ISA Journal of Arts, Humanities and Social Sciences (ISAJAHSS)

Homepage: https://isapublisher.com/isajahss/

Vol 3, Issue 3, May-Jun - 2026 ISSN: 3049-1827

Marriage as a Contract, Covenant and Sacrament: Integrating Civil, Customary and Canonical Ceremony

Aloy. Enemali

Catholic Institute of West Africa, Port Harcourt, Nigeria

Received: 15.04.2026 | **Accepted:** 01.05.2026 | **Published:** 01.05.2026

***Corresponding Author:** Aloy. Enemali

DOI: *10.5281/zenodo.19956000*

Abstract **Original Research Article**

Marriage stands at the intersection of law, culture, and theology as one of humanity's most enduring institutions. Across civilizations, it has been variously understood as a legal contract regulating rights and obligations, a covenant binding parties, families, communities, and within Christian thought, a sacrament embodying divine grace. This study contends that these dimensions are not discrete or competing categories but complementary layers of a single, coherent reality. Focusing particularly on pluralistic societies such as Nigeria, where civil (statutory), customary and canonical systems operate concurrently, the paper interrogates the fragmentation produced by multiple marriage ceremonies and its implications for legal clarity, cultural integrity, and theological coherence. Through historical, legal, and theological analysis, the essay examines the evolution of marriage from ancient legal codes to contemporary civil and canon law, while engaging Igbo customary practices in Nigeria as a critical case study of communal and symbolic depth. It argues that the separation of marriage into distinct statutory, customary, and canonical rites obscure unity of the marital act. Consequently, it advances a normative framework for a unified marriage ceremony that satisfies statutory legality, respects customary legitimacy, and preserves sacramental integrity. Such integration is presented not merely as administrative reform but as a jurisprudential and theological imperative for the future of marriage.

Keywords: Marriage, Contract, Covenant, Sacrament, Civil, Customary, Canonical ceremony.

INTRODUCTION

Marriage stands as one of the most enduring institutions in human history, transcending cultures, religions, and legal systems. From the codified unions of ancient Mesopotamia to the covenantal theology of the Hebrew Scriptures, and from African customary practices to modern statutory regulations, marriage consistently functioned as both a social necessity and a sacred reality. Its historicity is not merely a matter of antiquity but a continuity, an evolving institution shaped by law, religion, culture, and socio-economic realities.

Importantly, marriage is also recognized within international legal instruments, including human rights frameworks that affirm the right to marry and found a family, thereby giving it a global juridical significance beyond domestic systems. Yet, despite this shared foundation, contemporary practice often

fragments marriage into separate civil (statutory), customary, and religious practices.

This article advances the prospect of a unified marriage ceremony that integrates these dimensions into a single juridical, cultural, and sacramental act. By situating this proposal within the historical and legal development of marriage, it argues that such integration is not a novel invention but a principled recovery of marriage's original coherence, legal recognition, and holistic identity.

1. THE HISTORICITY OF MARRIAGE

1.1. Marriage in the Ancient Near East and Classical Antiquity

Marriage did not begin in any courtroom or sacristy. It began when human beings first recognized that their survival, their children, and their deepest longings for belonging demanded a formal commitment to one another that the community would witness and uphold. Long before the drafting of legal codes, marriage was a social fact, a lived reality anchored in kinship, fertility, and the management of property. Yet, it was precisely because marriage carried such enormous social weight that it was among the first institutions to attract legal regulation.

The earliest written evidence of marriage as a legally regulated institution comes from ancient Mesopotamia. The Code of Hammurabi (c. 1754 BCE), compiled under the Babylonian King Hammurabi, devoted extensive provisions to the rights and duties of spouses, the conditions for divorce, the status of concubines, and the protection of children born within and outside of recognized unions. As Driver and Miles note in their landmark commentary, the Babylonian legal tradition treated marriage primarily as a contractual arrangement between families, in which the bride-price (*terhatum*) paid by the groom to the bride's family and the dowry (*sheriqtum*) contributed by the bride's family formed the economic backbone of the marital covenant (Driver and Miles 245). The contract was typically written, witnessed, and sealed, and its breach gave rise to enforceable legal remedies.

In ancient Egypt, marriage was similarly a matter of social contract rather than a religious ceremony. Although the gods presided over all human affairs in Egyptian cosmology, no priestly ritual was required to constitute a valid marriage. As Robins observes, Egyptian marriage was fundamentally an agreement between households, validated by the act of the wife entering husband's home and drawing up of property arrangements (Robins 56). Egyptian marriage was notable for the relative equality it accorded women. Wives could own property, initiate divorce, and appear independently before legal tribunals, a degree of legal personhood that was extraordinary by ancient standards.

In ancient Greece, the Athenian institution of marriage, the *enguesis*, was literally a contract of betrothal conducted between the prospective groom and the bride's male guardian (*kurios*), typically her father or brother. As Lacey demonstrates, the bride herself was not a legal party to the *enguesis* but rather the object of the agreement between men (Lacey 105). Nevertheless, the marriage ceremony (*gamos*) that followed the *enguesis* was a rich ritual event, encompassing sacrifices to the gods, a process through the city, and the ceremonial transfer of the bride to her new household. The legal and the sacred were not separated but intertwined, with the gods serving as witnesses and guardian of the marital bond.

Rome contributed perhaps the most decisive juridical inheritance to the subsequent development of marriage law in the Western tradition. Roman jurists developed with extraordinary sophistication the idea that consent, rather than physical consummation or religious ceremony, was the constitutive act of marriage. The celebrated maxim *nuptias non concubitus sed consensus facit*, that it is consent and not cohabitation that makes a marriage, recorded in the Digest of Justinian and associated with the jurist Ulpian, became the cornerstone of both canon law and civil marriage law for centuries (*Corpus Juris Civilis, Digestum 50.17.30*). Roman law recognized multiple forms of marital union, distinguished by degree of legal capacity of the parties, and developed refined doctrines governing consent, capacity, and impediments. As Treggiari argues in her meticulous study of Roman marriage, the Roman legal

framework was simultaneously patriarchal in its assumptions about gender and remarkably sophisticated in analysis of what constitutes a binding human agreement (Treggiari 163).

1.2 Marriage in Biblical Israel

Within the tradition of ancient Israel, marriage occupied a space simultaneously legal, social, and theological. The Hebrew Bible does not contain a single, unified marriage code, but its narratives, legal collections and prophetic literature together construct a richly textured account of what marriage is and what it is ordered toward.

In the patriarchal narratives of Genesis, marriage emerges as a divinely instituted reality from the moment of creation. The second creation account in Genesis 2:18-24 presents the marriage of Adam and Eve not merely as a biological or social necessity but as the response of God to the primordial observation that "it is not good for man to be alone." The union of man and woman, sealed in the words, "therefore, a man shall leave his father and mother and hold fast to his wife, and they shall become one flesh" (Gen. 2:24), is presented as the paradigmatic human relationship, the foundational institution upon which all subsequent social life is built. As Wenham notes in his commentary, the language of the text is deliberately universal, reaching beyond the specific situation of Adam and Eve to articulate a general anthropological truth about the nature of marriage as a divinely ordained partnership (Wenham 70).

The legal dimensions of marriage in ancient Israel are addressed primarily in the Deuteronomic code and in the wisdom literature. The payment of the *mohar*, the bride-price paid by the groom to the bride's family, is attested in multiple biblical texts (Ex. 22:16-17; 1Sam 18:25) and functioned as in other ancient Near Eastern legal traditions, as the formal juridical element that constituted the marriage contract. As de Vaux demonstrates in his classic study of ancient Israelite institutions, the *mohar* was not a purchase price for the bride but a compensation to her family for the loss of her labour and fertility, and it served simultaneously to signal the seriousness of the groom's commitment (de Vaux 27).

What distinguishes the biblical account of marriage from its ancient Near Eastern parallels, however, is the covenantal dimension that runs through both the legal and the prophetic traditions. The use of the Hebrew word *berit* (covenant) in connection with marriage, most explicitly in Malachi 2:14, where the prophet addresses a man who has been faithless to "the wife of your youth, to whom you have been faithless, though she is your companion and your wife by covenant," situates marriage within the framework of Israel's covenantal relationship with God. For the prophets, the fidelity or infidelity of a husband to his wife becomes a figure for the fidelity or infidelity of Israel to YHWH. Hosea's marriage to the unfaithful Gomer is deliberately structured as an enacted parable of God's covenant with Israel (Hos. 1-3). Ezekiel uses the language of marriage to describe God's election of Jerusalem (Ezek. 16). The Song of Songs, read within the canonical tradition of both Judaism and Christianity, celebrates the erotic love of husband and wife as a figure of the love between God and his people. On this, Brueggemann observes, these prophetic developments of marital imagery reveal that, within the Hebrew biblical tradition, marriage is never merely a legal or social institution but always already a theological reality (Brueggemann 172).

1.3 Marriage in the Medieval and Early Modern Transition

The transition from late antiquity to the medieval period marked a decisive shift in the institutional location of marriage regulation. As the Roman Empire fragmented and the Germanic customary law increasingly competed with Roman legal inheritance, the Christian Church gradually assumed the role of the authoritative regulator of marriage in the Western world. This assumption of jurisdiction was neither immediate nor uncontested, but by the twelfth century the Church's claim to exclusive jurisdiction over marriage was sufficiently established to generate the first systematic canonical treatise on the subject.

Gratian's *Decretum* (c. 1140), the foundational text of medieval canon law, attempted to reconcile the

competing traditions that had accumulated around the question of what constitutes a valid marriage. The central controversy was between the position associated with the school of Bologna, which holds that the exchange of consent alone constitutes marriage (*matrimonium initiatum*), and the position associated with the school of Paris, that marriage is only fully constituted with consent followed by consummation (*matrimonium ratum et consumatum*). As Brundage demonstrates in his authoritative history of sex, law, and marriage in medieval Europe, the resolution that eventually prevailed, largely through the influence of Pope Alexander III, affirmed that consent alone is sufficient to constitute a valid marriage, but consummation gives the marriage its indissoluble character (Brundage 334). This resolution, which closely followed the Roman legal principle that consent makes marriage, simultaneously preserved the juridical antiquity and gave it a new theological grounding.

The Council of Trent (1545-1563), responding to the chaos introduced by the Protestant Reformation into European marriage law, issue the decree *Tamestsi* (1563), which required for the validity of marriage that it be celebrated publicly, before a priest and two witnesses, after the publication of banns. Trent's legislation represented a decisive intervention of ecclesiastical authority into the form of marriage, imposing for the first time a mandatory canonical form as a condition for validity. As Donahue argues, Trent's decree was simultaneously a reassertion of the Church's jurisdictional claims over marriage and an acknowledgement that clandestine marriages, however, genuinely consented to, had become a social and spiritual disaster (Donahue 417).

2. MARRIAGE IN IGBO CUSTOM AND AFRICAN TRADITIONAL LAW

2.1 The Structure and Meaning of Igbo Customary Marriage.

Any serious engagement with the law of marriage in Nigeria, and by extension Africa more broadly, must reckon seriously with the indigenous legal traditions that governed the institution of marriage long before the arrival of either colonial civil law or Christian missionary influence. The Igbo people of Southeastern Nigeria possess one of the richest and most elaborately structured traditions of marriage law in sub-Saharan Africa, a tradition that is simultaneously customary law, religious practice, social covenant, and cosmological statement.

Igbo traditional marriage is not a single event but a process, a series of ritually and legally significant stages through which two families are progressively bound together in a relationship that is understood to transcend the individual couple and to encompass their ancestors, their communities, and the spirit world. As Uchendu observes in his foundational study of Igbo society, marriage among the Igbo is fundamentally an alliance between two family groups, not merely a private arrangement between two individuals (Uchendu 50). The interest of the extended family, the lineage (*Umunna*), and the village community are all directly implicated in every marriage, and the failure to secure their approval can render a marriage socially invalid even if the couple themselves have freely consented.

The first stage of Igbo traditional marriage is the process of inquiry and introduction (*iku aka* or *iju ese*), in which the prospective groom's family formally approaches the bride's family to ascertain their willingness to consider the proposal. This stage involves the investigation of the family backgrounds of both parties, with particular attention to the avoidance of the taboo of *osu* (outcast) status and to the prevention of marriage within prohibited degrees of kinship. As Onwuejeogwu shows, the Igbo kinship system is governed by a strong principle of exogamy: marriage within the patrilineage (*Umunna*) is strictly prohibited, and in many communities' marriage within a wide circle of cognatic kin is also forbidden. (Onwuejeogwu 87). This system of exogamic prohibition serves both a social function (preventing concentration of wealth and power within a single lineage) and a cosmological one (maintaining the proper ordering of relationships between the living, the dead, and the unborn).

The second stage is the payment of the bride-price (*ime ego nwanyi*). This is the central juridical act of

Igbo marriage. It is not, as early colonial observers frequently and misleadingly characterized it, a purchase of the bride. As Amadiume argues persuasively, the bride-price in Igbo customary law functions as a form of compensation to the bride's family for the loss of her reproductive and productive capacity, as a public affirmation of the groom's seriousness and economic responsibility, and as a legal instrument that formally transfers the bride from the legal authority of her natal family to that of her husband's family (Amadiume 37). The amount of the bride price negotiated between the two families is calibrated to the social status, educational attainment, and personal qualities of the bride, and its payment creates legally recognized obligations on both sides.

The culmination ritual of Igbo traditional marriage is the wine-carrying ceremony (*Igba nkwu nwanyi*), in which the bride carries a cup of palm wine through the assembled guests, searching for her groom, and, upon finding him, offers him the cup as a public declaration of her free and voluntary consent to the marriage. This ceremony, which is witnessed by both families, the village community, and the ancestors (who are invoked and present through libation and prayers), serves simultaneously as the formal celebration of marriage and as the public juridical act that constitutes it. As Achebe notes in his classic ethnographic novel, the *igba nkwu* ceremony is not merely a celebration but a rite of passage that fundamentally alters the social and spiritual status of both the bride and the groom (Achebe 115).

2.2 Comparing Igbo Customary Marriage with other African Traditional Marriage

The Igbo customary marriage shares important features with the marriage customs of other African peoples, while also displaying distinctive characteristics that reflect the specific cosmological and social organization of Igbo society. A comparative analysis reveals both the common architecture of African traditional marriage law and the creative diversity with which different communities have build upon that common foundation.

Among the Yoruba of southwestern Nigeria, marriage similarly involves a multi-stage process of family engagement, bride-price negotiation (which is here called *eru iyawo*), and public celebration. AS Fadipe demonstrates in his classic study of Yoruba society, the Yoruba marriage process gives particular emphasis to the role of the *eru iyawo* as a formal legal instrument of transference: until it is paid, the union between a man and a woman may be socially recognized but is not legally complete, and children born before its payment may face questions of lineage affiliation (Fadipe 71). The Yoruba tradition also places great emphasis on the compatibility of the two families in terms of their social standing, their religious affiliations, and the verdict of the *Ifa* oracle, which is consulted to determine whether the proposed union is auspicious.

Among the Zulu of Southern Africa, the institution of *lobola* (cattle given by the groom's family to the bride's family) serves a function analogous to the Igbo bride-price but is embedded in a distinct cosmological framework in which cattle are charged with deep symbolic and spiritual significance. As Vilakazi observes, the payment of *lobola* among the Zulu is simultaneously an economic transaction, a juridical act, a religious offering (cattle being the preferred medium of communication with the ancestors), and a statement of the groom's family's recognition of the worth and dignity of the bride (Vilakazi 43). The refusal or inability to pay *lobola* renders a union incomplete in the eyes of both the community and the ancestors, with potentially serious spiritual consequences for the couple and their children.

What emerges from this comparative survey is that African traditional marriage law, despite its enormous diversity, is organized around a common set of principles: the primacy of family and community over the individual couple; the legal and cosmological significance of bride-price or its equivalent; the importance of ancestral approval and participation in the marriage process; the understanding of marriage as an alliance between lineages rather than merely between individuals; and the inseparability of the legal, social, and spiritual dimensions of the marital bond. These principles constitute, in effect, an indigenous African theology

of marriage, a theology in which the covenant between a man and a woman is always already embedded within a larger web of covenantal relationship connecting the living with the dead, the individual with the community, and the human with the divine.

3. MARRIAGE IN CIVIL AND COMPARATIVE LAW

3.1. Emergence of Civil Marriage Law in Western Legal Traditions

The story of civil marriage in the Western Legal tradition is inseparable from the long struggle over the question of who has the authority to regulate marriage: the Church or the state. For most of the medieval period, this question was answered unambiguously in favour of the Church, which claimed exclusive jurisdiction over the formation marriage on the grounds that marriage was a sacrament and therefore fell within the domain of the spiritual authority of the Church. However, the Protestant Reformation, by denying the sacramental character of marriage and relocating it within the sphere of civil society, opened the door to the eventual assertion of state jurisdiction of the institution of marriage.

Luther's denial of marriage as a sacrament, articulated in his 1522 treatise, *The Estate of Marriage,* had an immediate and far-reaching legal consequence. If marriage is not a sacrament, then it falls outside the exclusive jurisdiction of the Church and within the legitimate competence of secular authorities. This notwithstanding, Luther himself was ambivalent about the precise division of labour between Church and state in the regulation of marriage, acknowledging that marriage involves both civil and spiritual dimensions, but the logic of his theological position tended powerfully in the direction of civil jurisdiction. On this, Kingdon notes that the Protestant Reformers of Geneva developed under Calvin's influence a system of marriage regulation that combined ecclesiastical discipline with civil enforcement, anticipating in important ways the model of state-registered marriage that would become standard in modern secular legal systems (Kingdon 1).

The decisive step towards the secularization of marriage law in Europe was taken by the French Revolution (1792) which introduced compulsory civil marriage as the only legally recognized form of marriage in France. Under the revolutionary legislation, a marriage was valid only if contracted before a civil official; religious ceremonies were permissible but legally irrelevant. This model of civil marriage, subsequently spread across Europe and its colonial territories in the nineteenth and twentieth centuries. As Glendon argues in her comparative study of marriage law in Europe and North America, the secularization of marriage law represented a profound reconceptualization of the institution, transforming it from a status governed by divine and natural law into a contract by positive civil legislation (Glendon 21).

The contemporary civil law of marriage in most jurisdictions defines marriage in essential contractual terms: a marriage is valid when two persons of the requisite legal capacity enter into a formal agreement to be married, express their consent before appropriate civil authority, and comply with the prescribed formal requirements.

3.2. Marriage Law in Nigeria: The Intersection of Civil, Customary and Canonical Systems

Nigeria presents a particularly rich and complex case study in comparative marriage law because it is a jurisdiction in which three distinct legal systems governing marriage coexist, sometimes harmoniously and sometimes in considerable tension: the civil law system inherited from British colonial rule, the customary law systems of the country's several hundred ethnic nationalities and the canon law system. It is noted that the Islamic law system (Sharia) applicable in the predominantly Muslim states of the Northern Nigeria is classified under Nigeria Marriage law as customary law marriage native to Muslims.

The *Marriage Act* (Cap M6, *Laws of the Federation of Nigeria,* 2004) governs civil (statutory) marriage

in Nigeria and provides for the celebration of marriage before a registrar or in a licensed place of worship by a recognized minister of religion. A marriage celebrated under the Act creates a legally recognized monogamous union, and the parties to it are bound by the matrimonial causes' provisions of the *Matrimonial Causes Act* (Cap M7, *Laws of the Federation of Nigeria*, 2004), which governs divorce, nullity, and related matters.

The customary law of marriage, which is the form of marriage most widely practiced in Nigeria, is governed not by a single codified statute but by the customary laws of each ethnic group, subject to the overriding requirement that such laws must not be repugnant to natural justice, equity and good conscience (the repugnancy test introduced by the colonial courts). As Nwogugu demonstrates in his authoritative treatise on family law in Nigeria, customary law marriages are polygamous in character, allowing a man to take multiple wives, provided he complies with the customary requirements for each union (Nwogugu 12). They do not require registration under the *Marriage Act* to be legally valid, but they cannot coexist with a civil (statutory) monogamous marriage: a man who has contracted a civil (statutory) marriage cannot legally take an additional customary law wife.

The coexistence of these three systems creates a situation of legal pluralism that is simultaneously a reflection of Nigeria's cultural diversity and a source of significant practical difficulties. Questions of the validity of marriage, the rights of spouses, the status of children, and the distribution of matrimonial property are governed by different rules depending on which legal system applies to a given union, and the determination of which system applies is itself frequently contested. As Eze argues, the resolution of these conflicts requires not merely technical legal analysis but a sophisticated understanding of the cultural assumptions embedded in each legal tradition and the ways in which those assumptions interact with and sometime contradict one another (Eze 89).

3.3. International and Comparative Perspectives on the Legal Definition of Marriage

At the international level, marriage is recognized as a fundamental human right in multiple international instruments. Article 16 of the Universal Declaration of Human Rights (1948) provides that men and women of full age have the right to marry and to found a family, and that marriage shall be entered only with the free and full consent of the intending spouses. Article 23 of the International Covenant on Civil and Political Rights (1966) similarly recognizes the right of men and women of marriageable age to marry and to found family. These international norms reflect the convergence, at the level of international human rights law, of the principle of consent as the constitutive element of a valid marriage.

The comparative law of marriage reveals both the universal features of the institution and the remarkable diversity with which different legal traditions have given them specific content. Common to virtually all legal traditions is the requirement of some form of consent by the parties; common also is the requirement of some form of public celebration or registration that makes the marriage knowable to the community. But the specific content of the consent requirement varies enormously: in some traditions, the consent of the parties' families is as important as the personal consent of the individuals; in others, personal autonomy is paramount and family involvement is legally irrelevant. Similarly, the formal requirements for a valid marriage range from elaborate multi-stage ceremonies required by African customary law to the simple exchange of vows before a civil registrar that suffices in most European jurisdictions.

As Antokolskaia argues in her comprehensive comparative study of family law in Europe, the trend in most Western legal systems has been toward the progressive liberalization of marriage law, with the removal of many traditional impediments, the introduction of no-fault divorce, and the extension of marriage or marriage-equivalent statuses to same-sex couples (Antokolskaia 98). This trend reflects the fundamental shift in the philosophical foundations of civil marriage law, away from an understanding of

marriage as a pre-given natural institution governed by objective norms and toward an understanding of it as a chosen lifestyle arrangement governed principally by the preferences of the parties. This shift places civil marriage law in increasingly sharp tension with both canonical and customary legal traditions, which continue to understand marriage as an institution with an objective nature and purpose that transcends the preferences of the individual couple.

4. MARRIAGE IN CANON LAW TRADITION

4.1 The Biblical Theology of Marriage: Creation, Covenant, and Eschatology

The starting point of any biblical theology of marriage is the two creation narratives of Genesis. The first account (Gen. 1: 26-28), with its majestic cosmic sweep, presents the creation of humanity as male and female as an act of divine intentionality: "So God created man in his own image, in the image of God he created him; male and female he created them." The differentiation of humanity into male and female is not a concession to biological necessity but a feature of the divine image itself, an indication that the capacity for relationship, for encounter, for the gift of self and the reception of the other, is written into the very structure of human existence as it images the inner life of God. The mandate that follows: "Be fruitful and multiply", situates the love between man and woman within the framework of God's creative purpose and make the generation of new life a participation in the ongoing work of creation.

The second narrative (Gen. 2: 18-25) approaches the same reality from a different angle, with greater intimacy and psychological depth. The observation that "it is not good for man to be alone" is the first negative statement in the Bible about God's creation, and it is immediately followed by the divine determination to provide the man with a "helper" (*ezer*) who is "fit for him" (*kenegdo*). The woman is formed from the man's rib, a detail that the tradition has consistently understood as expressing the equality and complementarity of the sexes: the woman is not taken from the man's foot (to be subordinate to him) or from his head (to rule over him) but from his side (to be his partner). As Cassuto observes in his classic commentary on Gensis, the act of naming that follows, "This at last is bone of my bones and flesh of my flesh," is a declaration of recognition and belonging, the first human speech in the Bible, and it is a speech of love (Cassuto 137).

The covenantal dimension of marriage in the New Testament finds its most systematic expression in the Letter to the Ephesians, which deploys the institution of Christian marriage as the privileged site for the explication of the mystery of Christ's relationship to the Church. Ephesians 5: 22-33, one of the most debated and theologically significant passages in the entire Pauline corpus, addresses the mutual obligations of Christian spouses within the framework of the "great mystery" of Christ's love for the Church. Paul's injunction that husbands love their wives "as Christ loved the Church and gave himself up for her" sets an extraordinarily high standard: the model of conjugal love is nothing less than the *kenotic*, self-emptying love of the incarnate Son of God for his bride. As Lincoln notes in his commentary on Ephesians, the logic of the passage moves in both directions simultaneously: marriage illuminated the mystery of Christ and the Church, and the mystery of Christ and the Church illuminates and transforms the practice of marriage (Lincoln 382).

The eschatological dimension of biblical marriage theology is perhaps its most frequently overlooked feature, but it is essential to a complete understanding of what the "tradition" means when it describes marriage as a sacrament. Marriage in the New-Testament is not eternal: Jesus himself makes clear in his response to the Sadducees question about the resurrection that "in the resurrection they neither marry nor are given in marriage, but are like angels in heaven" (Matt. 22:30). Marriage is a reality of the present age, not the age to come. But this does not diminish its dignity; rather, it illuminates its peculiar vocation. Marriage, as a temporal institution, is called to be a sign and anticipation of the eternal communion to which all human beings are destined, the wedding feast of the Lamb (Rev. 19: 7-9) in which the Church, as the bride of Christ, is finally and fully united with her Lord. The temporality of

marriage is not a deficiency but a feature: it is because marriage is a finite reality, existing within the tension of the already and the not-yet, that it can serve as a sacrament, a visible sign of an invisible and eternal grace.

4.2. The Juridical Architecture of a Sacramental Marriage

The canonical tradition of the Catholic Church has elaborated over centuries a remarkably sophisticated juridical framework for the regulation of marriage, one that seeks to give legal form to the theological convictions articulated in the biblical tradition and developed by the magisterium. The evolution of this framework from the 1917 Code of Canon Law through the Second Vatican Council to the 1983 Code and the Code of Canons of the Eastern Churches (*CCEO*) reflects not a series of discontinuous ruptures but a progressive deepening and integration of the juridical and theological dimensions of marriage.

The 1917 Code defined marriage in the language of the Roman contract law. Canon 1012 §1 of the Code declared "*Christus Dominus ad sacramenti dignitatem evexit ipsum contractum matrimonialem inter baptizatos*" (Christ the Lord raised the matrimonial contract itself between the baptized to the dignity of a sacrament). The contractual framework of the 1917 Code was not a theological impoverishment but a juridical precision: by identifying marriage as a contract, the code was able to specify with great exactitude the conditions required for a valid and licit marriage, the impediments that render marriage invalid, and the canonical form necessary for validity. As Navarrete argued in his influential study of matrimonial consent, the contractual language of the 1917 Code served the indispensable function of providing canonical jurisprudence with a clear and legally operable definition of what constitutes the constitutive act of marriage (Navarrete 54).

The Second Vatican Council's Pastoral Constitution *Gaudium et Spes* (1965) introduced a decisive theological enrichment of canonical marriage doctrine. Rather than describing marriage primarily in contractual terms, *Gaudium et Spes* 48 spoke of "the conjugal covenant of irrevocable personal consent," deploying the covenantal language of the biblical tradition to situate the judicial act of marital consent within a broader framework of personal communion and theological meaning. The Council's description of marriage as "partnership of the whole life" (*totius vitae consortium*) ordered to "the good of spouses and the procreation and education of offspring" simultaneously affirmed the traditional ends of marriage and gave them a more integrated and personalist articulation. As Wojtyla (Later Pope St. John Paul II) argued in his philosophical analysis of conjugal love, the Council's language reflected a deeper understanding of the human person as a subject of irreducible dignity whose fundamental vocation is self-gift rather than self-assertion (Wojtyla 96).

The 1983 Code of Canon Law translated the Council's theological insights into juridical language. Canon 1055 §1 defines marriage as "the matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole life (*consortium totius vitae*), and which is ordered by its very nature to the good of the spouses and the procreation and education of offspring." Canon 1055 §2 maintains the inseparability of the contract and sacrament: "For this reason, a valid matrimonial contract cannot exist between the baptized without it being by that fact a sacrament". Canon 1057 §1 affirms that consent is the efficient cause of marriage, and Canon 1057 §2 defines matrimonial consent as "an act of the will by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage." As Beal, Coriden, and Green note in their comprehensive commentary on the 1983 Code, these canons represent a synthesis of the juridical tradition and the conciliar theology that is both formally rigorous and theologically rich (Beal, Coriden, and Green 1234).

4.3 Impediments, Consent, and Form

The canonical impediments to marriage constitute one of the most technically developed areas of the

law of marriage in any legal tradition. The 1983 Code enumerates twelve diriment impediments (cc. 1083-1094) that render marriage invalid, including the impediment of age, impotence, prior bond (ligamen), disparity of cult, sacred orders, perpetual vows, abduction, crime, consanguinity, affinity, public propriety, and legal relationship. Each of these impediments reflects a specific theological or juridical concern: the impediment of prior bond, for example, directly expresses the Church's teaching on the indissolubility of marriage; the impediment of impotence reflects the canonical understanding of marriage as ordered to the sexual union of the spouses; and the impediment of consanguinity reflects both natural law considerations and the biblical prohibitions on incestuous unions. The dispensing authority over these impediments is carefully allocated between the Holy See and the local ordinaries in a way that reflects the hierarchical structure of canonical jurisdiction.

The principle that consent is the efficient cause of marriage has been the bedrock of canonical marriage doctrine since the twelfth century, and it remains so in the 1983 Code. But the canonical tradition has developed a highly nuanced understanding of what valid consent requires, an understanding that is simultaneously juridical, psychological, and anthropological.

Valid matrimonial consent requires according to canon law, that the parties possess the requisite capacity (sufficient use of reason, the discretion of judgment necessary for a valid marriage contract, and the psychological capacity to assume the essential obligations of marriage, c. 1095), that they intend to marry as the Church understands marriage (with its essential properties of unity and indissolubility-c. 1056 and its essential elements of the good of the spouses and the procreation and education of offspring-c.1055 §1), that they be free from force or grave fear, and that they not be mistaken about the identity of the person or about a quality of the person that substantially affects the covenant. As Burke argues in his theological analysis of matrimonial consent, the canonical understanding of consent is not merely volitional but personalist: genuine matrimonial consent involves not only the act of the will but the engagement of the whole person in a self-gift that is irrevocable and total (Burke 78).

The canonical form of marriage, prescribed by Canon 1108, requires that marriage be celebrated before the local ordinary or pastor or a priest or deacon delegated by either of them, and before two witnesses. This requirement of canonical form, which dates in its essentials to the Council of Trent, serves the important juridical purpose of giving publicity to the marriage and ensuring that the Church is able to verify its validity and maintain accurate records. The canonical form may be dispensed for serious reasons (c. 1127 §2), and a special set of provisions governs marriages between a Catholic and a non-Catholic Christian (c. 1124-1129). The *CCEO* (c. 828) provides parallel norms for Eastern Catholic Christians, reflecting the diversity of canonical traditions within the Catholic Church while maintaining the essential requirements of a valid matrimonial consent and canonical form.

5. TOWARDS INTEGRATION: THE THEOLOGY AND JURISPRUDENCE OF A UNIFIED MARRIAGE CEREMONY

5.1. The Historical Separation of Legal, Customary and Religious Ceremonies

One of the most striking features of marriage law in contemporary pluralistic societies and particularly in African societies such as Nigeria, is the multiplicity of marriage ceremonies that a single couple may be required to undergo in order to achieve full legal, customary, and ecclesiastical recognition of their union. In the Nigerian context, for example, a Catholic couple wishing to be fully married in all relevant legal and cultural senses will typically need to undergo at least three distinct ceremonies: a traditional customary marriage, conducted according to the customs of their ethnic group and constituting the marriage in the eyes of customary law and the ancestral community; a civil (statutory) marriage, conducted before the registrar or in a license place of worship according to the *Marriage Act*, constituting marriage in the eye of the Nigeria civil law; and a canonical wedding celebrated in the form prescribed by the 1983 Code of Canon Law. Each of these

ceremonies is conducted according to the norms of its own legal system, before different witnesses and officials, and at different times, sometimes separated by weeks, months or years.

This multiplication of marriage ceremonies is not without its rationale. Each ceremony serves a distinct legal and social function, and the insistence of each legal system on its own formal requirements reflects its claim to comprehensive jurisdiction over the institution of marriage. But the practical effect f this multiplicity is to fragment what is, at its deepest level, a single human and spiritual reality. The couple who must repeatedly present themselves before different officiants, in different venues, according to different ritual scripts, may well find it difficult to experience their marriage as the unified act of self-giving that the biblical and canonical traditions describe. As Shorter argues in his seminal work on African Christian marriage, the multiplicity of ceremonies is not merely a practical inconvenience but a theological problem: it suggests, however, unintentionally, that the marriage celebrated in the Church is somehow separate from, or superimposed upon, the marriage celebrated in the family compound, rather than being the same marriage understood and celebrated at its deepest possible level of meaning (Shorter 112).

5.2. Inculturation and the Integration of Marriage Ceremonies

The theology of inculturation, developed systematically by the Second Vatican Council and elaborated in subsequent papal teachings, provides the theological framework within which the quest of integrating marriage ceremonies must be addressed. Inculturation is not the accommodation of the Gospel to cultural superficialities; it is, as Pope St. John Paul II describes in *Redemptoris Missio* 52, "the intimate transformation of authentic cultural values through their integration into Christianity and the insertion of Christianity in the various human cultures". Applied to marriage, inculturation requires not that the Church simply adopt the forms of traditional marriage ceremonies but that it engage in a deeper theological discernment: identifying the elements of traditional marriage customs that genuinely express and promote the human values and spiritual insights that the Gospel confirms and elevates, integrating those elements into the celebration of the sacrament, and gently transforming or setting aside the elements that are incompatible with the fullness of Christina revelation.

The process of enculturating the marriage ceremony in Africa is not a new project. African theologians and liturgists have been working on this question for decades, and the results of that work have begun to find their way into approved liturgical texts and canonical provisions. The Nigerian Bishops' Conference, for example, had developed guidelines for the integration of traditional marriage elements into the Catholic wedding ceremony, including the blessing of the palm wine, the participation of family elders in the celebration, and the incorporation of traditional symbols of fertility and prosperity. As Uzukwu demonstrates in his important study of African liturgy, these enculturated elements are not decorative additions to fundamental foreign rite but genuine expressions of the African theological conviction that marriage is a family and community event, not merely a private exchange between two individuals (Uzukwu 167).

From the canonical perspective, the integration of traditional marriage elements into the Catholic wedding ceremony is governed by the general principles of liturgical adaptation articulated in *Sacrosanctum Concilium* 37-40 and the specific norms of the *Ordo Celebrandi Matrimonium*. The general principle is that adaptation is permitted where it serves the authentic meaning and sacramental integrity of the cerebration, and prohibited where it introduces elements that are theologically incompatible with the Catholic understanding of marriage.

5.3. The Emerging Jurisprudence of Integrated Marriage Ceremonies

The argument for an integrated marriage ceremony that encompasses the legal, canonical, and customary dimensions of the institution is not merely theological but also jurisprudential. There are

compelling legal reasons to seek a convergence of the multiple systems of marriage law that currently operate in parallel in pluralistic societies, and the emerging practice of integrated ceremonies represents an important contribution to this convergence.

In several African countries, legislative and administrative reforms have been undertaken to simplify the marriage process by allowing civil registration to take place in conjunction with or immediately following a customary marriage ceremony. In Nigeria, the *Marriage Act* already permits certain religious ceremonies to constitute civil marriages, provided they are conducted by a registered minister of religion in a licensed place of worship. This provision creates the legal possibility of a ceremony that is simultaneously a religious celebration and a civil registration, reducing the number of separate ceremonies required and integrating two of the three legal systems that currently operate in parallel.

The extension of this integration to include customary law dimension is more complex but not impossible. In principle, there is no legal obstacle to designing a marriage ceremony that fulfils the formal requirements of the *Marriage Act* (consent expressed before a registered minister and two witnesses, followed by registration), the canonical requirements of the 1983 Code of Canon Law (consent expressed in canonical form, before a bishop, priest or deacon and two witnesses), and the essential customary law requirements (payment of bride-price, family blessing, and community witnessing) in a single celebratory event. The challenge is not legal but cultural and liturgical: designing a ceremony that is genuinely all three things at once, rather than three different ceremonies.

On this note, Okonkwo argues in his pioneering legal analysis of customary marriage law reform in Nigeria, the key to successful integration is the identification of the constitutive acts of each legal system and the design of a ceremony in which those acts are performed in a way that satisfies all relevant forma requirements simultaneously (Okonkwo 201). The constitutive act of civil marriage is the expression of consent before a civil registrar or licensed minister; the constitutive act of canonical marriage is the expression of consent in canonical form before a bishop, priest or deacon and two witnesses; and the constitutive act of customary marriage, in many Igbo communities, is the acceptance of the palm wine by the groom from the bride in the presence of both families. A ceremony that incorporates all these three constitutive acts, performed in right order and with the appropriate witnesses and officials present, would constitute, simultaneously, a valid civil marriage, a valid canonical marriage, and a valid customary marriage.

6. RECOMMENDATIONS

The argument advanced throughout this work, that marriage is a unified reality expressed as contract, covenant, and sacrament, necessarily culminates in a call for structural integration. What has been demonstrated at the level of theology, canon law, and customary practice must now be realized in pastoral action and legal reform. The fragmentation of marriage into separate civil, customary, and ecclesiastical ceremonies is not merely an administrative inconvenience; it is a distortion of the ontological unity of marriage itself. Accordingly, the recommendations that follow are directed toward restoring this unity through a coherent, integrated framework that is at once theologically grounded, canonically valid, culturally authentic, and legally enforceable.

6.1. Theological Foundations of Integration

It is recommended that the Church, particularly within African contexts, explicitly affirm and operationalize the theological unity of marriage as a single reality encompassing legal, cultural, and sacramental dimensions (especially when at least one of the parties is baptized Christian). The separation of these dimensions into distinct ceremonies should be critically re-evaluated in light of the Church's own teaching, especially as articulated in the *Catechism of the Catholic Church* (*CCC.*1601, 1617), which understands marriage as a covenantal communion of life and love rooted in divine grace. In practical

terms, Bishops' Conference should develop an authorized integrated rite of marriage that reflects this theological vision. Such a rite must not treat customary elements, such as family consent, bride-price, and communal witnessing, as optional or merely decorative, but as constitutive expression of the same covenant that is sacramentally sealed in Christ.

6.2. Canonical Possibilities and Legal Harmonization

It is further recommended that canonical provisions and civil legal frameworks be deliberately harmonized to permit and recognize a single, integrated marriage ceremony. Canon 1108 §1 already provides sufficient flexibility for such integration, requiring only the presence of an authorized minister and witnesses for validity. This process can be fulfilled within a broader ceremony that also incorporates civil registration and customary rites, provided that the exchange of consent remains clear and central. Civil authorities, particularly within Nigeria, should expand the application of existing legal provisions under the *Marriage Act* to formally recognize integrated ceremonies officiated by duly licensed ministers. This would eliminate the need for multiple ceremonies while ensuring full legal enforceability. At the same time, customary law authorities, principally families and community elders should be engaged as active participants in shaping and validating the integrated process. Such collaboration requires structured dialogue between ecclesiastical authorities, state institutions, and traditional custodians of culture. As argued by Obiora Nwafor, the future of African family law lies in the precisely this kind of juridical and cultural synthesis, which affirms the coherence of multiple normative systems rather than allowing them to operate in isolation.

6.3. Pastoral Strategy and Prophetic Significance

Pastorally, it is recommended that the Church undertake a deliberate program of catechesis and formation to re-educate the faithful on the unified nature of marriage. The integrated ceremony should be presented not merely as a procedural reform but as a theological recovery of marriage in its fullness. Clergy, theologians, pastoral agents must guide communities to understand that marriage is not divisible into separate legal, cultural, and spiritual acts, but is a single covenantal reality expressed in multiple dimensions. Beyond its pastoral implications, the integration of marriage ceremonies carries a profound prophetic significance. In a world marked by fragmentation and compartmentalization, a unified marriage ceremony stands as a visible sign of the coherence of human life under God, Within the African context, this integration affirms the deeply communal and relational understanding of the human person, in which marriage implicates not only individuals but families, ancestors, and the divine order.

CONCLUSION

This study has demonstrated that marriage, across diverse historical and cultural contexts, consistently manifests as a reality that is simultaneously legal, communal, and theological. From ancient legal system to African traditions and Christian sacramental theology, marriage emerges not as a private contract but as a public and covenantal institution ordered toward both human flourishing and divine purpose. The Catholic canonical tradition has already achieved a significant synthesis of these dimensions by uniting contract and sacrament within a single juridical and theological framework. The challenge that remains, particularly in contexts of legal and cultural pluralism such as Nigeria, is to give this synthesis concrete expression through integrated marriage ceremonies that are at once valid, recognized, and meaningful across all relevant domains. The result would be a form of marriage celebration that fully embodies its true nature: a covenant of love that is legally binding, culturally rooted, biblically grounded, and sacramentally efficacious.

WORKS CITED

Achebe, Chinua, *Things Fall Apart*, London: Heinemann, 1958

Amadiume, Ife, *Male Daughters, Female Husbands: Gender and Sex in an African Society*, London: Zeb Books, 1987

Antokoskaia, Masha, *Harmonization of Family Law in Europe: A Historical Perspective,* Antwerp: Intersentia, 2006

Beal, J., Coriden, A., Green, T., eds. *New Commentary on the Code of Canon law*, New York: Paulist Press, 2000

Brueggemann, W., *Theology of the Old Testament: Testimony, Dispute, Advocacy,* Minneapolis: Fortress Press, 1997

Brundage, J.A., *Law, Sex and Christian Society in Medieval Europe,* Chicago: University of Chicago Press, 1987

Burke, C., *Covenanted Happiness: Love and Commitment in Marriage,* Princeton: Scepter Publishers, 1990

Cassuto, Umberto, *A Commentary on the Book of Genesis.* Part I: From Adam to Noah, translated by Israel Abrahams, Jerusalem: Magnes Press, 1961.

Code of Canon Law, Latin-English edition, New English Translation, Washington, DC: Canon Law Society of America, 1999

Code of Canon Law of the Eastern Churches, Latin-English Edition, Washington, DC: Canon Law Society of America, 2001

De Vaux R., *Ancient Israel: Its Life and Institutions.* Translated by John McHugh, London: Darton, Longman & Todd, 1961.

Donahue, Charles Jr., *Law, Marriage, and Society in the Later Middle Ages: Arguments about Marriage in Five Courts,* Cambridge: Cambridge University Press, 2007.

Driver G.R., Miles J.C., *The Babylonian Laws,* vol. I, Oxford: Oxford University Press, 1952

Eze Nnamdi, "Legal Pluralism and the Regulation of Marriage in Nigeria", in *Journal of African Law,* vol. 47, no. 1, Cambridge: Cambridge University Press, 2003, pp. 82-101

Fadipe N.A., *The Sociology of the Yoruba,* Ibadan: Ibadan University Press, 1970

Glendon, M.A., *The Transformation of Family Law: State and Family in the United States and Western Europe,* Chicago: University of Chicago Press, 1989

Krueger, P., Mommsen T., eds. *Corpus Juris Civilis,* Berlin: Weidman, 1877

Kingdon, R.M., *Adultery and Divorce in Calvin's Geneva,* Cambridge, MA: Harvard University Press, 1995

Lacey, W.K., *The Family in Classical Greece,* Cornell University Press, 1968

Lincoln, A.T., "Ephesians", in *Word Biblical Commentary,* vol. 42, Waco, TX: Word Books, 1990

Navarrete, Urbano," Consenso Matrimoniale e Sue Patologie", in *Periodica de Re Canonica,* vol. 74, Rome: Pontifical Gregorian University, 1985, pp. 48-71

Nwogugu, E.I., *Family Law in Nigeria,* 3rd ed. London: Heinmann Educational Books, 1990

Obiora, L.A., "Towards an Auspicious Reconciliation of International and Customary Law," in *Proceedings of the Annual Meeting (American Society of International LawI)* vol. 91, Washington DC: *ASIL* 1997, pp. 73-80

Okonkwo, Cyprian O. E., *The Law of Marriage in Nigeria,* London: Sweet and Maxwell, 1983

Onwuejeogwu, Michael A., *An Igbo Civilization: Nri Kingdom and Hegemony,* London: Ethnographica, 1981

Pope St. John Paul II (Wojtyla, K.), *Love and Responsibility,* Translated by H.T Willetts, New York: Farrar, Straus and Giroux, 1981

Robins, Gay, *Women in Ancient Egypt,* London: British Museum Press, 1993

Second Vatican Council, *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World,* Vatican City: Libreria Editrice Vaticana, , 7 December 1965

Second Vatican Council, *Lumen Gentium: Dogmatic Constitution on the Church,* Vatican City: Libreria Editrice Vaticana, 21 November 1964.

Second Vatican Council, *Sacrosanctum Concilium: Constitution on the Sacred Liturgy,* Vatican City: Libreria Editrice Vaticana, 4 December 1963.

Shorter, Aylward, *African Christian Marriage,* London: Geoffrey Chapman, 1975

Treggiari, Susan, *Roman Marriage: Iusti Coniuges from the Time of Cicero to the Time of Ulpian,* Oxford: Oxford University Press, 1991.

Uchendu, Victor C., *The Igbo of Southeast Nigeria,* New York: Holt, Rinchart and Winston, 1965

Universal Declaration of Human Rights, Paris: United Nations General Assembly Resolution 217A (III), 10 December 1948

Uzukwu, Elochukwu E., *A Listening Church: Autonomy and Communion in African Churches,* Maryknoll, NY: Orbis Books, 1966.

Vilakazi, Absolom, *Zulu Transformation: A study of the Dynamics of Social Change,* Pietermaritzburg: University of Natal Press, 1996

Wenham, Gordon J., "Genesis 1-15", in *Word Biblical Commentary,* vol. 1, Waco, TX: Word Books, 1987