



# **Paternity, Illegitimacy and Customary Acknowledgment in Nigeria: A Re-Evaluation**

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## **ABSTRACT**

Where a person is born outside a valid marriage, primary knowledge of who is the biological father remains a fact which answers only a question of identity. The frustrating social fallacy which presumes that this knowledge alone can bestow robotic legitimacy on such a child raises controversies which are often settled by a confluence of customary law and statutory provisions. Where a child cannot establish paternity, his or her rights including the right to inherit cannot be protected by the state. This paper emphasizes customary acknowledgment as a channel to legitimacy, upon proof of paternity. But in exercising the duty to protect rights, the court refrains from imposing any such order that generates an invasion of protected privacy rights. Where paternity and legitimacy arises customarily, all that is necessary is that the putative father does something overtly by which he recognizes the child as his and as such, any legal distinction which causes discrimination between a legitimated child and one born in marriage remains a distinction without any legal consequence. In conclusion, this research expressed that in determining who is entitled to share as a child, in the father's estate, there is no 'degree of child', and no distinction between an acknowledged child and a progeny of marriage.

**Keywords:** Paternity, Customary Law, Marriage, Legitimacy, Acknowledgement

## **INTRODUCTION**

Not many people want to live under a myth, and so, parentage is determined for a parent to know the heritors of his/her body, and for the child (underaged or adult) to know his root. Most times, such persons want nothing pecuniary to do with the other, but the satiated desire of being in the know, and at other times, paternity is determined for inheritance (of rights, properties, duties, privileges, status etc.) purposes. There is a very close relationship between inheritance and paternity in Nigeria, and a debate on these issues; being very delicate, always raises several legal opinions.

Children are the offspring of a person born in and out of a valid marriage or legally adopted under statutory or appropriate customary law.<sup>1</sup> It is commonly supposed that there is no such thing as illegitimacy in native law and custom but this position is unfitting, for there is a status of illegitimacy placed on certain persons for reason known to laws and practices of diverse nations, peoples and religions, as well as customs. But it seems that the legal disadvantages of illegitimacy are indeed not as great in Nigerian customary law as they used to be in western legal systems where under English common law, any child born out of wedlock is deemed illegitimate until the contrary is proved, as marriage was the substratum to acquiring any legitimacy status.

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<sup>1</sup> Emiola A, *African Customary Law* (3<sup>rd</sup> edn, Emiola Publishers Limited, 2011) 199

These issues raise several legal questions which ought to be answered and this paper reappraises the link between paternity, inheritance and acknowledgement under Nigeria customary law. It causes a conscious understanding of the rigors surrounding the path towards legitimation (customary acknowledgement), and identifies with the influence of modern practices in Nigeria on customary marriage and acknowledgement of paternity.

## MARRIAGE, PATERNITY AND ACKNOWLEDGEMENT

The institution of marriage is sacred and is guarded by laws, cultures, customs, religions and social standards. It is pleasing to every man to know the extent of his progeny beyond doubts, as this gives an inimitable satisfaction. But it is much easier for women to ascertain their offspring and their number, than it is for men. Marriage in this sense includes marriage under the Marriage Act (statutory marriage), under customary law and under Moslem/Islamic law.<sup>2</sup>

By and large, certain antisocial customary behaviours give rise to problems on paternity and inheritance. Some of such conducts include: failure to begin marriage processes properly, failure to solemnize customary marriage, entering into disavowed/unclean union, failure to consummate, unacceptable cohabitation, neglect of customary responsibility/stool, denial of parentage or fatherhood, failure to seek necessary customary recognition, problems arising from illegitimacy etc.<sup>3</sup> In times past, children born outside marriage were highly unfavoured by society; regarding them as issues of immorality, *filius nullius*.<sup>4</sup>

Osondu insists that the primary basis for the legitimacy of a child is the validity of the marriage of the parents either at the time of conception or at birth.<sup>5</sup> However, in Nigeria today, absence of valid customary marriage does not preclude a father from having access to his children or custodial rights to the child under customary law.<sup>6</sup> Authors have expressed that the concepts of paternity, marriage and legitimacy do not correlate under customary law, as some customs do not recognize illegitimacy as a result of the non existence of marriage, since some parents remain unmarried but their children remain legitimate.<sup>7</sup> So what anxieties still exist on the question of illegitimacy and customary acknowledgement? Legitimation is the process by which a child who has not been born legitimate acquires legitimate status. Illegitimacy presupposes that a child was not legitimate at birth and legitimation is the process that changes such status. In Nigeria this status can be achieved in two ways.

1. By the subsequent *statutory* marriage of the parents
2. By acknowledgment by the natural father.<sup>8</sup>

The acknowledgment expected is the relevant conduct or act of the natural father alone and not act of members of the family such as siblings, parents or even the lawful wife of the purported natural father. Thus, paternity ought to be determined before death, to avoid false and fictitious claim over supposed acts of acknowledgement. Where a parent dies intestate (without a will), a legitimate child is entitled to inherit property (real or personal), but a child born out of wedlock is not principally accounted for as entitled to inherit from his alleged father. But in the spirit of the concept of legitimation; is the idea of restitution, aimed at the rights and benefits such child would ordinarily be lost to.<sup>9</sup> And so, if B, is proved to be Chief A's son or daughter, B's legitimacy arises by Chief A's acceptance of fatherhood (customary legitimation) also known as acknowledgement.

<sup>2</sup> SO Tonwe and OK Edu, *Customary Law in Nigeria* (Renaissance Law Publishers Limited, 2007) 173

<sup>3</sup> M Attah, *Family Welfare Law in Nigeria* (Ambik Press, 2016) 221

<sup>4</sup> I Sagay, *Nigerian Law of Succession: Principles, Cases, Statutes and Commentaries* (Malthouse Press Limited, 2006) 2

<sup>5</sup> AC Osondu, *Modern Nigerian Family Law and Practice* (Printable Publishing Company, 2012) 8

<sup>6</sup> *Subuola Alake v. Bisi Pratt*, 15 W.A.C.A. at 20-21; *Savage v. Macfoy* (1909) R.G.C.R. 504.,

<sup>7</sup> Tonwe and Edu (n2) 173; *Adeyemi v Bamidele* (1968) ANLR 32

<sup>8</sup> Tonwe and Edu (n2) 175

<sup>9</sup> Section 42(2) of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (As Amended).

There recurrently seems to be a muddled appreciation of customary law, illegitimacy and English law principles, as well as constitutional rights protection against discrimination. In as much as the Court of Appeal in *Anode v Mmekaka*,<sup>10</sup> reemphasized that all children are lawful and legitimate; the circumstances of their birth notwithstanding, and that the right to a legitimate status must be viewed from the child's perspective, as there is no child without a biological parent and thus no child can be labeled illegitimate because of the unmarried status of the parent, paternity cannot be established, his or her rights including the right to inherit cannot be protected by the state.

Customary principles which do not firmly connect marriage to legitimacy create room for rights protection where children from unattached connections are involved in inheritance claims. What customary law requires is that where inheritance is concerned, establishment of an accepted paternity connection must be made. Once this is done, the courts which are guided by constitutional principles will be open to protecting the rights to inherit (regardless of existing gender or other customary limitations).<sup>11</sup>

Succession means the process of inheriting property from a deceased person. When reference is made to applicable customary law, it indicates that the deceased died intestate (without a valid will) and his death shall be governed generally by the customary law which governed his life. Usually issues of paternity and acknowledgment are resolved during the lifetime of the parties concerned,<sup>12</sup> but critical circumstances arise when controversies of paternity and illegitimacy arise upon the death of the father or the child (ren) in question.

In the case of a child who was never acknowledged by his father in his lifetime, he can only become entitled to an inheritance or to succession rights if he is able to adduce clear and credible evidence which proves that he is a legitimate child of the deceased. In determining this, the court often puts on a protectionist cloak where issues arise on illegitimacy of a child and rights and welfare come into play, guarded by section 42 (2) of the Constitution of the Federal Republic of Nigeria.<sup>13</sup>

Acknowledgement; as a principle of customary law is used as a means of changing the status of the child, though it has been established that acknowledgment has its limitations. The case of *Oladele and Ors v Akinshola and Anor*,<sup>14</sup> illustrated that acknowledgment is restricted by time. Wherein the lifetime of the natural father the child is not acknowledged, the child remains illegitimate, or to put the term plainly – 'the father is unknown.'

## WHERE PATERNITY IS A CONCERN

Black's Law Dictionary defines illegitimacy as 'the status of a person who is born outside a lawful marriage and who is not later legitimated by the parents.'<sup>15</sup> What customary laws, and religious teachings abhor, is the begetting of children from promiscuity, fornication and adultery (circumstance of birth), and not the children themselves. Inheritance by a child born in the matrimonial home is much easier, as a presumption of legitimacy accords such a child, but the reverse is the case where there is no marriage established, as there is a presumption that the child is not of the biological father until the contrary is proved; by scientific testing and declaration, proof via production of documents, proof of acknowledgment by the putative father, or proof of subsequent marriage of the parents.

In *Lois C. Ukeje and Anor v Gladys A. Ukeje*,<sup>16</sup> the court held that the Igbo native law and custom and any customary law of inheritance which disentitles a female and deprives children born out of wedlock from sharing in the estate of their late "father" is in conflict with the fundamental rights guaranteed under

<sup>10</sup> (2008) 9 CMLR 160, 166

<sup>11</sup> Section 42 CFRN, article 16 Child's Rights Convention 1989 and section 63 Nigerian Child's Rights Act Cap C.50 2003; Attah (n3) 237; *Ukeje v Ukeje* [2014] 11 NWLR (Pt 1418) 384

<sup>12</sup> *Rone Orugboh v Rone Orugboh* [1974] 4 UILR (Pt 1) 120.

<sup>13</sup> CFRN 1999 (As Amended); Attah (n3) 228

<sup>14</sup> No AB/7/63 (Abeokuta high court)

<sup>15</sup> Garner BA, *Black's Law Dictionary* (9<sup>th</sup> edn, Thomson Reuters, 2009) 815

<sup>16</sup> *Supra*

the constitution and is void.<sup>17</sup> The climax in this ruling requires such a person claiming to be entitled to a share; *to be a child*, proven in law by marriage or legitimation, as one entitled to inherit. The court further stated that one major issue is whether the respondent was able to adduce cogent and credible evidence to *prove that she is the daughter*. It is not enough for a party to make an allegation before a court; he must lead credible evidence to prove same.<sup>18</sup>

In proving through documents, the decision in *Ukeje v Ukeje*,<sup>19</sup> seemed to direct that as long as the document emanates from proper authority, it would prima facie be considered genuine and proof of its contents. In contemporary times where the National Population Commission (NPC) in Nigeria can issue birth certificates many years after a person is born; with information provided by the child or the mother alone, over sworn affidavit or some other document, causing difficulty towards putative fathers especially where the putative father is deceased, or unconfirmed, Attah believes and we agree with the position, that this *Ukeje* rule is not absolute where challengers cannot effectively rebut the presumption by any other means.<sup>20</sup>

The court may grant an order for the conduct of a scientific test to determine paternity, but this is usually where the child involved is a legally underaged.<sup>21</sup> Where the child is an adult person, a similar order would not be made. The court refrains from imposing any such order for scientific testing; as such order is an invasion of the right of privacy of such adults, as opposed to where a minor is involved; such order being made in the best interest of the child.<sup>22</sup> Where an 'adult-child' claims that a person is his parent, or a man claims that an adult-child is his progeny, such persons must produce evidence in proof of the assertion which may include scientific tests; if the parent/child is alive and subjects himself to such test, in the absence of or together with documentary or other oral evidence. The court would not compel anyone to be subjected to a test, just to enable the person asserting, to use the court to procure evidence in proof (or disprove) of the claim of paternity, and occasion infraction of the constitutional rights of the other adult party.<sup>23</sup>

According to the court, such person requiring the scientific testing, only has the option of going for it on his or her own, or indulge in wooing the 'adult-child' or parent involved, as the case may be. This demonstrates that there is much difficulty on scientific proof where the case involves adult parties on both sides. The determination by scientific testing is employed in Nigeria where the supposed parent is alive, except where such sample was collected while the putative father was alive. In this instance also, the personal representatives or head of the family of the deceased putative father may be disinclined to providing evidence in support of the asserter's claim. The court of appeal of Nigeria in *Tonia Anozia v Patricia Okwunwa Nnani and Anor*,<sup>24</sup> expressed thus:

*It is unimaginable for a court to order ... senior citizens to submit to DNA test, in defiance of their fundamental rights to privacy for the purpose of extracting scientific evidence to assist appellant (father) to confirm or disprove his wish that the 2<sup>nd</sup> defendant a 57year old man (alleged son) is his child, of an illicit amorous relationship....*

A finding of paternity is not legitimization in itself, as paternity merely establishes identity; as being the progeny of a person. The father must give legitimacy to such paternity; and in this case, by acknowledgment in his lifetime. The indistinct idea is that there exists a line; though thought as negligible, between proof of paternity and customary acknowledgement. An acceptance of the two concepts as constituting same idea and legal consequence is the foundation of legal arguments. On this

<sup>17</sup> (emphasis ours).

<sup>18</sup> *Ibid*, Per J.I. Okoro JSC.

<sup>19</sup> *Supra*

<sup>20</sup> Attah (n3) 241

<sup>21</sup> (below the age of 18) section 63 CRA 2003

<sup>22</sup> *Oduche v Oduche* (2005) LPELR- 5976, Per Rhodes-Vivour JCA (As he then was); K Adegbite, *What Law Says About Marriage and Divorce* (Global Image Books and Publisher, 2017) 127

<sup>23</sup> Section 37 CFRN 1999

<sup>24</sup> [2015] 8 NWLR (Pt 1461) 241, Per Ita G. Mbaba JCA.

note, scholars continue to debate on the construction to be given to the Supreme Court's pronouncement over illegitimate children and inheritance rights.

## JUSTIFICATIONS OVER CUSTOMARY ACKNOWLEDGEMENT

'There are no illegitimate children - only illegitimate parents.'<sup>25</sup>

How does customary law respond to this? Unlike English law, customary law does not require a valid marriage for the operation of the principle of legitimation. A legitimate child has from the moment of its birth until the day of its majority a right to support from the father. Such a child may inherit, not merely from the father, but from remoter ancestors and collateral kindred. All these several adjuncts or incidents make up the status or condition which is called legitimacy.

A legitimate child is one born in lawful wedlock, or born before the marriage of its parents, who afterwards marry and which receives the recognition of its father, and one of such children is just as legitimate before the law as the other. Legitimation is the act of making something lawful.<sup>26</sup> It is illegitimacy that gives rise to the process of legitimation.<sup>27</sup> But it remains to say that even the principle of acknowledgment does not enjoy universal application under customary law in Nigeria.<sup>28</sup> The principle must be satisfactorily proven to be applicable as customary to the locality in question. Legitimation by acknowledgment can be done by a man, only where he is subject to the customary law that permits acknowledgment as a way of legitimating a child born out of wedlock.<sup>29</sup>

Sagay had expressed that all that is necessary is that the putative father does something overtly by which he recognizes the child as his.<sup>30</sup> It is wise for men who find themselves with children in the web of unattached connections, to acknowledge them before the paternity becomes in doubt or before the man dies. Unfortunately, if death occurs, the child will suffer and may not benefit from the putative father's estate as 'the father would be unknown' and the customary odds would be against them. The presence of male children which in any instance the deceased man did not have in his lifetime, will not make custom 'show mercy,' or make the father mechanically known. Cole J in *Taylor v Taylor*<sup>31</sup> expressed that the acknowledgment of paternity by the father *ipso facto* legitimizes the children and there could not for the purpose of succession be different degrees of legitimacy.

This position should not be confused as it often is, with the wrong standpoint that a child born outside a valid marriage, cannot inherit alongside his legitimate siblings in the event of the death of his parent.

This seems to be the position which the constitution debunks as unconstitutional and the courts emphasize that the distinction between an illegitimate child and a legitimate child is a distinction without any legal consequence.

Questions arise where statutory marriage clashes with customary acknowledgment and on whether a legitimated child can share in the deceased father's estate. The courts in *Re Adadevoh*<sup>32</sup> identified that though the estate of the deceased who was married under the Act was to be governed by English law, the prominent question before the application of English law for distribution of estates was to determine who is a child and who is a wife, by the *lex domicile* (Nigerian Law) where the deceased domiciled before death, for the purpose of participation in the distribution phase. The court emphasized that Nigerian law in the context meant, the whole complex of systems: English common law, local statutes, customary law etc.

<sup>25</sup> Per Judge Leon R. Yankwich in *Zipkin v Mozon* (1928) quoted in S James and C Stebbings, *A Dictionary of Legal Quotations* (Universal Law Publishing Co Pvt Ltd, 2010) 57

<sup>26</sup> Osondu (n5) 10

<sup>27</sup> *Ibid*; Section 7 Legitimacy Act 1929

<sup>28</sup> *Shasie and Ors v Saleko and Ors* (1976) 1 NWLR 160; Osondu (n5) 14

<sup>29</sup> *Lawal v Younan and Ors* (1961) 1 All NLR 245

<sup>30</sup> Sagay I, *Nigerian Law of Succession: Principles, Cases, Statutes and Commentaries* (Malthouse Press Limited, 2006) 4

<sup>31</sup> (1960) LLR 286

<sup>32</sup> (1951) 13 WACA 304

This position was confirmed in *Bamgbose v Daniel*<sup>33</sup> and in *Alake v Pratt*<sup>34</sup> where children born out of wedlock; but acknowledged, were allowed to share in the distribution of their deceased father's estate, equally with children born out of a statutory marriage. A child is legitimate for the purpose of inheritance and the fact that he was born out of wedlock does not make any difference so long as the father acknowledges him as his child.<sup>35</sup> This means that in determining who is entitled to share as a child in the father's estate, there is no 'degree of child', and no distinction between an acknowledged child and a progeny of marriage. These highlights the discriminations which the courts seek to exterminate and not support over a supposed 'adult-child' who may bear intentions to finagle his way into the family of an unassuming (deceased) putative father.

### WHAT CONSTITUTES ACKNOWLEDGEMENT

Acknowledgment consists of any act of the natural father of an illegitimate child by which he recognizes the paternity of the child.<sup>36</sup> To constitute acknowledgment, the act or conduct of the father must be such as to indicate or establish his acceptance of the child's paternity.<sup>37</sup> To acknowledge a person is to accept responsibility for the paternity of an otherwise illegitimate person, which makes the child a member of the family of the person making the acknowledgment.

Authors have cited that for acknowledgment to constitute legitimation, it must be a continuous act, and not just one isolated act. But since it is a matter of evidence to be decided upon surrounding circumstances, it may be stated that acknowledgment which remains customary, is relevant and constitutes same without recourse to a succession of events, continuous acts of acknowledgement, or expressions of love on either side. Singular acts remain relevant as customary acknowledgment, even where the parties have not set eyes on each other or in circumstances where parties go their separate ways following acceptance of paternity. In circumstances where the natural father dies before the birth of the child, such deceased must have in his lifetime made an act of acknowledgment from the time of conception up until his demise. Such an act may be personally or made known to a third party. What is necessary is that the putative father of sound mind accepts paternity and expresses same. The singular or repeated acts encircle the life of the child, and extend to his/her progeny.

On what constitutes acknowledgment, it has been expressed by the courts that acts constituting acknowledgment (identifying with the birth of the child) need not be formal, so far as in appropriate circumstances, the informal act is deemed enough.<sup>38</sup> Though a customary law principle, the act of acknowledgment cannot only be open to persons practicing customary law, as indeed in most situations, illicit affairs resulting in the birth of children during the pendency of a monogamous marriage of the natural father with his lawful wife (under the Act), raises challenges to legitimation other than by acknowledgment. In most cases, natural fathers keep these births a secret from their immediate family.

### EFFECTS OF CUSTOMARY ACKNOWLEDGEMENT, AND BEYOND

Acknowledgement ordinarily means 'to accept'. Black's Law Dictionary emphasizes that it means 'a recognition of something as being factual; an acceptance of responsibility.'<sup>39</sup> Informal acknowledgement

<sup>33</sup> (1955) AC 107

<sup>34</sup> (1955) 15 WACA 20; *Cole v Akinyele* (1960) SCNLR 193

<sup>35</sup> *Emiola* (n1) 201

<sup>36</sup> *Tonwe and Edu* (n2) 175

<sup>37</sup> *Ibid*

<sup>38</sup> Acts held as acknowledgment- oral or written admission, unequivocal conduct showing acceptance- attending child dedication, taking photos with mum and child, writing letters to mother, consistent visits to mother and child, providing financially for the child, performing the naming ceremony, writing letter to the kinsmen or traditional rulers acknowledging paternity of the child, arranging medical attention for the child and paying the child's school fees etc. These acts are prima facie evidence of acknowledgment, though rebuttable by contrary evidence. See *Philips v Philips* (1946) 18 NLR 102; *Abisogun v Abisogun* (1963) 1 AII NLR 237; *Young v Young* (1953) 4-5 WACA; *Osondu* (n5) 14; *Adegbite* (n22) 131

<sup>39</sup> *Garner* (n15) 25

is a father's recognition of a child as his own not by a written declaration but by receiving the child into his family or supporting the child and otherwise treating the child as his own offspring.<sup>40</sup> Here the father accepts responsibility for the child, accepts that he is the father in all ramifications, accepts that the child is entitled to all rights which belong to him or her, accepts to protect and maintain the child, accepts that the child can inherit his estate (rights and responsibilities) and accepts the child's use of his name etc. Acknowledgement is thus, an important link between the relationship of a father and a previously illegitimate child, and it remains a condition precedent for succession and inheritance; an informal process known chiefly to Customary Law in Nigeria.

When a man acknowledges paternity and takes continuous steps in furtherance of same, he gives up his right to a court or customary hearing to determine if he is the child's father. Such a man may establish custody and visitation rights, and he will be required to give his consent before the child can be placed for adoption. Acknowledgement establishes the child's right to inherit from and succeed the father. The child may have the last name of either parent, and the child's name will not affect the child's legal status or succession and inheritance. Again the Court reiterated that:

In Nigeria, once a father acknowledges the paternity of a child whether born in or out of wedlock, the child is regarded as a legitimate child and is entitled to share in the estate of his/her father.<sup>41</sup>

By implication, acknowledgement grants equal rights of succession enjoyed by other children to an otherwise illegitimate child. The decision of the court in *Cole v Akinyele*<sup>42</sup> and subsequent decisions flowing from it are recognized as bad law on the issue that customary acknowledgment does not erase illegitimacy. The children of a deceased, who were legitimated by acknowledgment acquire the status of children born legitimate and have a right to share with other legitimate children in the distribution of their father's estate.<sup>43</sup>

Where a father who has taken responsibility for the child eventually finds out that the child is not his, such child remains the legitimate child of the father who accepts the child except the putative father decides against it. Thus acknowledgment legitimizes a child where done by the biological father, or by such a putative father. Acknowledgment by the former and latter has the same effect which is majorly to change the status of the child.

Legitimation also has no different grades and a child once legitimated remains legitimate. The difficulty which also occurs relates to the date which a child legitimated by acknowledgment becomes legitimate since acknowledgement is but a continuous act. Does acknowledgment initiate retrospective application to date of conception and of birth or remains only as the date of acknowledgment? Will a digital or technological conduct be accepted as customary acknowledgement? Under the Yoruba culture where there is the absence of acknowledgment or legitimation by the putative father on the one hand, he will disown the child and the biological father on the other hand is unable to bring the child into his own home because of the structure of his house, the child becomes the mother's child and gives the child her own maiden name. Absence of acknowledgment by both fathers but acknowledgment by the mother's family relieves the child of the status of illegitimate and he becomes a child of his mother's family.

At this point it must be expressed that rights of representation in property are given to the offspring of illegitimate children who have died and who otherwise would have been legitimated by the subsequent marriage of their parents or the acknowledgment of such child if he/she were alive. Where the right to property of a child born out of wedlock, who has obtained legitimacy by being legitimated, depends upon seniority, that child ranks as if born on the day of legitimation, and where children of different ages are legitimated on the same day, they rank in order of seniority by the dates of their respective births. Thus

<sup>40</sup> (n15)

<sup>41</sup> *Mgbodu v Mgbodu* (2015) 12 NWLR (Pt 1474) 415 at 439-440 CA

<sup>42</sup> *Supra*

<sup>43</sup> *Osondu* (n5) 13; *Tonwe and Edu* (n2) 178; *Esther Philip v Osho* [1973] 2 UILR (Pt 3) 316; *Craig v Craig* (1964) LLR 96; *Abisogun v Abisogun* (*Supra*)

legitimated persons have seniority only from the date of the subsequent legitimation or legitimization to prevent their displacing the inheritance rights of siblings who had been born legitimate, or existing third party rights.

## CONCLUSION

An important consequence of customary legitimation is to enable the acknowledged person and his children to take as from the date of legitimation, from the deceased interest, an intestate disposition occurring after that date, as if he had been born legitimate. Nigeria remains culturally patrilineal and paternity is the base, but legitimacy remains the element upon which the cover of succession and inheritance rights can be placed. The pronouncement of court that no legal implication exists in distinguishing illegitimate children's right to inheritance and the right of children born in marriage, does not set out to erase customary or legal rules which identify the existence of illegitimate children but rather settles inheritance rights and discriminatory practices against customarily legitimated children.

At many instances, answers to certain legal questions remain speculative until given flesh by judicial pronouncements which settle life issues and resolve existing legal debates. Nevertheless, it is restated that a supposed assertion of being the progeny of another, to say the least, does not customarily entitle a person to legal rights over customary inheritance. In the spirit of advancement, culture and customs evolve with time and since the law of inheritance touches every individual in the society and indeed the community at large, it continues to merit close attention.

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