

Code Law of Lagos State, Cap C 17, Laws of Lagos State, 2003 and its breach was criminalized by Section 339 thereof to underscore its mandatoriness. This was criminal law applicable in Lagos State in 2006



when this action was filed. Section 205 read: **"It is the duty of every person who, as head of a family, has charge of a child under the age of fourteen years, being a member of his household, to provide the necessaries of life for such child and he is held to have caused any consequences which result to the life and health of the child by reason of any omission to perform that duty, whether the child is helpless or not."**

Section 339 read:

"Any person who, being charged with the duty of providing for another the necessities of life, without lawful excuse fails to do so, whereby the life of that other person is or likely to be endangered, or his health is or likely to be permanently injured is guilty of a felony, and is liable to imprisonment for three years .

It was this right of a child that was codified and reinforced in the Child Rights Act of 2003, and which was domesticated in Lagos State as Child Rights Law of 2007. The right was not given to a child by these Laws.

The second question that arises in this appeal is whether a wife of a statutory marriage, like the first Appellant in this appeal, can file a stand- alone



action for maintenance for herself and the children of the marriage without needing to include it with other primary claims like divorce, nullity of marriage, judicial separation and/or jactitation of marriage. A review of the case law authorities on this issue shows that apart from the decision in the case of Okpagu Vs Okpagu (1947) 12 W.A.C.A. 137 and that of the Court of Appeal in the present case, the consensus of the other case law authorities is that the answer to the question posed is in the affirmative; i.e. that a wife can file a stand-alone action for maintenance for herself and the children of the marriage without including with it other primary claims like divorce, nullity of marriage, etc. see the cases of Ekisola Vs Ekisola (1961) L.L.R. 8 , the unreported

judgment of the Court of Appeal in Appeal No CA/C/99/81 - Etim Effiong Nakanda Vs Alice Uzoamaka Nakanda delivered on 17th of June, 1988, Kpilah Vs Ngwu (2018) LPELR 45395(CA)). In Obajimi Vs Obajimi (2011) LPELR 4665(CA) , the Court made point thus:

"Maintenance of a wife may be claimed by her from the husband even if there is no suit for divorce or separation. in other words,



the wife of a marriage under the Matrimonial Causes Act (M.C.A) is entitled to claim maintenance in the High Court, if her husband willfully neglected to maintain her without instituting matrimonial case..."

In the case of Anene Chikezie Vs Ifeoma

Anene (2017) Esut Law Reports (ESLR) 190 at 207-208 , a husband argued that he had no obligation to maintain the children of the marriage, and that, at that time, he was living separately from them and he contended that the Court could not make an order for such maintenance by him, as there was, at the time, no petition for dissolution of the marriage, Nnamani, J., of the Customary Court of Appeal, Enugu, in the lead judgment queried thus: ' does a man have an obligation to provide for his child or children whether or not there is a petition for the dissolution of his marriage to the mother of the child or children?' His Lordship answered the question in the affirmative and stated that "a man has both moral and legal obligations to provide for his child or children. The moral obligation stems from a code of paternity which is written by the creator with the ink of love in the hearts of men, which incidentally,