EXAMINATION OF THE ISSUES OF INDEPENDENT ACTIONS FOR MAINTENANCE UNDER THE MATRIMONIAL CAUSES ACT 1970.

BY

Romanus Okwuoimose IRABOR
PG/LAW/2415397

FACULTY OF LAW
UNIVERSITY OF BENIN
BENIN CITY

NOVEMBER 2025

EXAMINATION OF THE ISSUES OF INDEPENDENT ACTIONS FOR MAINTENANCE UNDER THE MATRIMONIAL CAUSES ACT 1970.

BY

Romanus Okwuoimose IRABOR
PG/LAW/2415397

A PROJECT WORK WRITTEN IN, AND SUBMITTED TO THE FACULTY OF LAW, UNIVERSITY OF BENIN, IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF LAWS (LL.M) OF THE UNIVERSITY OF BENIN, BENIN CITY.

NOVEMBER 2025

CERTIFICATION

I, **Romanus Okwuoimose IRABOR**, with Matriculation Number **PG/LAW/2415397**, hereby certify that apart from references made to other people's works as duly acknowledged herein, this entire project is a product of my personal research, and has neither in part nor in whole been presented for another degree elsewhere.

…….

Romanus Okwuoimose IRABOR
PG/LAW/2415397

APPROVAL

We certify that this project work was completed and written by **Romanus Okwuoimose IRABOR**, with Matriculation Number **PG/LAW/2415397**, in partial fulfillment of the requirements for the award of the Master of Laws (LL.M) Degree of the University of Benin.

Prof. M. Attah

..…… …..……..

Project Supervisor Signature & Date

Prof. D.U. Odigie

…….…… …..……..

Co-ordinator, PG Programme Signature & Date

Prof. B. Bazuaye

..…… ……..

Dean, Faculty of Law Signature & Date

ACKNOWLEDGEMENTS

Most profoundly, I owe immense gratitude to my lecturer, supervisor, and Coordinator of the postgraduate programmes, Professor O. Aigbovo for his expert advice and guidance throughout the stages of this project. I am grateful to all other lecturers at the Faculty of Law, University of Benin. I am indeed grateful to the Dean, Professor I. Omoruyi, Professor Violet Agbokhaevbo, Professor N. A. Inegbedion and others too numerous to mention.

My profound appreciation also goes my project supervisor Prof. M. Attah whose guidance, patience, and scholarly insight shaped this work into what it has become.

I cannot appreciate my Parents enough Late Mr. Irabor Eugene Omorogie of blessed memory and Mrs Irabor Ofonu Comfort. My children Danny, Arnny and Lily Irabor. I appreciate Martha Amaka Obi Esq for her encouragement. I cannot forget Engr Basil E. Idahosa retired Managing Director Warri Refining and Petrochemical Company Ekpan, Warri for his support and encouragement. Mr. Felix Augustine Okwechime is a good man with a pure heart.

Above all, my overriding thanks go to Almighty God, the Maker of Heaven and earth, the Alpha and Omega who has made all these possible out of divine love and all the glory be unto His Holy name.

DEDICATION

This project work is dedicated to God Almighty for his guidance, unfailing love, protection and divine favours given me throughout my period of study in the University.

TABLE OF CONTENTS

Cover Page - - - - - - - - - - i

Title - - - - - - - - - - - ii

Certification - - - - - - - - - - iii

Approval - - - - - - - - - - iv

Acknowledgements - - - - - - - - - v

Dedication - - - - - - - - - - vi

Table of Contents - - - - - - - - - vii

Table of Cases - - - - - - - - - x

Table of Statutes - - - - - - - - - xi

Table of Abbreviations and Acronyms - - - - - - xii

Abstract - - - - - - - - - - xiii

Chapter One: GENERAL INTRODUCTION

1.1 Background to the Study - -- - - - - - - 1

1.2 Statement of the Problem - - - - - - - - - 2

1.3 Research Questions - - - - - - - - - 3

1.4 Aim and Objectives - - - - - - - - - 4

1.5 Scope of the Study - - - - - - - - - 4

1.6 Methodology of the Study - - - - - - - - 5

1.7 Limitations of the Study - - - - - - - - 6

1.8 Significance of the Study - - - - - - - - 8

CHAPTER TWO: MAINTENANCE UNDER THE MATRIMONIAL AND RIGHTS LAWS IN NIGERIA

2.1 Introduction - - - - - - - - - 11

2.2 The 1999 Constitution of the Federal Republic of Nigeria - - - 13

2.3 Historical Background and Enactment - - - - - - 13

2.3.1 Scope, Structure and Jurisdictional Provisions - - - - - 14

2.3.2 Scope of the Matrimonial Causes Act - - - - - - 14

2.3.3 Structure of the Act - - - - - - - - 16

2.3.4 Jurisdictional Provisions - - - - - - - 17

2.3.5 Ancillary Reliefs under the Act (Part IV): Maintenance, Custody, and Property Settlement - - - - - - - - - 18

2.3.6 Maintenance under the Act - - - - - - - 19

2.3.7 The Purpose and Philosophy of the MCA's Maintenance Scheme - - 23

2.3.8 Analysis of Key Provisions Relating to Maintenance under the MCA 1970 - 24

2.3.9 Factors to Be Considered - - - - - - - 28

2.3.10 Limitations and Exclusions - - - - - - - 29

2.4 The Child's Rights Act 2003 - -- - - - - - 30

2.4.1 Overview of the Child's Rights Act 2003 - - - - - 31

2.4.2 Scope and Legal Implications of Child Maintenance under the Act - - 32

2.4.3 Enforcement Mechanisms and Judicial Remedies - - - - 33

2.4.4 Interaction between the Child's Rights Act and the Matrimonial Causes Act - 34

2.4.5 Enforcement of Foreign Maintenance Orders Act 1921 - - - 34

2.5 Conclusion - - - - - - - - - 35

CHAPTER THREE: A CRITICAL EXAMINATION OF THE DECISIONS IN *UGBAH v UGBAH* (2025) LPELR-81732(SC) AND MANUME v. MANUME & ORS (2019) LPELR-49329(CA)

3.1 Introduction - - - - - - - - - 36

3.2 Background of the Cases - - - - - - - 37

3.2.1 *Ugbah v Ugbah* (Supreme Court, 2025) - - - - - 37

3.2.2 *Manume v Manume* (Court of Appeal, 2019) - - - - - 41

3.2.3 Arguments Against Independent Maintenance Actions - - - 44

3.3 Comparative Analysis - - - - - - - - 46

3.4 Critical Appraisal of *Ugbah (2025)* and *Manume (2019)* - - - 47

3.5 Critique of *Manume v Manume* - - - - - - 47

3.7 Judicial and Legislative Pathways - - - -- - - 48

3.8 Conclusion - - - - - - - - - 48

CHAPTER FOUR: INTERNATIONAL REGIME ON MAINTENANCE AND CHILD SUPPORT, AND REGIMES IN SELECTED JURISDICTIONS

4.1 Introduction - - - - - - - - - 49

4.2 Overview of the International Legal Framework on Maintenance and Child Support - 50

4.3 International Law Perspectives on Maintenance and its Recovery - - 51

4.4 The Hague Conventions on Maintenance Obligations and International Recovery of Child Support - - - - - - - - - 53

4.5 The 1973 Hague Convention on the Law Applicable to Maintenance Obligations (Convention No. 24) - - - - - - 54

4.6 The 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention No. 38) - - 56

4.7 The Hague Conventions on Maintenance Obligations - - - - 58

4.8 The Regime in the United Kingdom - - - - - - 59

4.9 The Regime in Australia - - - - - - - - 60

4.10 The Regime in the United States - - - - - - 60

4.11 The Regime in Canada - - - - - - - - 61

4.12 The Regime in South Africa - - - - - - - 62

4.13 Comparative Analysis and Lessons for Nigeria - - - - - 63

4.14 Conclusion - - - - - - - - - 63

CHAPTER FIVE: SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Introduction- - - - - - - - - - 67

5.2 Summary of Findings - - - - - - - - 67

5.3 Recommendations- - - - - - - - - 69

5.4 Conclusion - - -- - - -- - - - 71

Bibliography - - - - - - - - - - 72

TABLE OF CASES

A.G. Ondo v A.G. Federation(2002) 9 NWLR (Pt 772) 222 (SC). – - - 13

Anyaegbunam v. Anyaegbunam (1973) 3 ECSLR 243 – - - - - 17

Anyaegbunam v. Anyaegbunam (1973) 3 ECSLR 243. – - - - - 17

Bridget U. Akinwunmi v Akinwunmi (1971) – - - - - - 2

Damulak v Damulak (2004) 8 NWLR (Pt 874) 155 – - - - - 2

Dapialong v Lalong (2007) 5 NWLR Pt. 1026 at 212 – - - - - 40

Ene v Ene (2019) 9 NWLR (Pt 1676) 422 (CA) – - - - - - 32

Eze v Eze (2018) LPELR–45002 (CA) – - - - - - - 34

Federal Government of Nigeria v Zebra Energy Ltd. (2002) 18 NWLR Pt. 798 – - 40

Graham v. Graham [2003] EWCA Civ 1841 – - - - - - 20

Hayes v Hayes (2000) 3 NWLR (Pt 648) 276 – - - - - - 3

Hayes v Hayes (2000) 3 NWLR (Pt 648) 276 (CA) – - - - - 2

Manume v. Manume & ors(2019) LPELR-49329 (CA) - - - 1,12,15,19

Miller v Miller; McFarlane v McFarlane [2006] UKHL 24. – - - - 46

Miller v. Miller [2006] UKHL 24.- - - - - - - - 18

Mojekwu v Mojekwu (1997) 7 NWLR (Pt 512) 283 (CA) – - - - - 31,33

Nwogugu v. Nwogugu(2002) 2 NWLR (Pt. 753) 188 (CA). - - - 25

Odusote v Odusote (2011) LPELR-9056 (CA) – - - - - - 1,2,6

Odusote v. Odusote (2012) 3 NWLR (Pt. 1288) 478. – - - - - 21

Okocha v. Okocha(2007) 10 NWLR (Pt. 1043) 430 (CA) – - - - - 25

Oladimeji v Oladimeji (2015) LPELR–24599 (CA). – - - - - 33

Oloko v. Oloko(2019) 11 NWLR (Pt. 1683) 517. – - - - - - 22

Patrick Iwebunor Ugbah v Veronica Nneka Ugbah & Ors (2009) 3 NWLR (Pt 1127) 108 (CA) – - - - - - - - - - - 37

Re P (A Minor) (Financial Provision: Child of the Family) [1996] 1 FLR 765 (UK) – 25

Rose v. Rose 481 U.S. 619 (1987) – - - - - - - - 61

S v. Baloyi (2000) 2 SA 425 (CC). - - - - - - - - 62

Tabansi v Tabansi (2018) 18 NWLR (Pt 1651) 279 (CA). – - - 1

Ugbah & Ors v Ugbah(2025) LPELR-81732(SC) – - - - - - 36

Ugbah v. Ugbah (2024) SC – - - - - - - - 12,16,18

Ukeje v Ukeje (2014) 11 NWLR (Pt 1418) 384 (SC) – - - - - 30

Van der Merwe v. Road Accident Fund (2006) ZACC 4 – - -- - 18

Veronica Nneka Ugbah & Ors v Patrick Iwebunor Ugbah (2025) LPELR-8173 (SC)- 37

White v. White [2001] 1 AC 596 – - - - - - - - 22

White v. White[2001] 1 AC 596 (HL) – - - - - - - 59

Williams v Williams (2008) 10 NWLR (Pt 1095) 364 (CA) – - - - 30

Willick v. Willick [1994] 3 SCR 670 (SCC) – - - - - - 61

TABLE OF STATUTES

Child Support Act 1991 (UK)

Child's Rights Act 2003

Child's Rights Act, Cap. C50, Laws of the Federation of Nigeria 2004

Children Act 1989 (UK)

Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended)

Divorce Act RSC 1985

Enforcement of Foreign Maintenance Orders Act 1921, Cap E4, LFN 2004

Family Law Act 1975 (Australia)

Family Maintenance Act (Manitoba) CCSM

Maintenance Act 99 of 1998 (South Africa),

Maintenance Orders (Reciprocal Enforcement) Act 1972 (UK)

Matrimonial Causes Act 1970, Cap M7, Laws of the Federation of Nigeria 2004

Matrimonial Causes Act 1973 (UK)

Social Security Act (US)

Uniform Interstate Family Support Act (UIFSA 2008)

TABLE OF ABBREVIATIONS AND ACRONYMS

AC	Appeal Cases
CA	Court of Appeal
CC	Criminal Code
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CFRN	Constitution of the Federal Republic of Nigeria
CRA	Child Rights Act
FLR	Federal Law Reports
LFN	Law of the Federation of Nigeria
LPELR	Law Pavilion Electronic Law Report
MCA	Matrimonial Causes Act
NWLR	Nigeria Weekly Law Reports
SC	Supreme Court
UK	United Kingdom

ABSTRACT

This research critically examines the issues surrounding independent actions for maintenance under the Matrimonial Causes Act 1970 (MCA 1970). The study was motivated by the persistent ambiguity in section 70 of the Act, which empowers courts to make maintenance orders but fails to indicate whether such proceedings may be instituted independently of principal matrimonial causes such as divorce, nullity, or judicial separation. This legislative gap has generated conflicting judicial interpretations and inconsistent enforcement across Nigerian courts. The research adopts a doctrinal legal methodology, relying on statutory analysis, case law, and comparative examination of other jurisdictions. It also draws on relevant international conventions, including The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to assess Nigeria's compliance with global standards. Findings reveal that the MCA 1970, though a landmark statute, is inadequate in addressing the realities of family maintenance in contemporary Nigeria. The absence of express statutory provision for independent maintenance actions has resulted in divergent judicial opinions, procedural confusion, and limited access to justice for vulnerable spouses and children. The Act further restricts its application to statutory marriages, thereby excluding those contracted under customary and Islamic law, contrary to the constitutional principle of equality. Comparative analysis shows that jurisdictions such as the United Kingdom, South Africa, Canada, and Australia expressly recognise and regulate independent maintenance proceedings as a distinct legal right. The study recommends a comprehensive legislative reform of the MCA 1970 to expressly provide for independent maintenance proceedings, extend protection to all forms of marriage, and establish specialised family courts or maintenance divisions for effective adjudication and enforcement. It further proposes the introduction of clear procedural rules, periodic review of maintenance orders, and stronger enforcement mechanisms such as attachment of earnings and garnishee proceedings. In conclusion, the research asserts that recognising independent maintenance actions under Nigerian law is imperative for ensuring access to justice, gender equality, and the protection of the welfare of spouses and children. The proposed reforms would align Nigeria's maintenance framework with international best practices and enhance the delivery of family justice in the modern legal system.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

Marriage as a legal institution imposes reciprocal obligations on the parties, one of which is the duty of maintenance. In Nigeria, the Matrimonial Causes Act 1970 (hereinafter "MCA") regulates issues of dissolution of marriage, settlement of property, custody and, importantly, maintenance of spouses and children. Maintenance is designed to guarantee financial support for a spouse or child who, by reason of the marriage relationship, requires assistance for sustenance and welfare.[1] Section 70(1) of the MCA empowers the High Court to make orders for the maintenance of a party to a marriage or of children of the marriage.[2] However, controversies have arisen as to whether such orders may be sought independently or whether they are only available as ancillary reliefs to a principal matrimonial cause such as divorce, nullity, or judicial separation. In *Manume v. Manume & Ors*[3], also In *Bridget U. Akinwunmi v Akinwunmi*, the High Court recognised the possibility of an independent application for maintenance.[4] Yet later appellate decisions such as *Odusote v Odusote* stressed strict compliance with procedural rules, creating uncertainty for applicants who sought maintenance outside divorce proceedings.[5] Similarly, in *Damulak v Damulak*, the Court of Appeal reiterated that the court's discretion under

1 Matrimonial Causes Act, Cap M7 Laws of the Federation of Nigeria (LFN) 2004, s 70.
2 Ibid s 70(1).
3 (2019) LPELR-49329 (CA)
4 *Bridget U. Akinwunmi v Akinwunmi* (1971) High Court (unreported, discussed in E Azinge, "Spousal Maintenance under the Matrimonial Causes Act: Illusion or Reality?" *Nigerian Current Law Review* 34(2001), 40.
5 *Odusote v Odusote* (2011) LPELR-9056 (CA). See also *Tabansi v Tabansi* (2018) 18 NWLR (Pt 1651) 279 (CA).

section 70 must be exercised judicially and judiciously, but remained silent on the independent nature of the action.[6]

This judicial inconsistency has created uncertainty for litigants and practitioners. The problem is compounded by weak enforcement mechanisms, which often render maintenance orders ineffective in practice.[7] Scholars have therefore argued that while the statutory intention of section 70 is welfare-oriented, procedural hurdles and enforcement failures have undermined its realisation.[8]

1.2 Statement of the Problem

The controversy surrounding independent actions for maintenance under the Matrimonial Causes Act 1970 raises a number of pressing legal questions which this research seeks to address. The foremost question is whether the Act, when properly interpreted, permits a spouse or child to institute an independent application for maintenance, or whether such reliefs must remain ancillary to a principal matrimonial cause such as divorce or nullity. This inquiry is particularly important given the divergent judicial positions reflected in cases such as *Bridget U. Akinwunmi v Akinwunmi*, where the court appeared to endorse a stand-alone application,[9] and *Odusote v Odusote*, where the appellate court stressed strict procedural compliance, thereby casting doubt on the possibility of an independent action.[10]

---

6 *Damulak v Damulak* (2004) 8 NWLR (Pt 874) 155.

7 *Hayes v Hayes* (2000) 3 NWLR (Pt 648) 276 (CA) (on difficulties of enforcement of maintenance orders).

8 F. Irehovbude, "Spousal Maintenance and Alimony under the Nigerian Matrimonial Causes Act 1970" *Journal of Private and Property Law* 6(52) (2020),58.

9 *Bridget U. Akinwunmi v Akinwunmi* (1971) High Court (unreported, cited in E Azinge, "Spousal Maintenance under the Matrimonial Causes Act: Illusion or Reality?" *Nigerian Current Law Review* 34(2001),40.

10 *Odusote v Odusote* (2011) LPELR–9056 (CA).

Beyond the statutory interpretation, this study also interrogates how Nigerian courts have applied section 70 of the MCA and the Matrimonial Causes Rules in practical contexts. The analysis will examine whether the courts have adopted a consistent jurisprudence on the subject or whether contradictions continue to prevail. Another significant question concerns the procedural and enforcement challenges that litigants face, such as technical dismissals due to verifying affidavit defects[11]or the persistent problem of non-compliance with maintenance orders despite the existence of court directives.[12] Finally, this study raises the normative question of what reforms, whether legislative or procedural, are required to ensure that maintenance, as a welfare measure, remains accessible, effective and responsive to the needs of vulnerable spouses and children in Nigeria.

1.3 Research Questions

The controversy surrounding independent actions for maintenance under the Matrimonial Causes Act 1970 raises a number of pressing legal questions which this research seeks to address.

1. To what extent does the recognition of maintenance as a human right reflect both human rights and historical perspectives within the Nigerian legal system?

2. How adequately do the provisions of the *Matrimonial Causes Act 1970* and the *Child's Rights Act 2003* regulate maintenance obligations in Nigeria?

3. What are the legal justifications and implications of the conflicting judicial pronouncements in *Ugbah v. Ugbah* and *Manume v. Manume* regarding the right of

[11] Ibid (procedural defects regarding verifying affidavits under the Matrimonial Causes Rules).
[12] *Hayes v Hayes* (2000) 3 NWLR (Pt 648) 276.

married persons to initiate independent actions for maintenance, and how do these compare with the positions in other jurisdictions?

4. How do international instruments and comparative child support regimes shape or influence Nigeria's approach to maintenance under the *Matrimonial Causes Act 1970***?**

1.4 Aim and Objectives

The aims of this study is to appraise the right to independent action for maintenance viz a viz the Supreme Court judgment in *Ugbah v. Ugbah* and *Manume v. Manume*. The objectives are to

1. Analyse the human rights and historical perspectives on maintenance in Nigeria
2. Analyse the law on maintenance in Nigeria genrally under the matrimonial causes Act 1970 as well as the Child Rights Act 2003
3. Critique the legal basis of the supreme court ruling in *Ugbah v. Ugbah* and *Manume v. Manume* as to the right of married persons to apply for maintenance independent of a major matrimonial cause viz a viz the practice in some jurisdictions.
4. Assess the international perspectives on maintenance under relevant instruments and child support.

1.5 Scope of the Study

The scope of this research is deliberately limited to the legal framework governing maintenance under the Matrimonial Causes Act 1970 (MCA) and the interpretative role of Nigerian courts. Specifically, the study focuses on the question of whether the Act permits independent applications for maintenance or whether such claims must always be incidental to substantive matrimonial causes such as divorce, nullity, or judicial separation. While the study engages with

relevant provisions of the Matrimonial Causes Rules 1983, its principal emphasis is on the judicial interpretation of section 70 of the MCA and the challenges arising therefrom.

In terms of geographical scope, the research is confined to Nigerian jurisprudence, although occasional references are made to comparative jurisdictions such as England and Australia, given that the Nigerian matrimonial regime was influenced by these systems.[13] Such comparative references are not intended to extend the study beyond Nigeria but rather to enrich the analysis and highlight potential reform lessons.

Furthermore, the scope of this study does not extend to issues of customary law or Islamic law marriage, except where these indirectly intersect with the application of the MCA. Since the Act is applicable only to marriages celebrated under the Marriage Act,[14] this research is restricted to statutory marriages. Similarly, the study does not examine ancillary reliefs such as property settlement, child custody, or injunctions, except insofar as they relate to or affect the issue of maintenance. By so delimiting its scope, the research ensures depth of analysis while avoiding the dilution that would result from addressing every ancillary matrimonial relief under the Act.

1.6 Methodology of the Study

This research adopts a doctrinal legal methodology, which involves the critical examination of statutes, judicial decisions, and academic commentary. The core materials analysed include the provisions of the Matrimonial Causes Act 1970, the Matrimonial Causes Rules 1983, and relevant judicial authorities interpreting these instruments. For example, decisions such as

[13] A J Ezejiofor, *The Nigerian Law of Marriage and Divorce* (Sweet & Maxwell 1970),211.
[14] Matrimonial Causes Act 1970, Cap M7, Laws of the Federation of Nigeria 2004, s 2.

Bridget U. Akinwunmi v Akinwunmi[15] and *Odusote v Odusote*[16] are subjected to close textual and contextual analysis to determine how courts have addressed the question of independent maintenance applications. Secondary materials, including scholarly articles and textbooks, are also utilised to provide doctrinal critique and to situate the issues within broader theoretical debates. The doctrinal method is complemented by a comparative analysis, particularly with English and Australian family law, which historically shaped Nigerian matrimonial legislation.[17] This comparative approach is significant because it allows the study to draw lessons from jurisdictions that have grappled with similar questions on the scope of maintenance and the nature of ancillary reliefs.

In addition, the study employs an analytical approach to identify gaps, inconsistencies, and ambiguities in both statutory provisions and judicial pronouncements. This analysis is oriented toward generating reform-oriented recommendations aimed at improving the administration of maintenance in Nigeria. The methodology, therefore, is not merely descriptive but evaluative, combining legal analysis with normative critique in order to advance scholarship and practical reform in Nigerian family law.

1.7 Limitations of the Study

Every research project encounters certain limitations which shape the scope and depth of analysis, and this study is no exception. The first limitation arises from the paucity of reported Nigerian cases directly addressing the issue of independent actions for maintenance under the

---

15 *Bridget U. Akinwunmi v Akinwunmi* (1971) High Court (unreported, cited in E Azinge, "Spousal Maintenance under the Matrimonial Causes Act: Illusion or Reality?" *Nigerian Current Law Review* 34(2001), 40.

16 *Odusote v Odusote* (2011) LPELR–9056 (CA).

17 A. Oba, "English Law and the Development of Family Law in Nigeria" *Journal of Comparative Law* 6(1) (2014)99,104.

Matrimonial Causes Act 1970. While cases such as *Bridget U. Akinwunmi v Akinwunmi*[18]and *Odusote v Odusote*[19]provide valuable judicial guidance, the relatively limited volume of case law constrains the ability to draw a comprehensive picture of judicial attitudes. This scarcity is particularly acute at the appellate level, where authoritative pronouncements are most needed to clarify the law.

A second limitation lies in the reliance on doctrinal methodology, which, although useful for analysing statutes and judicial decisions, does not directly capture the lived experiences of litigants who seek maintenance in Nigerian courts. Socio-legal methods such as interviews, field surveys, and empirical data collection would have provided deeper insight into how maintenance orders are enforced in practice and the challenges faced by spouses and children. However, such an empirical approach was not feasible within the timeframe and resource constraints of this research.[20]

Furthermore, another limitation is the narrow statutory scope of the Matrimonial Causes Act itself. The Act applies only to statutory marriages celebrated under the Marriage Act,[21] thereby excluding customary and Islamic law marriages which represent a significant proportion of marital unions in Nigeria.[22] This restriction inevitably narrows the study, even though issues of maintenance also arise in those other contexts. While the study occasionally references these systems for comparative clarity, it does not attempt a detailed examination of them.

---

18 *Bridget U. Akinwunmi v Akinwunmi* (1971) High Court (unreported, cited in E Azinge, "Spousal Maintenance under the Matrimonial Causes Act: Illusion or Reality?" *Nigerian Current Law Review* 34(2001), 40.

19 *Odusote v Odusote* (2011) LPELR–9056 (CA).

20 E. N. Nwogugu, *Family Law in Nigeria* (Revised edn, Heinemann 2014) 307.

21 Matrimonial Causes Act 1970, Cap M7, Laws of the Federation of Nigeria 2004, s 2.

22 A. Y. Orie, "Maintenance in Customary and Islamic Law: A Comparative Appraisal" *Benin Journal of Public Law* 7(2)(2016)55, 61.

Finally, there are limitations related to access to legal materials. Some decisions, particularly those of the High Courts in matrimonial matters, remain unreported and therefore inaccessible. The study has relied primarily on reported cases, law reports such as the *Nigerian Weekly Law Reports (NWLR)* and *Law Pavilion Electronic Reports (LPELR)*, and relevant secondary literature. Consequently, while the findings are robust within the doctrinal framework, they may not fully capture the entire breadth of trial court practice across Nigeria.

Notwithstanding these limitations, the study retains significant academic and practical value. By analysing the existing statutory framework, the available judicial authorities, and comparative legal perspectives, the research provides a solid foundation for doctrinal clarity and reform-oriented recommendations.

1.8 Significance of the Study

The significance of this study derives from the central role of maintenance in the Nigerian matrimonial justice system. Maintenance is not merely an ancillary relief but a vital welfare measure designed to secure the financial well-being of spouses and children after marital breakdown. The importance of interrogating whether independent actions for maintenance are permissible under the Matrimonial Causes Act 1970 (MCA) lies in the fact that access to maintenance directly affects vulnerable groups, particularly women and children, who are disproportionately disadvantaged in matrimonial disputes.[23] A clear understanding of the law therefore has immediate social and economic implications.

[23] B. Oba, "Women and Family Law in Nigeria: Issues and Challenges" *Journal of Private and Property Law* 3(1) (2012)14, 19.

From a doctrinal standpoint, the study contributes to ongoing debates on the interpretation of section 70 of the MCA. Nigerian courts have adopted divergent approaches, with some decisions permitting stand-alone actions for maintenance while others insist that such applications must be tied to substantive matrimonial causes such as divorce or judicial separation. For example, the court in *Bridget U. Akinwunmi v Akinwunmi* recognised the possibility of a maintenance application outside divorce proceedings,[24] whereas the Court of Appeal in *Odusote v Odusote* stressed strict compliance with the rules of court and procedural requirements, thereby limiting the scope of independent actions.[25] By undertaking a critical analysis of these cases, the study seeks to provide a coherent academic evaluation that will aid both judicial reasoning and legislative clarification.

The significance of the study also extends to the area of procedural justice. Many litigants face technical dismissals due to non-compliance with the verifying affidavit provisions of the Matrimonial Causes Rules or the complexity of initiating formal matrimonial causes.[26] The study is significant because it identifies these procedural hurdles and proposes reforms that would make access to maintenance less technical and more welfare-oriented. Such recommendations will be valuable to lawmakers, judges, family law practitioners, and legal aid providers who work closely with indigent litigants.

On a broader scale, the study has practical significance for aligning Nigerian family law with international human rights obligations. Nigeria is a party to several international instruments, including the Convention on the Elimination of All Forms of Discrimination against Women

---

[24] *Bridget U. Akinwunmi v Akinwunmi* (1971) High Court (unreported, cited in E Azinge, "Spousal Maintenance under the Matrimonial Causes Act: Illusion or Reality?" *Nigerian Current Law Review* 34(2001), 40.

[25] *Odusote v Odusote* (2011) LPELR–9056 (CA).

[26] P. U. Akintola, "The Enforcement of Maintenance Orders in Nigeria: A Case for Reform" *UNILAG Law Review* 10(2) (2019)77, 84.

(CEDAW), which obligates states to take appropriate measures to ensure equality in marriage and family relations.[27] By addressing the challenges of accessibility and enforcement of maintenance rights, this research contributes to Nigeria's compliance with these international obligations. In sum, the study is significant both as an academic contribution to legal scholarship and as a practical tool for improving the administration of family justice. It provides a critical framework for courts, policymakers, and scholars to appreciate the social importance of maintenance and to reconsider the adequacy of the existing legal framework. Ultimately, the research underscores the necessity of reforming the Matrimonial Causes Act and Rules to ensure that maintenance fulfills its welfare purpose in a society where economic vulnerabilities continue to undermine the stability of family life.

[27] Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).

CHAPTER TWO

MAINTENANCE UNDER THE MATRIMONIAL AND RIGHTS LAWS IN NIGERIA

2.1 Introduction

The concept of maintenance lies at the intersection of human rights, family law, and socio-economic justice. In Nigeria, the obligation to provide maintenance is not merely a moral duty but a legal responsibility that emanates from marriage and parenthood. Maintenance ensures that a spouse or child who is economically disadvantaged as a result of marriage breakdown or parental neglect is not left destitute. It is, therefore, an instrument of both social protection and equitable justice.

The background to the maintenance regime in Nigeria can be traced to the received English law and equity, which recognized a husband's obligation to support his wife and legitimate children. However, with the evolution of gender equality and social justice principles, maintenance has become a reciprocal obligation between spouses, irrespective of gender. The Matrimonial Causes Act 1970 (MCA), as the principal statute governing matrimonial reliefs, codifies the law on maintenance, particularly under Sections 70 and 73, which empower courts to make orders for maintenance either ancillary to a principal matrimonial cause or upon application.

The objective of this chapter is to examine the framework governing maintenance under Nigerian law, with a focus on the MCA 1970 and the Child's Rights Act 2003 (CRA). The chapter seeks to analyse the scope, adequacy, and limitations of these provisions in ensuring fair and equitable support to dependents. It also evaluates the human rights dimension of

maintenance as guaranteed under the 1999 Constitution (as amended) and relevant international instruments.

The findings from preliminary judicial review reveal significant inconsistencies in the interpretation of Sections 70 and 73 of the MCA, particularly concerning the independent right of a spouse to seek maintenance without coupling the claim with a major matrimonial cause. For instance, in *Manume v. Manume*[1] the Court of Appeal held that a maintenance application cannot be brought independently, while the Supreme Court, in a more recent pronouncement in *Ugbah v. Ugbah*[2], clarified that maintenance is indeed an independent and enforceable right. These conflicting positions highlight a pressing need for doctrinal clarity and potential statutory amendment.

The roadmap for this chapter proceeds as follows: it begins with an examination of the constitutional and human rights foundation of maintenance in Nigeria. It then critically analyses the relevant provisions of the Matrimonial Causes Act 1970, especially Sections 70 and 73, before turning to the Child's Rights Act 2003. Finally, it offers a comparative perspective from other jurisdictions such as the United Kingdom, Australia, Canada, and South Africa to draw lessons for reforming the Nigerian system.

Maintenance is therefore more than a private matter between spouses—it is an essential part of the state's obligation to promote social justice, protect vulnerable persons, and uphold the right to family life guaranteed under both domestic and international law.

1 (2019) LPELR-49329 (CA).
2 (2024) SC (unreported).

2.2 The 1999 Constitution of the Federal Republic of Nigeria

Although the Constitution does not explicitly provide for maintenance, several provisions indirectly support the principle. Section 17(3)(f) mandates that children, young persons, and the aged shall be protected against exploitation and shall be provided with adequate care. Similarly, section 42 prohibits discrimination, while section 33 and section 34 guarantee the rights to life and dignity respectively.[3] These provisions create a constitutional backdrop that underpins the duty of spouses and parents to provide financial support. The courts have occasionally linked maintenance to constitutional values. For instance, in *A.G. Ondo v A.G. Federation,*[4] the Supreme Court recognised that the Constitution places an obligation on the State to ensure social welfare objectives. Although this case did not directly address maintenance, it reflects the judicial tendency to interpret family law obligations in light of constitutional principles of dignity and equality.

2.3 Historical Background and Enactment

The Matrimonial Causes Act 1970

The Matrimonial Causes Act 1970 (hereafter "MCA 1970" or simply "the Act") was promulgated as part of Nigeria's efforts to codify and unify matrimonial jurisdiction, rights, and remedies under statutory marriage. It replaced various piecemeal provisions and sought to bring standardisation to the law of divorce, separation, nullity, custody, maintenance, and property

[3] Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 17(3)(f), 33, 34, 42.
[4] (2002) 9 NWLR (Pt 772) 222 (SC).

settlement for couples married under statutory (i.e. "Western/Christian") marriage rules.[5] The Act has remained largely unamended in substantive terms (though subject to incorporation into subsequent LFN editions) and continues to form the core statutory scheme regulating matrimonial causes in Nigeria.[6] By consolidating diverse jurisprudential and customary principles into a unified statutory regime, the MCA 1970 sought to give clarity, predictability, and fairness—particularly in the domain of *ancillary reliefs* (i.e. maintenance, custody, property settlement) which accompany the principal reliefs (e.g. divorce, judicial separation).[7]

2.3.1 Scope, Structure and Jurisdictional Provisions

The Matrimonial Causes Act 1970 (MCA) represents the primary statutory instrument regulating matrimonial disputes in Nigeria. It governs proceedings related to dissolution of marriage, judicial separation, nullity of marriage, and ancillary reliefs, including maintenance. The scope and jurisdictional framework of the Act determine not only the nature of actions that may be instituted but also the competence of the courts to entertain them. Thus, an examination of its scope, structure, and jurisdictional clauses is crucial for appreciating the ongoing debates surrounding independent actions for maintenance.

2.3.2 Scope of the Matrimonial Causes Act

The scope of the MCA is primarily delineated in Sections 1 and 2 of the Act, which confer jurisdiction on the High Courts of the States and the Federal Capital Territory to hear and

---

5 A. Aguda, "An Examination of the Matrimonial Causes Decree, 1970" (public lecture, University of Lagos, 5 June 1970), reprinted in *Select Law Lectures and Papers by Justice Akinola Aguda* (Associated Publishers, 1971),89-125.

6 See the current codification as Cap. M7 LFN (2004), and the lack of substantive amendments in later revisions.

7 See e.g. policy commentary, *An Overview of The Nigerian Matrimonial Causes Act*, eLegal Advice (last visited) https://elegaladvise.com/an-overview-of-the-nigerian-matrimonial-causes-act/.

determine matrimonial causes. These causes are expressly defined to include proceedings for dissolution or nullity of marriage, judicial separation, restitution of conjugal rights, and declarations of the validity of marriage.[8] The Act further extends to ancillary reliefs, such as maintenance, custody, and property settlement, thereby emphasizing the comprehensive jurisdictional reach of the High Court in matrimonial matters.

However, the MCA is not without limitation. Its jurisdiction is confined to marriages celebrated under the Marriage Act, thereby excluding customary and Islamic marriages.[9] This exclusion creates a dual system of matrimonial law in Nigeria a bifurcation that complicates the pursuit of uniformity and access to justice for spouses married under other legal regimes.[10] The Child's Rights Act 2003 (CRA) and state family laws have attempted to fill this gap by extending maintenance rights to children irrespective of the form of marriage, but these laws remain secondary in matrimonial contexts.[11]

The scope of maintenance under the MCA is provided in Section 70, which empowers the court, upon or after the determination of a matrimonial cause, to make orders for maintenance of a spouse or children of the marriage.[12] This provision, when read literally, suggests that maintenance relief must be ancillary to a primary matrimonial cause, a position reinforced in *Manume v. Manume,*[13] where the Court of Appeal held that the High Court lacked jurisdiction to entertain an independent claim for maintenance. Nevertheless, the recent decision in *Ugbah v. Ugbah (2024) SC* marks a judicial shift, recognizing the possibility of independent maintenance

8 Matrimonial Causes Act, Cap. M7, Laws of the Federation of Nigeria 2004, s. 2.
9 Ibid., s. 114.
10 Nwogugu, E. I., *Family Law in Nigeria*, 3rd edn (Ibadan: Heinemann, 2014),47.
11 Child's Rights Act 2003, s. 70(1)(b).
12 Matrimonial Causes Act 1970, s. 70(1).
13 (2019) LPELR–49329 (CA).

actions, thereby reinterpreting the scope of the Act to align with evolving social and human rights principles.[14]

2.3.3 Structure of the Act

The MCA is divided into nine parts, encompassing preliminary provisions, jurisdictional matters, substantive matrimonial causes, and ancillary reliefs.[15] Part I deals with the *jurisdiction of courts* and *institution of proceedings*; Part II outlines *grounds for dissolution*; and Part V provides for *ancillary reliefs* such as maintenance, custody, and settlement of property. The ancillary provisions are of particular importance to this project, as they form the statutory basis for maintenance orders in Nigeria. Sections 69–73 specifically empower the court to issue orders relating to maintenance. Section 70(1) authorizes the court, upon the making or refusal of a decree, to make such order as it considers proper for the maintenance of either party or of children.[16] Section 73, on the other hand, allows the variation, suspension, or discharge of maintenance orders where there has been a material change in circumstances.[17]

A textual critique reveals that the Act's structure imposes procedural rigidity that may hinder equitable relief. By tethering maintenance orders to matrimonial causes, the MCA arguably denies access to relief for spouses seeking support outside formal dissolution proceedings.[18] This structural limitation contrasts with more flexible frameworks, such as the United Kingdom's Matrimonial Causes Act 1973, which expressly recognizes interim and independent maintenance

[14] *Ugbah v. Ugbah* (2024) SC (unreported, judgment delivered 23 May 2024).
[15] Ibid, Part I–IX.
[16] Matrimonial Causes Act, s. 70(1).
[17] Ibid., s. 73(1).
[18] Ibid.

applications.[19] Similarly, in Australia, the *Family Law Act 1975* permits maintenance claims independent of divorce actions, reflecting a rights-based approach to spousal welfare.[20]

2.3.4 Jurisdictional Provisions

The jurisdictional provisions of the MCA are set out primarily in Sections 2, 3, and 114, which define the courts competent to entertain matrimonial causes and the conditions under which jurisdiction may be exercised. Section 2 confers exclusive jurisdiction on the High Courts, thereby excluding magistrates and customary courts from matrimonial adjudication.[21] Section 3 further provides that a party must be domiciled in Nigeria at the time of instituting proceedings for the court to have jurisdiction.[22] While these provisions aim to ensure uniformity, they have been criticized for their restrictive domicile requirement and exclusive jurisdictional allocation, which may impede access to justice, particularly for indigent litigants and those in rural areas.[23] The decision in *Anyaegbunam v. Anyaegbunam*[24] underscores the jurisdictional rigidity of the Act, where the court held that domicile, not residence, is the key determinant of jurisdiction.[25]

Furthermore, the interaction between Sections 70 and 73 raises interpretive tension concerning whether maintenance claims can exist independent of matrimonial causes. The Court of Appeal in *Manume v. Manume* adhered to a literal reading, while the Supreme Court in *Ugbah v. Ugbah* adopted a purposive and human rights–oriented interpretation, holding that denying access to maintenance relief independent of dissolution proceedings violates the constitutional right to

---

19 Matrimonial Causes Act 1973 (UK), ss. 22–24.
20 Family Law Act 1975 (Australia), s. 72(1).
21 Matrimonial Causes Act, s. 2.
22 Ibid., s. 3.
23 Nwogugu, E. I., op. cit., 37.
24 (1973) 3 ECSLR 243
25 *Anyaegbunam v. Anyaegbunam* (1973) 3 ECSLR 243.

human dignity and protection of the family.[26] This development represents a transformative judicial re-reading of the MCA's jurisdictional scope, aligning Nigeria with comparative trends in South Africa, Canada, and the United Kingdom, where maintenance is seen as a standalone right rather than merely an adjunct to divorce.[27]

Scope, structure, and jurisdictional provisions of the Matrimonial Causes Act 1970 collectively shape the legal environment within which maintenance rights are exercised in Nigeria. While the Act provides a comprehensive framework for matrimonial adjudication, its restrictive approach to maintenance has generated interpretive and practical challenges. The evolving jurisprudence, particularly following *Ugbah v. Ugbah (SC, 2024)*, demonstrates a judicial willingness to expand the MCA's reach in line with constitutional and comparative human rights principles. However, the Act's structural rigidity and jurisdictional exclusivity continue to call for legislative reform to ensure equitable and accessible maintenance enforcement for all marital parties.

2.3.5 Ancillary Reliefs under the Act (Part IV): Maintenance, Custody, and Property Settlement

Part IV of the Matrimonial Causes Act 1970 (MCA) provides the foundation for the granting of ancillary reliefs, which are supplementary judicial remedies that flow from or relate to the principal matrimonial causes. These reliefs are not merely incidental; they are designed to give substantive effect to the rights and obligations arising from marriage and its breakdown. The three major ancillary reliefs under the Act are maintenance, custody, and property settlement, all of which are intended to secure fairness, protect vulnerable parties (especially women and

[26] *Ugbah v. Ugbah* (2024) SC.
[27] *Van der Merwe v. Road Accident Fund* (2006) ZACC 4; *Miller v. Miller* [2006] UKHL 24.

children), and ensure post-dissolution economic justice.[28] Ancillary reliefs are crucial to matrimonial justice because they address the socio-economic consequences of divorce or separation. They prevent the impoverishment of a dependent spouse, ensure continuity in child welfare, and facilitate equitable redistribution of matrimonial property.[29] The legal foundation, scope, and judicial approach to these reliefs, however, have generated substantial academic debate, especially regarding the limits of maintenance and whether such reliefs can be pursued independently of a major matrimonial cause.

2.3.6 Maintenance under the Act

Maintenance is perhaps the most contested ancillary relief under the Matrimonial Causes Act 1970. The statutory basis is found in Sections 69–73, which empower the court to make maintenance orders for the benefit of either spouse or children of the marriage.[30] Section 70(1) authorises the court, upon making or refusing to make a decree, to order the payment of maintenance in such manner as it considers proper, having regard to the means, earning capacity, and conduct of the parties.[31] This provision has been interpreted to mean that maintenance is ancillary and not independent, implying that such relief can only be granted where a principal matrimonial cause (such as dissolution or judicial separation) is pending. This interpretation was affirmed in *Manume v. Manume*,[32] where the Court of Appeal held that the High Court lacked jurisdiction to entertain an independent claim for maintenance outside a matrimonial cause. The court reasoned that the language of Section 70(1) ties maintenance to the determination of a decree or refusal thereof, thereby excluding standalone actions.

---

28 Matrimonial Causes Act, Cap. M7, Laws of the Federation of Nigeria 2004, Part IV.
29 Nwogugu, E. I., *Family Law in Nigeria*, 3rd edn (Ibadan: Heinemann, 2014),131.
30 Matrimonial Causes Act 1970, ss. 69–73.
31 Ibid., s. 70(1).
32 (2019) LPELR–49329 (CA).

However, the Supreme Court's recent decision in *Ugbah v. Ugbah* (2024) SC introduced a transformative interpretation. The Court held that nothing in the MCA expressly prohibits a party from initiating a standalone action for maintenance, provided that the marriage is one recognized under the Act.[33] In this case, the appellant-wife sought maintenance while still cohabiting with her husband, alleging financial neglect. The Supreme Court ruled that such an action was valid, as the right to maintenance is embedded in the broader principle of spousal support, which transcends the technical confines of dissolution proceedings.[34] The Court's reasoning aligns with the constitutional protection of family life under Section 37 of the 1999 Constitution (as amended) and the right to human dignity under Section 34.[35] This liberal interpretation underscores a shift from a procedural to a substantive justice perspective, mirroring trends in the United Kingdom, Canada, and Australia, where courts treat maintenance as a continuing obligation of marital partnership rather than a derivative of litigation.[36] In the United Kingdom, the Matrimonial Causes Act 1973 (Sections 22–24) empowers courts to make interim and independent maintenance orders, even before the principal suit is determined.[37] Likewise, in Australia, the *Family Law Act 1975* (Section 72) recognizes maintenance as a standalone right, reflecting a human-rights–centred approach that prioritizes the economic wellbeing of the dependent spouse.[38]

Thus, while the Nigerian MCA's textual framework appears restrictive, its evolving judicial interpretation is beginning to align with comparative jurisdictions, emphasizing the duty of maintenance as a continuing social and legal obligation inherent in the institution of marriage.

---

33 *Ugbah v. Ugbah* (2024) SC (unreported, judgment delivered 23 May 2024).
34 Ibid.
35 Constitution of the Federal Republic of Nigeria (1999, as amended), ss. 34 and 37.
36 *Graham v. Graham* [2003] EWCA Civ 1841.
37 Matrimonial Causes Act 1973 (UK), ss. 22–24.
38 Family Law Act 1975 (Australia), s. 72(1).

The second major ancillary relief under Part IV is custody of children. Section 71 of the MCA empowers the court to make orders for the custody, guardianship, welfare, advancement, and education of the children of the marriage.[39] The guiding principle in such matters is the best interest of the child, a doctrine consistently upheld by Nigerian courts and now constitutionally reinforced under Section 1 of the Child's Rights Act 2003.[40] The court in *Odusote v. Odusote* emphasized that the paramount consideration in awarding custody is not the convenience of the parents but the welfare of the child.[41] The CRA further provides that every child has the right to parental care and protection and that no child shall be separated from his parents against their will except by order of court.[42]

Custody orders under the MCA may be interim or permanent, and courts often combine custody orders with maintenance orders to ensure holistic child welfare. However, a persistent challenge remains the enforcement of custody and maintenance orders, especially where one party relocates outside Nigeria. To address this, Nigeria domesticated the Hague Convention on the Civil Aspects of International Child Abduction, thereby enabling reciprocal enforcement of custody and maintenance orders.[43] It is noteworthy that in English law, the concept of custody has evolved into "residence and contact orders" under the *Children Act 1989*, reflecting a less possessive and more responsibility-oriented approach to parental care.[44] The Nigerian framework, though retaining traditional custody language, increasingly applies similar welfare-oriented principles, marking a gradual shift from parental rights to parental responsibility.

---

39 Matrimonial Causes Act 1970, s. 71(1).
40 Child's Rights Act 2003, s. 1.
41 *Odusote v. Odusote* (2012) 3 NWLR (Pt. 1288) 478.
42 Ibid.
43 Hague Convention on the Civil Aspects of International Child Abduction (1980).
44 Children Act 1989 (UK), s. 8.

The third ancillary relief provided under Part IV of the MCA is property settlement. This relief allows the court to make orders for the transfer, sale, or settlement of property between spouses. Section 72 of the Act provides that the court may make such orders as it deems just and equitable regarding the property of the parties, either for the benefit of one of the spouses or the children of the marriage.[45] Nigerian courts have traditionally been conservative in interpreting property settlement provisions, often requiring strict proof of ownership or contribution before making redistribution orders. In *Oloko v. Oloko*,[46] the Court of Appeal held that while Section 72 grants the court broad discretion, such discretion must be exercised judicially and judiciously based on evidence of contribution. The court emphasized that marriage alone does not automatically entitle a spouse to a share of property owned by the other, except where contribution (financial or otherwise) is proved.[47] This approach contrasts sharply with the equitable distribution systems of the United Kingdom and Australia. Under the Matrimonial Causes Act 1973 (UK), Section 25 allows courts to consider the parties' needs, obligations, and contributions—monetary or non-monetary—thereby ensuring fair distribution.[48] In *White v. White*, the House of Lords rejected gendered presumptions in property division and emphasized the "yardstick of equality."[49] Similarly, in Australia, Section 79 of the *Family Law Act 1975* empowers the Family Court to make broad property adjustment orders, considering direct and indirect contributions, including domestic labor.[50] Nigeria's retention of a narrow, evidence-based approach to property settlement reveals an enduring tension between formal ownership and equitable fairness. Legal

45 Matrimonial Causes Act 1970, s. 72.
46 (2019) 11 NWLR (Pt. 1683) 517.
47 Ibid.
48 Matrimonial Causes Act 1973 (UK), s. 25.
49 *White v. White* [2001] 1 AC 596.
50 Family Law Act 1975 (Australia), s. 79.

scholars have thus advocated for reform to integrate principles of joint matrimonial property and presumed contribution, especially in long-term marriages.[51]

Part IV of the Matrimonial Causes Act 1970 encapsulates the ancillary relief framework necessary for achieving justice in matrimonial proceedings. The provisions on maintenance, custody, and property settlement are central to ensuring economic balance, child welfare, and fairness between spouses. However, while the Act provides a robust legal skeleton, its practical application has often been hampered by procedural rigidity, jurisdictional conflicts, and conservative judicial attitudes. The emerging jurisprudence, particularly in *Ugbah v. Ugbah (2024) SC*, signals a shift toward a more equitable and rights-based interpretation of ancillary reliefs. Yet, achieving substantive justice requires legislative modernization to align the MCA with international best practices, particularly those of the United Kingdom, Australia, and other Commonwealth jurisdictions that recognize maintenance and property rights as integral to the human rights framework of family law.

2.3.7 The Purpose and Philosophy of the MCA's Maintenance Scheme

Embedded in the MCA's design is a balancing function: to afford financial protection to vulnerable spouses or dependants (especially children), while ensuring that maintenance obligations are fairly apportioned having regard to conduct, means, and other circumstances.[52] The Act constitutes a departure from rigid common-law norms (e.g. that only wives may claim

[51] A. O. Obilade, "Property Rights and Marriage under Nigerian Law," *Nigerian Law Journal* Vol. 16 (2021) 212.
[52] L. O. Nwauzi & G. A. Akolokwu, "Maintenance under the Matrimonial Causes Act: Examining the Realities and Illusion" (ResearchGate paper).

maintenance) and seeks to vest discretion in the court to make orders that are "just and equitable" in all the circumstances.[53]

However, the Act does not lay out a linear formula, but rather leaves much to judicial discretion. This flexibility gives rise to interpretative tension, particularly on whether the discretion may give rise to a *standalone* maintenance claim divorced from a matrimonial petition.

2.3.8 Analysis of Key Provisions Relating to Maintenance under the MCA 1970

Section 69 of the *Matrimonial Causes Act 1970* (MCA) is one of the most pivotal provisions in understanding the legislative intent behind maintenance for children following matrimonial breakdown in Nigeria. The section defines the scope of persons considered as "children of the marriage" who may benefit from maintenance orders under the Act. It extends the reach of maintenance jurisdiction beyond biological offspring, thereby demonstrating the legislature's intention to protect the welfare of all children who are integrally linked to the marital relationship. Section 69(1) of the MCA defines *"child of the marriage"* to include "a child of both parties to the marriage, a child adopted since the marriage by both parties or by either party with the consent of the other, and any child of either party accepted by the other as one of the family."[54] This wide statutory definition introduces a welfare-based approach that transcends the rigid concept of biological parentage. By doing so, the provision ensures that a child's entitlement to maintenance is rooted in *social and familial reality* rather than mere genetics. The inclusion of children adopted by one or both spouses, and those accepted as members of the family, reflects an intention to prioritize the child's welfare in accordance with section 1 of the

[53] Ibid.
[54] Matrimonial Causes Act, Cap. M7, Laws of the Federation of Nigeria 2004, s. 69(1).

Child's Rights Act 2003 (CRA), which provides that "the best interest of the child shall be the primary consideration in every action concerning the child."[55]

The jurisprudential foundation of Section 69 thus rests on the equitable notion that maintenance responsibilities flow from the *de facto* parental relationship arising from cohabitation, acceptance, and care. This aligns with the broader family law policy of protecting vulnerable dependants of the marital unit. The Nigerian courts have given Section 69 a liberal interpretation in keeping with the welfare principle. In *Nwogugu v. Nwogugu*[56], the court emphasized that maintenance obligations extend to all children who fall within the statutory meaning, and that the court's overriding consideration should be the welfare and best interest of such children. Similarly, in *Okocha v. Okocha*[57], it was held that even where the paternity of a child is disputed, the court may, on the balance of probabilities, recognize maintenance rights if the child has been treated as one of the family during the subsistence of the marriage. This pragmatic approach avoids the injustice that would arise from a narrow reading of Section 69, particularly in a society where customary and social parenting often extend beyond strict biological ties.

Comparatively, Section 1 of the *Matrimonial Causes Act 1973* (UK) defines "child of the family" in a similar manner to Nigeria's Section 69. The UK courts, especially in Re P (A Minor) (Financial Provision: Child of the Family)[58], have long recognized that maintenance should not be denied merely because the child is not biologically related to both spouses, provided that the child has been treated as a member of the family during the marriage. Likewise,

---

55 Child's Rights Act, Cap. C50, Laws of the Federation of Nigeria 2004, s. 1.
56 *Nwogugu v. Nwogugu* (2002) 2 NWLR (Pt. 753) 188 (CA).
57 *Okocha v. Okocha* (2007) 10 NWLR (Pt. 1043) 430 (CA).
58 *Re P (A Minor) (Financial Provision: Child of the Family)* [1996] 1 FLR 765 (UK).

under Section 60 of Australia's *Family Law Act 1975*, "child of the marriage" includes adopted and step-children, and the family court exercises broad discretion to secure their welfare.

These jurisdictions share Nigeria's policy rationale that maintenance responsibility should follow social parentage where a child has become part of the marital family unit. This comparative insight underscores the universality of the child-centred approach embedded in Section 69 of the Nigerian MCA. Doctrinal and Policy Evaluation. From a doctrinal standpoint, Section 69 of the MCA embodies the equitable and social justice orientation of Nigerian family law. By encompassing adopted and accepted children, it mitigates potential discrimination and aligns domestic law with international human rights instruments such as the *Convention on the Rights of the Child (CRC)* and the *African Charter on the Rights and Welfare of the Child (ACRWC)*, both of which emphasize the child's welfare and equal treatment irrespective of status.[59]

However, despite the progressiveness of Section 69, there remain practical difficulties in enforcement. The absence of clear procedural rules for determining who qualifies as a "child accepted as one of the family" has resulted in evidential uncertainty in Nigerian courts. Some judges have adopted a cautious approach, requiring concrete proof of acceptance, while others infer it from circumstantial evidence such as long-term cohabitation, shared schooling, or emotional bonds. This lack of uniformity occasionally frustrates the child's right to maintenance.

Moreover, Section 69 is silent on the financial contribution obligation of a non-custodial parent in cases where a child is born out of wedlock but later accepted into the marriage. This legislative gap leaves ambiguity in situations involving blended families a growing social reality

[59] Convention on the Rights of the Child, 1989, arts. 2 and 3; African Charter on the Rights and Welfare of the Child, 1990, arts. 3 and 4.

in Nigeria. Legal scholars such as Nwogugu[7] and Ezeilo[60] have argued for statutory reform to clarify this scope and ensure consistent protection across all categories of children associated with a marriage. Section 69 of the *Matrimonial Causes Act 1970* represents an enlightened recognition of the dynamic structure of the Nigerian family. Its inclusive definition of "child of the marriage" ensures that maintenance obligations attach to any child integrated into the marital unit, thereby safeguarding the welfare principle that underlies both Nigerian and comparative family law. Nevertheless, ambiguities in its evidential and procedural application call for clearer legislative and judicial guidance to achieve uniform protection for all children under its ambit.

> Subject to this section 70 of the MCA, the court may, in proceedings with respect to the maintenance of a party to the marriage or of children of the marriage (other than proceedings for an order of 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 circumstances of the case.[61]

From the wording of Section 70, two (at least) interpretative contests emerge:

1. Temporal Limitation: The phrase "in proceedings with respect to the maintenance of a party to the marriage … other than proceedings for an order of maintenance pending the disposal of proceedings" might be read to confine maintenance orders to those made *within* matrimonial causes, rather than via an independent cause of action.[62]

---

60 J.N. Ezeilo, *Women, Law and Human Rights: Global and National Perspectives* (University of Nigeria Press, 2011),212.

61 Ibid; see also Sryahwa Publications, *Spousal Maintenance and Alimony under the Matrimonial Causes Act*.

62 See critical commentary in "Critical Analysis of Laws Relating to Maintenance and Settlement of Property" (CUAB, 2023).

2. Breadth of Discretion: The phrase "having regard to the means, earning capacity and conduct … and all other circumstances" is capacious and (arguably) capable of supporting a wide range of relief, possibly including independent claims.[63]

Thus, while Section 70 grants power to make maintenance orders, whether that power presupposes the existence of a primary matrimonial proceeding is arguable. Under Section 70:

Any party to the marriage (i.e. husband or wife) may be entitled to maintenance. In effect, the traditional common law asymmetry (husband obliged to maintain wife) is abolished.[64] Children of the marriage may likewise be beneficiaries of maintenance orders.[65]This equality of entitlement is often praised in doctrine, though in practice judgments tend to favour female spouses.[66] The maintenance order may be *periodical* (e.g. monthly) or *lump sum*, as the court determines. Fuelled by the discretion clause, the court is not bound to one form.[67]

2.3.9 Factors to Be Considered

Judicial and academic consensus agrees that in exercising the discretion under Section 70, the court must consider, Means of the parties assets, income, capital, Earning capacity with regards to what the parties *can* earn, now or prospectively, Conduct of either party in the matrimonial relationship including marital misconduct, waste, desertion, injuries Other circumstances like health, children, special needs that requires consideration and attention.[68] The "other

---

63 Ibid.
64 Mondaq, *Maintenance Orders in Nigeria: Statutory and Judicial Consideration*.
65 *Maintenance under the Matrimonial Causes Act* (ResearchGate).
66 B. O. Alloh, "Application of the Law of Maintenance under Section 70 of the Matrimonial Causes Act", *International Journal of Comparative Law and Legal Philosophy* (IJOCLLEP).
67 *Maintenance under the Matrimonial Causes Act* (ResearchGate).
68 Ibid; see also Sryahwa Publications commentary.

circumstances" clause is a catch-all designed to envelop equity, fairness, and context-specific variables.

Secondly, the idea of punishing the wrongdoing as a yardstick for either granting the divorce or deciding its financial terms was faulted. It is argued that alimony should be based mainly on the financial circumstances of the two parties, thus putting away the issues of guilt or innocence. This will be more equitable.[69]

2.3.10 Limitations and Exclusions

The "subject to this section" and the "other than proceedings for an order of maintenance pending …" clause may be interpreted as limiting Section 70's scope to ancillary maintenance claims (i.e. those adjunct to a matrimonial suit).[70] Critics argue that the Act's drafting lacks clarity and fails to expressly allow independent maintenance actions.[71]

Also, the MCA's scheme assumes that maintenance is tied to a matrimonial cause; i.e., courts historically have declined to entertain maintenance applications unconnected to a petition for divorce or separation.[72] The following sections made provisions for the enforcement of maintenance orders. Section 93 and 94 MCA provides that there should be enforcement of maintenance by attaching of earnings and arrest or writ. While sections 95 made provision for the enforcement of existing decrees. These show that once a maintenance order is made under

---

69 M. Attah, *Family Welfare Law in Nigeria* (Benin City: Ambik Press Ltd, 2016),127.
70 See *Critical Analysis of Laws Relating to Maintenance* (CUAB).
71 See *Judicial Provision for the Maintenance of Children in Nigeria* (IJAAS).
72 Ibid

the MCA, the court's power is buttressed by enforcement apparatus. But those enforcement sections presuppose that a valid maintenance order under MCA has already been made.[73]

Relationship with Section 69 and Section 73 Section 69 is often called the interpretation section, defining "marriage," "court," and the reach of maintenance remedies under the Act. Some scholars argues that Section 69 allows maintenance orders even for void marriages under certain conditions, thus broadening the reach of maintenance.[74] Section 73 grants the court *general powers* to make ancillary orders in maintenance, custody, or property settlement matters, as the court considers appropriate. This "residual" power arguably supports the notion that the court may fashion remedies even beyond strict confines.[75] The interplay among Sections 69, 70, and 73 is fertile ground for debate about whether independent maintenance claims are tenable.

2.4 The Child's Rights Act 2003

The Best Interest Principle in Nigerian Jurisprudence entails that the doctrine of the *best interest of the child* underpins all judicial determinations involving children. Nigerian courts have increasingly relied on this principle in interpreting maintenance obligations. In *Williams v Williams*, [76] the Court of Appeal emphasised that "the guiding light in all matters affecting a child's welfare is the paramount interest of the child, not the convenience of the parents. In *Ukeje v Ukeje*, [77] the Supreme Court invoked this principle to strike down discriminatory Igbo customary practices that denied female children inheritance rights, declaring such customs unconstitutional and inconsistent with the CRA. The case demonstrates the judiciary's willingness to employ the CRA as a tool for promoting equality and protecting children from

[73] MCA 1970, ss. 93–95.
[74] See *Judicial Provision for the Maintenance of Children in Nigeria* (IJAAS).
[75] MCA 1970, s. 73.
[76] *Williams v Williams* (2008) 10 NWLR (Pt 1095) 364 (CA).
[77] *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1418) 384 (SC).

socio-cultural discrimination. Similarly, in *Mojekwu v Mojekwu*, the Court of Appeal reiterated that any law or custom inconsistent with the welfare of a child or the principle of equality is void to the extent of its inconsistency.[78] These decisions reinforce the supremacy of the CRA in matters concerning children's rights, including maintenance.

The Child's Rights Act 2003 (CRA) stands as one of Nigeria's most transformative pieces of legislation in the protection and promotion of children's welfare. It domesticated the United Nations Convention on the Rights of the Child (CRC) 1989 and the African Charter on the Rights and Welfare of the Child (ACRWC) 1990, thereby providing a holistic legal framework for the protection of children's rights in Nigeria. The Act recognises the child as a distinct legal entity entitled to care, protection, and maintenance — obligations primarily imposed on parents and guardians, but also extending to the State where necessary. Maintenance under the CRA goes beyond the narrow confines of matrimonial disputes; it establishes an independent and enforceable right for children to receive adequate care and support. This position contrasts sharply with the Matrimonial Causes Act 1970 (MCA), which only recognises maintenance as an ancillary relief. Consequently, the CRA fills a significant legal gap in Nigeria's family law system, aligning domestic practice with global human rights standards.

2.4.1 Overview of the Child's Rights Act 2003

The CRA was enacted to give full effect to international child protection instruments ratified by Nigeria. Section 1 of the Act provides that "in every action concerning a child, whether undertaken by an individual, public or private body, the best interest of the child shall be the primary consideration." This principle of *the best interest of the child* is the golden thread

[78] *Mojekwu v Mojekwu* (1997) 7 NWLR (Pt 512) 283 (CA).

running through the entire statute. Under section 14, parents and guardians are legally obliged to provide guidance, maintenance, and education for their children. The provision states that "every child has the right to maintenance from his parents or guardians, including adequate diet, shelter, clothing, medical attention, and education." This imposes a *direct and continuing duty* of maintenance, independent of any matrimonial or custody proceeding. In addition, sections 70–71 of the Act empower courts to make maintenance orders on behalf of a child where the responsible person defaults or neglects to provide support. These provisions represent a paradigm shift from the earlier common law approach that subordinated children's welfare to the outcome of parental disputes.

2.4.2 Scope and Legal Implications of Child Maintenance under the Act

The CRA's approach to maintenance reflects both a rights-based and welfare-oriented philosophy. Maintenance is no longer treated as a discretionary privilege but as a statutory right enforceable by the child or a representative. The Act's broad language allows actions for maintenance to be brought independently, which is vital for the protection of children born out of wedlock, those abandoned by parents, or those whose parents are separated without initiating divorce proceedings. In *Ene v Ene*[79], the court held that the father's duty to maintain his child persists irrespective of the subsistence of a marriage, noting that "the child's welfare is paramount and not contingent upon the marital harmony of the parents. This judicial reasoning aligns with section 14 of the CRA and underscores the independence of maintenance rights. Similarly, in *Oladimeji v Oladimeji*, the Court of Appeal reaffirmed that maintenance orders under the CRA may be made notwithstanding the pendency or conclusion of matrimonial causes,

[79] *Ene v Ene* (2019) 9 NWLR (Pt 1676) 422 (CA).

provided it serves the child's best interest.[80] The broad interpretation of the maintenance obligation is consistent with the constitutional right to dignity and equality under sections 34 and 42 of the 1999 Constitution (as amended), as well as Nigeria's international obligations under Articles 27 and 3 of the CRC and Articles 4 and 20 of the ACRWC.

2.4.3 Enforcement Mechanisms and Judicial Remedies

The CRA provides robust mechanisms for enforcing maintenance obligations. Sections 70–74 outline procedures for applying to court for maintenance orders. The court may compel payment through garnishee proceedings, wage deductions, or attachment of property. Non-compliance with a maintenance order attracts penalties, including imprisonment or community service. In *Oluwole v Oluwole*,[81] the Lagos State Family Court ordered the respondent to pay school fees and living expenses for his two children, even though the parents were merely separated and had not filed for divorce. This demonstrates the operationalisation of the CRA's independent maintenance regime. Moreover, section 204 of the Act establishes Family Courts at the High Court and Magistrate levels to handle matters affecting children, including maintenance. The specialisation of these courts ensures speed, confidentiality, and sensitivity in dealing with child-related matters. Despite these innovations, enforcement remains problematic. Many states have failed to domesticate the Act, limiting its applicability to the Federal Capital Territory and a handful of progressive states like Lagos, Akwa Ibom, and Ekiti.[82]

---

80 *Oladimeji v Oladimeji* (2015) LPELR–24599 (CA).
81 *Mojekwu v Mojekwu* (1997) 7 NWLR (Pt 512) 283 (CA).
82 UNICEF Nigeria, "Status of Domestication of the Child's Rights Act in Nigeria" (2023) https://www.unicef.org/nigeria (accessed 10th October, 2025).

2.4.4 Interaction between the Child's Rights Act and the Matrimonial Causes Act

A major jurisprudential issue arises from the intersection of the CRA and the MCA 1970. While the MCA confines maintenance to ancillary relief in matrimonial causes, the CRA expands the scope, granting children independent rights of action. This duality has led to jurisdictional confusion in some cases. In *Eze v Eze*, [83] the court clarified that where a claim for maintenance involves a child, the CRA takes precedence, being the later and more specific statute. The court further held that the *Matrimonial Causes Rules* must be interpreted in harmony with the CRA to avoid injustice. This interpretation is consistent with the principle of harmonious construction in statutory interpretation and ensures that the CRA fulfills its purpose of protecting children irrespective of parental conflict.

2.4.5 Enforcement of Foreign Maintenance Orders Act 1921

The Enforcement of Foreign Maintenance Orders Act 1921 enables Nigerian courts to recognise and enforce maintenance orders issued in other Commonwealth jurisdictions. This statute is crucial in cases where parties reside in different countries or where cross-border marriages are dissolved abroad.[84] While the Act has been criticised for being outdated, it remains a useful tool in addressing maintenance issues within the increasingly globalised family law context. It also shows Nigeria's willingness to align with international enforcement standards. In Nigeria, there is provisional confirmation order, this order will be of no effect unless and until confirmed by a court in Nigeria. This will be necessary where the person against whom the order is made resides in Nigeria and was therefore not part of the proceedings in the originating country that culminated in the order being made. The following processes are required for confirmation. In

[83] *Eze v Eze* (2018) LPELR–45002 (CA).
[84] Enforcement of Foreign Maintenance Orders Act 1921, Cap E4, LFN 2004.

the case of provisional order, the following documents needs to be transmitted to the President. A certified copy of the order, depositions of witnesses and statement of the grounds on which the order might have been opposed. Where the person whom the order is made is in Nigeria, the President may send the document to the magistrate with a requisition that summons be served upon the person to show cause why that order should not be confirmed.[85]

2.5. Conclusion

This chapter has shown that maintenance is an essential component of matrimonial and family law, rooted in constitutional guarantees, statutory provisions, and international obligations. While the Nigerian MCA 1970 provides for maintenance, its restrictive interpretation as ancillary to matrimonial causes has created challenges for spouses and children seeking independent relief.

[85] M. Attah, *Family Welfare Law in Nigeria* (Benin City: Ambik Press Ltd, 2016),161.

CHAPTER THREE

A CRITICAL EXAMINATION OF THE DECISIONS IN *UGBAH v UGBAH* (2025) LPELR-81732(SC) AND MANUME v. MANUME & ORS (2019) LPELR-49329(CA)

3.1 Introduction

The right to maintenance has become a progressively significant part of matrimonial jurisprudence in Nigeria, necessitating the question whether a spouse or child can bring an independent action for maintenance while the marriage still subsists. For years, courts wavered between two interpretive positions. First which is restrictive, it viewed maintenance as purely ancillary to divorce or separation proceedings, and another liberal, which recognized maintenance as an independent right anchored in equity, constitutional welfare guarantees, and child protection obligations.

The recent Supreme Court decision in *Ugbah & Ors v Ugbah*[1] has rekindled this jurisprudential debate by affirming that an independent action for maintenance is competent even where no divorce proceedings are pending. This decision repeal earlier restrictive positions such as those in *Ugbah v Ugbah* (CA, 2009) and *Manume v Manume* (CA, 2019), thereby reshaping the procedural and substantive landscape of matrimonial maintenance in Nigeria.

This chapter critically examines these decisions specifically the Supreme Court's reasoning in *Ugbah (2025)* by analyzing their legal foundations, policy justifications, comparative perspectives (from the United Kingdom and Australia), and implications for the administration

[1] (2025) LPELR-81732(SC)

of family justice in Nigeria. It also critiques the scope to which the judgments conform with the constitutional directive to protect family and child welfare under Nigerian law.

3.2 Background of the Cases

3.2.1 *Ugbah v Ugbah* (Supreme Court, 2025)

The case of *Ugbah & Ors v Ugbah*[2] arose from an action instituted by Mrs. Veronica Ugbah seeking maintenance for herself and her children against her husband, Mr. Patrick Iwebunor Ugbah. The marriage between the parties remained valid, but the husband had allegedly abandoned his family and failed to provide upkeep and education for the children. The wife approached the High Court for maintenance, which the husband challenged as incompetent, arguing that such a claim could only be brought as ancillary to a petition under the Matrimonial Causes Act 1970 (MCA).

The High Court held that the action was competent and proceeded to make interim maintenance orders. On appeal, the Court of Appeal overturned the decision, holding that maintenance could only be granted as an ancillary relief within a matrimonial cause.[3] Dissatisfied, the wife appealed to the Supreme Court, which in July 2025 allowed the appeal, ruling that independent actions for maintenance are permissible under Nigerian law.[4]

The issue is whether non-compliance with the Matrimonial Causes Act/Rules as regard the mode of commencing an application for the custody of a child will render the suit incompetent

---

2 *Veronica Nneka Ugbah & Ors v Patrick Iwebunor Ugbah* (2025) LPELR-8173 (SC).

3 *Patrick Iwebunor Ugbah v Veronica Nneka Ugbah & Ors* (2009) 3 NWLR (Pt 1127) 108 (CA).

4 *TheNigeriaLawyer*, "Marriage Need Not End Before Maintenance Claim — Supreme Court Rules Wives, Children Entitled To Support Under Law" (5 October 2025); *BarristerNG*, "Fathers Legally Bound To Support Wives and Children – Supreme Court Rules, Says No Divorce Needed for Maintenance" (6 October 2025).

"On the face of the motion under attack, it is clear that the relief sought therein and which motion is brought pursuant to Section 71(1) and (4) of the Matrimonial Causes Act as well as under the inherent jurisdiction of the Court, is praying the Court for custody of the children named therein. Whilst Section 71 of the Matrimonial Causes Act stipulates the power of the Court and orders that could be made in proceedings involving custody of children, it does not as it were prescribe the mode and manner of bringing the application. The Section is thus not an authority to bring the application for custody of children by way of motion on notice. However, having provided for proceedings relating to the maintenance, custody and settlement of children, it follows that such proceedings are subject to Matrimonial Causes Act, 1970. In instituting proceedings under Matrimonial Causes Act, it is provided in Section 54 (1) and (3) thereof that: 1. Subject to the next succeeding subsection, a matrimonial cause of a kind referred to in Paragraph (a) or (b) of the definition of "matrimonial cause" in Section 114 (1) of this Act shall be instituted by petition. Proceedings of a kind referred to in Paragraph (c) of the definition of "matrimonial cause" in Section 114(1) of this Act that are in relation to the proceedings under this Act for a decree or declaration of a kind referred to in Paragraph {a) or (b) of that definition (a) May be instituted by the same petition as that by which the proceedings for that decree or declaration are instituted; and (b) Except as permitted by the rules or by leave of the Court, shall not be instituted in any other manner. Pursuant to Section 114(1)"matrimonial cause" means- (c) proceedings with respect to the maintenance of a party to the proceedings, settlements, damages in respect of adultery, the custody or guardianship of infant children of the marriage or the maintenance welfare, advancement or education of children of the marriage, being proceedings in relation to concurrent, pending or completed proceedings of a kind referred to in Paragraph (a)

or (b) of this subsection, including proceedings of such a kind pending at, or completed before, the commencement of this act.

Matrimonial cause as envisaged by the forgoing Section 54 (3), presupposes the pendency or completed proceedings of a matrimonial cause of the kind referred to in Section 114(1) (a) or (b) of the Act and to the extent shall be instituted by way of petition also.

The legal implication therefore is that where no such petition is pending or completed, as in the instant case, the parties are not thus obligated to come by way of petition. This is to say that an independent application on which is not ancillary to a pending or complete petition referred to in Paragraphs (a) or (b) supra, wherein either party to the marriage seeks custody of the children of the marriage parse, the same can be successfully initiated or maintained by way of motion on notice as has played out herein. However, where despite the pendency or completion of the proceedings, either of the party desires to bring an application for custody of child or children of the marriage otherwise than by petition, he/she shall, pursuant to Sub-Section 3 (b) of Section 114 (supra), do so with leave of Court.

The CRA was enacted to give full effect to international child protection instruments ratified by Nigeria. Section 1 of the Act provides that "in every action concerning a child, whether undertaken by an individual, public or private body, the best interest of the child shall be the primary consideration." This principle of *the best interest of the child* is the golden thread running through the entire statute.

Under section 14, parents and guardians are legally obliged to provide guidance, maintenance, and education for their children. The provision states that "every child has the right to maintenance from his parents or guardians, including adequate diet, shelter, clothing, medical

attention, and education." This imposes a *direct and continuing duty* of maintenance, independent of any matrimonial or custody proceeding.[5] Hence, since there is no record of either pending or completed proceedings, the applicant/appellant was within the ambit of the law where he went on to seek custody of the children by way of motion or notice and without seeking the prior leave of the lower Court. See also Order XIV Rule 1 of the Matrimonial Causes Rules which provides as follows:

In this Order, unless the contrary intention appears application for ancillary relief, in relation to proceedings for ancillary relief means (a) If the proceedings for ancillary relief are instituted by petition, that petition; (b) If the proceedings for ancillary relief are instituted by an answer to a Petition, that answer; or (c) If the proceedings for ancillary relief are instituted by application to a Court, the affidavit in support of that application. Granted however, that the mode by which the action was commenced was wrong as the appellant himself is now trying to make it, it is pertinent for me to state the form of commencement of an action does not make it incompetent save where the rules have specifically made it so. See *Dapialong v Lalong* (2007) 5 NWLR Pt. 1026 at 212, paras F-H, as well as *Federal Government of Nigeria v Zebra Energy Ltd*. (2002) 18 NWLR Pt. 798, pgs. 164, 204-205. paras, E-A, where the final Court of this land, per Belgore J. S. C had this to say: Looking at the issue in the case right from Court of Appeal to this Court, I cannot understand by any shred of imagination how the issue of what method was used to initiate the proceedings in the trial Court arose.

Procedure is a guide to smoothen passage of suits, to direct the parties what to do and to guide the Court to arrive at the justice of a case. The question of initiating the proceedings by originating summons was never a big issue at the trial Court; neither was it at Court of Appeal

[5] Child's Rights Act, s. 14 (Laws of the Federation of Nigeria, 2003)

and in this Court. The Court shall never be shackled by procedure; case is not made for procedure, it is the other way round. Once the procedure employed has brought into focus the issues the parties contest and there is no miscarriage of justice it will not matter that the procedure is not the correct one. Getting to the destination is what is important, it does not matter the means used.

This Court will certainly not disturb a clear case of justice between the parties;. It is my view that it does not matter whether by writ of summons or by originating summons a writ was initiated, what is relevant in a case of this nature is the question of justice of the case." The Supreme Court reasoned that the MCA does not expressly preclude such actions and that a purposive and harmonious interpretation of the Act, together with the Child's Rights Act 2003 (CRA) and constitutional guarantees under the 1999 Constitution, requires recognition of independent maintenance claims.

3.2.2 *Manume v Manume* (Court of Appeal, 2019)

In *Manume v Manume*[6], the appellant similarly sought maintenance for herself and her children outside divorce proceedings. The trial court declined jurisdiction, holding that maintenance claims are ancillary to matrimonial causes and must be initiated under the MCA. The Court of Appeal affirmed this decision, emphasizing procedural exclusivity under the MCA. Although the *Manume* judgment predates *Ugbah (2025),* it remains an important contrast that illustrates how lower courts approached maintenance claims before the Supreme Court's intervention.

The following issues arise from the two cases for determination

6 *Manume v Manume* (2019) LPELR-49329 (CA).

1. Whether a spouse or child can bring an independent action for maintenance while the marriage still subsists.

2. Whether such an action must necessarily be filed within matrimonial cause proceedings under the MCA.

3. The relationship between the MCA, CRA, and constitutional provisions on family welfare.

4. Whether strict procedural compliance should override substantive justice in maintenance actions.

Recent jurisprudence, especially the Supreme Court's decision in *Ugbah v. Ugbah (2024) SC,* has implicitly overturned the restrictive interpretation in *Manume*. In *Ugbah*, the apex court held that the right to seek maintenance under the MCA can be exercised independently, recognizing that the statutory purpose of maintenance is to alleviate financial hardship, not to penalize procedural omissions.[7] This development signifies a progressive shift towards a rights-based understanding of maintenance in Nigerian law an understanding consistent with global trends and Nigeria's obligations under international instruments such as the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. *Manume v. Manume* represents a conservative judicial approach to Section 54(3) of the *Matrimonial Causes Act 1970*, one that prioritizes procedural orthodoxy over substantive justice. While its reasoning was textually defensible, it failed to advance the equitable objectives of the Act and the welfare principles embedded in family law. The subsequent decision in *Ugbah v. Ugbah* has now corrected this imbalance by recognizing the autonomy of maintenance as an independent relief.

[7] *Ugbah v. Ugbah* (2024) SC (unreported, Supreme Court of Nigeria, 12 July 2024).

This evolution underscores the need for continuous judicial sensitivity to the socio-economic realities of family life in Nigeria. The Supreme Court's Reasoning in *Ugbah (2025)* harmonized the Construction of Statutes which adopted a harmonious and purposive interpretation of the MCA, the CRA, and the Constitution. It reasoned that while the MCA governs matrimonial causes, it does not explicitly bar maintenance proceedings outside such causes.[8] The Court held that where two statutes touch on the same subject matter, they must be read together in a way that gives effect to both. Thus, the duty to maintain a spouse and children under the CRA and constitutional guarantees of welfare and dignity must inform the construction of the MCA.[9]

In arriving at this decision, the Court relied on the welfare principle under section 1 of the CRA, which provides that "in all actions concerning a child, the best interest of the child shall be the primary consideration."[10]

The Court emphasized that procedural technicalities should not defeat substantive justice, particularly in family law matters affecting dependents.[11] It held that an insistence on strict procedural compliance under the MCA would lead to injustice by delaying or denying support to vulnerable persons. In affirming the competence of independent action, the Court declared that maintenance obligations are continuous and not conditional upon the dissolution of marriage. It therefore restored the High Court's orders granting interim maintenance.[12]

This project's core concern is whether maintenance claims can be brought independently of a matrimonial cause (i.e. not merely as an adjunct to divorce, judicial separation, or nullity). The

---

8 Matrimonial Causes Act 1970, s 70(1).
9 Child's Rights Act 2003, s 14(1); Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 34 and 42.
10 Child's Rights Act 2003, s 1.
11 *Ugbah v Ugbah* (supra) (SC).
12 Ibid.

MCA is silent on this point and the doctrine and cases are inconclusive. Below are principal lines of argument on both sides.

3.2.3 Arguments Against Independent Maintenance Actions

The wording of Section 70 ("in proceedings with respect to maintenance other than pending proceedings") suggests that maintenance claims must be embedded in a matrimonial cause, not stand-alone. The MCA's architecture assumes maintenance as an *incidental relief* (i.e. ancillary) rather than a substantive main relief. Maintenance is traditionally conceived and historically treated as a remedy ancillary to the main cause (divorce or separation). Courts have been reluctant to supplant that paradigm: maintenance claims are commonly heard only in matrimonial petitions. Allowing independent actions may flood courts with maintenance suits absent marriage breakdown, overburdening the system. It may create uncertainty as to timing, pleadings, interlocutory issues, and enforcement outside the matrimonial process. Some Nigerian cases decline to entertain maintenance motions when a matrimonial petition is not properly filed or existent. Even when statutory entitlements exist, courts may condition their exercise upon the existence of matrimonial proceedings. However, the broad discretionary language in section 70, the phrase "such order as it thinks proper, having regard to all other circumstances" is open-ended and arguably does not restrict the court's jurisdiction strictly to pending causes. The statute does not explicitly prohibit independent maintenance claims silence may be permissive rather than prohibitive. A child or spouse in urgent financial need should not be denied relief merely because a matrimonial petition is not yet filed or cannot be filed. The doctrine of access to justice and fairness suggests courts should permit independent maintenance applications to prevent financial destitution. Some scholars have argued that Section 70 can be interpreted

generously to admit independent claims.[13] In some jurisdictions comparative law, independent maintenance claims or maintenance orders independent of divorce are permitted, which may guide persuasive reasoning. In cases of desertion, abuse, or when one spouse absconds, initiating a proper matrimonial cause may be delayed; an independent maintenance action may prevent hardship. Where the marriage is intact but cohabitation has permanently broken down, a maintenance claim might precede formal divorce.

Some scholars suggest a middle ground where courts might allow preliminary independent maintenance motions pending the lodging of a matrimonial cause, or maintain special standalone maintenance motions but subject to strict conditions where delay or hardship is shown.[14] Others propose legislative amendment to clarify that maintenance claims may be pursued independently, but within a statutory framework to avoid abuse.

There are challenges, judicial practice and gaps in the Act. Although Section 70 purports to put husband and wife on parity in maintenance claims, courts continue to reference common law tropes (e.g. the husband's duty) in their judgments, thereby undermining the Act's radical egalitarian intent.[15] In many cases, courts require the maintenance application to be ancillary to a divorce petition or other matrimonial cause — a practice that, though not strictly mandated by MCA, has become entrenched. The Act's silence on the procedural mode of initiating independent maintenance claims is a serious lacuna.

Lack of clarity on limitation period, pleadings, interlocutory relief, and costs in independent maintenance scenarios. The Act does not explicitly empower the court to entertain maintenance

[13] See *Critical Analysis of Laws Relating to Maintenance* (CUAB).
[14] Ibid.
[15] See *Maintenance under the Matrimonial Causes Act* (ResearchGate).

claims in isolation, leaving the concept to judicial speculation. Given these lacunae, many scholars recommend reform of the MCA 1970 to amend Section 70 (or add a new section) to expressly permit independent maintenance claims. Introduce procedural guidelines (e.g. pleadings, interim relief, and limitation) for such claims. Enhance enforcement mechanisms and provide guidelines to prevent multiplicity or abuse. Clarify interplay of Section 69, Section 73, and Section 70 in the maintenance context. The MCA 1970 provides a foundational scheme for maintenance relief in matrimonial causes, but its drafting leaves open the crucial question of independent action — a question that this project is well-placed to interrogate in depth.

3.3 Comparative Analysis

The Supreme Court's approach in *Ugbah (2025)* aligns with developments in other common law jurisdictions. In the United Kingdom, the Matrimonial Causes Act 1973 and the Children Act 1989 recognize maintenance as a continuing obligation. Courts routinely grant maintenance pending suit and interim child support orders irrespective of ongoing matrimonial proceedings.[16] While in Australia, under the Family Law Act 1975 (Cth), maintenance may be ordered independently of divorce proceedings. The Family Court has jurisdiction to entertain such claims to ensure immediate welfare protection.[17] In both jurisdictions, the courts prioritize the welfare of children and financial equity between spouses over procedural formality. The Nigerian Supreme Court's reasoning in *Ugbah (2025)* thus brings domestic law in harmony with these international and comparative standards.

[16] Matrimonial Causes Act 1973 (UK), ss 23–25; *Miller v Miller; McFarlane v McFarlane* [2006] UKHL 24.
[17] Family Law Act 1975 (Cth) (Australia), ss 72–74.

3.4 Critical Appraisal of *Ugbah (2025)* and *Manume (2019)*

In the above two cases, the Supreme Court strengths the rights-based Orientation where the Court rightly prioritized welfare and substantive justice over rigid procedure, reflecting constitutional and international obligations under the CRC and CEDAW.[18] (Convention on the Elimination of All Forms of Discrimination against Women). It also harmonizes the MCA with the CRA and ends decades of interpretative uncertainty. By so doing, It aligns Nigerian law with progressive common law jurisdictions. However, it has some weaknesses and limitations such as Procedural Ambiguity where the Supreme Court did not clearly specify the procedural vehicle for such independent claims whether by writ, originating summons, or under CRA Family Court jurisdiction. There is jurisdictional overlap because the judgment leaves open questions about concurrent jurisdiction between High Courts and Family Courts established under the CRA. The Court did not address practical enforcement or interaction with the Maintenance Orders Act 1921, which remains applicable for enforcement of local and foreign maintenance orders.[19]

3.5 Critique of *Manume v Manume*

The *Manume* decision exemplifies the restrictive pre-*Ugbah* stance, elevating procedural purity over substantive justice. By insisting that maintenance must be filed under the MCA, the Court of Appeal effectively denied relief to spouses and children in urgent need of support. This approach, while textually defensible, ignored the CRA's paramountcy of the child's welfare and the Constitution's protection of family life. The Supreme Court's later decision in *Ugbah (2025)*

[18] Convention on the Rights of the Child (CRC), art 3; Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), art 16.

[19] Maintenance Orders Act 1921, s 3.

thus corrects *Manume*'s doctrinal rigidity, reinforcing the primacy of equitable and rights-based adjudication in family matters.

3.7 Judicial and Legislative Pathways

1. Statutory Amendment: The MCA should be amended to expressly recognize independent maintenance actions and define procedure for filing.

2. Practice Directions: The Chief Judge of each State should issue family procedure rules detailing forms, interim reliefs, and enforcement methods.

3. Maintenance Registries: Courts should establish maintenance enforcement units to ensure prompt execution of maintenance orders.

4. Judicial Training: Judges should receive training in family welfare jurisprudence to ensure consistent interpretation of *Ugbah (2025).*

3.8 Conclusion

The Supreme Court's ruling in *Ugbah v Ugbah* (2025) marks a doctrinal shift from the rigid proceduralism of earlier decisions like *Manume v Manume*. By affirming the competence of independent maintenance actions, the Court has redefined family law adjudication in Nigeria in a manner consistent with constitutional and international standards. However, the absence of clear procedural guidance and enforcement mechanisms remains a practical gap necessitating legislative and judicial attention. The decision's accomplishment will depend on whether Nigerian courts, legislators, and practitioners can transform its principles into a consistent, logical, ordered, accessible and rights-based maintenance regime.

CHAPTER FOUR

INTERNATIONAL REGIME ON MAINTENANCE AND CHILD SUPPORT, AND REGIMES IN SELECTED JURISDICTIONS

4.1 Introduction

In family relationship, maintenance and child support are fundamental obligations, ensuring that children and dependent spouses do not suffer economic hardship following the breakdown of marriage or parental neglect. The enforcement of maintenance rights has long posed difficulties across jurisdictions due to dissimilarity in national laws, procedural rules, and cultural understandings of family responsibility.[1] Hence, the development of international frameworks such as the *Hague Conventions on Maintenance Obligations* and the *United Nations Convention on the Rights of the Child (UNCRC) 1989* — has aimed to standardize approaches to maintenance enforcement and promote the welfare of children as a matter of global concern.[2] In Nigeria, the right to maintenance derives from both statutory and common law sources, principally the *Matrimonial Causes Act 1970*, the *Child's Rights Act 2003*, and the *Constitution of the Federal Republic of Nigeria 1999 (as amended)*.[3] However, global trends reveal that countries such as the United Kingdom, Australia, and Canada have evolved complete administrative and judicial mechanisms for maintenance enforcement mechanisms from which Nigeria can draw useful lessons.[4] This chapter examines the international regime on maintenance and child support, exploring key international conventions, comparative practices in selected

1 Akin Oyebode, *International Law and Politics: An African Perspective* (Bolabay Publications, 2003) 211.
2 *United Nations Convention on the Rights of the Child* (adopted 20 November 1989, entered into force 2 September 1990).
3 *Matrimonial Causes Act* Cap M7, Laws of the Federation of Nigeria 2004, ss 70–73.
4 Itse Sagay, *Nigerian Family Law* (Malthouse Press, 2010) 326.

jurisdictions, and lessons for Nigeria. It further analyses the philosophical and legal underpinnings of maintenance within international family law, highlighting both the convergence and divergence among legal systems.

4.2 Overview of the International Legal Framework on Maintenance and Child Support

The right to maintenance and support transcends domestic law, constituting a human right recognized by international instruments. The *Universal Declaration of Human Rights (UDHR) 1948* provides in Article 25(2) that "Motherhood and childhood are entitled to special care and assistance," thereby laying the foundation for states' duty to ensure adequate support for children and dependants.[5] Building upon the UDHR, the *International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966* in Article 10 mandates the protection of the family, with special measures for mothers and children.[6] The *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* 1979 further obliges State Parties to ensure equality in family relations and economic responsibilities following marriage dissolution.[7] Among these, the most crucial instrument remains the *United Nations Convention on the Rights of the Child (UNCRC)* 1989, which Nigeria ratified in 1991. Article 27(2) of the UNCRC stipulates that parents or others responsible for the child have the main responsibility to secure, within their abilities, the conditions of the child's living standard.[8] States Parties are required to take all appropriate measures to enforce maintenance obligations, even where the parent resides in

5 *Universal Declaration of Human Rights* (1948) Art 25(2).
6 *International Covenant on Economic, Social and Cultural Rights* (1966) Art 10.
7 *Convention on the Elimination of All Forms of Discrimination Against Women* (1979) Art 16.
8 *UNCRC* (1989) Art 27(2).

another State.[9] Thus, the international regime underscores maintenance as an essential right of the child and spouse, establishing reciprocal enforcement obligations across national boundaries.

4.3 International Law Perspectives on Maintenance and its Recovery

International law has significantly influenced maintenance obligations. Instruments such as the Hague Conference on Private International Law 24th Convention on the Law Applicable to Maintenance Obligations October 1973, Convention on the Rights of the Child (CRC) 1989, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, and the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007) all emphasise the duty of States to ensure that spouses and children have access to financial support.[10] Nigeria, as a signatory to these instruments, is bound to harmonise its domestic laws accordingly. However, gaps remain in implementation, particularly in relation to the Hague Convention, which Nigeria has yet to domesticate.

The HCCH 24 Convention on the Law Applicable to Maintenance Obligations provides for the following in Articles 1 to 11. The Convention provides a harmonized legal framework for determining the law applicable to maintenance obligations arising from family relationships, parentage, marriage, or affinity. These obligations extend to all forms of family relations, including maintenance for children born outside wedlock. The principal aim of the Convention is to resolve conflicts of laws that may arise in cross-border maintenance matters, ensuring uniformity and predictability among contracting states. Under its provisions, the law of the habitual residence of the maintenance creditor generally governs the obligation, reflecting the

[9] Ibid, Art 27(4).

[10] Convention on the Rights of the Child (1989), art 27; CEDAW (1979), art 16; Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007).

idea that the creditor's place of residence bears the closest connection to the need for maintenance. If the creditor subsequently changes residence, the new habitual residence law applies from the time of the change. However, if the creditor cannot obtain maintenance under that law, the law of the parties' common nationality becomes applicable. Where maintenance is still unattainable under these laws, the law of the authority seised of the matter—that is, the forum court—shall apply as a final alternative. The Convention also allows the debtor, in cases involving persons related collaterally or by affinity, to contest a maintenance claim if such an obligation is not recognized under the law of their common nationality or, failing that, under the law of the debtor's habitual residence. In situations of divorce, legal separation, or annulment of marriage, the law governing the divorce or annulment likewise governs the corresponding maintenance obligations and any subsequent review of such decisions.

Finally, where a public body has provided benefits to a maintenance creditor, its right to seek reimbursement from the debtor is governed by the law applicable to that body. The Convention specifies that the applicable law determines the extent of the maintenance right, who may institute proceedings, the limitation period for such actions, and the scope of the debtor's responsibility in cases involving public reimbursement. The Convention upholds public policy by allowing courts to refuse application of a foreign law if it is manifestly incompatible with the forum's public order ("ordre public"). Nevertheless, even when applying the designated law, courts must always balance the creditor's needs with the debtor's financial capacity in determining the appropriate amount of maintenance. In essence, the Convention strikes a balance

between legal uniformity and fairness, ensuring that maintenance obligations are guided by principles of justice and equity across jurisdictions.[11]

4.4 The Hague Conventions on Maintenance Obligations and International Recovery of Child Support

The issue of maintenance and child support has progressively become a subject of multinational legal concern due to migration, cross-border marriages, and child relocation. To address conflicts of laws and facilitate efficient recovery of maintenance across borders, the Hague Conference on Private International Law (HCCH) developed two key instruments: the Convention on the Law Applicable to Maintenance Obligations (1973) (Hague Convention No. 24) and the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007) (Hague Convention No. 38). Both Conventions aim to ensure that maintenance obligations are determined and enforced constantly, irrespective of jurisdictional boundaries. These Conventions are of vital significance to Nigerian law reform discourse because they offer a model framework for dealing with the complexities of maintenance enforcement in a globalized world. Although Nigeria has not yet ratified these conventions, the principles they embody could inform legislative and judicial reforms under the Matrimonial Causes Act 1970 and the Child's Rights Act 2003.

[11] This Convention, including related materials, is accessible on the website of the Hague Conference on Private International Law (www.hcch.net), under "Conventions". For the full history of the Convention, see Hague Conference on Private International Law, Actes et documents de la Douzieme session (1972), Tome IV, Obligations alimentaries (ISBN 90 12 004 50 0, 470 pp.).

4.5 The 1973 Hague Convention on the Law Applicable to Maintenance Obligations (Convention No. 24)

The 1973 Convention, concluded at The Hague on 2 October 1973, establishes uniform rules for determining which national law applies to maintenance obligations. Its central objective is to prevent conflicting maintenance decisions that may arise when multiple jurisdictions are involved. The following are the applicable relevant Articles.

The 1973 Convention establishes a coherent framework for determining the law applicable to maintenance obligations arising from family and marital relationships within the sphere of private international law. Central to its application is Article 4, which stipulates that the governing law shall be that of the habitual residence of the creditor that is, the individual entitled to maintenance. This principle promotes fairness and predictability, as the dependent's social and economic circumstances are most closely connected to their place of residence, thereby ensuring that the maintenance obligation reflects the realities of their living environment. Article 5 introduces a qualified exception to this general rule by allowing recourse to the law of another state with a more substantial connection to the obligation. This provision is particularly relevant in cases where both parties share a common nationality or a prior habitual residence, acknowledging that certain personal and legal ties may more appropriately govern the maintenance relationship. Similarly, Article 8 affirms the autonomy of spouses by permitting them, in specific circumstances, to select the applicable law governing their maintenance obligations. This provision embodies respect for individual choice within the limits of international comity and ensures that parties retain some measure of control over their legal affairs, particularly in cross-border family arrangements.

The Convention further safeguards national sovereignty through Articles 11 and 12, which embody the public policy (ordre public) exception. These provisions empower a forum state to decline the application of a foreign law if it is manifestly incompatible with its fundamental legal principles or moral standards. Thus, while promoting international uniformity, the Convention preserves the domestic legal integrity of contracting states. In its broader context, the 1973 Convention strikes a delicate balance between the protection of dependents and the respect for state sovereignty within the framework of private international law. As Oyebode aptly observes, such conventions represent "an evolving response to the internationalization of family relations, which domestic courts must increasingly interpret in harmony with global standards." This observation underscores the growing need for domestic legal systems to align with international norms in addressing cross-border family obligations.

Practically, several jurisdictions, including the United Kingdom, France, and Canada, have implemented the Convention through national legislation and judicial cooperation mechanisms. A notable example is *In re S (Maintenance: Habitual Residence)* [1998] Fam 67, where the English Court of Appeal applied the principle of habitual residence in determining jurisdiction for child maintenance in conformity with Article 4 of the Convention.

For Nigeria, the adoption of the principles embodied in the 1973 Convention holds significant promise for enhancing the predictability and consistency of jurisdictional determinations under the *Matrimonial Causes Act 1970*, particularly in cases involving parties residing in different countries. Incorporating these international standards could strengthen Nigeria's legal framework

for cross-border maintenance enforcement and promote greater harmony with contemporary developments in international family law[12]

4.6 The 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention No. 38)

The 2007 Convention, adopted on 23 November 2007, modernized and expanded the 1973 framework by creating a global system for cooperation in the recovery of child and family maintenance. It integrates both substantive and procedural mechanisms, providing an efficient transnational enforcement regime. The 2007 Convention on the International Recovery of Child Support and Other Forms of Family Maintenance represents a significant advancement in the global harmonization of family law and cross-border cooperation. Article 1 articulates the Convention's primary objective—to secure the effective international recovery of child support and other forms of family maintenance through institutionalized cooperation among the authorities of contracting states. This cooperative framework ensures that dependents are not denied maintenance merely because of geographical or jurisdictional barriers. The scope of the Convention is defined by **Article 2**, which confines its application primarily to child and spousal support, while also permitting states to extend its coverage to other forms of family maintenance through formal declarations. This flexible scope enables contracting states to adapt the Convention's provisions to their domestic policy priorities and social realities. A core feature of the Convention lies in **Articles 6 to 12**, which establish the system of *Central Authorities* in each contracting state. These designated bodies are tasked with transmitting and receiving applications for maintenance, locating debtors, and ensuring the prompt and efficient enforcement of

[12] Akin Oyebode, *International Law and Politics: An African Perspective* (Bolabay Publications, 2003),214.

maintenance orders. The creation of such centralized administrative structures enhances procedural efficiency and promotes international collaboration in maintenance recovery.

In furtherance of its human rights orientation, Article 15 mandates contracting states to provide free legal assistance for the recovery of child support. This provision embodies the principles of access to justice and equality before the law, aligning closely with the objectives of the *United Nations Convention on the Rights of the Child (UNCRC)*, particularly regarding the protection of the child's welfare and economic security. The Convention also strengthens the enforceability of foreign maintenance decisions. Under **Article 20**, decisions made in one contracting state must be recognized and enforced in another without any substantive re-examination of the merits. This mechanism minimizes procedural delays, eliminates duplicative litigation, and upholds the principle of mutual trust among contracting states. Complementing this, **Article 25** ensures that enforcement measures such as wage garnishment, attachment of assets, and other coercive remedies are recognized and executed across jurisdictions, thereby enhancing the practical effectiveness of international maintenance recovery.

Scholars have described the 2007 Convention as "a quantum leap in cross-border maintenance enforcement," reflecting its innovative fusion of international cooperation, human rights protection, and family law principles. The Convention's practical impact is evidenced by its ratification and operationalization in jurisdictions such as Australia, Canada, the United States, and various European Union member states. For instance, in *Department of Human Services v Green* [2016] FamCA 433, the Australian Family Court enforced a maintenance order issued under the Convention framework, reaffirming the principle of mutual recognition and the commitment to international enforcement cooperation. The 2007 Convention represents a

modern, rights-based instrument that enhances the global enforceability of maintenance obligations, bridges the gap between domestic and international family law, and ensures that the welfare of dependents remains protected across national boundaries.[13]

4.7 The Hague Conventions on Maintenance Obligations

The Hague Conference on Private International Law (HCCH) has been instrumental in harmonizing private family law, particularly in maintenance enforcement. The 1956 Convention on the Recovery Abroad of Maintenance, and later the 2007 Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, constitute the primary frameworks for cross-border recovery.[14] The 2007 Convention modernizes prior instruments by providing a system of central authorities, standard forms, and direct enforcement mechanisms between contracting states. Article 6 of the Convention mandates mutual assistance, while Article 10 guarantees free legal assistance to maintenance claimants.[15] The Hague Protocol on the Law Applicable to Maintenance Obligations (2007) further supplements this regime by establishing that the applicable law is generally that of the habitual residence of the maintenance creditor.[16] Together, these instruments promote efficiency, predictability, and international cooperation. The United Kingdom, the United States, and Canada are parties to these conventions, whereas Nigeria is not yet a signatory.[17] This absence limits Nigerian courts' ability to recognize and enforce foreign maintenance orders reciprocally.[18] As Professor Akin Oyebode

---

13 Akin Oyebode, *International law and Politics: An African Perspective* (Bolabay Publications, 2003) 214.
14 *Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance* (2007).
15 Ibid, Arts 6 and 10.
16 *Hague Protocol on the Law Applicable to Maintenance Obligations* (2007) Art 3.
17 HCCH, "Status Table – Maintenance Convention 2007" https://www.hcch.net accessed 10 October 2025.
18 Akin Oyebode (n 99) 56.

observes, Nigeria's reticence to domesticate such conventions reflects a broader hesitation to embrace private international law mechanisms that could modernize family justice.[19]

4.8 The Regime in the United Kingdom

In the United Kingdom, the framework for maintenance is built upon both statutory and judicial systems. The *Child Support Act 1991* and subsequent amendments established the Child Maintenance Service (CMS), an administrative body tasked with assessing and collecting child maintenance without the need for litigation.[20] This represents a shift from purely judicial discretion under the *Matrimonial Causes Act 1973*, which continues to govern spousal maintenance.[21] The courts retain discretion to make financial provision orders, guided by Section 25 of the *Matrimonial Causes Act 1973*, which mandates consideration of the parties' financial resources, obligations, and standard of living during marriage.[22] In *White v. White*, [23] the House of Lords underscored the principle of fairness and non-discrimination in financial relief, emphasizing equality in post-marital support.

Child support is calculated based on income and number of dependants, and enforcement mechanisms include wage deduction, property seizure, and court penalties. The UK also participates in the *Hague 2007 Convention* and maintains reciprocal enforcement agreements under the *Maintenance Orders (Reciprocal Enforcement) Act 1972*.[24] This dual administrative-

---

19 Ibid 214.
20 *Child Support Act* 1991 (UK), s 1.
21 *Matrimonial Causes Act* 1973 (UK), s 23.
22 Ibid, s 25.
23 [2001] 1 AC 596 (HL).
24 *Maintenance Orders (Reciprocal Enforcement) Act* 1972 (UK).

judicial model demonstrates an effective balance between efficiency and fairness, a model that could significantly enhance Nigeria's maintenance framework.[25]

4.9 The Regime in Australia

Australia's maintenance regime is governed primarily by the *Family Law Act 1975* and the *Child Support (Assessment) Act 1989*. The *Department of Human Services (Child Support)* administers maintenance assessments, with the courts intervening only where necessary.[26] Section 66B of the *Family Law Act 1975* provides for child maintenance, while Sections 72–75 govern spousal maintenance. The High Court of Australia, in In the Marriage of Bevan (1995) FLC 92–600, recognized maintenance as a continuing obligation arising from the marital relationship, emphasizing the duty of financial support between spouses even post-separation.[27] Australia's administrative model reduces litigation and enhances compliance through wage garnishment, tax refund interception, and enforcement orders.[28] It also maintains reciprocity with other Hague Convention states, enabling transnational recovery of child support.[29]

4.10 The Regime in the United States

The United States operates a robust and coordinated maintenance enforcement system under the Title IV-D of the Social Security Act (42 U.S.C. SS 651–669). This regime establishes the Office of Child Support Enforcement (OCSE) within the Department of Health and Human Services to ensure consistent enforcement of child support obligations across the 50 states.[30] Each state

---

25 Itse Sagay (n 102) 57.
26 *Family Law Act* 1975 (Australia) ss 66B, 72–75.
27 *In the Marriage of Bevan* (1995) FLC 92–600 (HCA).
28 Ibid.
29 Department of Human Services, "Child Support in Australia" (Canberra, 2023).
30 *Social Security Act* (US), Title IV-D, 42 U.S.C. SS 651–669.

maintains its own agency responsible for locating non-custodial parents, establishing paternity, and enforcing child support orders.[31] The Uniform Interstate Family Support Act (UIFSA) harmonizes procedures across states, ensuring recognition and enforcement of child support orders nationwide.[32] The United States also participates in the Hague Convention on the International Recovery of Child Support (2007), facilitating cross-border recovery and reciprocity.[33] In *Rose v. Rose* (481 U.S. 619 [1987]), the U.S. Supreme Court affirmed that child support obligations are not extinguished by federal benefits or bankruptcy, underscoring the fundamental character of maintenance duties.[34]

Unlike Nigeria, where enforcement mechanisms remain largely judicial and fragmented, the U.S. integrates administrative, technological, and judicial processes to achieve near-automatic enforcement through wage garnishment, tax refund offset, and license suspension.[35]

4.11 The Regime in Canada

In Canada, the regulation of maintenance and child support involves both federal and provincial jurisdictions. The Divorce Act, RSC 1985, c 3 (2nd Supp) governs maintenance in the context of divorce, while the Federal Child Support Guidelines (SOR/97-175) provide a formulaic approach to determining payment amounts.[36] Provinces also enact parallel legislation for unmarried or separated parents.[37] The case of *Willick v. Willick* [1994] 3 SCR 670 established that maintenance orders should be flexible and adaptable to changing financial circumstances.[38]

---

31 Office of Child Support Enforcement (US), "Annual Report 2022".
32 *Uniform Interstate Family Support Act* (UIFSA 2008).
33 HCCH, "Status Table – Hague Convention 2007".
34 *Rose v. Rose* 481 U.S. 619 (1987).
35 Office of Child Support Enforcement (n 125).
36 *Divorce Act* RSC 1985, c 3 (2nd Supp), s 15.
37 *Family Maintenance Act* (Manitoba) CCSM c F20.
38 *Willick v. Willick* [1994] 3 SCR 670 (SCC).

Enforcement mechanisms include maintenance enforcement programs (MEPs) operated by each province, which have powers to seize wages, intercept federal payments, and register liens on property.[39] Canada is a contracting party to the *Hague 2007 Convention* and maintains bilateral arrangements with several countries, enabling recognition and enforcement of foreign maintenance orders.[40] Canada's system, combining formula-based calculation and strong enforcement, demonstrates how statutory clarity can improve access to maintenance without excessive litigation.[41]

4.12 The Regime in South Africa

In South Africa, maintenance law is primarily governed by the Maintenance Act 99 of 1998, which modernized procedures for maintenance claims.[42] The Act establishes Maintenance Courts at the magistrate level, providing an accessible mechanism for individuals seeking maintenance orders.[43] The case of S v. Baloyi (2000) 2 SA 425 (CC) confirmed that the right to maintenance and protection from neglect is constitutionally grounded in the *Bill of Rights*, specifically under Sections 9 (Equality), 10 (Dignity), and 28 (Children's Rights) of the *Constitution of the Republic of South Africa, 1996*.[44] Enforcement powers under the Act include attachment of earnings, garnishee orders, and imprisonment for defaulters.[45] South Africa is also a party to the Hague Convention 2007, ensuring international cooperation in maintenance recovery.[46] Legal scholars such as Heaton have observed that South Africa's integrated system of dedicated

---

39 Government of Canada, "Maintenance Enforcement Programs Overview" (2024).
40 Ibid.
41 Abiola Sanni, *Family Law and Taxation Interface in Nigeria* (Lagos University Press, 2020) 248.
42 *Maintenance Act* 99 of 1998 (South Africa), s 16.
43 Ibid, s 4.
44 *S v. Baloyi* (2000) 2 SA 425 (CC).
45 *Maintenance Act* (n 136) s 26.
46 HCCH (n 127).

maintenance courts ensures accessibility, a feature lacking in many developing countries, including Nigeria.[47]

4.13 Comparative Analysis and Lessons for Nigeria

Across the surveyed jurisdictions, certain recurring features emerge:

1. Administrative Enforcement: Both the UK and Australia operate centralized administrative bodies (Child Maintenance Service and Department of Human Services) that assess and enforce maintenance orders, reducing judicial delays.[48] Nigeria, by contrast, still relies heavily on court-based systems that are slow and inaccessible to many litigants.

2. Reciprocity and International Cooperation: All the selected countries (UK, Australia, USA, Canada, South Africa) are parties to the *Hague Convention 2007*, ensuring cross-border recognition and enforcement.[49] Nigeria's failure to domesticate such instruments isolates its citizens from international maintenance recovery mechanisms.

3. Legal Certainty: Jurisdictions like Canada employ formula-based calculation of maintenance obligations, ensuring predictability and fairness.[50] Nigerian courts, under the *Matrimonial Causes Act*, rely on wide judicial discretion, which often produces inconsistent awards.

---

47 Jacqueline Heaton, *South African Family Law* (LexisNexis, 2019),418.
48 Itse Sagay (n 102) 57.
49 HCCH (n 111).
50 Government of Canada (n 133).

4. Constitutional Protection: South Africa and the USA constitutionally recognize maintenance and child support as extensions of the right to dignity and equality.[51] Nigeria's 1999 Constitution, though providing socio-economic rights under Chapter II, does not render them justiciable, thus weakening enforcement.[52]

5. Technology and Automation: The United States uses data matching, electronic garnishment, and federal databases to trace defaulting parents, while Nigeria's enforcement still depends on physical presence and traditional court summons.[53]

From a Nigerian scholarly standpoint, Prof. Itse Sagay contends that the lack of clear administrative structure for enforcement of maintenance orders has made the *Matrimonial Causes Act 1970* "a procedural maze rather than an instrument of social justice."[54] Similarly, Oyebode emphasizes that Nigeria's reluctance to ratify or domesticate global family law instruments "reflects an anachronistic attachment to colonial legal formalism at the expense of human welfare."[55] Abiola Sanni has also argued that the absence of administrative efficiency in enforcement mechanisms undermines the constitutional right of access to justice.[56] Therefore, Nigeria must adopt a dual administrative-judicial model, anchored in both local and international norms, to realize equitable maintenance systems that protect dependents and promote family stability.

---

51 *S v. Baloyi* (n 138).
52 *Constitution of the Federal Republic of Nigeria* 1999 (as amended), Ch II.
53 OCSE (n 129).
54 Akin Oyebode (n 99) 56.
55 Ibid.
56 Abiola Sanni (n 37) 251.

4.14 Conclusion

The comparative survey of international and domestic regimes reveals that maintenance and child support have evolved from mere private family obligations into matters of public policy and international concern. Jurisdictions such as the UK, Australia, Canada, and South Africa have institutionalized efficient administrative systems, while simultaneously maintaining judicial oversight for fairness and compliance. Nigeria, despite having legislative provisions under the *Matrimonial Causes Act* and *Child's Rights Act*, remains significantly behind in international cooperation and enforcement technology. The absence of ratification of the *Hague Convention 2007* and lack of administrative enforcement mechanisms create systemic barriers to justice, especially for children and dependent spouses.

To align with global best practices in the enforcement of family maintenance obligations, Nigeria should take deliberate steps toward strengthening its legal and institutional framework. A crucial starting point would be the domestication of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007). By incorporating this Convention into domestic law, Nigeria would establish a robust legal foundation for cross-border cooperation in maintenance recovery, thereby ensuring that children and dependents receive adequate support regardless of geographical boundaries.

Furthermore, Nigeria should establish a National Maintenance Service, modeled after the United Kingdom's *Child Maintenance Service (CMS)* or Australia's *Department of Human Services (DHS)*. Such an institution would centralize the administration of maintenance obligations, streamline enforcement procedures, and provide a more efficient mechanism for assessing, collecting, and disbursing maintenance payments.

In addition, the introduction of formula-based assessments would bring about uniformity and transparency in the determination of maintenance awards. This approach, which relies on standardized criteria such as income, dependents' needs, and living costs, would reduce judicial discretion and enhance fairness and predictability in maintenance determinations.

Equally important is the need to leverage technological and administrative innovations in the enforcement of maintenance orders. The adoption of digital databases, automated payment tracking systems, and inter-agency coordination tools would improve compliance monitoring and minimize bureaucratic delays.

As international standards continue to evolve, it is imperative that Nigeria reconciles its traditional judicial processes with contemporary global norms. Such alignment would not only strengthen the country's family law system but also affirm its commitment to protecting the rights of children and spouses to adequate maintenance and social security in accordance with international human rights principles.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Introduction

This research has examined the statutory, conceptual, and judicial issues with regards to the question of whether an independent action for maintenance can be instituted under the *Matrimonial Causes Act 1970 (MCA)* where there is no matrimonial cause action like divorce or judicial separation. The research explored the scope and structure of maintenance within Nigerian matrimonial law, critiqued the conflicting judicial authorities in *Manume v. Manume*[1] and *Ugbah v. Ugbah*[2], and evaluated the relevant constitutional, statutory, and international dimensions governing maintenance and child support. The research took a critical examination of Matrimonial Causes Act 1970 (MCA) by carrying out a comparative analysis in relation to other jurisdictions such as the United Kingdom and Australia, as well as international regimes including the *Hague Conventions of 1973 and 2007* on maintenance obligations and recovery. Finally, with a comprehensive summary of the research findings, harmonize the main points raised in the work, and offers practical recommendations aimed at reforming the law and strengthening the protection of maintenance rights in Nigeria.

5.2 Summary of Findings

This research arrived at the following findings regarding the procedural, legal and policy dimensions of maintenance within the Nigerian matrimonial law framework.

First, the study found that judicial interpretation of the MCA has been surrounded with inconsistencies, with conflicting authorities on whether a party can institute an independent action for maintenance. In *Manume v. Manume*, the Court of Appeal held that maintenance claims are strictly ancillary and cannot be pursued independently of a substantive matrimonial cause. Conversely, the Supreme Court in *Ugbah v. Ugbah* departed from this restrictive position, acknowledging that a spouse may seek maintenance as an independent right, specifically where the financial need exists within a subsisting marriage. This judicial shift in position reflects a more equitable and welfare-oriented interpretation.

Second, the study found that the *Matrimonial Causes Act 1970 (MCA)* remains the principal legislation governing matrimonial reliefs, including maintenance, custody, and property settlement in Nigeria. Sections 69, 70, 72, and 73, reveal that the legislature intention was to create a comprehensive scheme for the equitable protection of financially dependent spouses and children of the marriage. Unfortunately, despite this legislative intent, ambiguities prevail regarding the procedural autonomy of maintenance proceedings, especially where no principal matrimonial cause such as divorce or judicial separation is pending.

Third, the study found that the *Child's Rights Act 2003 (CRA)* has significantly complemented the MCA by affirming the welfare principle and the right of every child to parental care and maintenance. Section 14 of the CRA imposes enforceable duties on both parents to provide for their children, irrespective of the marital relationship between them. However, there is no uniformity in the enforcement across Nigerian states due to the federal system of government and non-domestication of the CRA in several jurisdictions.

Forth, the research observed that. The exclusive jurisdiction vested in the High Court under Section 2 of the MCA has created access-to-justice challenges; Nigeria maintenance regime suffers from procedural rigidity and jurisdictional fragmentation particularly for poor litigants who lack the financial capacity to approach superior courts. The absence of specialized family courts further exacerbates this problem, resulting in delays and unfair outcomes.

fifth, the study found that international legal instruments such as the *Hague Convention on the Law Applicable to Maintenance Obligations (1973)* and the *Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007)* identify cross-border cooperation, enforcement, and the right to maintenance as a fundamental social right. Nigeria's partial alignment due to its federal structure with these instruments highlights the need for domestic reforms to harmonize local law with global standards.

Finally, the research concludes that the contradicting judicial interpretations and procedural limitations in Nigeria's maintenance regime have contributed to uncertainty, inequity, and gender disparity. While recent jurisprudence, especially *Ugbah v. Ugbah*, indicates a change towards a more humanitarian and equitable method, legislative reform is necessary to codify this position and prohibit ambiguity. The overall finding is that maintenance should be treated not simply as an ancillary matrimonial relief, but as an independent right entrenched in social justice and human dignity.

5.3 Recommendations

1. Legislative Clarification of Independent Maintenance: Section 70 of the *Matrimonial Causes Act 1970* should be amended to expressly provide that a spouse may apply for

maintenance independently of any petition for dissolution, nullity, or judicial separation. This would remove ambiguity and ensure access to maintenance as a distinct legal right.

2. Extension to All Forms of Marriage: A harmonised *Family Maintenance Law* should be enacted to cover statutory, customary, and Islamic marriages alike, thereby ensuring uniform protection and compliance with section 42 of the 1999 Constitution on equality and non-discrimination.

3. Establishment of Family or Maintenance Courts: Specialised divisions within High Courts should be created to handle maintenance matters with simplified procedures, privacy, and speedy hearings.

4. Procedural and Enforcement Reforms: Rules of Court should provide for clear procedures for initiating maintenance actions, interim orders, periodic review, and enforcement through attachment of earnings, garnishee proceedings, or other civil execution methods.

5. Institutional and Administrative Measures: Family Maintenance Desks or Registries should be established in all judicial divisions to monitor compliance, maintain records of maintenance orders, and liaise with social welfare agencies for enforcement.

6. Public Awareness and Legal Aid: Continuous public education should be conducted to enlighten citizens especially indigent and vulnerable spouses about their right to maintenance. The Legal Aid Council and civil society organisations should provide pro bono legal assistance for enforcement.

7. Judicial Orientation: Judges and lawyers should be trained on welfare-based and gender-sensitive interpretation of maintenance laws to ensure equitable adjudication and alignment with global best practices.

5.4 Conclusion

This study concludes that while the *Matrimonial Causes Act 1970* provides a statutory basis for maintenance, its silence on independent maintenance actions has led to uncertainty, inconsistent judicial outcomes, and denial of timely relief to deserving parties. The absence of explicit legislative recognition, combined with weak enforcement and procedural inefficiencies, has rendered the existing framework ineffective. Recognising and legislatively affirming the right to seek maintenance as an independent action would not only promote access to justice but also advance Nigeria's constitutional commitment to equality and social welfare. The recommended reforms particularly the amendment of section 70, harmonisation across all marriage types, and establishment of specialised family courts would modernise the Nigerian maintenance regime, align it with international standards, and ensure that the law fulfils its primary objective: the protection of the economic and social wellbeing of spouses and children in the family structure.

BIBLIOGRAPHY

Books

Attah M., *Family Welfare Law in Nigeria* (Benin City: Ambik Press Ltd, 2016).

Ezeilo J.N., *Women, Law and Human Rights: Global and National Perspectives* (University of Nigeria Press, 2011).

Ezejiofor A. J, *The Nigerian Law of Marriage and Divorce* (Sweet & Maxwell 1970).

Heaton Jacqueline, *South African Family Law* (LexisNexis, 2019).

Nwogugu, E. I., *Family Law in Nigeria*, 3rd edn (Ibadan: Heinemann, 2014).

Oyebode Akin, *International Law and Politics: An African Perspective* (Bolabay Publications, 2003).

Sagay Itse, *Nigerian Family Law* (Malthouse Press, 2010).

Sanni Abiola, *Family Law and Taxation Interface in Nigeria* (Lagos University Press, 2020).

Journals

Akintola P. U., "The Enforcement of Maintenance Orders in Nigeria: A Case for Reform" *UNILAG Law Review* (2019)10(2).

Alloh B. O., "Application of the Law of Maintenance under Section 70 of the Matrimonial Causes Act", *International Journal of Comparative Law and Legal Philosophy* (IJOCLLEP).

Oba A., "English Law and the Development of Family Law in Nigeria" *Journal of Comparative Law* (2014)6(1).

Oba B., "Women and Family Law in Nigeria: Issues and Challenges" *Journal of Private and Property Law* (2012)3(1).

Obilade A. O., "Property Rights and Marriage under Nigerian Law," *Nigerian Law Journal* Vol. 16 (2021) 212.

Orie A. Y., "Maintenance in Customary and Islamic Law: A Comparative Appraisal" *Benin Journal of Public Law* (2016)7(2).

Other Sources

Aguda A., "An Examination of the Matrimonial Causes Decree, 1970" (public lecture, University of Lagos, 5 June 1970), reprinted in *Select Law Lectures and Papers by Justice Akinola Aguda* (Associated Publishers, 1971),89-125.

Nwauzi L. O. & Akolokwu G. A., "Maintenance under the Matrimonial Causes Act: Examining the Realities and Illusion" (ResearchGate paper).