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## **Regina Daniels' Alleged Drug Admission: A Legal Analysis of its Potential Impact on Child Custody under Nigerian Law**

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### **Abstract**

This paper examined the legal implications of Regina Daniels' alleged public admission to drug use within the context of child custody proceedings under Nigerian law. Anchored on section 71 of the Matrimonial Causes Act, it interrogated whether such admission by Regina, if proven authentic, could displace the long-standing presumption and notion that custody of children of younger age is best placed with the mother. The analysis explores evidentiary standards under the Nigerian Evidence Act, moral fitness as a determinant of custody, and the welfare principle as the paramount consideration. It also highlights the view of modern judicial philosophy that emphasized on rehabilitation and child-centered justice over punitive moral judgment. Drawing from both Nigerian case law and scholarly authorities, the paper concluded that while drug use may question parental suitability, it does not automatically foreclose custodial rights without demonstrable harm to the child. The work ultimately advocates a welfare-centric and reformatory approach, aligning with the evolving humanistic outlook of contemporary Nigerian family law.

**Keywords:** Child custody, welfare principle, substance abuse, best interest of the child, Nigerian law

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### **1. Introduction**

Regina Daniels, the popular Nollywood actress recently admitted to using drugs, a revelation that has sent shockwaves across social media and intensified scrutiny on her ongoing marital issues with Ned Nwoko.<sup>1</sup> This admission could have profound implications in any custody dispute, as courts prioritize the welfare and best interest of children above all else. This paper aims to highlight and restate the law relating to custody under the Nigeria Legal system and the legal implications of Regina Daniels' admission to drug use. The paper avoids sensationalism. It doesn't "attack" Regina Daniels but uses her case as an entry point for objective legal analysis

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<sup>1</sup> Regina Daniels' official Instagram page

## 2. Definition of Concept

- a) The word 'child' can be traced from the Latin word "infans" which means the one who does not speak.<sup>2</sup> Biologically, a child is generally between birth and puberty or in the developmental stage of childhood between infancy and adulthood.<sup>3</sup> Article 1 of the Convention on the Rights of the Child,<sup>4</sup> a child is a human being below the age of eighteen<sup>5</sup>. In Nigeria, under the Child Rights Act 2003, a child is defined as any person under the age of 18 years.<sup>6</sup>
- b) 'Custody of children' implies the care, control, maintenance and preparation of a child physically, mentally and morally.<sup>7</sup> It also includes responsibility for a child with regard to his/her needs like food, clothing, instruction and the like.
- c) 'Best interest of the child' include those things that will assist the psychological, physical and moral development of the child, things that would promote the happiness and security which a child of tender years requires.<sup>8</sup>
- d) 'Substance abuse' refers to the excessive or inappropriate use of psychoactive substances such as drugs or alcohol in a manner that is harmful to an individual's physical, mental or social wellbeing.<sup>9</sup> In legal contexts, it describes a pattern of use that impairs judgment, behaviour or the ability to discharge parental or professional responsibilities.<sup>10</sup>

## 3. Legal Framework and Judicial Precedent on Custody of Children in Nigeria

Section 71(1) of the Matrimonial Causes Act 1971<sup>11</sup> provides that "in proceedings with respect to the custody, guardianship, welfare, advancement or education of children of a marriage, the court shall regard the interest of those children as the paramount consideration and subject thereto, the court may make such order in respect of those matters as it thinks fit". Having established the statutory framework, it is important to consider how the courts have interpreted and applied these principles in practice.

In matters of custody of children, this section of the MCA, confers on the court a discretion concerning the proper order to make, bearing in mind the 'interest of the children' as it relates to their physical, mental and moral welfare. The order may place the child in the custody of either of his parents as the courts thinks fit. Under subsection (3) and (4),<sup>12</sup> these orders may include:

- a) Orders to place children in custody of persons who are not parties to the relevant marriage (if that option is in the best interest of the children) and grant access to the child by one or both parties to the marriage or

<sup>2</sup> 'Collins English Dictionary — Complete & Unabridged', Digital Edition William Collins Sons & Co. Ltd., 2012), available at: <https://www.dictionary.com/browse/infant#:~:text=Origin%20of%20infant.French%2C%20from%20Latin%2C%200as%20above>

<sup>3</sup> Child Development, Wikipedia (en.wikipedia.org/wiki/child\_development), Human Development-ScienceDirect Topics (sciencedirect.com/topics/medicine-and-dentistry/humandevlopment)

<sup>4</sup> Article 1, Convention on the Rights of the Child, UN Doc. A/RES/44/25,1577 U.N.T.S.3 (20 November 1989).

<sup>5</sup> Article 3 (d) of Protocol to Prevent, Suppress and Punish Trafficking in Person Especially Women and Children.

<sup>6</sup> s.277, Child Rights Act No. 26 of 2003. Federal Republic of Nigeria.

<sup>7</sup> *Otti v Otti* (1992) 7 NWLR (Pt. 252) 187. Court of Appeal, Nigeria.

<sup>8</sup> *Odogwu v Odogwu* (1992), per Belgore J.S.C., Matrimonial Causes Act, Section 71. Cap M6, Laws of the Federation of Nigeria.

<sup>9</sup> World Health Organization (WHO), "Substance Abuse", WHO Regional Office for Africa, available at: <https://www.afro.who.int/health-topics/substance-abuse>.

<sup>10</sup> American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (5<sup>th</sup> ed., DSM-5), 2013

<sup>11</sup> Matrimonial Causes Act Cap. M7, Laws of the Federation of Nigeria 2004.

<sup>12</sup> *Ibid.*

b) Orders to grant access to children in the custody of one party by the other party.

It is pertinent to note that custody is never awarded as a reward for good conduct nor is it ever denied as punishment for the guilty party's matrimonial offences.<sup>13</sup> However, the conduct of the parties to the marriage is not entirely irrelevant, for although the welfare of the child is the paramount consideration, it is not the sole consideration.<sup>14</sup> It is our opinion that the conduct of the guilty party is a matter to be taken into account; thus, if the parties have made equal arrangements for the education, general well-being and upbringing of the child, the misconduct of one party might tilt the balance in favor of the other party, which is the party that is of good conduct. Moreover, grave or persistent misconduct or act of moral depravity by one party may be evidence that the party concerned is not fit and proper person to be entitled with the custody of a child.<sup>15</sup> In considering what is the best interest of the child, the court does not concern itself with extraneous matters like who between the parties is responsible for the breakdown of the marriage which has necessitated the proceedings for custody.<sup>16</sup>

Apart from the interests of children being of paramount consideration in determining questions of custody, the court also takes some other factors into consideration in order to arrive at the best possible decisions that would support the interests of the children. Some of these factors or considerations were identified by Karibi-Whyte JSC<sup>17</sup> to include: (1) the degree of familiarity between the child and each of the parties respectively; (2) the amount of affection between the child and each of the parties; (3) the respective incomes and position in life of the parties; (4) the respective accommodation of the parties; (5) the arrangement made by the parties for the education of the children; (6) the fact that one of the parties now live with a third party who may not welcome the presence of the child; (7) the fact that in principle, children should not be separated but should as much as possible live and grow together; (8) the fact that in the case of children of tender age, custody should normally be awarded to the mother unless other considerations made this undesirable; (9) the fact that one of the parties is still young and may wish to remarry and the child may become an impediment to that party.

#### 4. Legal Implications of Regina Daniels' Drug Admission

##### 4.1 Evidentiary value of social media admissions

Ordinarily, Nigerian courts are guided by the principle that children of tender age, particularly infants and preadolescents, should remain in the custody of their mother unless there exist circumstances that render such custody undesirable or contrary to the child's welfare. This long-established presumption finds judicial support in cases such as *Ogunbameru v. Ogunbameru*<sup>18</sup> and *Williams v. Williams*,<sup>19</sup> where the courts held that maternal custody is generally in the best interest of children of tender age, given the natural bond, emotional support, and nurturing role of mothers. However, this presumption is not absolute. The courts have consistently maintained that it may be displaced where evidence shows that the mother is unfit, morally depraved, or engages in conduct capable of endangering the moral, psychological, or physical welfare of the child. In *Nanna v.*

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<sup>13</sup> *Alabi v Alabi* (2007) 9 NWLR (Pt. 1039) 297

<sup>14</sup> *Ibid.*

<sup>15</sup> *Afonja v Afonja* (1971) 1 UILR 105.

<sup>16</sup> *Okafor v Okafor* (1976) 6 CCHCJ.

<sup>17</sup> *Williams v Williams* (1987) 2 NWLR (Pt.54) 66 SC.

<sup>18</sup> (1978) 2 LRN 15.

<sup>19</sup> (1987) 2 NWLR (Pt.54) 66.

*Nanna*,<sup>20</sup> the Court of Appeal reiterated that a parent whose conduct exposes a child to moral danger or neglect cannot, in the eyes of the law, be deemed fit for custody.

It is on this ground that Regina Daniels' public admission to the use of drugs, whether it was recreational or otherwise assumes serious legal relevance. In law, admitted facts require no further proof. Section 123 of the Evidence Act (as amended) provides that "no fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings". Consequently, a clear, voluntary statement made on a verified social media account, if proven authentic could suffice as *prima facie* evidence of the fact admitted.

#### 4.2 Proof of authorship and authenticity

Although Section 123 of the Evidence Act provides that admitted facts need no further proof, a social-media post such as an Instagram admission must first satisfy the authentication requirements of Sections 84 and 258 of the above-mentioned Act. The proponent must establish that the post originated from the celebrity's verified handle, that the device or account was under her control, and that the data has not been altered. In the absence of such proof, courts may treat the admission as uncorroborated hearsay until validated through digital-forensic evidence or a confirming statement by the party. The reason why we are emphatic on this is because courts in Nigeria (and globally) treat online statements with caution because authentication and authorship can be disputed. If this nuance is missing, critics could say that our argument rests on an untested assumption that Regina Daniels actually made the post herself.

#### 4.3 Drug use and parental fitness

The Nigerian legal system takes an uncompromising stance on issues relating to narcotics and controlled substances. Under the National Drug Law Enforcement Agency (NDLEA) Act,<sup>21</sup> the possession or use of hard drugs such as cocaine, heroin, or cannabis attracts severe penal consequences.<sup>22</sup> While Regina Daniels has not been formally charged or convicted under this Act, her admission, if credible, could lead the court to question her moral fitness and capacity to provide a stable and drug-free environment for her children. In *Okafor v. Okafor*,<sup>23</sup> the Court of Appeal emphasized that the parent seeking custody must demonstrate not only love and affection but also a stable lifestyle and moral uprightness conducive to the child's development. Similarly, in *Otti v. Otti*,<sup>24</sup> it was held that the moral and social conduct of the parties is relevant in assessing fitness for custody.

The rationale behind this judicial position is grounded in public policy: a parent who habitually indulges in drug use, thereby impairing judgment, emotional stability, or parental responsibility poses a foreseeable risk to the welfare of the child.<sup>25</sup> The law does not wait until such risk materializes before intervening; preventive discretion is within the court's jurisdiction. Moreover, intoxication whether voluntary or habitual offers no exculpation under the criminal law. Section

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<sup>20</sup> (2005) IELR 42395.

<sup>21</sup> Cap N30 LFN 2004.

<sup>22</sup> s.11(a), (b), (c) and (d), National Drug Law Enforcement Agency Act, Cap N30, Laws of the Federation of the Nigeria 2004.

<sup>23</sup> (2012) 3 NWLR (Pt.1288).

<sup>24</sup> (1992) 7 NWLR (Pt.254) 234.

<sup>25</sup> Child Rights Act, No. 26 of 2003, Cap C50, Laws of the Federation of Nigeria 2004, Criminal Code Act, Cap C38, Laws of the Federation of Nigeria 2004, S. 71 (1), Matrimonial Causes Act, Cap M6, Laws of the Federation of Nigeria 2004.

29(2)(a),<sup>26</sup> provides that self-induced intoxication is not a defense to any criminal charge. By analogy, in family law, the court cannot ignore the voluntary nature of a parent's substance use when determining custodial fitness. The fact that such conduct is self-induced demonstrates a conscious disregard for the responsibilities of parenthood.

#### 4.4 Presumption of maternal custody and its exception

If it is established that Regina Daniels voluntarily consumes narcotics or any psychoactive substances without medical supervision or prescription, the court may deem such behavior inconsistent with the best interest of the child principle enshrined in section 71(1) of the Matrimonial Causes Act and Article 3 of the Convention on the Rights of the Child (CRC), which Nigeria has ratified.<sup>27</sup> The welfare of a child, in its holistic sense physical, mental, and moral cannot be reconciled with an environment of substance abuse.

#### 4.5 Possible judicial remedies

Hence, even though the court is generally reluctant to separate children of tender years from their mother, the presence of a credible drug admission constitutes "other considerations" that makes maternal custody undesirable in this instance. The likely outcome, therefore, is that the court may rely on section 71(3) and (4) of Matrimonial Causes Act to either: (a) place the children in the temporary custody of their father, Senator Ned Nwoko; or (b) order joint custody subject to strict supervision by welfare officers; or (c) mandate Regina Daniels to undergo rehabilitation or drug assessment as a precondition for any future custody review.

This approach aligns with the welfare-centered reasoning adopted in *Alabi v. Alabi*<sup>28</sup> where the court ordered social welfare monitoring as part of its custody directives. Ultimately, the court's guiding principle remains that the welfare of the child is paramount and not the convenience of the parents. Therefore, any factor be it moral, psychological, or health-related that threatens that welfare will lawfully outweigh the traditional presumption in favor of maternal custody.

#### 4.6 Relevance of remarriage prospects (factor No. 9)

On factor number 9 above which is also a major factor in this paper, the High Court will consider the youth of the parties and their likelihood or intention to remarry, particularly where such remarriage or lifestyle change may disrupt the stability and welfare of the children. As noted in *Williams v. Williams*,<sup>29</sup> the Supreme Court affirmed that where one of the parents is still young and likely to remarry, such possibility may be relevant in determining what is in the best interest of the child. This factor is grounded in the practical recognition that remarriage often introduces new dynamics, emotional, social, and financial resources that could affect the child's upbringing. A new spouse may not always welcome the child of a previous marriage, thereby creating an atmosphere of tension, neglect, or divided loyalty.

Applying this reasoning to Regina Daniels' circumstances, the court would likely take judicial notice of her youth, public image, and active social lifestyle. At just twenty-four (24) years of age, she is still within the bracket the courts often describe as having "prospects of remarriage or lifestyle fluidity". Moreover, given her celebrity status and the pressures of her career in the

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<sup>26</sup> Criminal Code Act, Cap C38 LFN 2004.

<sup>27</sup> *Alabi v Alabi* (2007) LD CA 33.

<sup>28</sup> *Ibid*, 13.

<sup>29</sup> (1987) 2 NWLR (Pt.54) 66.

entertainment industry, it may be difficult for her to devote the consistency, stability, and moral supervision that the upbringing of young children requires.

In contrast, Senator Ned Nwoko, though much older, may be perceived by the court as offering a more stable domestic and financial environment. His social position and economic capability might weigh in his favor when considered alongside the tender age of the children and the desirability of a predictable routine for them. The court's primary concern is not wealth itself but the environment of stability and discipline it can provide.

Nonetheless, this consideration must not devolve into gender or age bias, as the Nigerian Constitution (Section 42) and Article 2 of the CRC prohibit discrimination on grounds of sex, marital status, or age. Therefore, remarriage potential should be assessed only to the extent that it demonstrably affects the child's welfare, not as a presumption against young mothers.

#### 4.7 Balancing welfare with rehabilitation: A counter-argument

While an admission to drug use may cast doubt on Regina Daniels' parental fitness, it does not automatically disqualify her from custody. Nigerian courts have repeatedly emphasized that allegations or admissions of moral misconduct must be shown to have a direct or probable adverse effect on the child's welfare before they can ground a denial of custody. In *Otti*, the Court of Appeal noted that "custody is not a reward for virtue nor a punishment for vice".<sup>30</sup>

Accordingly, Regina could argue that isolated or past drug use, absent concrete evidence of addiction, neglect, or endangerment, should not outweigh the maternal bond or her demonstrated capacity for responsible parenting. Nigerian courts have consistently held that custody decisions must be based on a holistic assessment of the child's welfare rather than a punitive evaluation of parental conduct. As the court of appeal affirmed in *Obahaya v Obahaya*<sup>31</sup> custody is never awarded as reward for good conduct nor is it ever denied as punishment for the guilty party's matrimonial offences. Regina may further demonstrate willingness to undergo rehabilitation, counselling or periodic testing, steps that reflect genuine reform and parental commitment, which the court may properly consider in its broad discretionary assessment under section 71 (1) of the Matrimonial Causes Act.

Such a stance aligns with the welfare centric philosophy that underpins Nigerian family law. The supreme court in *Williams v Williams*<sup>32</sup> held that the welfare of the minor is the first and paramount consideration, outweighing the claims of either parent, and emphasized a holistic assessment of the child's well being encompassing physical, emotional, and educational needs. This philosophy does not seek to stigmatize parental imperfection but rather to preserve the child's best interest through supervision, support, and where necessary, corrective intervention rather than the outright exclusion of a parent. The court's wide discretion under section 71 (1) of the Matrimonial Causes Act permits it to make such order in respect of custody, guardianship, welfare, maintenance, advancement or education of the child as it thinks fit, allowing it to fashion remedies that promote the child's wholesome development rather than simply punishing parental shortcomings.

Nigerian law further provides a mechanism through which the court can supervise parental conduct and monitor reform rather than simply removing a parent from child's life. Section 71 (2) of the Matrimonial Causes Act provides that the court may adjourn any proceedings until a report has been obtained from a welfare officer on such matters relevant to the proceedings as the court

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<sup>30</sup> Above, n 14, 234.

<sup>31</sup> (2022) LPELR-57141 (CA).

<sup>32</sup> (1987) 2 NWLR (Pt. 54) 66 SC.

considers desirable, and any such report may thereafter be received in evidence. This provision empowers the court to reconstruct parental capacity through welfare supervision and reformatory measures, rather than serving the child's interest merely by removing a parent. The report of the welfare officer is expected to cover all aspects of the life and welfare of the child in question, including the relationship of the child with the parents and other arrangements for the welfare and education of the child, so as to assist the court in making its order.

The guiding rationale of custody decisions in Nigeria is to secure the total welfare of the child through corrective and preventive measures rather than retribution against the parent. The Court of Appeal in *Otti v Otti*<sup>33</sup> provided a broad definition of custody encompassing the preservation and care of the child's physical, mental, and moral well-being, signaling a move away from rigid doctrines towards a more individualized assessment of the child's welfare. The best interest of the child must therefore be construed not as a mechanism of moral reward or punishment but as a holistic consideration aimed at preserving the family fabric through rehabilitation where possible. As affirmed in *Nanna v Nanna* (Unreported) in awarding custody of a child, the court will consider the care of the child's person morally, physically, and mentally, and that the welfare and interest of the child must be accorded paramountcy, reflecting a social policy that prioritizes the child's wholesome development above all other considerations.

Our argument here aligns with Article 9(3) of the UN Convention on the Rights of the Child, which favors maintaining personal relations and direct contact with both parents unless contrary to the child's best interest. Consequently, the court may adopt a supervisory approach ordering social-welfare monitoring or conditional custody where the parent shows genuine efforts at rehabilitation. This preserves the child's welfare while affirming the legal system's rehabilitative and humane spirit.

But, what if Regina Daniels argue that her Instagram account was hacked and the purported admission did not come from her? What will be the position of the court? It is worthy of note that the discretionary power of the court also covers the situation where it can receive in evidence reports (including subjecting Regina to drug test) from welfare officers on matters that are relevant to the custody proceedings as provided for in section 71(2).<sup>34</sup> The report of the welfare officers is expected to cover all aspects of the life and welfare of the child in question. A welfare officer is defined in section 114(1)<sup>35</sup> as a person authorized by the Attorney General of the Federation by an instrument in writing to perform duties as a welfare officer. It is for this reason that *Adefarasin J*<sup>36</sup> insisted that a matter of custody is an intricate one that it is desirable that the court should be assisted by the investigation and advice of a welfare officer as provided under section 71(2).<sup>37</sup>

In sum, while Regina Daniels' alleged drug admission may appear *prima facie* detrimental to her custody claim, modern family law jurisprudence demands a nuanced balancing between child welfare and parental rehabilitation. The next section considers other ancillary factors Nigerian courts may weigh in determining custody.

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<sup>33</sup> (1992) 7NWLR (Pt. 252) 187

<sup>34</sup> Matrimonial Causes Act 1970.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Oladetoun v Oladetoun* Suit No. H/11/70 (unreported).

<sup>37</sup> Matrimonial Causes Act 1970.

## 5. Other Factors the Court May Consider in Award for Custody

### a) *Sex and age of the children*

Neither statutory nor case law laid down any specific principles which courts are bound to observe on the factors of age and sex in the determination of who should get custody of children of a particular age or sex.

Historically, Nigerian courts have reflected the society's patrilineal character by often placing male children with their fathers and female children with their mothers.<sup>38</sup> However, contemporary decisions increasingly emphasize the child's individual welfare over cultural presumptions. In *Okafor v Okafor*,<sup>39</sup> for instance, the Court of Appeal reiterated that neither parent possesses an inherent right to custody; both stand equal before the law, and the overriding test remains what best serves the child's physical, emotional, and moral development. In the same spirit, the court in *Odulate v Odulate*<sup>40</sup> awarded custody of the female child of the marriage to the mother on the ground that a girl "has the right to develop her personality under the mother who in ideal cases is a role model for the child".

With regards to age, the fact that a child is of tender age does not necessarily mean that its custody will always be granted to the mother if it would not be in the best interest of the child to do so. In *Oladetohun v Oladetohun*,<sup>41</sup> the court found the mother of the only child of the marriage to be unsatisfactory wife and a bad mother who practiced juju, nevertheless, it granted her custody of the child who was three years on ground that doing so even if temporarily was in the best interest of the child.

### b) *Personal wishes of the child*

The court in custody proceedings especially when the affected children are old enough to make their preferences known to the Judge or welfare officer concerning their preferences as between the applicants for their custody. In some cases, the judge in the custody proceedings may interview the children privately in order to determine their wishes which he may or may not give effect to. In *Odogwu v Odogwu*,<sup>42</sup> the Supreme Court held that the court could consult the child's wishes in considering what order to make.

### c) *The social, religious, moral and educational welfare of children*

The courts usually give considerations to the advantages and disadvantages of any arrangements for the social, religious, moral and formal education of the child. Since these factors affect the overall socialization and education of the child, the courts are usually anxious to ensure that whatever decision is reached in these respects reflects the best for the child. In *Williams v Williams*,<sup>43</sup> Obaseki JSC was of the view that education is in the best interest of the child if it is in a proper environment. Oputa JSC opined in the same case that "education that alienates a child from his roots no matter how intellectually sound, is to be viewed with a suspicious eye by the court in custody cases, because educating Nigeria children of tender age in foreign lands would not give them the kind of training required for them to live and survive in Nigeria". According to the Learned Justice, "a boarding school in England was not a fitting substitute to a mother's care and

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<sup>38</sup> See *Oyelowo v Oyelowo* (1987) 2 NWLR 239.

<sup>39</sup> (1976) 6 CCHCJ.

<sup>40</sup> (1975) 1 CCHCJ 101.

<sup>41</sup> Suit No. H/11/70 (unreported).

<sup>42</sup> (1994) CLR 2 (d) CA.

<sup>43</sup> (1987) 2 NWLR (Pt. 54) 66 SC.

attention. Also, that a Nigerian should be trained to live in Nigeria and not become an expatriate in his own country". The court further stated that there are periods in a girl's life when she is undergoing the slow advance to majority when she needs her mother to discuss and answer her many questions about herself, her development, both physical and psychologically.

*d) Financial status of parties and arrangements for general care of children*

The financial strength and stability of parties in custody proceeding is relevant to the determination of what is in the best interest of children. The financial base must be supported by adequate arrangements for the general welfare of the children, these being: (i) suitable accommodation, (ii) education/training, and (iii) medicare. Where a party's case is dependent solely on material wealth without adequate arrangements for the welfare of children, the court may not be disposed to awarding custody to that party.<sup>44</sup>

*e) Equality of parents/conduct of the parties to the marriage*

In his very exhaustive definition and implications of custody in the *Williams case*, Obaseki JSC made the points firstly, that in matters of custody of children, both parents have equal right before the law that they both can exercise.<sup>45</sup> Neither of the two parties can exercise a claim that is superior to the other party's claim to custody. Even where one of the parents is not a Nigerian citizen, the courts do not discriminate against such a party in the award of custody. The primary consideration is the welfare of the children considered.

It is our opinion that the court should always focus on the welfare of the child rather than the conduct of the parents in the marriage, unless such a conduct is of a nature that would have negative implications for the child. The learned justice<sup>46</sup> opined that "an order of custody is not a penal order on either parent and should not be counted as such". Though the conduct of the parents to a child is a matter to be taken into account in determining what is in the best interest of the child, a parent should nevertheless not be deprived of custody merely because of his or her conduct which might have contributed to the breakdown of the marriage. Even in cases where adultery is alleged, the Learned Justice held that the adultery of a party should not necessarily be the reason for depriving that party of custody unless the circumstances of the adultery make it desirable.<sup>47</sup>

## 6. Conclusion

Although, Regina Daniels' public admission to drug use raises serious questions of parental fitness under Nigerian law, particularly in light of the welfare principle enshrined in Section 71 of the Matrimonial Causes Act, however, while such conduct may tilt the presumption of maternal custody against her, the courts are bound not by moral judgment but by the paramount interest of the child. The law's concern is not punishment but protection of both the child's welfare and the family's stability.

Modern family law in Nigeria, guided by authorities such as *Otti v. Otti* and the writings of Aguda, Nwogugu and Others, emphasizes a rehabilitative and welfare-centered philosophy. Thus, a parent's imperfection, including drug use, does not automatically foreclose custodial rights unless it demonstrably threatens the child's well-being. Courts may therefore combine corrective

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<sup>44</sup> Re McGrath (Infants) [1893] 1 Ch 143, Court of Appeal 9England), per Lindley LJ

<sup>45</sup> *Williams v Williams* (1987) 2 NWLR (Pt. 54) 66 SC, per Obaseki JSC, at 77, paragraphs F-H.

<sup>46</sup> Ibid, 45.

<sup>47</sup> Ibid, 45.

measures such as supervised custody, social welfare monitoring, and mandatory rehabilitation to preserve both the child's welfare and the possibility of parental reform.

Ultimately, the Regina Daniels case if ever tested in court would serve as a significant judicial moment in harmonizing accountability with compassion, morality with modernity, and parental rehabilitation with child welfare. It underscores the evolving jurisprudence that custody is neither a moral trophy nor a sanction, but a sacred trust guided solely by the enduring question: what outcome best serves the child's holistic welfare?