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## THE NEED FOR REFORMS ASSOCIATED WITH PROBLEMS IN DISSOLUTION OF MARRIAGE UNDER THE NIGERIAN MARRIAGE ACT

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### Abstract

Before 1970, the Nigerian divorce legislation followed the matrimonial offence theory, which was influenced by English Matrimonial Cause Laws. With respect to this theory, a marriage could only be terminated if a spouse-party committed a matrimonial offence such as adultery, cruelty, or desertion. This concept however faced consistent criticism from scholars and jurists who argued that the theory emphasized assignment of blame rather than addressing the underlying causes of marital breakdown. Critics undeniably considered matrimonial offences as indications rather than the actual reasons for marital problems. Nevertheless, a significant shift occurred with the enactment of the Act, introducing the breakdown principle, which permits either party to seek divorce based on the irretrievable breakdown of the marriage. This paradigmatic shift streamlined the divorce procedure, removing the necessity to prove specific matrimonial offences for obtaining a divorce. Flowing from the above, the paper argued the need to appreciate the inherent problems associated with the process of obtaining a divorce under the Nigerian Marriage Act as well as the aftermath effects. The author maintained that there is a structured procedure for the dissolution of marriages, with inherent notable complexities and gaps that negatively or positively impact implementation, thereof.

**Keywords:** Dissolution of marriage, matrimonial cause, divorce, petitions, irretrievable breakdown.

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# 1. Introduction

The institution of marriage is vital for the foundation of any society, as it establishes the family unit. Marriage is universally recognized and respected, representing the voluntary lifelong union between one man and one woman, excluding all others. It operates both as a social and legal institution, guided by societal norms, religious beliefs, and legal provisions.

In Nigeria, statutory marriages, including their formation and dissolution are governed by the Marriage Act 2004 and the Matrimonial Causes Act of 2004. The Matrimonial Causes Act sets certain requirements for divorce proceedings, stipulating that, except for cases involving wilful and persistent refusal to consummate the marriage, adultery, or the commission of rape, sodomy, or bestiality, divorce proceedings cannot be initiated within two years of marriage without permission from the court.

As a result, Nigerian courts generally hesitate to dissolve marriages unless one of the aforementioned grounds has been proven. This cautious approach underscores the importance placed on upholding the sanctity of marriage within the legal system. By exploring the laws and regulations surrounding the dissolution of marriage in Nigeria, this paper aims to shed light on the challenges and prospects inherent in the process. It will delve into the complexities faced by individuals seeking divorce and examine the potential outcomes and implications of divorce within the Nigerian context.

The paper therefore strives to explore the nature and scope of some provisions, extending to some complex divorce proceedings as well as associated challenges.

# 2. Nature and scope of complex provisions

The complexities surrounding the dissolution of marriages under the Nigerian Marriage Act stem from the Act's provisions. These complexities include issues related to the interpretation of vague terms like cruelty or desertion and the potential clash between traditional customs and modern legal standards. As the landscape and societal norms continue to evolve, examining these intricate provisions become crucial to identifying areas for improvement and ensuring the Act remains relevant and just in contemporary Nigeria.

One of the main problems in dissolving a marriage under the Nigerian Marriage Act is the lengthy and costly process. The Act requires parties seeking a divorce to prove that their marriage has irretrievably broken down. This can be done by demonstrating adultery, cruelty, desertion, or other

grounds for divorce. Proving these grounds however can be a challenging task that often requires the involvement of legal professionals and lengthy proceedings in the court.

One of the significant issues within dissolving marriages under the Nigerian Marriage Act is the arduous and expensive nature of the process. The Act mandate individuals seeking divorce to establish the irreparable breakdown of their marriage, necessitating evidence on grounds such as adultery, cruelty, desertion or failure to consummate the marriage.<sup>1</sup> Substantiating these grounds is however, frequently intricate, demanding legal expertise and protracted courtroom procedures. Consequently, this approach not only places financial strain on the parties but also contributes to delays and heightened emotional distress throughout the divorce proceedings.

In addition, the Act does not provide a clear and straightforward process for the division of matrimonial property upon divorce. Property acquired during the marriage is generally considered joint property, but there are no clear guidelines on how it should be divided between the parties. This lack of clarity often leads to disputes and legal battles, prolonging the divorce process further. Furthermore, the Act does not provide for the recognition of foreign divorces. This means that if a couple married under the Nigerian Marriage Act seeks a divorce in a foreign jurisdiction, the divorce may not be recognized in Nigeria. This can create a legal limbo for parties who have obtained a divorce abroad and wish to remarry or resolve other legal issues in Nigeria. Moreover, the Act does not adequately address the issue of child custody and support upon divorce. While the Act gives the court the power to make custody and maintenance orders, it does not provide guidelines or principles to be followed in making these decisions. This lack of guidance can lead to inconsistent and unfair outcomes, with the best interests of the child not being adequately prioritized.

The provisions of the Nigerian Marriage Act pertaining to the dissolution of marriage are undoubtedly complex and in need for reform. One way to address these complexities is to introduce a no-fault divorce system, similar to what exists in many other jurisdictions. A no-fault divorce system would allow couples to dissolve their marriage without having to prove fault or wrongdoing on the part of either party. This would streamline the divorce process and reduce the emotional and financial burden on the parties involved.

Another necessary reform is the introduction of clear guidelines for the division of matrimonial property. The Act should provide a framework for determining how property acquired during the marriage should be divided between the parties. This would not only provide clarity for divorcing

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<sup>1</sup> See sections 15 and 16 of the Matrimonial Causes Act, Cap. 7, Laws of the Federation of Nigeria, 2004

couples but also help reduce disputes and legal battles over property division. Furthermore, the Act should be amended to recognize foreign divorces. Recognizing foreign divorces would bring Nigeria in line with international norms and help avoid legal complications for parties who have obtained a divorce abroad and wish to remarry or resolve other legal issues in Nigeria. Rules could be put in place to ensure that the foreign divorce is valid and meets certain criteria before it is recognized in Nigeria.

Additionally, the Act should provide clear guidelines on child custody and support upon divorce. These guidelines should prioritize the best interests of the child and provide a framework for making custody and maintenance decisions. The Act should also encourage alternative dispute resolution mechanisms, such as mediation, to help parties reach amicable and child-centred agreements.

### **3. Ambiguous Provisions and Challenges in the Nigerian Marriage Act**

The Nigerian Marriage Act 2004<sup>2</sup> and Matrimonial Causes Act 2004<sup>3</sup> Cap M7 serves as the legal frameworks for solemnizing and dissolving marriages in Nigeria.<sup>4</sup> Over the years, however, certain provisions within the Act have become ambiguous, leading to difficulties in the dissolution process. One of the most ambiguous provisions is section 15 (2), which states that "a petition for divorce may be presented to the Court by either party to a marriage." This phrasing raises questions about the rights and responsibilities of each party involved, leading to conflicting interpretations and outcomes.<sup>5</sup>

#### **A. Impact on Dissolution of Marriage**

The ambiguous provisions in the Nigerian Marriage Act have several negative impacts on the dissolution of marriage. Firstly, they result in confusion and uncertainty amongst couples seeking divorce.<sup>6</sup> The lack of clarity regarding the rights and obligations of each party often leads to prolonged legal battles and increased emotional stress. This can further discourage individuals from pursuing legal divorce proceedings, causing them to remain trapped in unhappy and dysfunctional marriages.

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<sup>2</sup> Cap M6, Laws of the Federation of Nigeria

<sup>3</sup> Cap M7, Laws of the Federation of Nigeria

<sup>4</sup> J. Williams, "Divorce Laws in Nigeria: A Critical Appraisal of the Nigerian Marriage Act". Law & Society Review, (2019), 567-589.

<sup>5</sup> K. Oyewale, "Ambiguities and Inadequacies in Nigeria's Family Law: Implications for Marriage, Divorce, and Female Inheritance Rights". Journal of African Law, (2017), 254-278.

<sup>6</sup> *ibid*

Secondly, the ambiguous provisions in the Act hinder the ability of courts to effectively adjudicate divorce cases. Judges are often left to rely on their own discretion and interpretation of the law when deciding on critical issues such as the division of assets, custody of children, and spousal support. For avoidance of doubt section 70 (1) of the Matrimonial Cause Act provides as follows:

Subject to this section, the Court may, in proceedings with respect to the maintenance of a party to a marriage, or of children of the marriage, other than proceedings for an order for maintenance pending the disposal of proceedings, make such order as it thinks proper, having regard to the means, earning capacity and conduct of the parties to the marriage and all other relevant circumstances.<sup>7</sup>

This subjectivity creates inconsistencies in judgments and paves the way for potential biases, and undermining the fair resolution of divorce cases.<sup>8</sup>

## **4. Problems associated with divorce proceedings**

The problems faced by individuals seeking divorce under the Nigerian Marriage Act are numerous and can be attributed to the ambiguous provisions in the Act. One of the main problems is the difficulty in proving grounds for divorce.<sup>9</sup> Section 16 (1) of the Matrimonial Causes Act lists the grounds for divorce, which include adultery, cruelty, desertion, and incurable insanity. These grounds however are often difficult to establish, requiring sufficient evidence to convince the court. The lack of clear guidelines and precedents on what constitutes these grounds further complicates the divorce process.<sup>10</sup> Additionally, section 16(2) of the Act requires couples to demonstrate that they have lived apart for a minimum of two years before they can file for divorce. This provision creates a significant burden for individuals who wish to dissolve their marriage promptly, as they must first satisfy the lengthy separation requirement. Moreover, the Act does not provide clarity on what constitutes living apart, leading to various interpretations amongst judges and further delaying the dissolution process.<sup>11</sup>

<sup>7</sup> Also see section 70 (2) – (4) of the Matrimonial Cause Act 2004

<sup>8</sup> K. Oyewale, *supra*.

<sup>9</sup> M. Onyenemelu, “The Dissolution of Marriage under the Nigerian Marriage Act: Challenges and Prospects” *Nigerian Journal of Family Law*, (2016), No.12, Vol.1, 97.

<sup>10</sup> *Ibid*

<sup>11</sup> B. N Ikejiaku, “Problems Militating Against Effective Implementation of the Provisions of the Matrimonial Causes Act In Nigeria”. *CBN Journal of Applied Statistics and Econometrics*, ( 2018) No.1, Vol. 1, 30-48.

### A. Delays in the Dissolution of Marriage

One of the major problems in the dissolution of marriage under the Nigerian Marriage Act is the issue of delays. The process of dissolving a marriage can be time-consuming and frustrating for individuals who are eager to move on with their lives<sup>12</sup>. The delays are caused by several factors such as court congestion, bureaucratic procedures, and the lack of adequate resources.

Court congestion is a significant contributing factor to delays in the dissolution process. Nigerian courts are often overwhelmed with a backlog of cases, including matrimonial cases.<sup>13</sup> The limited number of judges and resources allocated to handle these cases means that the process is slower than desired. This delay can lead to emotional distress and increased costs for those involved. Bureaucratic procedures within the system also contribute to delays in the dissolution of marriage.<sup>14</sup> The Nigerian Marriage Act require couples seeking dissolution to follow a specific set of procedures, including filing a petition, providing evidence of the irretrievable breakdown of the marriage, and attending court hearings. These procedures, while necessary, can take a considerable amount of time to complete. For example, the requirement to provide evidence of the breakdown of the marriage can involve gathering documents and testimonies, which can be a lengthy process.<sup>15</sup> Furthermore, the lack of adequate resources such as trained personnel, judicial officers, and court facilities aggravates the delays in the dissolution process. The Nigerian judiciary is understaffed, and the existing personnel often face heavy workloads. This lack of resources slows down the process as cases cannot be handled efficiently, leading to extended waiting periods for couples seeking dissolution. The lack of trained personnel was a significant factor contributing to delays in the dissolution process.

### B. Impact of delays and backlogs

The delays and backlogs in the dissolution process under the Nigerian Marriage Act have severe consequences for individuals involved. The prolonged process can lead to increased emotional distress, financial strain, and negative societal effects.

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<sup>12</sup> U Osarumwense, "Delays in the Adjudication of Divorce Cases in Nigerian Courts", *Global Journal of Human-Social Science Research*, (2018), No. 18, Vol.5, 11-18.

<sup>13</sup> H. A Odumosu and T Olutunde, "Delays and Backlog in the Administration of Justice in Nigeria: An Assessment of the Lagos State High Court", *IOSR Journal of Humanities and Social Science*, (2016) No.21, Vol. 6, 01-09.

<sup>14</sup> U Osarumwense, *supra*

<sup>15</sup> H. A Odumosu and T Olutunde, *supra*

Firstly, the delays can exacerbate the emotional distress experienced by couples seeking dissolution<sup>16</sup>. Divorce is often a difficult and emotionally challenging process. The uncertainty and extended waiting periods only add to the emotional burden. The longer the process takes, the more individuals are subjected to on-going emotional strain, affecting their mental and physical well-being.

Secondly, the financial strain on individuals involved can be significant. The lengthy dissolution process often leads to higher legal fees, as court appearances and the need for legal representation extend over a more extended period. This financial strain can be particularly burdensome for those with limited financial resources, leading to further stress and hardship<sup>17</sup>. Moreover, the delays and backlogs in the dissolution process have negative societal effects. Individuals involved in the dissolution process may be unable to move on with their lives and form new relationships due to the uncertainty and unresolved legal obligations. This can have a ripple effect on families, children, and the wider community. The delays in the dissolution process contribute to the rise in the number of cohabiting couples as individuals seek alternative options due to the slow and cumbersome legal process.

## **5. Challenges in Handling Divorce Cases in Nigeria**

### **A. Limited Judicial Infrastructure**

The Nigeria judicial system faces challenges of insufficient resources, inadequate staffing, and out-dated technology, leading to a backlog of cases and significant delays in divorce proceedings. With a growing number of divorce cases, the system struggles to manage the work load efficiency, resulting in prolonged legal battles, emotional distress and financial strain on parties involved. The lack of modern infrastructure inhibits the timely administration of justice, eroding public trust in the legal process. Nigeria's judiciary is burdened with a backlog of cases, including divorce cases. Insufficient courtrooms, understaffed judiciary, and inadequate support staff hamper the timely resolution of divorce cases. This backlog increases the already significant emotional and financial strain on couples seeking divorce, prolonging their suffering and delaying the process of moving forward.

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<sup>16</sup> U Osarumwense, *supra*, at p. 20

<sup>17</sup> *ibid*, at p. 24



### B. Lack of Specialized Family Law Courts

The absence of specialized family law courts in Nigeria makes it difficult to handle divorce cases effectively. This can lead to misinterpretation of nuanced legal issues, inefficient handling of cases and inconsistent decisions. Divorce cases are often mixed with other unrelated matters, leading to delays and inefficient management of these sensitive cases. Establishing dedicated family law courts with judges experienced in family law matters would ensure that divorce cases receive the attention and expertise they warrant, thereby expediting the proceedings.

### C. Social Stigma and Cultural Expectations

Divorce is often stigmatized in Nigerian society due to cultural biases and expectations. Individuals contemplating divorce may face judgment, social isolation, and rejection from their communities, further deterring them from seeking legal remedies.<sup>18</sup> The reluctance to divorce resulting from societal pressure can lead to individuals enduring abusive or unhappy marriages, negatively impacting mental and physical well-being. There is a need to challenge and change societal attitudes towards divorce, promoting acceptance, and understanding while fostering a supportive environment for those seeking dissolution of marriage.

### D. Cultural Expeditions and Norms

Many marriages in Nigeria involve cultural and religious rituals that may not align with legal requirements, leading to confusion and disputes over validity. Individuals seeking divorce must navigate the delicate balance between adhering to customary practices and fulfilling legal obligations<sup>19</sup>. This cultural complexity can extend divorce proceedings and necessitate clearer guidelines to reconcile legal and cultural aspects.

## 6. Challenges on involved parties

### A. Emotional Challenges

One of the primary impacts of the dissolution of marriage on the involved parties is the emotional toll it takes on both the spouses and their children. Divorce often leads to emotional distress for individuals involved, particularly in relation to feelings of anger, sadness, and guilt. This emotional

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<sup>18</sup> L. Lingers, "Delays in Court Proceedings: A Perspective on Divorce Petitions", *International Journal of Multidisciplinary Research and Development*, (2017) No. 4, Vol.10, 102-105.

<sup>19</sup> Ibid



turmoil can negatively impact the mental well-being of spouses and children. Children, especially, may experience long-lasting psychological effects such as anxiety, depression, or behavioural problems as a result of their parents' divorce<sup>20</sup>. Additionally, the dissolution of marriage can lead to heightened stress levels for individuals involved. The process often involves numerous legal procedures, financial disputes, and child custody battles, causing significant strain on all parties. It is crucial therefore for individuals going through dissolution to have access to emotional support systems, such as counselling services and support groups, which can assist in effectively coping with these emotional challenges.<sup>21</sup>

### B. Social Challenges

The dissolution of marriage also has significant social implications for the involved parties. Society tends to view divorce unfavourably, often leaving divorced individuals stigmatized and socially marginalized. Individuals who have experienced a divorce in Nigeria may encounter judgment, societal isolation, and a reduced support network. This social ostracism can negatively impact one's self-esteem and overall well-being, particularly when attempting to rebuild a life post-divorce<sup>22</sup>. In particular, women often face disproportionate challenges in Nigerian society. They may encounter limited employment opportunities due to societal biases and traditional gender roles, leading to financial dependence and insecurity. Additionally, women can experience increased vulnerability to domestic violence after dissolution, as they may lack the necessary support systems to protect themselves and their children. Legal protections and social reinforcement are essential for ensuring that divorced individuals, especially women, are not further marginalized and are able to rebuild their lives with dignity and autonomy<sup>23</sup>.

### C. Economic Challenges

The dissolution of marriage frequently has profound economic consequences for parties involved. The process often involves division and allocation of assets, spousal support considerations, and child maintenance obligations. Divorce, particularly for women in Nigeria, often results in decreased

<sup>20</sup> T. Fagbemi and G. Ayelola and S.C Lawal, "Emotional Manifestations Amory Spouses Undergoing Divorce in Nigeria," *Journal of Divorce and Remarriage* (2019),702.

<sup>21</sup> Ibid

<sup>22</sup> G. I. Akenzua., "Perceived Social Impact, Ego Negligence and Cop Mechanism as Factors Effecting Women Adjustments after Divorce in Nigeria" ,*Journal of International Women Studies* (2018), No. 19, Vol. 3, 37-54

<sup>23</sup> Ibid

economic stability and an increased risk of poverty.<sup>24</sup> Economic disparities may arise due to a loss of income on the part of the dependent spouse or lack of sufficient child support, rendering them financially vulnerable. In some divorce cases, the Act requires one spouse to provide financial support to the other spouse either permanently or temporarily.<sup>25</sup> This support, commonly known as alimony or maintenance, aims to ensure the financial well-being of the less financially privileged spouse, particularly if they have been economically dependent during the marriage.

Moreover, the division of assets can have long-term financial implications for both parties. Assets, such as properties, investments, and pensions, are often divided between the former spouses, which can result in a decrease in the overall wealth of both parties. This financial strain affects the well-being and standard of living of the involved parties, particularly children. Consequently, legal measures need to be in place to ensure fair and equitable division of assets and secure the financial stability of both parties and any dependent children<sup>26</sup>. Divorce cases often involve financial considerations such as property division, alimony, and child support or custody of the child. The lack of clear guidelines and standardized procedures can lead to prolonged disputes, driving up legal costs for parties involved. Additionally, economic dependency on one spouse can discourage individuals from pursuing divorce, perpetuating situations of unhappiness and inequality.<sup>27</sup> Section 71 (1) of the Matrimonial Causes Act provides that:

In proceedings with respect to the custody, guardianship, welfare, advancement or education of children of a marriage the court shall regard the interests of those children as the paramount consideration, and subject there to, the court make such order in respect to those matters as it thinks proper.

Thus, in *Nzelu v Nzelu*,<sup>28</sup> the court made it clear that the principle guiding the award of custody under the Marriage Act is paramount consideration of the welfare of the child or children of the family in the surrounding circumstances of the case. The court further declared that the guideline is not a punishment for the guilty party or a reward for good conduct. In deciding custody cases, the court take into consideration the age, sex, personal preferences of the child, the arrangement made by either party to the marriage for the upbringing and education of the children, the children's social

<sup>24</sup> A. C Bayeh, M. A Taiwo and S. M Rosul, "Implications of Divorce on Women Socio- Economic Status in Nigeria: Evidence from Yobe State," *Journal of Partnership Studies*, (2019), No. 6, Vol.1, 44-56

<sup>25</sup> Section 70 of the Matrimonial Causes Act

<sup>26</sup> Ibid

<sup>27</sup> Ibid

<sup>28</sup> (1997) 3 NWLR 472; *Akinbuwa v Akinbuwa* (1998) 7 N.W.LR 661

background, the need to keep them together, the moral welfare of the children, and the financial position of the parties.

## **7. Socio-cultural factors influencing divorce stigma**

Under the Nigerian Marriage Act, divorce is recognized as a legal means of terminating a marriage. According to section 15 of the Matrimonial Cause Act 2004, a marriage can be dissolved on the grounds of adultery, cruelty, desertion, and incurable venereal disease. To obtain a divorce, one party must present evidence to the court that substantiates one of these grounds for dissolution. Once the evidence is presented and the court is convinced of the validity of the grounds, the marriage is dissolved, and both parties are free to remarry.

Despite the legal framework for divorce provided by the Nigerian Marriage Act, divorce remains stigmatized in Nigerian society. This stigma stems from social and cultural factors that shape the perceptions and attitudes towards divorce. One of the key factors is the influence of religion in Nigerian society.<sup>29</sup> The vast majority of Nigerians practice Christianity or Islam, both of which discourage divorce. These religions often view marriage as a sacred bond that should not be broken, and divorce is seen as a violation of this sacred covenant. As a result, individuals who choose to divorce may face ostracism from their religious communities and may be seen as morally deviant.

Another social factor that influences the stigma of divorce in Nigeria is the importance placed on family and social cohesion. The Nigerian society places a strong emphasis on the family unit as the fundamental building block of society. Divorce is seen as a disruption to this unit and is often viewed as a failure to fulfil the duties and responsibilities of marriage. Divorced individuals may be perceived as having caused harm to the family structure, and their actions might be seen as selfish and individualistic. Moreover, divorce can have wide-ranging consequences on extended family networks, leading to tensions and fractures within the larger kinship system. Thus, societal pressure to maintain family unity serves to stigmatize divorce and discourage individuals from seeking dissolution of their marriages.

Cultural norms and traditions also contribute to the stigma surrounding divorce in Nigeria. Traditional practices and customs often prioritize the continuity of bloodlines and ancestral lineage. Divorce is seen as a disruption to the continuity of these lineages and is therefore considered culturally unacceptable. Furthermore, divorce can bring significant financial implications, particularly for women, who may lose access to marital property and financial support. The fear of

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<sup>29</sup> Ibid

economic instability and social exclusion can deter individuals from pursuing divorce, as they may prioritize financial security and social acceptance over personal happiness. Societal attitudes towards divorce in Nigeria have gradually evolved over time, as the legal framework provides individuals with the freedom to dissolve their marriages. Globalization, women's empowerment, and the increasing prevalence of divorce have all contributed to a changing perspective on marital dissolution. Understanding the reasons for divorce and its impact on individuals and the community is crucial for developing empathy and support networks for those going through the process. Ultimately, a more compassionate and understanding society should strive to reduce the stigma associated with divorce, providing necessary support and resources for individuals seeking to rebuild their lives.

## **8. Socio-cultural aspects of divorce in Nigeria**

Divorced individuals faced significant social ostracism and were subjected to judgment and criticism. Over the past few decades however societal attitudes towards divorce have gradually shifted. One factor contributing to this change is the impact of globalization. As Nigeria becomes increasingly connected to the global community, cultural norms and values are being influenced by external factors. The Westernization of Nigerian society has introduced new perspectives and influences on personal relationships, including marriage and divorce. The growing acceptance of divorce in Western countries has indirectly influenced the evolution of societal attitudes within Nigeria.

Another factor contributing to changing attitudes towards divorce is the recognition of individual rights and the empowerment of women in modern Nigerian society. In the past, women often felt trapped in toxic or abusive marriages due to societal expectations and economic dependence on their husbands. However, as women gain more educational and professional opportunities, they are becoming more aware of their rights and are less willing to endure unhappy marriages. This shift has prompted society to recognize the importance of personal happiness and the freedom to exit an unhealthy marriage.

Furthermore, the increase in divorce rates itself plays a significant role in shaping societal attitudes. As more divorces occur, they become normalized within society, gradually reducing the stigma associated with marital dissolution. Friends, family members, and acquaintances that have gone through the divorce process often provide comfort, support, and personal testimonies that contribute to changing societal attitudes towards divorce.

## 9. Reasons for Divorce in Nigeria

Various factors contribute to the dissolution of marriages in Nigeria. These factors range from marital infidelity, domestic violence, financial disagreements, cultural clashes, and incompatible personality traits.

Infidelity, in particular, is often cited as a primary reason for divorce, as it is perceived as a betrayal of trust and a breach of marital commitment. It is essential however to remember that each divorce case is unique, and there may be multiple reasons why a marriage breaks down.

### A. Cultural Norms and their effects

Marriage in Nigeria is heavily influenced by cultural norms, which prioritize family unity and stability. As a result, divorce is generally regarded as a failure and is often stigmatized within Nigerian society. According to cultural norms, marriage is seen as a lifelong commitment, and divorce is considered a last resort. This mind-set contributes to low divorce rates in Nigeria, as individuals are often deterred from seeking dissolution of their marriage due to societal pressures and judgment.<sup>30</sup> Cultural beliefs, such as the importance of family cohesion, significantly influenced the decision-making process in divorce cases.<sup>31</sup> Consequently, couples might opt to stay in unhealthy and toxic marriages rather than face the consequences of divorce, such as social isolation and familial disapproval. This highlights the profound impact of cultural norms on divorce rates in Nigerian society. Traditional values may foster an expectation of enduring marital challenges, contributing to lower divorce rates. Conversely, the impact of modern influences and changing gender roles can result in higher divorce rates as societal perceptions evolve.

### B. Stigma Associated with Divorce

One of the key effects of cultural norms on divorce in Nigeria is the pervasive stigma surrounding divorcees. In Nigerian culture, divorce is often considered a disgrace and reflects negatively on the individual's character and reputation. Divorced individuals may face social exclusion, discrimination, and judgment from their communities. This stigmatization can exacerbate the emotional and psychological well-being of divorcees, making it difficult for them to move forward and rebuild their lives.<sup>32</sup> Divorcees were often labelled as "marriage failures" and were subjected to derogatory comments and ostracisation. Cultural norms emphasizing the sanctity of marriage often lead to societal judgment and the ostracisation of individuals who choose to divorce. This stigma not

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<sup>30</sup> C. O Orji, "Stigmatization and Discrimination of Divorced Women in Nigeria," American International Journal of Contemporary Research,(2016), No. 6, Vol.4, 89-101.

<sup>31</sup> K. A Adegoke and J. O Adebayo, "Comparative Analysis of the Dissolution of Marriage Under Islamic law and the Nigerian Matrimonial Causes Act, 2004, Journal of Law and Conflict Resolutions, (2014) No. 6, Vol. 4, 58-67

<sup>32</sup> C. O Orji, (n-26)

only affects the emotional well-being of those seeking divorce but also discourage many from pursuing it, potentially trapping them in unhappy marriages.<sup>33</sup>

## **10. Challenges faced by divorced individuals**

The influence of cultural norms on divorce extends beyond the social realm to legal and economic challenges faced by divorcees. Nigerian cultural norms tend to favour the preservation of the family unit, prioritizing the well-being of children and the stability of the marriage. As a result, the legal system often places restrictions on the grounds for divorce, making it more challenging for individuals to obtain dissolution of their marriage.<sup>34</sup>

Furthermore, divorced individuals may face economic difficulties due to cultural norms that assign financial responsibilities to the husband. In many cases, women who initiate divorce may face economic insecurity as they lose financial support from their husbands and may struggle to find employment, particularly in traditional communities with limited job opportunities. Divorced individuals encounter a range of challenges, including financial instability arising from asset division, potential custody battles, and the struggles to reintegrate into communities, where cultural norms may marginalize them.<sup>35</sup> These challenges can result in heightened stress levels, mental health issues, and a lack of robust social support systems, thereby perpetuating the cycle of divorce-related difficulties. Beyond the above, there are other factors.

### **A. Psychological Stress and Mental Health**

Divorce is a highly emotional and stressful experience that affects the emotional wellbeing of both parties involved. The dissolution of a marriage can lead to increased anxiety, depression, and feelings of loss. The emotional toll it takes on the couple can disrupt their ability to function at optimal levels, affecting their personal and professional lives. The emotional implications of divorce can be long-lasting, requiring significant emotional support and adjustments to cope with the aftermath. The emotional toll of dissolving marriages under the Nigerian marriage act is profound. The process often brings about psychological stress, anxiety and depression as parties navigate legal proceedings, asset division and adjustments to new life circumstances. The uncertainty of the future, coupled with the emotional trauma of separation, can lead to deteriorating mental health for both spouses

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<sup>33</sup> Ibid

<sup>34</sup> K. A Adegoke and J. O Adebayo, (n- 27)

<sup>35</sup> C. O Orji, (n-26)

### **B. Impact on Parent-Child Relationship**

When children are involved in the divorce process, their emotional wellbeing becomes a crucial consideration. The emotional implications of divorce can affect the parent-child relationship, potentially leading to estrangement, deterioration of trust, and behavioral changes in children. The stress and conflict associated with the parental divorce can impact a child's emotional stability, academic performance, and overall development. The dissolution of marriage affects not only the spouses but also their children. Parent-children relationships can be strained as children grapple with the new dynamics and potential changes in custody arrangements. Emotional distress, confusion, and feelings of abandonment may arise, impacting children's emotional well-being and long-term development.

### **C. Social Stigma and Isolation**

Divorce carries a considerable social stigma in many Nigerian communities, often leading to isolation and judgment for the parties involved. The emotional implications extend beyond the couple themselves, affecting their relationships with friends, relatives, and society at large. The negative perceptions associated with divorce may lead to feelings of shame, embarrassment, and loss of support systems, exacerbating the emotional strain experienced by both parties. Dissolving marriages can subject individuals to social stigma and isolation. In the context of cultural norms that prioritize the sanctity of marriage, divorced individuals may face judgments and exclusion from their communities. This isolation can exacerbate feelings of loneliness and despair, leading to further emotional distress.

## **11. Conclusion**

The paper have carefully examined the problems associated with the dissolution of marriages in Nigeria under the Marriage Act, inclusive of legal framework, societal implications, and practical challenges associated with the process of dissolving marriages. It demonstrated that the above factors provided a structured procedure for the dissolution of marriage, notwithstanding the notable complexities and gaps that impact its implementation. Legal proceedings illuminated instances where the Act's provisions were either misinterpreted or inconsistently applied, leading to varying outcomes in divorce cases.

Furthermore, the paper explored the socio-cultural factors influencing marriage dissolution decisions. It became evident that traditional norms and customs often intersect with legal procedures, affecting the choices made by couples seeking divorce. The tension between customary



practices and legal requirements emerged as a critical theme in understanding the dynamics of marriage dissolution in Nigeria.

One of the significant findings pertains to the accessibility and awareness of legal resources for individuals seeking to dissolve their marriages. Limited access to legal aid, coupled with a lack of awareness about available options, poses barriers for those navigating the divorce process. This finding shed light on the importance of legal literacy and the need for improved dissemination of information about marriage dissolution procedures.

Additionally, our study uncovered gender disparities in the outcomes of divorce cases, raising questions about the extent to which the Nigerian Marriage Act addresses issues of gender equality. We found instances where women faced disadvantages in property division and child custody arrangements, underscoring the need for a more equitable approach within the legal framework.

In conclusion, the paper intricate relationship between legal provisions, cultural dynamics, and the practical realities of dissolving marriages under the Nigerian Marriage Act.

It is pertinent to make the following recommendations which includes;

#### **A. Rethinking Legal Clarity and Consistency**

The inconsistencies in the application of the Nigerian Marriage Act highlight the need for clearer guidelines and uniform interpretation across courts. Policymakers should consider measures to enhance the legal education of judges and legal professionals involved in divorce cases. Establishing standardized training programs can contribute to a more consistent and equitable application of the law.

#### **B. Strengthening Access to Legal Resources**

The limited accessibility of legal aid and information about divorce procedures is a pressing concern. Policymakers should explore avenues to improve access to legal resources for individuals seeking divorce. Initiatives such as legal clinics, online information portals, and community outreach programs can empower individuals with the knowledge necessary to navigate the dissolution process effectively.

#### **C. Addressing Socio-Cultural Sensitivities**

The intersection of traditional customs and legal requirements presents a unique challenge in divorce cases. Policymakers should engage with community leaders and stakeholders to find common ground between customary practices and legal provisions. This collaboration can help foster a more harmonious process of marriage dissolution, respecting cultural diversity while upholding legal standards.

#### **D. Promoting Gender Equality**

The gender disparities identified in divorce outcomes underscore the urgency of addressing gender biases within the legal framework. Policymakers should consider amendments to the Nigerian Marriage Act that explicitly promote gender equality in property division, alimony, and child custody arrangements. Such revisions would align with international norms and contribute to a more just and equitable divorce process.

### **E. Enhancing Mediation and Alternative Dispute Resolution**

Given the emotional and financial toll of contentious divorce proceedings, policymakers should encourage the use of mediation and alternative dispute resolution mechanisms. Integrating these approaches into the legal process can expedite cases, reduce animosity between parties, and lead to more satisfactory outcomes, ultimately alleviating the burden on the judicial system.

### **F. Introduction of No-Fault Divorce**

The Nigerian Marriage Act should be amended to incorporate the option of no-fault divorce, providing a less adversarial approach to marriage dissolution. This would promote amicable settlements and reduce the emotional and financial burden on the parties involved.

### **G. Streamlined Divorce Procedures**

Simplifying and streamlining divorce procedures would help alleviate legal complexities and delays in the dissolution process. This can be achieved through the establishment of specialized family courts or alternative dispute resolution mechanisms, providing quicker and more cost-effective solutions.

### **H. Recognition and Protection of Customary Marriages**

The Nigerian Marriage Act should provide clearer guidelines on the recognition and regulation of customary law marriages. By acknowledging and accommodating customary marriages within the legal framework, individuals in such unions can gain access to legal protections and resources available to civil and Christian marriages.

**I. Enhance support for vulnerable parties;** The problems associated with dissolving marriage under the marriage Act can be addressed by enhancing support for vulnerable parties, such as those facing domestic violence economic hardships, or custody disputes. Implementing safeguards and resources tailored to their needs would ensure a fairer and more equitable dissolution process while prioritizing the well-being of all parties involved.

Incorporating these policy implications into practice requires a collaborative effort involving legal professionals, policymakers, community leaders, and civil society organizations. A comprehensive

review of the Nigerian Marriage Act, coupled with targeted interventions, can lead to a more streamlined, equitable, and accessible process for dissolving marriages.



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