

Beyond Custody: The Best Interests of the Child in Nigeria's Fragmented Family-Law System

Original Research Article | Volume 1 | Issue 5 | 2026 | Article Number: 079

Accepted: 03 October 2026 | Published: 10 October 2026 | ISSN: 2979-8582 (Online)

 Crossref : {{DOI}}



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Abstract

This article critically looks at the functioning of the best interest of a child principle in such Nigerian custody matters in the country's plural family law system. It employs a critical doctrinal-integrative review to examine the legislation, appellate cases, international and regional child-rights instruments, and recent peer-reviewed scholarship. Specific focus is paid to statutory law, customary law and Islamic family law, judicial discretion, parental rights, gender assumptions, cultural and religious issues and children's involvement. The review reveals that Nigerian law has a formal position, which puts child welfare at the centre of adjudication in the Matrimonial Causes Act and the Child Rights Act. The principle is up and down in practice where customary lineage expectations, religious customs that structure the custody of children, gender-based assumptions and limited avenues for hearing children shape decisions. The author does not believe that child-centred adjudication is at odds with legal pluralism; but whether there is a competing norm that is assessed in relation to the child's welfare or is left to decide matters for itself is the key question. It finally concludes that the welfare criteria need to be clearer, the participation rights greater and judicial practice needs to be consistent.

Keywords: Best Interests Of The Child, Child Custody, Legal Pluralism, Nigerian Family Law, Child Participation

1. Introduction

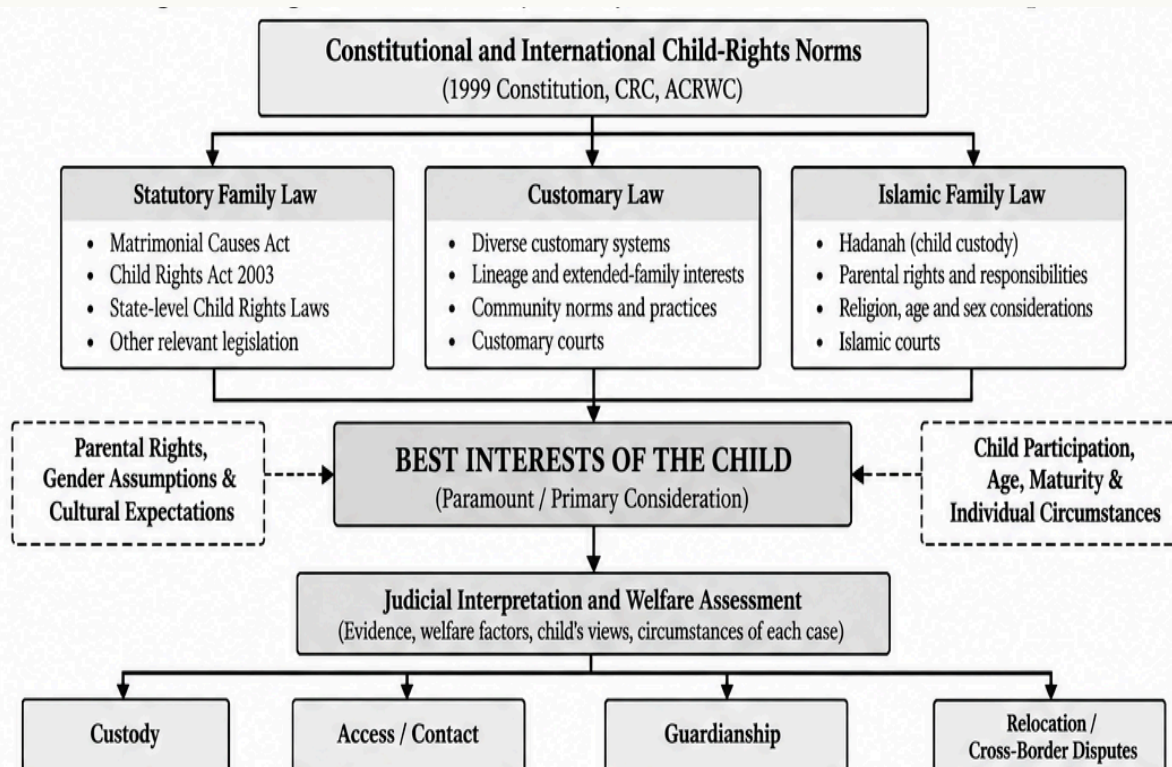
Child-custody adjudication determines much more than who a child will live with: custody will impact on the child's physical safety, emotional growth, education, relationships within the family unit, and their ability to maintain meaningful relationships with both parents after their family breaks down. Diriwari and Derri (2023) therefore suggest that ensuring the welfare of the child should be the primary concern of custody adjudication in Nigerian law, while recognizing the challenges in the implementation of this norm.

At the statute level, Nigerian law seems clear: section 71(1) of the Matrimonial Causes Act (MCA) mandates that the interests of children shall be the paramount consideration for any court in determining custody, guardianship, welfare, advancement or education cases. Furthermore, section 1 of the Child Rights Act 2003 (CRA) has shifted the paradigm of custody determination from parental choice to child welfare, where the child welfare is the "best interests of the child" (Oyeyemi, 2024).

But formal paramountcy is not synonymous with substantive paramountcy. Nigeria has a legally plural family-law regime that is characterized by a combination of statutory law, customary normative orders and Islamic family-law principles, and the institutional journey may vary depending on the type of marriage and type of dispute. However, even though there are formal statutory provisions, the existence of unequal gender relations and customary normative orders in Southern Nigeria is shown by Diala and Adeleke's (2026) empirical legal-pluralist study, which indicates a possible gap between the child-centred legal doctrine and the social context in which custody is negotiated and adjudicated. Furthermore, child rights legislation has been enacted in all 36 states in Nigeria, but current research still reveals disparities and inconsistencies in adaptation and plural law at the state level.

This review shall thus seek to critically analyse the meaning and application of the concept of best interest of the child in the plural custody system in Nigeria. It has four aims, namely to assess the existing international, constitutional and statutory framework; to review judicial interpretation of the concept of best interests; to explore how the concept of best interests interacts with customary, religious, parental and gender concerns; and to pinpoint any gaps that need to be filled by more coherent child-focused reform. It does not presume that legal pluralism is always detrimental to child welfare, but rather asks whether competing norms are integrated in an individualised best-interests assessment or allowed, explicit or tacit, to shape outcomes without the best-interests assessment. Thus, the question that needs to be asked is whether the best interests of the child is truly the overriding principle in all cases of custody in Nigeria or whether other legal and social considerations compete with it?

Figure 1. Nigeria's Plural Family-Law System and the Best-Interests Principle



2. Review Methodology

This article is a critical doctrinal-integrative review as the research question involves both the normative content of the Nigerian Custody law and the degree of tension disclosed on the interpretation and application thereof by scholarship. A purely black-letter analysis would not provide a sufficient account of the gendered, cultural and institutional aspects of legal pluralism found in recent socio-legal scholarship (Diala & Adeleke, 2026); and a purely systematic literature review would be insufficient, as statutes, treaties and judicial precedents represent primary legal authority and cannot be treated as equivalent to an empirical study. The method thus combines doctrinal analysis of primary legal materials with critical appraisal of scholarly works that have been carefully and critically evaluated by other scholars.

The search was carried out using HeinOnline, Scopus, Web of Science, Google Scholar, African Journals Online and NigeriaLII along with the treaty and Nigerian legislative databases. Searches were conducted across **HeinOnline, Scopus, Web of Science, Google Scholar, African Journals Online and NigeriaLII**, supplemented by authoritative treaty and Nigerian legislative repositories. Searches combined terms including “*best interests of the child*”, “*child welfare*”, “*child custody*”, “*Nigeria*”, “*Matrimonial Causes Act*”, “*Child Rights Act*”, “*customary law*”, “*Islamic law*”, “*hadanah*”, “*gender*”, “*child participation*”, “*child voice*” and “*judicial discretion*”. The vast bulk of secondary literature was limited to 2021-2026, as older statutes, treaties, and judgments were not reviewed (or even mentioned) unless they had created binding or ongoing legal concepts, or were relevant to the issue of age (as in *Williams v Williams*, *Odogwu v Odogwu* and the MCA).

Peer-reviewed journal articles, direct child custody/children's rights issues, legal pluralism, gender and participation issues, Nigerian legislation and reported decisions and international and African regional instruments were all eligible materials. Sources that were duplicative, descriptive in nature, limited to fields other than family or were blogs or unsupported professional commentary were excluded. Comparative scholarship was introduced only where it shed light on a particular problem of analysis (e.g. judicial discretion or gender presumptions) and not to provide evidence of the Nigerian practice. The extracted material was synthesised under four themes: normative paramountcy, judicial operationalisation, competing plural norms, and children's agency which allows the review to differentiate between what Nigerian law requires and its interpretation and possible limitations in practice.

3. Legal Foundations of the Best-Interests Principle in Nigeria

3.1 International and Regional Framework

Child-custody arrangements in Nigeria are part of two overlapping rights regimes, both formulated to favour a child-centred approach to decision-making, but with substantial scope for interpretation. The child's right to the best interests are obligatorily considered first in any decision made by courts and other institutions in accordance with Article 3(1) of the United Nations Convention on the Rights of the Child (CRC) and the right to be heard in matters affecting the child in Article 12 of the CRC. Most importantly, these elements are interdependent: a process of assessment that ignores the child's point of view is likely to result in an understanding of that child's welfare that is more a reflection of the adult's than the child's. Similarly, Oyeyemi (2024) asserts that participation is essential to children's rights as rights-holders and not as objects of protection.

The African Charter on the Rights and Welfare of the Child (ACRWC) reinforces the architecture in this regard, in Article 4(1) which stipulates that the best interests shall be the primary consideration and Article 4(2) which specifically mandates a space for the opinions of the communicative child to be heard during judicial and administrative proceedings. Notably for the understanding of legal pluralism in Nigeria,

Article 1(3) also denies any authority to cultural legitimacy to subordinate child protection if the customs, traditions or religious practices are inconsistent with the Charter rights. Best interests, however, is an abstract concept with some issues, as shown by the comparative analysis by Lonardo (2022) where, while it allows for individual justice, it also generates conceptual indeterminacy, which leaves much of the responsibility on the shoulders of the decision-maker. So, international law does not create a comprehensive definition of welfare but rather priority.

3.2 Constitutional Position of the Child

The 1999 Constitution offers a strong but indirect ‘bill of rights’ as it has no provision for a constitutional bill of children’s rights. While children are “persons” that can benefit from the guarantees in Chapter IV (dignity, privacy and family life, freedom of thought and religion, expression, freedom from discrimination), this absence is significant, according to Oyeyemi (2024). The constitutional position is thus a double one: general rights protect against possible discriminatory and degrading custody practices, but do not offer a specific constitutional best-interests test akin to section 1 CRA. The difference is significant because the constitution can abrogate incompatibilities while legislation and jurisprudence are the most important sources of the operational substance of custody welfare. So, by itself, Constitutional equality does not establish whether residence with a mother, father or third party serves the interests of an individual child, it simply sets limits on where such an evaluation will take place.

3.3 Domestic Statutory Framework

The domestic framework is considerably more explicit. Section 71(1) MCA instructs courts to prioritize the child’s interests in custody, guardianship, welfare and advancement and education proceedings and section 71(2) allows courts to refer to a welfare officer’s report for their decision. Both of these are significant, as while paramountcy sets the normative priority, welfare evidence offers a means for that priority to be translated into an individualised assessment and not parental assertion.

In extension to the concept of matrimonial matters, Section 1 CRA introduces the concept of “best interests” as an overall guiding principle of child law in Nigeria (Oyeyemi, 2024). Yet statutory strength should not be mistaken for complete coherence. While the CRA provides significant formal protection, the constraints for its implementation remain challenges that limit its effectiveness, as noted by Diriwari and Derri (2023), and the fact that Nigeria did not include one clear and equivalent provision on participation in Article 12(1) CRC is a significant participation deficit as highlighted by Oyeyemi (2024). Thus, the child-centred adjudication has strong normative underpinning within the Nigerian legal system, however, the coherence of the law in respect of child centred adjudication hinges on whether or not the judicial interpretation, participatory safeguards and plural normative orders do adequately translate the formal paramountcy to substantive.

Table 1. Key Legal Instruments Governing Child Custody and Best Interests in Nigeria

Legal instrument	Relevant provision(s)	Core principle	Relevance to custody
Constitution of the Federal Republic of Nigeria 1999 (as amended)	Chapter IV, particularly ss. 34,	Dignity, privacy and family life, religious freedom and non-discrimination	Provides the constitutional rights framework within which custody decisions and

	37, 38 and 42		child-rights protections operate.
UN Convention on the Rights of the Child (CRC)	Arts. 3 and 12	Best interests as a primary consideration; right of the child to express views	Establishes the international benchmark connecting child welfare with meaningful participation in decisions affecting the child.
African Charter on the Rights and Welfare of the Child (ACRWC)	Arts. 1(3) and 4	Best interests as the primary consideration; child participation; rejection of harmful customs	Particularly relevant to Nigeria's plural system because customary and religious considerations cannot legitimately defeat protected child rights.
Matrimonial Causes Act	s. 71	Interests of children are the paramount consideration in custody, guardianship, welfare, advancement and education proceedings	Provides the central statutory custody standard for matrimonial proceedings and allows welfare reports and access arrangements.
Child Rights Act 2003	s. 1 and related provisions	Best interests of the child as the primary consideration in actions concerning children	Extends best interests beyond matrimonial proceedings and treats it as a general principle of Nigerian child law.
State Child Rights/Child Protection Laws	State-specific provisions	State implementation of child-rights standards	Gives practical effect to child-rights norms at state level, although institutional and implementation differences may affect consistency.

4. Judicial Interpretation and Application of the Best-Interests Principle

4.1 Judicial Meaning of Best Interests

The doctrine of paramountcy is a doctrine that is meant to be substantive, not ceremonial, as Nigerian jurisprudence has confirmed. In *Williams v Williams* (1987), the Supreme Court found the welfare inquiry was an integrated one which included emotional attachment, as well as educational and religious opportunities and conditions which have relevance to proper upbringing, thus ruling out any single factor interpretation of welfare. From the Nigerian authorities, as observed by Oyeyemi (2024), Williams understands “paramount” to mean “preeminent, superior consideration” and lists the possibility of arrangements made by the parties, parental behavior, age and sex, social background, and the child's wishes as factors that may be relevant. This multidimensionality is again strengthened by Odogwu's

welfare reduction in welfare to material provision and linking welfare to psychological, physical and moral development, happiness and security in *Odogwu v Odogwu*.

This flexibility is justified because the situation in which children find themselves does not fit into a simple numerical formula; it also provides judges with a lot of room for interpretation. Where the best interests are not defined, however, the judge's conception of childhood can produce a variety of outcomes as a result of the same standard, as Ingber (2023) has shown in his research on seven New York family-court judges. In Nigerian jurisprudence, discretion, therefore, brings individualness to judgments while at the same time, judgments may be unpredictable unless each of the relevant factors affects the particular child's welfare.

4.2 Factors Considered in Custody Decisions

Judges have therefore denied such financial superiority as being a *de facto* superior parent. In *Ayemoba v Ayemoba* (2018), the Court of Appeal reiterated that the two parents have equal claims of custody and explained that money alone doesn't make happiness, which in turn is essential to a child's moral, mental, physical, educational and emotional development. This is analytically important because the privilege of income would put economic inequality between parents on the list of presumed factors, whereas the continuity of care or emotional attachment may be more likely to benefit the less-affluent parent.

Likewise, parental behavior applies only when it is directly related to welfare and not as a punishment for marital misdeeds. Appellate authority in Nigeria identifies age, education, accommodation, general upbringing, the conduct of the parties as considerations but section 71 MCA still puts these considerations in subordination to the child's interest rather than establish them as grounds of entitlement. This relational understanding is supported by the empirical study carried out by Atupare and Yin (2025) in Ghana which indicates that emotional bonding, care and parenting issues significantly influenced the reasoning for custody, yet parenthood does not simply consist of a formal status. Thus, the liberal attitude of the Nigerian jurisprudence is that there should be no consideration of wealth, morality, religion or parentage, and that there is no welfare connection without one.

4.3 Gender and Parental Assumptions

Gender is a more complex continuum between individualised welfare and inherited presuppositions. Nigerian authority does not grant an absolute right to young children; however, *Odogwu* expressed a rebuttable presumption that a child of tender years will be happier in the company of the mother, unless there are circumstances like cruel treatment, serious illness, insanity or relevant immorality. The Court of Appeal reinforced the tender years doctrine in *Anoliefo v Anoliefo* (2019) and at the same time confirmed that custody of young children is not always with their mother. The difference is slight but crucial, constitutionally and conceptually, between taking the child's prior attachment with the primary caregiver for granted and taking for granted that the person is competent to provide care based on their sex.

Contemporary scholarship strengthens this concern. Based on interviews, focus groups and legal analysis in Southern Nigeria, Diala and Adeleke (2026) contend that gender inequality persists in women's claims of custody in overlapping statutory and customary frameworks. Formal gender neutrality is also not necessarily a sign of substantive neutrality, as is demonstrated in the Chinese context by comparative empirical evidence, which revealed gender differences in custody decisions and linked them to broader social norms: Zhang, Chen and Wang (2024) showed that the seemingly neutral 'best interests' reasoning incorporated background presumptions about mothers and fathers. It does not necessarily establish a similar level of bias in Nigerian courts, but it does suggest an important field of enquiry into Nigerian reasoning as to whether any evidence exists of maternal nurturing, paternal provision or parental morality

in the case before him or she or whether these are presumed. The Best Interests principle is truly paramount only if gender is relevant to welfare considerations as a result of known facts, not in advance of them.

4.4 The Child's Voice

The biggest conceptual problem can occur when a court decides the child's welfare without engaging the child in the process. The link between participation and age and capacity, as provided by Article 12 CRC and 4(2) ACRWC, safeguards children from being held accountable for adult conflicts, while at the same time affirming their status as rights-holders. Nigerian case law has acknowledged that the wishes of the child is one of the factors to be taken into account when determining custody, but the legislation is not as clear as Article 12 CRC that grants an overarching right to be heard (Oyeyemi, 2024).

As such, the author, Oyeyemi (2024), concludes that, with respect to Article 12, the visibility of the child and legal agency of the child in Nigeria's law is much lower than in the legal framework of jurisdictions that expressly reproduce Article 12. Similarly, Ahmad Mukhlis Mansor and Hak and Che Soh (2024) investigates child participation in the custody mediation framework under syariah law in Malaysia, revealing that in principle, it is not enough for it to be recognised if there is no clarity on how to involve children in the process. It is not suggested that a court should be able to confidently make an individualised best interests assessment where the experiences and preferences of a sufficiently mature child are not part of the process, but that it would not be able to do so in the absence of them. Judicial practice shows that the doctrine of the best interests of the child is both powerful and fragile; while the doctrine of the child's best interests has a broad mandate to go against the parents' claims, the breadth of judicial discretion, the continuing gender presumption and lack of clarity on participation mechanisms render the doctrine vulnerable to being dependent on the adult's construction of what the child needs.

Table 2. Selected Nigerian Custody Cases and Judicial Best-Interests Factors

Case	Court/year	Main issue	Best-interests factors/principles	Analytical significance
<i>Williams v Williams</i>	Supreme Court, 1987	Competing parental custody claims	Emotional attachment, education, religion, upbringing, age, sex, conduct and child's circumstances	Establishes that child welfare occupies a paramount position and that neither parent enjoys an automatic superior claim.
<i>Odogwu v Odogwu</i>	Supreme Court, 1992	Custody and welfare during matrimonial proceedings	Psychological, physical and moral development, happiness, security and overall welfare	Reinforces a multidimensional conception of welfare rather than reducing best interests to material provision.
<i>Alabi v Alabi</i>	Court of Appeal, 2008	Parental suitability and custody	Parental conduct, fitness and welfare implications	Demonstrates that parental behaviour is relevant where it affects

				the child's welfare rather than simply as moral punishment of a parent.
<i>Ayemoba v Ayemoba</i>	Court of Appeal, 2018	Custody and competing parental financial capacity	Financial resources, emotional welfare, parental conduct, stability and happiness	Shows that financial superiority alone does not determine the child's best interests.
<i>Anoliefo v Anoliefo</i>	Court of Appeal, 2019	Custody of young children	Age, care, parental conduct and overall welfare	Illustrates the continued presence of tender-years reasoning while reaffirming that maternal custody is not an absolute rule.

5. Legal Pluralism and Competing Custody Norms

5.1 Customary Law

The problem with customary law isn't just that it is not statutory law, but that customary law in Nigeria is diverse, local and a set of rules which may view children not just as individual rights-holders but as members of an extended lineage. Diala and Adeleke (2026) maintain that Nigeria has a plural legal order which includes statutory law that exists alongside customary and Islamic normative frameworks, and their survey of women's custody rights in seven southern states reveals the ongoing influence of customary norms on the actual assertion and adjudication of women's custody rights. This diversity poses difficulties for a generalisation of a single 'Nigerian customary custody rule' as the practical force and content of the customs within communities and social settings is not uniform (Diala & Adeleke, 2026).

However, in some customary-court contexts, assumptions about the father and lineage have proven to be material factors, based on empirical evidence. Ntoimo and Ntoimo (2021) compared 15 cases where fathers claimed custody in a customary court in southwest Nigeria in the period 2002 to 2016, despite most cases being brought by women who complained about neglect of wives and children or domestic violence. The small sample size and single court in this case does not allow any national generalisation, but importantly, would highlight that formal welfare language at the adjudicative level does not necessarily rule out any deeply entrenched paternal claims (Ntoimo & Ntoimo, 2021). Deeply rooted in interviews, focus groups and observation of custody-related dispute resolution, Diala and Adeleke (2026) also find patterns of interaction between unequal gender relations and customary normative orders that can limit women's claims to custody. Accordingly, although lineage and legitimacy, and extended-family interests and paternal identity can reasonably shape a child's social relations, they do not trample on substantive paramountcy when they are the basis for adjudicating a child's custody prior to an evaluation of the child's safety, attachment, caregiving experience, and developmental needs.

5.2 Islamic Family Law

Islamic family law imposes a new norm-based system as it is conceptually separated from wider guardianship and financial duties in that *hadanah* relates to how the child is physically cared for and raised. The comparative study by Obalowu, Abdul Rahim and Bolanle (2022) of the Nigerian law and

Islamic law indicates that there is a lot of convergence in their interest in ensuring the welfare of the child, and also a difference in the doctrine of parent responsibility and the allocation of custody rights after divorce. It is therefore incorrect to say that the Sharia custody law is contrary to the best interests principle because welfare is also at the core of the rationale for “*hadanah*” (Obalowu et al., 2022).

The tension instead concerns how welfare is operationalised. Abdulhameed et al. (2025) report that the two types of laws are concerned with concern for the interests of the child but differ in their rules on who should be looked after by the child, gender, age, and when the child may have a choice. For instance, their analysis revealed that some Islamic custody structures treat boys differently in comparison to girls, showing that age, gender and developmental stage can be considered as discrete doctrinal considerations, as opposed to as open-ended as statutory best interests determinations (Abdulhameed et al., 2025). Similarly, Obalowu et al. (2022) state that in Islam, the father's financial responsibility is greater even if he is not the physical father, but in Nigerian statutory laws, financial responsibility is not similarly created through the fathers' hierarchy. It does not mean that Islamic custody results in less good welfare, but it does reveal the key legal issue as to whether maternal priority, paternal responsibility, religion, remarriage, age or sex are rebuttable welfare considerations or whether they are rules that can supplant the individual assessment of the child.

5.3 Tension Between Plural Norms and Best Interests

The difference is thus between culture and religion shaping the definition of best interests and culture and religion undermining the definition of best interests. This is illustrated in Nigerian children's law which embodies both child-centred protection and the recognition of the child's social environment and its values and responsibilities as parents. (Oyeyemi, 2024) It is important to note that family connection, cultural continuity, and religious identity can also be positive ingredients to support child development without being contradictory, but rather, if they are going to be accepted as legitimate, they must be shown to be related to the child's actual welfare (Oyeyemi, 2024).

The African children's-rights framework is quite compatible with such a 'conditional' approach, as the ACRWC respects African culture and children's obligations in their families, while at the same time obliging conflicting customary, traditional and religious practices to give way to children's rights that are protected. Legal pluralism is therefore not necessarily incompatible with the principle of the best interests; however, a clash with the best interest principle occurs when an outcome is based on a perception of the best interests without any shown link to welfare. The solution to objective 3 is therefore complicated: a genuinely best interests standard can only be in relation to statutory, customary and Islamic norms, rather than being one of a variety of factors considered alongside such norms.

Table 3. Comparison of Statutory, Customary and Islamic Custody Principles

Dimension	Statutory law	Customary law	Islamic family law
Principal basis	Matrimonial Causes Act, Child Rights Act, state legislation and judicial precedent	Community-specific customs and recognised customary norms	Islamic jurisprudence, including <i>hadanah</i> , guardianship and maintenance principles

Core orientation	Individual child's welfare/best interests	May combine child welfare with lineage, parental and extended-family interests	Child welfare within structured rules concerning physical custody, guardianship and parental responsibilities
Maternal position	No absolute maternal right; welfare controls	Varies between communities; maternal claims may be affected by lineage and local norms	Mother may have priority in physical custody during particular developmental stages, subject to applicable conditions
Paternal position	No inherently superior statutory claim	Paternal or lineage-based claims may remain influential in some systems	Father ordinarily retains significant guardianship and maintenance responsibilities
Age and sex	Relevant only where connected with the child's individual welfare	Importance varies according to the particular custom	May influence custodial entitlement under particular doctrinal formulations
Child's views	Relevant according to age, maturity and circumstances	Recognition may vary between customary settings	May be considered according to age, maturity and the applicable school/doctrine
Religion	Contextual factor subordinate to welfare	May be central to community and family identity	Structurally important to upbringing and family-law reasoning
Remarriage/parental conduct	Relevant where it affects welfare	May influence parental custody claims depending on the custom	Remarriage may affect custodial priority under some interpretations
Extended family	Relevant where it contributes to welfare and support	Frequently important because custody may be understood through kinship and lineage	Family networks may contribute to caregiving and guardianship

Main risk to best interests	Broad judicial discretion may generate inconsistency	Lineage or parental entitlement may become more influential than individual welfare	Categorical custody rules may constrain individualised assessment
Relationship with best interests	Best interests expressly controlling	Compatible where custom is assessed through the child's welfare; problematic where custom predetermines outcome	Compatible where doctrinal rules operate in the service of welfare; tension arises if categorical rules override individual circumstances

6. Gaps, Emerging Issues and Reform Priorities

The foregoing analysis suggests that the major challenge that Nigeria faces is not to establish a 'best interests' principle, but to institutionalize an open textured principle in a way that would lead to consistent decision making in pluralistic normative and institutional frameworks. Oyeyemi (2024) shows that Nigeria's child law does not explicitly and comprehensively include the provisions for children's participation as is the case in Article 12 CRC and in the children's legislation of South Africa, so that children's participatory rights in Nigeria must be teased out from various bits of statutory and constitutional law. Lack of specificity regarding that deficiency is problematic because judicial discretion is harder to check when best interests are not made sufficiently clear, and there are no clear processes for taking children's perspectives into account. (Oyeyemi, 2024). The proposed non-exhaustive welfare factors which should be included in a stronger model of legislation should include safety, attachment, continuity of care, developmental needs, family relationships, culture, religion and the child's ascertainable views, and there should be an express requirement to explain the weight given to each of the factors when deciding the case in court.

This need for gender neutrality to be manifested in action and not just in rhetoric is further illustrated by the customary-court evidence presented above, which shows that ostensibly child-centred adjudication can coexist with the strong assumptions about paternal lineage and maternal care. Statutory guidance should therefore clearly rule out the use of sex, the standard of parental wealth, marital misconduct, remarriage and customary status as being decisive unless it can be demonstrated that these have a specific impact on the individual child's welfare. Appropriately trained professionals in social-work or child-development could reinforce this by conducting welfare assessments, as would specialised training of judicial officers, which would help to make this process more consistent across statutory, customary and Sharia fora.

These issues are exacerbated by relocation and cross-border issues due to the child's interests crossing with jurisdiction, habitual residence, ongoing parental contacts and the enforceability of parental rights across borders. Yaqub's (2025) latest analysis shows that in 2021 at least 2,579 children were involved in return applications under the Hague Child Abduction Convention, and highlights that this does not include unreported cases and children abducted to non-participating jurisdictions. While these global statistics cannot provide any conclusive data on prevalence in Nigeria, they illustrate the need to develop a best interests framework that is not exclusively nationally focussed, especially because disputes generated by transnational families may require the inter-agility of legally distinct jurisdictions for enforcement to be effective (Yaqub, 2025). Reform should include the development of more transparent domestic

best-interest principles, child-participation protocols that are clear and formal, evidence-based welfare evaluation, gender-neutral reasoning, an effective mechanism for establishing and enforcing child-centred outcomes, and a harmonised minimum definition of the rights of children and young people.

7. Conclusion

The review shows that the best interest principle is formally dominant in the law of custody in Nigeria, but this dominance does not automatically mean that the substantive outcome of the law is child-centred. Nigerian statutory law and appellate jurisprudence build up a welfare concept that is multidimensional and more desirable than parental entitlement, but within a plural environment where customary lineage, Islamic custody doctrine, gender expectations, parental authority and judicial discretion continue to be potentially influential. The evidence, however, does not support the simplistic argument that legal pluralism is not compatible with children's interests, but instead the question of whether plural norms should be assessed by means of the child's welfare or allowed to affect custody decisions without reference to the child's welfare.

Child participation is also highlighted as a specific weakness as it is where able children's experiences and preferences are not fully individualised and in decisions made for children, the child's voice is not heard. Welfare factors should therefore be more specifically specified in the statute, the participation rights should be clearly articulated, gender neutral reasoning should be used, professional welfare assessment and a more consistent approach to customary and religious considerations are required. The problem with Nigeria's custody law is not that the best interest principle is not there, but it is not actually controlling when it faces other competing parental, customary, religious, gender and institutional claims.

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