

A SYNOPSIS OF CUSTOMARY DIVORCE LAWS OF NIGERIA

Divorce under the various customary laws of Nigeria may be judicial or extrajudicial.^{1/} A judicial divorce is obtainable by applying to available Customary Courts in Nigeria which have the jurisdiction to grant divorce decrees or any other matrimonial relief.^{2/} In States where Customary Courts have been abolished, jurisdiction is vested in Magistrates Courts to "hear and determine matrimonial causes and matters between persons married under customary law."^{3/}

In addition, other States in Nigeria have statutory enactments which specifically lay down grounds upon which termination of a customary marriage will be based.^{4/} An extrajudicial divorce may be obtained whenever one of the parties to the marriage takes unilateral action to dissolve the marriage. Such divorce will be granted by tribal elders assisted by the families of the parties to the marriage after all efforts to reconcile the parties have failed.

In those cases where there are no official documents or records evidencing the termination of a customary law marriage, the validity of documents and the existence of such a divorce are questions of fact and points of law to be determined by appropriate courts of law in Nigeria. Such courts could declare the validity of a customary law divorce and the mode of proving such a divorce.

Prepared by Charles Mwalimu
Legal Specialist
Near Eastern and African Law Division
Law Library, Library of Congress
December, 1983

1/ E.I. Nwogugu, Family Law in Nigeria 178-187 (1974).

2/ See, e.g., Customary Courts Law, 2 The Laws of the Lagos State of Nigeria, Ch. 33, 429-506 (1973); see also, The Customary Courts Law, 1981, No. 7 of 1981, Supplement to Imo State of Nigeria Gazette, No. 22 of June 18, 1981, p. A59-A82.

3/ Magistrates Courts Law (Amendment) Act, 1971, No. 23 of 1971, Supplement to East-Central State of Nigeria Gazette, No. 45 of October 28, 1971, sec. 5, p. A155.

4/ The Local Government (Declaration of Bade Local Government Marriage and Naming Ceremonies Native Law and Custom), Order, 1979, Borno State Local Government Notice No. 9 of 1979, Supplement to Borno State of Nigeria Gazette, No. 38 of September 20, 1979, p. B25-B27.

BIBLIOGRAPHY

1. Borno State of Nigeria. The local government (Declaration of Bade local government marriage and naming ceremonies native law and custom) Order, 1979, Borno State of Nigeria Gazette No. 38 of September 20, 1979. Supplement to Borno State of Nigeria Gazette No. 38 of September 20, 1979, p. B25-B27 (2 double-page exposures) LAW Nige/Borno 1
2. East-Central State of Nigeria. The Magistrates Courts law (Amendment) Act, 1971, No. 23 of 1971. Supplement to East-Central State of Nigeria Gazette No. 45 of October 28, 1971, sec. 5 p. 155 (1 double-page exposure) LAW Nige/EC 1
2. Imo State of Nigeria. The Customary Courts Edict, No.7 of 1984, Supplement to Imo State of Nigeria Gazette, No.21 of September 27, 1984, pp.A39-A40 & A57 (3 exposures) LAW Nige/Imo 1
4. Lagos State of Nigeria. Customary Courts law. 2 The laws of the Lagos State of Nigeria, Ch. 33, (1973) 77 p. Lagos, Lagos State Ministry of Information & Tourism, 1974. p. 429-448. * LAW Nige/LS 2
5. Nwogugu, E.I. Dissolution of Marriage--II: Customary Law. In Family law in Nigeria. Ibadan, Heinemann Educational Books, 1974. p. 178-187 (6 double-page exposures) LAW Nige 7 NWOG

CM:ehc
84-520
12/20/83

(3 single-page exposures;
8 double-page exposures).