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ÉRÀMÀ, NÀIGBIÀ: THE DAWN OF PATERNITY FRAUD VIS-À-VIS THE NIGERIAN LEGAL SYSTEM

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Abstract

Paternity fraud in Nigeria constitutes a profound societal and legal crisis, posing as a setback for society. This phenomenon, marked by the wilful misidentification of a child's biological father, has surged within marital contexts, as seen in several cases, destabilising Nigerian families. This article analyses its prevalence under the current legal framework and proposes solutions. Employing the doctrinal approach, the article conducts an in-depth review of legal literature, statutory provisions and judicial interpretations. Findings indicate that paternity fraud lacks legal recognition as a crime in Nigeria, with existing laws failing to address it. This article recommends enacting a Paternity Fraud Prevention Bill, amending laws to prioritise truth over outdated norms. Additionally, it advocates for awareness campaigns, school initiatives and group therapy to restore trust.

1.0 INTRODUCTION

As a seasoned writer, I tend to unhappily resonate with the sort of grief surrounding the narration of the 'Book of Lamentations'.¹ The reason for this is vaguely ingrained in my thought process, or perhaps the burden of

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The phrase "ÉRàmà, Nàigbià" translates as "Good morning, father" in English. Essentially, the title of this article echoes a deep concern towards the trend of paternity fraud (consequently in Nigeria), effectively drawing attention to the dawn of a societal ill in view of fading legal frameworks.

¹ The Holy Bible, King James Version (Oxford University Press, 1769) Lamentations.

surviving everyday life in the Nigerian society does, in fact, reinforce such proximity. Just yesterday, I accompanied some of my neighbours in climbing an electricity pole to '*shake the wire*' in order for electricity to be supplied to our 'dearly residential' hostel. Objecting to this, an ordinary citizen residing in a functional country would have appreciated the option of calling the electricity company, but instigating such an idea in Nigeria is almost equivalent to sighting a polar bear on 'Elegant Stiletto heels' dancing to the unending album release of SEYIVIBEZ² (whatever this illustration means). In a more meaningful depiction, it is simply a waste of time.

Documenting the chaotic yieldings of the Nigerian society would have been, to a certain extent, interesting, but the essence of this work tows toward a more conscious conversation. One touching on the fundamentals of the crashing societal values with an appendage of ethical and legal vantage point. Consequently, the scornful sprout of paternity fraud is upon the Nigerian society, and for some reason, the Nigerian legal system offers a fertile soil for such seeding. Therefore, the exploration of this theme aims to investigate paternity fraud in marital households within the context of the Nigerian legal system and propose appropriate solutions.

1.1 NATURE OF PATERNITY FRAUD

Paternity fraud, in short, is the act of intentionally misattributing the biological father of a child.³ The underlying assumption of paternity fraud is that the mother deliberately misidentifies the biological father, this fraudulent misrepresentation thus leads the man to erroneously believe that he has a biological connection with the child of another man which, in fact, does not exist.

The above explanation undoubtedly streamlines the definition of paternity fraud. In due course, subsequent paragraphs will fully delve into the

² Nigerian Singer and Songwriter, Balogun A. Oluwaloseyi, popularly known as Seyi Vibeze.

³ Skillern Firm, 'What is Paternity Fraud' SkillernFirm.com <<https://skillernfirm.com/what-is-paternity-fraud/>> [Accessed January 4 2025].

landscape of paternity fraud and depict its shadowed bod through the culmination of real-life stories. In furthering this piece, do well to take a seat.

2.0 TREND OF CRASHING SOCIETAL VALUES

In the past few years, it is often not uncommon to surf the internet and be bombarded with notifications of more than one occurrence of the paternity fraud crisis, invading the home of a somewhat popular or even not-so-popular person. To illustrate, the following features a story reported by Punch Newspaper:

In 2023, it felt like a jaw-dropping scene from a Nollywood blockbuster when Olanrewaju Kolawole received the paternity test results for his four children, who are products of his 16-year marriage to Toyin. The 44-year-old collapsed, slipping into seven-day coma after DNA test revealed the unimaginable truth: he was not the biological father of any of his children.⁴

Another real-life event in mind is that of the tribulations of Tunde Thomas. His story was unfortunately divulged as:

In July 2021, there was a case of US based man [who] died from cardiac arrest after coming to Nigeria to conduct a DNA test on his kid, only to discover that he is not the biological father.⁵

Trailing this sequence, not even a High Court judge was spared; not that his position mattered anyway. A publication by Premium Times confirms this story, revealing comments attributed to Delta State High Court judge, Hon. Justice Anthony Okorodas, who opined that, *'he is not the biological father of three children from his marriage with his former wife.'*⁶

It is worth subtly pointing out that the well these stories comes from, runs deeper than it seems. To add to this, Nigeria has been cited with one of the

⁴ Victor Ayeni, 'Heartbreaking Stories of Men Damaged by Paternity Fraud' *Punch Newspaper* (8 September 2024) <www.punchng.com/heartbreaking-stories-of-men-damaged-by-paternity-fraud/#google_vignette> [Accessed 5 January 2025].

⁵ F. Godson, 'The Rise Of Paternity Fraud In Nigeria, Why We Should Be Worried' *Global Report* (5 September 2021) <<https://www.globalreport.com.ng/2021/09/the-rise-of-paternity-fraud-in-nigeria.html>> [Accessed 10 January 2025].

⁶ Premium Times, 'DNA Confirms Three Children from my Ex-wife not mine - Judge' *Premium Times Nigeria* (2 February 2021) <<https://www.premiumtimesng.com/news/headlines/440030-dna-confirms-three-children-from-my-ex-wife-not-mine-judge.html?tztc=1>> [Accessed 12 January 2025].

highest rates of paternity disparity globally, with some sources claiming up to 30%, though these numbers are often contested due to lack of national surveys.⁷ At least, in Lagos, a report by Smart DNA (one of the leading DNA testing centres in Lagos) placed the rate at 27%. The report divulged that 27% of paternity tests conducted between 2022 and 2023 returned negative results, indicating that more than one in four men were not the biological fathers of the children they believed to be theirs.⁸

Deductively, if there is any sort of clarity amidst the above rates currently, it is angled at the debates of even having an established trend of crashing societal values. Though, I often question if ‘crashing’ is the right term. It is easy to find oneself wondering: has it always been like this? Were these paternity disparity rates simply concealed in the past due to limited technological advancement, or are societal values truly deteriorating? To use my term, crashing. Well, whatever the actual state of things may be, the appropriate stance remains that these Heart-breaking Stories must stop.

3.0 WHAT DOES THE LAW SAY?

Ironically, the law says nothing, at least when it comes to paternity fraud. Presumably, this silence creates a fertile ground for the sowing of paternity fraud, and it is also spurred my resolve to embark on this work. However, in spite of this, an evaluation of the current legal framework relating to paternity will be undertaken in order to capture any form of semblance to paternity fraud.

3.1. EVIDENCE (AMENDMENT) ACT, 2023

The Evidence (Amendment) Act⁹ comes first in this list. Section 165 of this statute is definitely one to take note of, as it makes provision for the presumption of legitimacy. To reproduce, it states as thus:

⁷ Allwell Okpi, ‘No data shows 30% of Nigerian men “not biological fathers of their children”’ Africa Check (29 November 2019) <<https://africacheck.org/fact-checks/reports/no-data-shows-30-nigerian-men-not-biological-fathers-their-children>> [Accessed 15 January 2025].

⁸ Health Digest Nigeria, ‘Paternity Fraud: 27% Of Nigerian Men Not Biological Fathers’ Health Digest Nigeria (2 September 2024) <<https://healthdigest.ng/paternity-fraud-nigerian/>> [Accessed 16 January 2025].

⁹ 2023 Cap. E14 LFN, 2004.

Without prejudice to sec. 84 of the Matrimonial Causes Act, where a person was born during the continuance of a valid marriage between his mother and any man, or within 280 days after dissolution of the marriage, the mother remaining unmarried, the court shall presume that the person in question is the legitimate child of that man.¹⁰

The import of the aforementioned provision serves as one of the methods by which paternity could also be proved or established in Nigeria. To emphasise, the Supreme court of Nigeria in *Idahosa v Idahosa*,¹¹ offers one of the most declarative judicial endorsements on this principle that has its paternity rooted in the provision of section 165 of the Evidence Act, by holding that the law is trite that any person born during the continuance of a valid marriage shall be presumed to be a child of the husband.

To capture the facts in this case, the Respondent, Christopher Idahosa, claimed to be the legitimate eldest son of the late Pa Egharevba Idahosa and consequently entitled to inherit his estate. The Appellant, Sgt. Stephen Idahosa, a member of the extended Eronmwon family (the family lineage from which Pa Egharevba Idahosa hailed), challenged this claim. He contended that Christopher was not the biological son of the deceased but was fathered by another man, Pa Osayande, during a period when Madam Onaiwu Idahosa, wife of Pa Egharevba Idahosa was temporarily separated from her husband and residing with her parents in Benin City due to illness.

During this separation, Madam Onaiwu allegedly cohabited with Pa Osayande and gave birth to Christopher and his sister. Upon her return to her matrimonial home in Lagos, she presented both children as those of her husband, Pa Egharevba Idahosa. After the death of Pa Idahosa, Christopher inherited as his eldest surviving son. Years later, following Madam Onaiwu's deathbed confession claiming that the children were fathered by Pa Osayande, Sgt. Stephen Idahosa sought to challenge the legitimacy of Christopher's paternity and inheritance rights.

¹⁰ Section 165 of the Evidence (Amendment) Act, 2023.

¹¹ (2020) LLJR-SC.

The trial court accepted Christopher's claim. However, the Court of Appeal reversed this decision, siding with the Appellant. Upon further appeal, the Supreme Court reinstated the finding in favour of Christopher, affirming that the presumption of legitimacy under section 165 of the Evidence Act stood firm. The apex court held that the uncorroborated dying declaration of Madam Onaiwu and hearsay statements from the extended family were insufficient to rebut the presumption.¹²

However, it is pertinent to state that, this method or rather presumption is not absolute. This presumption can be rebutted after a successful pleading of section 84 of the Matrimonial Causes Act which provides for an avenue where couples in matrimonial proceedings could tender 'evidence proving or tending to prove that the parties to the marriage did not have sexual relations with each other at any particular'. Another alternative for the rebuttal of this presumption hinges on the result of scientific tests, blood and Deoxyribonucleic acid (DNA) testing as provided under the Child Rights Act.¹³

So, unless there is that irrefutable evidence pointing to the contrary, the man to whom a woman is validly married or got divorced from and remaining unmarried for a period not longer than 280 days as at the birth of the child will always be the legitimate father of the child in question under the presumption of law.

In summary, the Evidence (Amendment) Act only established a black and white model as regards paternity-related issues where it literally just says (translating to Nigerian Pidgin):

*"If you dun marry and your wife born, na your pikin be that, if you con say no be your pikin, then prove am say you and your wife no knack. But one thing be say you no fit call your wife, make she prove say una no knack."*¹⁴

¹² Ibid.

¹³ 2003 Cap. C50 LFN, 2004; Section 63.

¹⁴ When a person becomes married, any child born within that marriage is legally presumed to be the offspring of the spouses, regardless of the biological truth. This presumption, as allowed by the Evidence Act, may be rebutted through a successful plea of non-access. However, compelling such evidence of non-access is not permitted.

Funny as it sounds, paternity-related issues involve a lot of complexities and the law ought to move away from a simplistic model in order to effectively tackle paternity fraud. Meanwhile, it is pertinent to state that nowhere in the Evidence Act was 'Paternity Fraud' mentioned.

3.2 MATRIMONIAL CAUSES ACT, 1970

The Matrimonial Causes Act (MCA) is a pivotal statute governing matrimonial proceedings in the country.¹⁵ Underscoring the function of the Matrimonial Causes Act to this discussion, section 84 is most essential to point out. It states:

Notwithstanding any rule of law in proceedings under this Act, either party to a marriage may give evidence proving or tending to prove that the parties to the marriage did not have sexual relations with each other at any particular time, but shall not be compellable to give such evidence if it would show or tend to show that a child born to the wife during this marriage was illegitimate.¹⁶

This provision directly intersects with the presumption of legitimacy under section 165 of the Evidence Act, which presumes a child born during a valid marriage (or within 280 days of its dissolution) to be the legitimate offspring of the husband unless rebutted.

Section 84 of the Matrimonial Causes Act provides a mechanism to challenge this presumption by permitting evidence of non-access, which could establish that the husband is not the biological father. However, this mechanism is not airtight as either of the parties cannot be compelled to provide such evidence if it will show that the child is illegitimate, thus, reinforcing the presumption of legitimacy. This non-compellability Clause could, in some ways, enable paternity fraud within the legal system as it creates significant difficulty in rebutting the presumption of legitimacy.

It should also be noted that, over time, there have been a stringent interpretation in the context of section 84 by the Nigerian courts. In *Oduche v. Oduche*¹⁷, Rhodes-Vivour, J.C.A held that:

¹⁵ 1970 Cap. M7 LFN, 2004.

¹⁶ Matrimonial Causes Act, 1970 Cap. M7 LFN, 2004.

¹⁷ [2006] 5 NWLR (Pt 972) 102.

[W]here the husband and wife have cohabited together and no impotency is proved to the satisfaction of the court, the child or children are conclusively presumed to be the legitimate even though the wife is shown to have been, at the same time guilty of infidelity, and even where the parents are living apart a very strong presumption of legitimacy still arises, and it can only be rebutted by irresistible proof of non-access to sex.

The emphasis on ‘irresistible proof of non-access’ seeks to underscore that the provision of section 84 of the MCA is not a free pass at rebutting the presumption of legitimacy or rather disproving paternity.

From this analysis, it appears that the seemingly simplistic model of the Evidence Act may not be so simplistic after all, as rebutting the presumption of legitimacy through the Matrimonial Causes Act often proves to be a complex challenge. Again, still no mention of ‘Paternity Fraud’.

3.3 CHILD’S RIGHTS ACT, 2003

The Child’s Rights Act¹⁸ establishes legal standards for children’s well-being, including their education, health, protection from abuse, and parental responsibilities. In underscoring this statute, the provisions of section 63, 64 and, 66 are most essential to this discussion, as the law seems to delve into the arena of using scientific tests, blood and DNA testing in paternity disputes.

Section 63(1)(a) generally empowers the court to direct the use of scientific tests, blood and DNA tests, to determine paternity or maternity in civil proceedings. The provision specifies that the court may issue such a direction ‘on an application by a party to the proceedings’. By authorising courts to order DNA testing, section 63(1) ensures that judicial decisions on paternity are grounded in scientifically accurate evidence. However, as always, every rule comes with an exception and as thus, this provision is subjected to some caveat as exemplified in section 64.

Section 64(1) establishes consent requirements for DNA testing by stating that, ‘scientific sample which is required to be taken from any person for the

¹⁸ 2003 Cap. C50 LFN, 2004.

purpose of giving effect to a direction under section 63 of this Act shall not be taken from that person except with his consent.’

The Act furthers this position by positing that, for a child aged 16 years or older, their consent is required. While, for a child under 16 years, the consent of the person with care and control (a parent or guardian) is necessary.

Furthermore, section 66 deals with the consequences when someone does not follow the court’s instructions regarding the taking of scientific tests (such as DNA tests) to determine a child’s paternity or maternity. In simple terms, it infers that, if the court orders a person to take a scientific test under section 63 and that person fails to do what is required, the court is allowed to draw negative conclusions from that failure.

In situations where a legal presumption exists that a person is the child’s parent (for example, when legitimacy is presumed), if the party who relies on that presumption does not take the steps ordered by the court to confirm it (by having the test done), then the court may postpone the hearing to give that party a chance to comply. However, if after the adjourned period the person still fails to comply without a reasonable excuse, the court may dismiss their claim for relief.

In essence, section 66 warns that not following the court’s directions on taking scientific tests can lead to adverse inferences against the non-compliant party, potentially resulting in the dismissal of their case or claim. This ensures that parties cooperate in providing the necessary evidence for the court to make an informed decision.

Honestly, the Child’s Rights Act is currently the only Nigerian statute that mentions the use of scientific methods in determining or disproving paternity. It is important to note that the provisions of the Child’s Rights Act are fundamentally grounded in the principle of the ‘best interests of the child’.¹⁹ Consequently, courts adopt a cautious and considerate approach when adjudicating matters under the Act. Therefore, where a person is a minor and

¹⁹ Section 1 of the Child’s Rights Act.

his paternity is in dispute, the court may order the conduct of a DNA test in the overall interest of the child, to ascertain where he belongs.²⁰

In light of this, the Nigerian Supreme Court noted in *Rabiu v. Amadu*,²¹ that “paternity is an inalienable right of the child as every child must have a father, and only one father,” hinting at a right to truth. This line of reasoning was also supported by the United Nations Convention on the Rights of the Child (CRC) which provides “... that a child has, as far as possible, the right to know and be cared for by his or her parents.”²² Thus, it is entirely valid to canvass the idea that a child’s right to identity aligns with their best interests. However, the decision ultimately rests with the court.

However, does this imply that the Nigerian legal system is sophisticated enough to address paternity fraud? I do not think so. Just like a disagreement between couples requires communication that addresses the issues. Paternity fraud, as a legal term, must be defined or recognised by statute for it to be effectively addressed.

3.4 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA

The 1999 Constitution²³ is usually referred to as the ‘fons et origo’ of the legal system where it serves as its foundation.²⁴ In regard to the current subject matter, the right to privacy under section 37 is relevant to this discussion pertaining particularly to the requirements of consent in taking of scientific samples. Some scholars of the legal jurisprudence are of the opinion that, this consent requirement is quite in line with the constitution and therefore, courts should do well to maintain the autonomy of one’s body.²⁵

However, in light of section 45(1)a of the same Constitution (which will be highlighted later), a counterargument could assert that the consent

²⁰ *Tony Anozia v Mrs Patricia Nnani* [2015] 8 NWLR (Pt 1461) 241.

²¹ [2012] LLJR-SC.

²² United Nations Convention on the Rights of the Child (1989) 1577 UNTS 3, Article 7.

²³ 1999 Cap. C23 LFN, 2004.

²⁴ *Dapianlong & Ors v Dariye & Anor* (2007) LPELR-8241 (CA) 62.

²⁵ Amusan ‘Tawfiq’ Lekan, ‘Proof of Paternity’ LawPavilion Blog (12 August 2022) <<https://lawpavilion-com.cdn.ampproject.org/v/s/lawpavilion.com/blog/proof-of-paternity-in-nigeria/amp/>> [Accessed 26 February 2025].

requirements may be waived in accordance with Constitutional provisions.²⁶ Thus, there is still a lot of scepticism surrounding the legal community as to the true position concerning the interpretation of the Constitution with the jurisprudence on paternity related issues. This work and the 1999 constitution will play a much essential role in exploring the remedies within the paternity fraud context.

3.5 EVIDENCE OF NON-ACCESS VS EVIDENCE OF SCIENTIFIC TESTING

While conducting research for this work, I came across a newspaper publication that presented an argument I found quite flawed. The relevant portion of the publication is:

One of the modern scientific means of determining the paternity of a child is the DNA test. Section 57 of the Child Right Law of Lagos State empowers the court to order the use of scientific tests including blood test and DNA where paternity is in dispute. However, consent of the parties concerned have not attained the age of sixteen, the consent of the person who has the care and control of the child is to be sought. Where the father or mother refuses to give the requisite consent, it will be presumed that the child is legitimate, in line with section 84 of the matrimonial causes act to the effect that parties to a marriage cannot be compelled to give evidence that will prove a child illegitimate.²⁷

Foremost, while I agree that consent is a strong requirement as regards the taking of scientific samples as conspicuously pointed out by the Child's Rights Act/Law, I see no interplay of this stance in view of section 84 of the Matrimonial Causes Act. It is pertinent to clarify that section 84 of the MCA relates specifically to the 'Evidence of Non-Access' and does not, in fact, make reference to consent or non-consent of taking scientific samples.

²⁶ "(1) Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society -
(a) In the interest of defence, public safety, public order, public morality or public health;" Section 45(1)(a) of the 1999 Constitution.

²⁷ Yejide Gbenga-Ogundare, 'Nigeria, India Walk Similar Path on Controversial Paternity Ruling' *Nigerian Tribune* (5 February 2025) <https://tribuneonline.ng.com/nigeria-india-walk-similar-path-on-controversial-paternity-ruling/#google_vignette> [Accessed 27 February 2025].

Although, some may argue that the evidence of scientific testing could dispute the paternity of a child, therefore, inferring that he/she is illegitimate, but that argument is an unfair stretch of section 84 of the MCA, considering that, at the time of enactment of the MCA, scientific methods for the determination of paternity were seemingly a myth. Thus, the justification of the refusal of consent in taking of scientific samples is not embedded in the non-compellability clause of evidence of non-access.

To conclusively capture the Nigerian legal framework relating to paternity, it is succinctly clear that, much more work is needed to tackle paternity fraud as the absence of the recognition of paternity fraud is truly damning.

4.0 PATERNITY FRAUD IN GLOBAL PERSPECTIVE

Tackling this analysis with the laws of the United States of America (USA), the Parentage Fraud Law of Tennessee seeks to be particularly striking. For context, Tennessee law addresses paternity fraud under the broader category of 'Parentage Fraud' which essentially contains the same elements. Reproducing some aspects of this law, the definition below was accorded to parentage fraud:

“(a) A person commits parentage fraud:

(1) Seeks to legally establish another individual as the biological parent of a child in the person’s custody with intent to deprive the individual of property or to prevent the child’s actual biological parent from exercising parental rights to the child and the person knows or reasonably should know that the individual is not the child’s biological parent; or

(2) Seeks to be legally established as a child’s parent based on the person’s status as a biological parent of the child and the person knows or reasonably should know that the person is not the child’s biological parent...”²⁸

The above law seemingly presents itself as a perfect prototype for addressing paternity fraud or more semantically appropriate, parentage fraud. It also

²⁸ Tennessee Code § 39-14-111 (2023) - Parentage fraud, available at: <https://law.justia.com/codes/tennessee/title-39/chapter-14/part-1/section-39-14-111/> [Accessed 23 March 2025].

classifies Parentage Fraud as a Class B Misdemeanour, punishable by up to six months in jail or a fine.

However, the question almost certainly becomes; What's the catch? Upon closer examination (not that close, really, it is quite obvious), the law contains exceptions embedded within the application of the above definition of parentage fraud. Reproducing the provision, it says:

“(c) Subsection (a) does not apply when:

(1) The child involved was conceived as a result of an act that would be aggravated rape... rape... rape of a child...especially aggravated rape... or especially aggravated rape of a child

(2) When the child involved has been, or is, in the process of being adopted: or

(3) When the victim of the offense was the defendant's spouse at the time of the offense.”²⁹

While several exceptions such as rape, lawful adoption are understandable, the final carve-out exempting any child ‘born of the defendant's spouse’ rests on an illogical premise, as it appears to undermine the entire purpose of a parentage fraud statute. In essence, it seems to reinforce paternity/parentage fraud within marital relationships, which has been the main subject of this discussion. The exception suggests a scenario akin to: *‘Thou shalt not deceive thy neighbour unless that neighbour is thy husband’*. If an act constitutes an offense when committed against anyone else, why should a spouse be treated as an exception, especially in a case as heart-wrenching as this?

By carving out a ‘spouse exception’, Tennessee effectively excludes the very scenario that most closely resembles Nigerian experience under section 84 of the Matrimonial Causes Act. In future references, the Nigerian legal system could be more encompassing by defining Paternity fraud to include any deliberate misrepresentation of genetic parentage within a marriage with the exception only being that such spouse, fully aware of the truth, has chosen to accept the child in which case it could still be subject to the legal process.

²⁹ Ibid.

Compared to the present Nigerian framework, at least Tennessee has a legal structure addressing paternity fraud, flawed as it may be, which shows some effort, despite its shortcomings.

Moving towards the United Kingdom, paternity fraud is not classified as a crime in England and Wales.³⁰ Paternity fraud in England & Wales claims usually appears as a civil wrong which comes under the tort of deceit.³¹ In consideration, the direction of this piece is structured towards advocating for the criminalisation of paternity fraud. Thus, a further analysis of the United Kingdom's framework would certainly not align well with this terrain.

In Asia and South America, although data are sparse, most countries lack specific frameworks targeting paternity fraud.

5.0 CHARTING THE WAY FORWARD

Identifying an issue is often easy, but navigating that issue in search of a solution frequently proves a major challenge. This difficulty likely stems from our innate resistance to change. Thus, it is no surprise that people often announce the severity of an event by asking the question 'What if the heavens fall?' But, what about it? My desired answer would be that, in such an event, we should consider ourselves fortunate enough to witness the sight of angels. For what it's worth, I am desperately in need of one, and perhaps we all are.

To this end, whatever contemptuous criticism or resistance the solution to paternity fraud incurs, the Nigerian society nevertheless needs it and should not be distracted by the accustomed fear tailored to novel solutions. These are my recommendations.

³⁰ Natalie Dunn, 'Is Paternity Fraud a Crime in the UK?' Moore Barlow lawyers (19 January 2024) <<https://www.moorebarlow.com/blog>> [Accessed 23 March 2025].

³¹ Ibid.

5.1 DRAFTING AND ENACTMENT OF A PATERNITY FRAUD PREVENTION BILL

A specific statute should be enacted to define and criminalise intentional paternity fraud, with penalties such as fines or imprisonment to deter deceit.³² Section 84 of the Matrimonial Causes Act should also be amended to allow compelled testimony in cases where non-access evidence could reveal fraud, prioritising truth over outdated notions of family harmony, while balancing this with procedural safeguards to prevent abuse.

Furthermore, subsidised mandatory DNA testing at birth or during marital disputes should be legislated among the provisions of this proposed Paternity Fraud Prevention Bill, supported by government funding to reduce costs, currently around N250,000³³ and ensure accessibility, with testing facilities expanded to rural areas through public-private partnerships.

A critical challenge in enacting these reforms is reconciling mandatory DNA testing with Section 37 of the 1999 Constitution, which guarantees the right to privacy, and Sections 63 and 64 of the Child's Rights Act, which require consent for scientific tests. To navigate this, the proposed Paternity Fraud Prevention Bill could establish a public interest exception with its basis in section 45(1) of the constitution, to consent requirements in cases of suspected fraud, arguing that the societal harm of undetected deception outweighs individual privacy in limited, court-supervised circumstances.

Courts could issue testing orders upon credible evidence such as affidavits of non-access or infidelity, with strict procedural oversight to prevent frivolous claims, thus aligning with constitutional protections while advancing justice. As noted by the court in *Oyewolo v Oyewolo*,³⁴ the Nigerian society is

³² In Tennessee (USA), parentage fraud is classified as a Class B Misdemeanor punishable by imprisonment up to 6 months or a fine. Nigerian legislators could adopt a similar approach by classifying paternity fraud as a misdemeanor (usually punishable with imprisonment ranging from six months to under three years or fine).

³³ Oluoma Vivian Aneke, 'How to do DNA Paternity test in Nigeria' Semic Health (12 January 2025) <<https://www.semichealth.com/public-health/how-to-do-dna-paternity-test-in-nigeria>> [Accessed 24 March 2025].

³⁴ [1987] 2 NWLR (Pt 56) 239.

patrilineal in nature, further emphasising the weight of issues bordering on paternity.

For children under 16, where parental consent is required under Section 64, the law could designate the state as a guardian ad litem in paternity fraud proceedings, empowering it to consent on the child's behalf when the mother's refusal obstructs truth. This is a more simplified position than the court overriding consent on the child's best interest. This approach mirrors exceptions in public health laws such as mandatory vaccinations and, balances privacy with the child's right to identity under the UN CRC, which Nigeria has ratified.

Also, if DNA testing reveals that the child is not the biological offspring of the man, the state must take proactive steps to address the child's identity, protect their rights, and ensure accountability, while avoiding undue disruption to existing family structures.

The proposed Paternity Fraud Prevention Bill should mandate that courts, upon confirming non-paternity, initiate a process to identify the biological father, guided by the child's best interests as enshrined in Section 1 of the Child's Rights Act and Article 3 of the UN Convention on the Rights of the Child. The State could require the mother to disclose the identity of potential biological fathers under oath, with penalties for non-compliance such as contempt of court or fines, leveraging the amended Section 84 of the Matrimonial Causes Act to compel testimony. If the mother refuses or claims ignorance, the state could employ investigative measures, such as cross-referencing birth records, witness statements, or additional DNA testing with male candidates identified through circumstantial evidence, funded by the subsidised testing framework.

Once the biological father is identified, the State should facilitate his legal recognition through a streamlined paternity establishment process, updating the child's birth certificate and notifying him of his rights and obligations

under Sections 13 and 14 of the Child's Rights Act (right to parental care and maintenance).³⁵

In cases where the biological father cannot be located or identified (common in transient or informal relationships), the state should establish a welfare fund, supported by public-private contributions, to provide interim maintenance for the child, preventing them from bearing the burden of parental deceit.

Courts should still retain discretion to maintain existing familial bonds if severing them harms the child such as if the deceived father has been the primary caregiver, allowing him to petition for legal guardianship despite non-biological status. By seeking out the biological father, the State upholds the child's right to identity and support, deters future fraud through accountability, and restores trust in familial relationships, aligning with the broader societal goals of the proposed legislation.

5.2 AWARENESS CAMPAIGN

Societal awareness campaigns should be launched via media and community platforms to destigmatise paternity testing and promote transparency, encouraging a cultural shift toward truth-based family values.

5.3 'HONEST HERITAGE' SCHOOL INITIATIVE

In a society where family trust forms the very foundation of our lives, the 'Honest Heritage' School Initiative will offer Nigerian students a clear path toward embracing honesty and openness at home. This four-week program will be woven seamlessly into the Senior Secondary 1 (SS1) Civic Education curriculum in schools across the Federation.

Students will explore the timeless values of trust and communication through interactive exercises that root these principles in their everyday experiences. As they grow more confident in discussing family dynamics, lessons will gently unfold the concepts of biological truth and personal identity using relatable

³⁵ 2003 Cap. C50 LFN, 2004.

metaphors such as family trees, to help each young person appreciate their unique place in their lineage.

In the final weeks, thoughtfully chosen stories and animations will illustrate the real-world impact of paternity deception, showing how choosing truth (even when difficult) can heal and strengthen families. To ensure every conversation is handled with care, a three-day training workshop led by the federal government and complemented by state governments, will equip teachers with culturally sensitive strategies for guiding discussions and supporting students from Nigeria's diverse communities.

By planting seeds of integrity early, the 'Honest Heritage' School Initiative aspires not only to educate but also to inspire a generation that values truth as deeply as tradition, forging stronger, more resilient families across the nation.

5.4 GROUP THERAPY AND SUPPORT GROUPS

Group therapy and support groups are also highly actionable solutions for victims of paternity fraud in Nigeria, particularly given the cultural and economic barriers to accessing paid individual therapy. These formats provide a supportive environment where individuals can share experiences, process emotions, and learn coping strategies without the financial burden of private sessions.

Group therapy, facilitated by a trained mental health professional, involves a small group (typically six to twelve people) meeting regularly to discuss shared challenges under guided therapeutic techniques. For paternity fraud victims, group therapy can address trauma, betrayal, and identity issues through structured activities like cognitive-behavioral therapy (CBT). Sessions are often themed around emotional regulation. Funding for these groups can be provided by non-governmental organisations.

For Support Groups, these are less formal, often peer-led gatherings where individuals with similar experiences share stories and offer mutual support. They may not involve a licensed therapist but can be facilitated by trained

volunteers or community leaders. Support groups for paternity fraud could focus on emotional validation, sharing coping strategies, or discussing legal and social challenges.

Thus, both formats are effective for reducing the isolation and shame often experienced by victims of paternity fraud. They foster a sense of community, normalize emotional struggles, and provide practical tools for healing, which is critical in Nigeria's collectivist culture where family and community ties are central.

6.0 CONCLUSION

It will honestly be interesting to see the reaction of the courts to the above proposed statute. Currently, in *Tony Anozia v Mrs Patricia Nnani*,³⁶ the Appeal Court through Mbaba, JCA had this to say:

[I]t is unimaginable for a court to order two unwilling adults or senior citizens to submit to DNA test, in defiance of their fundamental rights to privacy for the purpose of extracting scientific evidence to assist.

The above statement shows the court reiterating section 37 of the 1999 Constitution over the attempt of taking of scientific samples without consent. But then, the decision of the court of appeal in a later case of *Peace Izontimi v Steven Izontimi*,³⁷ produced a different view where the court affirmed an order of the High Court compelling a mother to submit to DNA test. Again, as earlier noted, it will be curiously arousing to witness the interplay of these decisions as regards the proposed Paternity fraud Prevention statute.

Lastly, Paternity fraud in Nigeria transcends individual betrayal, emerging as a societal wound that demands urgent legislative and cultural healing. This study has illuminated its corrosive effects such as shattering trust, and eroding the family unit, a bedrock of Nigerian life. The absence of targeted laws has allowed this crisis to fester, threatening the nation's moral fabric amid broader challenges. Therefore, this research sounds a clarion call: act

³⁶ [2015] 8 NWLR (Pt 1461) 241.

³⁷ (2017) LPELR-45004 (CA).

now, or risk bequeathing a legacy of deception to future generations. Truth must prevail, for without it, no family or nation can endure. Once again, *Éràrà, Nàìgbìà!*³⁸

³⁸ “Good morning, father!”. This language is indigenous to the Etsako People of Edo North, Nigeria.

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