War [4]. The two powers administered their respective portions of Cameroon under the League of Nations’ Mandate [5] and subsequently under the United Nations Trusteeship Agreement [6]. Article 9 of the British Mandate Agreement was most decisive in the application of English Law in British Cameroon (Anglophone Cameroon).

The starting point is to determine territorial jurisdiction because areas of law that are yet to be harmonized are those that take into consideration these differences. Family law (and adoption as a subject within family law) falls within the scope of that which is yet to be harmonized. Without letting out the procedural differences that exist in both jurisdictions, the legal system will be dependent solely on the region where the adoption proceedings are envisaged. Adoption tries to establish a legal link when there may not have been one before (in Cameroon, there is typically some blood relationship between the applicant and the adoptee). The court’s primary responsibility is to determine the adoptee’s interests. In granting adoption, as such, the court can undertake any relevant inquiry to ascertain this paramount interest before granting the adoption.

Apart from the civil status ordinance which talks of adoption in Cameroon, the Southern Cameroon High Court Law Sections 10, 11, 15, and 27 of the Southern Cameroon High Court Law and the Adoption and Children Act 2002 deal with adoption. Section 47(2) of the Adoption and Children Act 2002 states that “(2) The first condition is that, in the case of each parent or guardian of the child, the court is satisfied (a) that the parent or guardian consents to the making of the adoption order, (b) that the parent or guardian has consented under Section 20 (and has not withdrawn the consent) and does not oppose the making of the adoption order, or (c) that the parent’s or guardian’s consent should be dispensed with” [7].

No matter what kind of adoption occurs in Cameroon, it can only become enforceable and legal thanks to a court order. The ministry of social affairs is concerned, however, with social inquiries and with adoptions of children younger than five years old, as well as by foreigners. To prevent abuse, it is also envisaged that the ministry will monitor adoption cases. There are different types of adoption, which include simple adoption, full adoption, and international or inter-country adoptions.

However, in Francophone Cameroon, it is permissible and known as “Adoption Simple” (gre a gre), that is, as agreed between the parties concerned. Simple adoption is not recognized in English Law, and as a result, is not permitted in Anglophone Cameroon. Simple adoptions are annulable, and the adopted people keep in touch with their biological relatives. The adopted person does, however, have succession rights to the adoptive parents’ estate. According to Article 358 of the relevant civil

code, simple adoptions are permitted for both minors and adults. A notary public must be present for this individual to offer their approval. In the case of a minor, the approval of the parents (or, in the event of a divorce or separation, the custodial parent) is required [8].

Full adoption is an adoption in which the adoptee's family ties with his or her biological family are severed. The French civil code that is now in effect governs full adoption (adoption *plenièr*) in the French-speaking civil law jurisdiction of Cameroon. A different name for this is "Legitimation adoptive". Only kids under five, those who have been given up for adoption, and kids whose parents are either unknown or have passed away can do this. If single, the adoptive parent's age must be at least forty (40). As long as one of the partners is at least 35 years old, couples may adopt equally. A minimum of ten years must have passed since their wedding for them to take custody of a child. There must be at least a fifteen-year age difference between the adopter and the adoptee [9].

However, the president of the Republic may suspend this rule in cases where it affects a child of one of the couples, bringing the age gap down to ten years or even fewer. Both basic and complete adoptions can consider this age aspect.

Whatever be the type of adoption in Francophone Cameroon, according to Article 343 of the applicable civil code, it must be advantageous and in the best interest of the person to be adopted. This is in conformity with Article 21 of the 1989 Convention on the Rights of the Child (CRC).

The court has recently developed a lukewarm attitude, is reticent about granting ordinary adoptions, and is rather more favorable these days to the plenary type.

When parents from one country travel to another to adopt a child there, usually in conformity with the rules of the child's country, this adoption is referred to as an international adoption. It is also referred to as "inter-country adoption" when a child is adopted from one nation and raised in another. The number of international adoptions is rising, and this has ramifications for private international law, raising questions about jurisdiction and choice of law. The issue with international adoption is not with how it was created but how it is implemented.

According to Article 345 of the Civil Code, a Cameroonian can adopt a foreigner and vice-versa. Adoptions of Cameroonians by foreigners are also envisaged under the applicable English law. Economic crisis and armed conflict have both led to an increase in emigration towards Europe and America in particular. Many children were also made orphans by the acquired immunodeficiency syndrome (AIDS), which has led to an increase in Cameroonian citizens who have gained foreign nationality and/or their foreign spouses filing adoption petitions with the courts. Since Cameroon is not a party to the Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption, adoption orders issued by our courts occasionally fail to be recognized abroad. The laws on the recognition of foreign judgments became unfavorable. In this connection, Article 5 of the 1993 Hague Convention on adoption provides: "An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving state approve it.

THE LEGAL FRAMEWORK REGULATING ADOPTION PROCEDURE IN CAMEROON

Adoption is increasingly seen as an appropriate legal mechanism for securing the long-term care of children who need placement outside their natural families. Adoption's main objective is to give a stable and loving environment to a child whose parents are unable to care for him or her.

In Cameroon, the law governing adoption is not extremely detailed or exact. The legal systems in Cameroon, a multilingual nation, are separately based on French civil law and English common law—the legal system of its colonial history. The lone piece of local legislation is the 1981 civil status

registration. As far as received English law is concerned, however, the enabling Southern Cameroon High Court Law of 1955 limits the application of English law to pre-1900 status. Consequently, Cameroon's adoption laws operate within this framework, despite efforts to harmonize them that have not yet resulted in legislation.

International Instrument

According to Article 1 of the CRC, "A child means every person who is under the age of eighteen years, unless the child is subject to a law in which the child's majority is attained earlier [10]".

Article 3: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration [11]".

Regional Instrument

The African Charter on the Rights and Welfare of the Child (1990) regulates the welfare of the child within the African Union, and Cameroon is part of the African Union. Adoption under the African Charter on the Rights and Welfare of the Child is regulated by Article 24 Adoption State Parties which recognize the system of adoption shall ensure that the best interest of the child is the paramount consideration, and they shall:

- a. Establish competent authorities to decide adoption-related issues, ensure that the adoption is carried out in accordance with applicable laws and procedures and on the basis of all relevant and reliable information, that the adoption is legal in light of the child's relationship with his or her parents, relatives, and guardians, and that, if necessary, the appropriate persons concerned have given their informed consent to the adoption based on appropriate counselling.
- b. Acknowledge that intercountry adoption may, as a last resort, be taken into consideration as a substitute for a child's care in those states that have ratified or adhered to the International Convention on the Rights of the Child or this Charter if the child cannot be placed in a foster family, or an adoptive family, or cannot be cared for in any suitable manner in the child's country of origin.
- c. Ensure that the child who is the subject of an international adoption receives protections and guidelines that are comparable to those that apply to domestic adoptions.
- d. Take all necessary steps to prevent child trafficking or unethical financial gain for people who attempt to adopt a child when inter-country adoption is involved.
- e. Promote, as necessary, the purposes of this article by signing bilateral or multilateral agreements, and work to ensure, within this framework, that the placement of the child in a foreign country is handled by competent authorities or organs.
- f. Create a system to keep track of the welfare of the adopted child.

This article makes provision for adoption among the member states of the African Union. According to the Convention on the Rights of the Child, the prior consent of the court is in the interest of the court. The 1989 Convention on the Rights of the Child (CRC) and the 1990 African Charter on the Rights and Welfare of the Child (ACRWC). The recourse to the provisions of these conventions stems from the fact that Section 45 of the Cameroon Constitution makes duly approved or ratified treaties and international agreements overriding and superior to national laws, provided the other party implements them. These treaties and conventions mentioned in the preamble of the Constitution are incorporated into its body by virtue of Article 65, which makes the preamble part and parcel of the Constitution. In this connection, the Preamble of the Cameroon Constitution provides: "*We, the people of Cameroon... Affirm our attachment to the fundamental freedoms enshrined in the Universal Declaration of Human Rights, the Charter of the United Nations, and the African Charter on Human and People's Rights, and all duly ratified international Conventions relating thereto...*"

In the case of *Marie Kameni V. The State, Ndjodo Ndjodo Joseph & Nsidjui Leopoldine* [12], the judge, in granting an order of adoption, directed his mind to Section 41 (3) of the 1989 Civil Status Registration Ordinance as well as Articles 3 and 21 of the United Nations Charter on the Rights of the Child and Articles 4 and 24 of the African Charter on the Rights and Welfare of the Child.

National Instruments

Apart from the laws which regulate adoption at the international and regional levels, there are also laws which regulate adoption in Cameroon. However, the *Code Civil* (Civil Code) establishes the legal basis for adoption in Cameroon's jurisdictions that practice civil law.

Adoption under the civil code is regulated by Articles 343–370 of the Cameroonian civil code. Article 343 states that “Adoption can only take place if there are good reasons and if it has advantages for the adopted [13]”.

Article 347 of the Civil Code states that if the person to be adopted is a minor, and still has his parents, they must give their consent to the adoption. The Civil Code regulates adoption procedures in Cameroon.

Aside from the fact that the applicable English law must be used when dealing with adoption-related issues, it is important to note that under common law, the concept of legal adoption did not exist. If one were therefore to rely on Section 11 of Southern Cameroon's High Court Law of 1955, the Adoption Act of 1926 and subsequent statutes are not applicable in Cameroon. In England and Wales, adoption was introduced by statute, more precisely, the Adoption of Children Act 1926. Subsequent Acts were passed, such as the Adoption of Children (Regulations) Act of 1939, and the Adoptions Acts of 1950, 1960, 1964, and 1968. The Children Act of 1975 and 1976 later consolidated aspects of the 1958 Act [14]. The law is dynamic, and adoption in England is now governed by the Adoption and Children Act 2002, which came into effect on 30th December 2005 [15].

Therefore, it is unclear how the substantive legislation on adoption is currently applied in Anglophone Cameroon. Adoption is not covered by any substantive laws [16]. Due to this legal gap, judges frequently base their decisions on English law when deciding adoption matters. Therefore, full adoption is acknowledged in accordance with substantive English law. However, the sitting judge in any adoption proceeding before the courts decides the specific English statute governing adoption, leading to an imprecise scenario. In the case of *Bernard Fonlon v. Judith Fonlon & Others*, the Court of Appeal established a precedent that the courts have adopted [17].

The High Court's ruling refusing jurisdiction in adoption cases due to a lack of substantive law was overturned by the Court of Appeal in that case. The 1958 English Adoption Act was cited by the Court of Appeal in support of its decision to reject the appeal for failure to satisfy the consent requirements of Section 3(1) of the same Act. Although it has been pointed out that this section only applies to procedural law and not substantive law, the court based its conclusion on Section 10 of Southern Cameroon's High Court Law of 1955.

Court judgments granting adoption have consistently followed this precedent and applied the 1958 English Adoption Act and subsequent statutes on adoption. Adoption cases are brought to court based on Section 18 (1) (b) (New) of Law N 2011/027 of 14th December 2011 on judicial organization which provides: “The High Court shall have jurisdiction to hear and determine suits and proceedings relating to status of persons; civil status, marriage, divorce, affiliation, adoption, and inheritance.” The judges equally cite Section 10 of the Southern Cameroon's High Court Law of 1955 as enabling them to make use of English law; more particularly, post-1900 statutes. In England and Wales, a competent court must issue an “adoption order” in response to an application from a person(s) who seek to adopt a child. In the case of *Ngam Theresia Lum v. The State of Cameroon, Esther Bei Muchoh, and Neh*

Muchoh Adeline [18], the 1958 English Adoption Act was used by the judge in making the adoption order. On the other hand, in the case of *Dr. Diggelmann Martin v. The People of Cameroon & Tabi Rachel Anderson*, the presiding judge rather relied on the provisions of the English Adoption Act 2002, as well as the provisions of the United Nations Convention on the Rights of the Child (CRC) and the 1990 African Charter on the Rights and Welfare of the Child (ACRWC). We can therefore see that it is not clear which English statute should be applicable in adoption cases in the English common law courts of the two English-speaking regions. According to Section 50 of the 2002 Adoption and Children Act, an adoptive parent must be at least 21 years of age. Aspects of adoption that are unique to England are governed by the 2002 Act, as are how it affects succession rights. Therefore, one is left to wonder which Act provisions the court used in his decision. This merely serves to highlight the degree of complexity surrounding the adoption legislation in Anglophone Cameroon. According to the 1975 Children Act, only children under 18 can be adopted, and the applicant or joint applicants must be at least 21 years of age.

Additionally, the Cameroonian Parliament has not yet approved and promulgated the draught family code known as Persons and the Family. The parliamentary debate on it has not yet begun. It is hoped that when this draught law is finally passed and becomes law, it will address a variety of adoption-related difficulties, harmonize the law, and close any gaps that may still exist. However, given the internal inconsistency of the laws already in place in the nation, the law must take the two legal cultures into account to avoid friction and conflict. After five years of marriage and no divorce, it allows couples to adopt. A spouse is also given the option of adopting their spouse's biological child. Any adult who is at least thirty-five (35) years old may request full adoption of a kid, according to the legal code. According to Article 314 (2), the child must have spent at least one year with the future adoptive parents before being adopted. Practically, this is not usually possible in cases of inter-country adoptions, and other means of ensuring the placement of children should be envisaged by the code. A more thorough explanation of how the adoption order will affect succession, nationality, and even forbidden degrees of marriage is required. Insofar as adoption law is concerned, the family code would be appreciated but is still only a draught at this point.

CAUSES AND CONSEQUENCES OF ADOPTION IN CAMEROON

A child's need for a permanent, safe, and loving home when their biological parents are unable to provide for them is the main reason for adoption. The natural parent, the adoptive parents, and the adoptee all have interests when someone is adopted. The laws governing adoption specify the prerequisites, practices, procedures, and outcomes. They also detail the obligations and rights of all parties concerned.

Natural Parents

Given that adoption is normally seen as an option for natural parents, their consent is required for the adoption of their legitimate child. The consent of the father of an illegitimate child is not usually required unless he has been awarded custody of the child under the Guardianship of Minors Act of 1971. He is entitled to be informed of the application only if he is a contributor to child support. The mother is given special protection against the possible effects of childbirth, by requiring her consent to be given only after six weeks have elapsed since the child's birth [19].

Adoptive Parents

The essence here is to limit parental rights to be reclaimed, which of course benefits the prospective adopter, who is vulnerable to threats during the time they are in possession of the child. In the case of *O. Cannon v. A & B* [20], Lord Simon said that one of the circumstances to be considered in deciding whether parents were withholding their consent unreasonably was the expectations of the prospective adopters who perform social duties primarily imposed on others, who are unwilling themselves to perform such duties.

The Adoptee

Even though the court must be satisfied that any adoption order must be for the child's benefit; before the implementation of the children Act of 1975, there was an absence of specific guidance on the weighting to be accorded to the child's welfare during the adoption process. This guiding principle is now afforded by the Adoption Act of 1976 [21].

Section 6 provides that "In claiming any decision relating to the adoption of a child, a court or adoption agency shall have regard to all circumstances, first consideration being given to the need to safeguard and promote the welfare of the child throughout his childhood, and so far as practicable, asserting the feelings and wishes of the child regarding the decision and giving due consideration to them having regard to his age and understanding" [22].

Uncertainty has resulted from how this clause has been interpreted. The welfare of the child must be given priority, but it must not be seen as the most important factor, as was previously mentioned.

Perhaps the most compelling guidance is that of L.J. Simon in *Re D*, where he said, "In adoption proceedings, the welfare of the child is not the paramount consideration; in other words, while the child's welfare remains the single most important factor, it does not necessarily outweigh all other considerations (such as the right of a parent not to have a parental bond with his child severed).

Consents Required for Adoption

Each parent or guardian must either agree to the order or the court must make an order dispensing with any necessary consent. The act requires the agreement of each parent or guardian, and in the case of unmarried parents, it is the child's mother alone and not the father. In order to be binding, the agreement must be made in writing, and the court must be satisfied that it was freely given full knowledge of what is involved.

Unless the infant was at least six weeks old when the mother gave her assent, it is not legitimate. This clause was included to prevent mothers from making important choices for the future of their children before fully healing from the birth. A specific form must be used to provide consent. An impartial attorney, a registrar, or a judge must attest to it.

GROUND FOR ADOPTION IN CAMEROON

Adoption in Cameroon is a common trend happening because many couples or single individuals want to adopt a child for several reasons.

Adoption being an alternative for several couples keeps us wondering why they choose adoption as their last result. This article will examine the causes of adoption, especially in Cameroon.

Infertility Problem

This is one of the most common reasons that prospective parents choose adoption. In many cases, they have tried to have a child the natural way and struggled through months and even years of infertility treatments that ultimately failed. So, they decide to pursue adoption as a different way to become parents [23].

There are several medical factors that may prevent a woman from being able to safely carry a child to term, including autoimmune diseases like lupus, polycystic ovarian syndrome, thyroid issues, and diabetes, among others. In these situations, adoption offers a beautiful way for these loving parents to grow their family [24].

Concerns about Passing down Genetic Disorders

A concern about passing down genetic disorders is also a very common reason for couples who can conceive and safely carry a child to term to choose to adopt. For couples who want to have a family

but are worried about their child inheriting genetic diseases that run in the family, like cystic fibrosis and sickle cell anemia, adoption offers them the opportunity to grow a family, free from the worry of passing down these genetic diseases.

The problem of genetic disorders is another strong factor that causes adoption, especially in Cameroon. Most parents whose genes do not match among themselves and who failed to check their blood groups to see if it is compatible before getting married tend to realize such a disorder only when they are married and are faced with turning to adoption as their only chance of having children [25].

Same-Sex Couples (Gay Marriages)

Single people or same-sex couples who want to grow their family very often do so through adoption [26]. However, there is a growing segment of single men who are now pursuing adoption. For same-sex couples, adoption is one of the most common ways they choose to have children. Same-sex couples are four times more likely to adopt than different-sex couples, with more than 16,000 same-sex families raising more than 22,000 adopted children.

A gay or same sex marriage is another root cause of adoption. Many countries have legalized and permitted same-sex marriages, thereby allowing them to adopt kids in order to have a complete home. Especially in the United States, it has recorded thousands of gay marriages with them adopting kids.

Cameroon, being one of the countries that have refused to legalize same-sex marriages, and consider involving in them a crime, does not permit couples of same sex to engage in adoption, and hence this process of adoption in Cameroon is not recognized by the law [27].

Helping Family Members who are not able to Raise their Children

In some cases, adoptive parents come to building blocks adoption services to adopt the child of a family member or friend who is not able to raise their child. This is known as an independent or identified adoption. Though these adoptions sometimes bring with them unique challenges, in many cases, when a birthparent is unable to raise their child, foster care workers consider placement with a family member or close friend to be ideal [28].

Financial difficulties are the root cause of why many parents give their children away for adoption. Many parents cannot feed or raise their children properly, and the only option they have is to give them out for adoption to rich and comfortable couples who can easily take care of and provide for the child. This has been one of the main reasons for adoption.

CONSEQUENCES OF ADOPTION

Although adoption is good since it provides comfort for the adopted child and provides kids for the adopted parents. The rights and obligations of the child's biological parents are often terminated by adoption.

The natural parents' rights are not reinstated upon the passing of an adoptive parent. Following an adoption, a kid and adoptive parents share the same rights and obligations as they did with their biological parents. The same rights apply to adopted children as to children of natural parents. However, when a person is adopted as an adult, the adoptive parent does not take on the typical role of support.

Whether a child's name changes because of adoption is governed by state law. When a minor kid is adopted, the legal residence of the child is transferred from the biological parent to the adoptive parent. Adoption may have beneficial or negative effects on the parties involved.

Positive Effects of Adoption

Inheritance

The inheritance of adopted children or adoptive parents may be given or taken away by a state legislature. According to most laws, adopted children can inherit from adoptive parents in the same

way as natural children, and vice-versa; adoptive parents can take possession of an adopted kid's estate if the child passes away before them. Most of the time, the couples involved in adoption are usually rich and comfortable, and have property in their names and when the child is being adopted, he has right to such wealth and property of his/her adopted parents.

When the adopted parents die, he partakes in the inheritance of the property of his adopted parents. This becomes a positive effect of adoption regarding the child because he gets a better life [29].

Adoptive Parents get to Become a Family

Obviously, one of the biggest advantages of adopting a child is becoming a parent. Many adoptive parents spend years trying to add a child to their family, and there's no feeling greater than having your child placed in your arms for the first time [30]. Many people aspire to become parents, which is a difficult yet rewarding path. Nevertheless, many people turn to adoption when they are unable to become parents the "traditional" manner. It is a reality for them. The lack of biological children in many marriages today causes problems for a variety of reasons, but adoption fills the need left by this by allowing many couples to name adoption their family and create a full household.

Negative Effects of Adoption

The Cost is High for Adoptive Parents

Cost is one of the drawbacks of adopting a kid. There are numerous procedures and services that are necessary for an ethical and effective adoption, and they are not inexpensive. It is common for prospective adoptive parents to recoil at the typical expense of adoption.

However, like with most things in life, you get what you pay for when it comes to domestic adoption. Yes, one of the consequences of adoption is the price, but if you want to safely add to your family via adoption, knowing that your child's birth mother is supported (not pressured), be prepared to pay for those services. If you are looking for a cheaper path, foster care adoption might be right for you but keep in mind that this journey comes with its own challenges too.

A Prospective Birth Mother Will Experience Grief and Loss

As much as a woman can prepare for placing a child for adoption, she will experience some degree of grief and loss after doing so. This can be one of the scariest consequences of adoption, and it is completely normal for some women to choose a different path because of the fear of regret or grief.

The consequence of this is that the biological mother may never see or have access to her child anymore and this may cause pain to her and in the case where she might never also give birth again, she leaves with that regret all the rest of her life.

In conclusion, after examining the various factors that make up this article, we can see the causes of why people involve in adoption in Cameroon and looked at the consequences of adoption from both the positive (Pros) and negative side (Cons) of adoption. Adoption is helpful because it gives the child comfortable life at some circumstances although not all, it gives the natural parent peace of not thinking of how to take care of the child and provide kids for the adoptive parents who were unable to give birth.

ADOPTION PROCEDURE IN CAMEROON

The adoption process is one that helps potential parents who are unable to conceive and provides underprivileged children with the opportunity to grow up in a stable and trustworthy home to assure their education and general well-being. For the greater part, borrowed from French Law, the procedure for adoption in Cameroon is recorded in Articles 343 to 370 of the Civil Code and in Section 41 of Ordinance No. 82/02 of 29 June 1981 modified on May 6, 2011, to organize Civil Status Registration in Cameroon. We shall, for a better apprehension of the procedure for adoption in

Cameroon, define same from the perspectives relating to the capacity of the parties involved, the requisite formalities to be respected, and the competent jurisdictions to be sought.

The procedures for adoption in Cameroon are instituted by way of petition. Adoption are gratuitous proceedings; hence, they are not adversarial. There are plaintiffs (s) or petitioner(s) on the one hand, against defendant/respondent to the suit on the other hand.

However, it is a delicate subject to create an artificial legal relationship. The legal department (the state counsel of the high court representing the state) must always submit before the court rules on whether to approve or refuse adoption since it is a matter of public order for which the state must take responsibility.

Article 343 of the civil code stipulates that adoption can only take place if there are good reasons and if it has advantages for the adoptee. Under the Cameroonian Law, there are several procedures to be followed before adoption can take place. If a person has it in mind to adopt a child, there are several steps he must follow before having the child.

The adoption procedure in Cameroon has been harmonized in the two systems. That is the French and English part of Cameroon. Although they are different laws, but when it comes to adoption, the procedures are the same because it has been harmonized.

The procedures of adoption in Cameroon are explicit as they must be followed before adoption can take place. Adopters seeking to adopt must comply with the following procedures. The court starts by verifying whether all legal conditions have been met to warrant adoption. The procedures include.

Notice

Everyone who has a legal stake in the case, excluding the kid, is notified that adoption proceedings are underway. If either of the biological parents can be found, notice should be given to them in the event of illegitimacy. A parent who has neglected to provide for a child is not generally entitled to notice, according to some statutes. However, a parent who has lost custody of a child in a divorce or separation case typically has the right to notice. In a similar vein, the adoption agency with custody of the child is required to give notification.

Petition

In order to adopt a child, prospective parents must submit a petition to the court detailing both their status and the kid's situation. Usually, in order for the court to have jurisdiction, a valid petition must be filed. The petition lists the names of the kid, the child's adopted parents, and the natural parents, if any are known. Additionally, the kid's gender and age are specified, and some jurisdictions need a medical report on the child to be included with the petition [31].

In Cameroon, besides modern civil jurisdictions, there also exist traditional courts which apply the traditions and customs of the parties which seek its competence. It should however be retained that foreigners are not eligible to bring matters before these jurisdictions. A foreigner who wants to adopt a kid must submit their application to the high court with jurisdiction over the adoptive parents' residence in the interim.

Article 360 states that "the adoption deed must be approved by the civil court of the domicile of the adopter. The court is seized by a request from the legal representative of the most diligent party, to which is attached a copy of the act of adoption. The adoption procedures are done in the proper court where the adopter is resident, and the court has the discretion to grant the adoption order. The session is held in a closed courtroom since adoption processes are confidential. Records from adoption hearings are typically only accessible with a court order. It is believed that maintaining the child's privacy will help him or her feel secure in his or her new household.

Consent of the Parties

Consent is one of the procedures to be taken into consideration when adopting a child under Cameroonian Law. If the biological parents of the adopted child are still living, they must voluntarily state that they agree to the adoption, either in the court order authorizing it or in a notarized document signed in front of a notary public. If the parents are officially divorced or separated, the parent who has custody of the kid in question and who is currently exercising that right is the only one who can give their consent. Finally, if the child to be adopted is the orphan of both parents, the family councilor of the non-profit that has been caring for him must provide their approval. Article 347 of the civil code stipulates that “if the person to be adopted is a minor and still has his father and mother, they must both consent to the adoption. If one of the parents is deceased and unable to express his or her will, the consent of the other is sufficient [32]”.

Article 347 (b) of the civil code goes further to state that “if the father and mother are divorced or legally separated, the consent of the spouse for whose benefit the divorce or legal separation has been granted and who has custody of the child is sufficient; however if the other parent has not given his consent, the act of adoption must be served on him and the homologation may only take place at least three months after service. If, within the said time, this parent has notified the registry of the opposition, the court must hear him before pronouncing.

Article 349 of the civil code states that “if the minor has neither father nor mother, or if they are unable to express their will, consent is given by the family council. Also, the consent of the child is considered when the child has attained a certain age and can make decisions for himself.

On the other hand, Article 358 stipulates that “the person who proposes to adopt and the one who wants to be adopted, if they are of age, or even a minor who has reached the age of sixteen, must appear before the justice of the peace of the domicile of the adopter or before a notary, to record their respective consents.

If the child is under the care of a charitable organization (like an orphanage), the consent of the charitable organization is considered since they oversee the child’s welfare. Consent is one of the most important steps when it comes to adoption because, without consent, there would not be any adoption.

Capacity of the Parties

Also, the capacity of the parties is another procedure to be followed when it comes to adoption. As to adoptive parents, in principle, adoption is a prerogative awarded to all persons of either sex who should have attained at least 45 years of age or more. The adoptive parents, by the day of the adoption, should not have borne any legitimate or natural children, and there must be a 15-year age difference between the adoptive parents and the adopted. Although the requirements may appear to be very strict, they have been tempered by international agreements that Cameroon has ratified and that are often applied by her national jurisdictions, particularly when it comes to the child’s (the adopted child’s) exclusive interest and wellbeing. The United Nations Convention on the Rights of the Child’s Article 3 states unequivocally that the child’s best interests must come first in all decisions involving children, whether they are made by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies.”

In the same vein, it should be noted that, because adoption prioritizes the well-being and interests of the adopted child, national tribunals frequently apply the supplier provisions of the supranational convention rather than the civil code, which appears to be stringent by all standards. It is worth mentioning in any case however that the legal department as a party to the proceedings, may appeal a decision of the court granting adoption; in the case of *Ntamack Therese contre Qui de Droit*, the Supreme Court of Cameroon in determining an appeal filed before it by the legal department, quashed

the decision of the original court that had granted adoption to the applicant, Miss Ntamack, though she was aged 29 years only at the time she had filed for adoption.

It was so determined that the original court had broken the rules under Article 344 of the Civil Code, which states that adoption rights are only granted to people over the age of 40 who file an individual application [33].

According to Article 344 of the Civil Code, “adoption is only allowed to people of either sex or over the age of forty”. It may, however, be requested jointly by two legally separated spouses. If they have been married for more than ten years and have not had children since their wedding, at least, one of them must be over thirty-five (35) years old.

The adopter must not have children or legitimate descendants on the day of the adoption. The existence of children legitimized by adoption does not exclude adoption. Article 344 further stipulates that “the adopter must be fifteen years (15) older than the person they propose to adopt unless the latter are the children of his or her spouse. In this case, the minimum age difference will not be more than ten (10) years.

The issue of age and sex of the parties are important formalities when it comes to adoption. The law is concerned when it comes to the age and gender of the parties. Under Cameroonian law, it is forbidden for couples of the same gender to adopt a child. Since lesbianism and gay marriages are not recognized in Cameroon, hence such couples are also not allowed to adopt a child under the Cameroonian Law.

Decree

An adoption decree is a judicial decision that carries the same weight and significance as other decisions. After the adoption process is complete, the adopted child receives a certificate of adoption in place of their original birth record. The new family name, the child’s birthdate and location, and the adopted parents’ ages at the time of the child’s birth are all given.

The name of the child’s biological parents, as well as the adoption’s date and location, are typically not listed on the adoption certificate. Since the old birth certificate is locked away and may only be unsealed by court order, a child could not know that he or she was adopted unless the adoptive parents disclosed the information.

Article 364 states that “the judgment or the judgment which admits the adoption is pronounced at the public hearing. An extract is inserted in a newspaper of legal notices published at the place of the domicile of the adopter”. This extract will contain the date of the decision and the designation of the tribe which rendered it, the operative part of the decision, and the name of the legal representative of the applicant.

Probation

In adoption proceedings, most states demand a probationary term. The youngster spends this time with the adoptive parents while being observed by the relevant state agency. The ability of the adoptive parents to provide the kid with adequate care is the agency’s top priority. The state agency will ask the court to obtain a permanent decree of adoption if the situation is going smoothly for all parties involved. The youngster is either sent back to his or her prior household or is taken care of by the state if the relationship is unsatisfactory.

Change of Name

A transcription of the judgement or decision must be made at the civil status registry or center where the adoptee’s birth certificate was produced in order for the adoptee to have the applicant’s patronymic name added to his name once judgement has been delivered.

Article 350 of the civil code stipulates that “the adoption confers the name of the adopter on the adoptee, adding it to the latter’s proper name. If the adopter and the adoptee have the same patronymic name, no change is made to the adopted name”.

If the adoptee is a minor under sixteen years of age on the day of the contract, the adoption purely and simply confers on him the name of the adopter, unless it is otherwise decided by the approval judgment.

Article 350(3) goes further to state that “if the adopter is a married woman, the court may, in its approval judgment, decide, with the consent of the adopter’s husband, that the latter’s name will be conferred on the adoptee under the conditions provided for earlier in the study. Here are the procedures that are to be established before adoption can be completed.

COURT’S FUNCTIONS ON MAKING ADOPTION ORDERS

The following three conditions must be met for the court to issue an order:

1. That every parent or guardian whose consent is required, has freely and voluntarily accepted unconditionally to issuing of the adoption order (unless consent has been dispensed with).
2. That no unauthorized payments or rewards for the adoption have been made or promised (Adoption Act 1976 S.57) except such as the court may sanction.
3. That the order, if made, will be for the welfare of the child.

CHALLENGES IN ADOPTION PROCEDURES IN CAMEROON

Adoption could be a relief and a better option for the parties involved, especially the child. The procedure is very strict and there are certainly challenges which are faced during these adoption procedures. Adoption is oftentimes sugarcoated and oversimplified. Although adoption may seem to be a better option for giving children a better life and giving a child to couples who can have kids on their own, there are certainly some challenges faced during this process.

Revocation of Consent

To make the adoption legally binding, the birth parents must provide their unambiguous approval. The amount of time a parent has to withdraw their approval for an adoption varies by state. Depending on the state, this could be three days, a year, or until the child reaches a particular age.

The way the adoption was handled determines whether there are any exceptions to the main rules. Consent may be revoked in some circumstances even after the expiration of this period. Obtaining permission under pressure or by fraud is one exception. The permission is void if this is the situation. A willing renunciation of rights is necessary for consent.

The parental rights of both parents are more significant in many states than simply one or the other. Unless there are specific exceptions, the parents must agree to the adoption before the legal process with the new family is concluded. In most cases, the adoption agency will carry out its due investigation and find that parental rights are no longer a problem. However, if the father did not consent but the mother did, some states will still push through with the adoption. Sometimes, in these situations, the father may not even know that a child exists. This can later cause problems for the adoption of a new family. Revocation of consent can be one major challenge faced in adoption procedures because, at the time the adoption is in motion, one of the birthparents may decide to withdraw his consent, especially in the case where one of the birthparents, either the father or mother, is not aware of the adoption and decides not to give his consent to the adoption, which may disrupt the adoption procedures.

We earlier mentioned that for adoption to take place, consent must be given by the parents and even the adoptee, especially when he or she is of a certain age, and they can withdraw their consent even during the adoption process.

Time-consuming and Expensive

Adoption procedures can be time-consuming for the parties involved; the adoption process can take many steps to be completed, and this alone can be challenging to go through the process, and some end up giving up. Apart from adoption procedures being time-consuming, it is also expensive to carry out adoption. Adoption procedures may cost the couples involved in adoption a huge sum of money to carry out, and this might be so challenging that not every person can adopt. Adoption is left only in the hands of those who are financially capable, and this is an important challenge in the procedures. Some couples even go as far as spending millions just to adopt, and this at times discourages those who want to embark on adoption procedures. Especially for those who want to adopt internationally, the procedures are quite challenging and expensive.

Difficult to Fulfil the Conditions and Legal Documents

Another challenge encountered in the adoption procedure is meeting the legal documents or conditions that might be required. Adoption requires much legal process and several conditions to be carried out before a child is handed over to the adoptive parents, and the adoptive parents might not be capable of fulfilling all the conditions and documents required. Couples who are seeking to adopt may find difficulties with the procedures if they cannot meet the requirements. Under Cameroonian Law, there are several conditions or documents that may be required, and the person seeking to adopt must meet those requirements. Some people end up being discouraged because they cannot meet such requirements. When filing for adoption, the procedures are quite challenging, and only a few people successfully go through them.

CONCLUSION

The Cameroonian system functions with regards to adoption, which has been a very sensitive topic for a very long time. There has been utmost deliberation as to the procedure of adoption in Cameroon. The research topic was aimed at critically analyzing adoption procedures in Cameroon. The procedures are strictly with the aim of protecting the child to be followed. The research has been able to come up with the procedures as well as the frameworks regulating adoption, and the challenges faced.

RECOMMENDATION

Adoption being for the good of society, since children are being given out for adoption to couples or individuals who desire kids, I will recommend that those who want to be involved in adoption be educated before time and be aware of what they are to be involved in. They should be educated on the procedures for adoption.

Another recommendation is that in Cameroon, there should be a unified law which governs adoption among the two legal systems in Cameroon. If there is a unified law on adoption in Cameroon, it will ease the process of adopting in Cameroon.

Since adoption involves the child, it should be treated with the utmost interest because some adoptive parents adopt the child and maltreat the child at the end. As such, the government should implement a serious and strict time-to-time visit of the child to check the child's welfare.

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