

ODILI HILARY OKEKE

CHRISTIAN CELEBRATION OF MARRIAGE  
IN AFRICA REVISITED

*Introduction.*

At the Special Assembly of the Synod of Bishops for Africa, popularly called the African Synod, some African Bishops brought up the problems which many African Christians experience in getting married in the Church and called for a marriage rite for Africa. Some African Bishops had made similar calls in the 1979 Synod of Bishops on the Family. Some have advocated the recognition of the African traditional marriage ceremony so that such a celebration becomes the accepted marriage for African Catholics <sup>(1)</sup>. The insistent and persistent call of Africans for a look at the form for celebrating the sacrament of marriage calls for a study of the issues involved. The present study is an attempt to answer that call. The perspective of the present study is canonical.

A cursory look at relevant ecclesiastical legislation from the Second Vatican Council to the present shows that the universal law has made provisions for local rites of marriage. The 1983 Code of Canon Law has in canon 1120 encapsulated the norms given in the Roman rite of marriage and repeated by Pope John Paul II in the Apostolic Exhortation *Familiaris consortio* <sup>(2)</sup>. This canon gives the

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<sup>(1)</sup> See the interventions of Gabriel Zubeir Wako (Archbishop of Khartoum, Sudan), and Henry Karlen (Bishop of Bulawayo, Zimbabwe) in the 1979 Synod of Bishops in *AFER* 23 (Feb.-April 1981), 57-60; See also the interventions of Bishop Ephraim Obot (Idah, Nigeria), Bishop Michael Cleary (Banjul, The Gambia), Bishop Raphael S. Mwana'a Nzeki Ndingi (Nakuru, Kenya), Bishop Alberto Setele (Inhambane, Mozambique), Cardinal Frederic Etsou-Nzabi-Bamungwabi, C.I.C.M., (Archbishop of Kinshasa, Zaire), and Bishop Victor Tonye Bakot (Edéa, Cameroun).

<sup>(2)</sup> JOHN PAUL II, Apostolic Exhortation, *Familiaris consortio*, 22nd November, 1981, n. 67.

Episcopal Conferences the faculty to prepare their own liturgical rite of marriage which, while agreeing with the local usages, must include the canonical form of marriage. The objective of this essay is to see how far the implementation of this norm will satisfy the desire of Africans for an authentically African Christian marriage rite. A corollary question which will be investigated is whether African Christians still need the canonical form of marriage.

*Preliminary Clarifications.*

Canonical systematics on marriage constructs marriage on a tripod given in canon 1057, § 1: « A marriage is brought into being by the lawfully manifested consent of persons who are legally capable ». In the tightly worded canon, the legislator applies the theory of juridical acts given in canon 124. A juridical act is valid if it is performed by a person who is legally capable, and if the act contains those elements which constitute the essence of the act, as well as the formalities and requirement which the law prescribes for the validity of the act.

Applying this norm to marriage it is seen that marriage comes into existence by the personal matrimonial consent of the parties who are legally capable and this consent must be manifested in the way prescribed for validity by law. Here we have the essential juridical structure of matrimonial law-matrimonial impediments, matrimonial consent and matrimonial form. This structure presupposes, of course, the essential dogmatics of marriage, that is, its nature and essential properties. In this essay, we are looking at the legal manifestation of marriage consent.

The legal manifestation of consent has two aspects which people sometimes tend to mix up: the canonical form and the liturgical form or rite. While theology deals with the sacramental form, Canon Law regulates the canonical and liturgical form both of which are required by law but with different juridical consequences as given in the chapter, *De forma celebrationis matrimonii*. The first form of celebration of marriage is the substantial or canonical form. The 1983 Code of Canon Law gives the prescription of the canonical form in canon 1108, 1:

Only those marriages are valid which are contracted in the presence of the local Ordinary or parish priest or deacon delegated by either of them, who, in the presence of two

witnesses, assists, in accordance however with the rules set out in the following canons, and without prejudice to the exceptions mentioned in cann. 144, 1112 § 1, 1116 and 1127 §§ 1-2.

This canon goes back to the Tridentine decree *Tametsi* which imposed the requirement of the active presence of the parish priest or any other priest with the permission of the parish priest or the Ordinary and two or three nonqualified witnesses *ad validitatem*:

Qui aliter quam praesente parochi, vel alio sacerdote de ipsius parochi seu Ordinarii licentia, et duobus testibus matrimonium contrahere attentabunt: eos sancta Synodus ad sic contrahendum omnino inhabiles reddit, et huiusmodi contractus irritus et nullos esse decernit, prout eos praesenti decreto irritos facit et annullat <sup>(3)</sup>.

The compulsory tridentine juridical form of marriage was introduced to fight the evil of clandestine marriages which the holy Church of God prohibits — *ex iustissimis causis illa semper detestata est atque prohibuit* <sup>(4)</sup>. The tridentine law had three shortcomings: 1) the Decree required only the presence of the parish priest or Ordinary; 2) this presence could be merely *passive* and either could be presence at the celebration of the marriage of the subject anywhere; 3) and the Decree was in force only in those territories where it had been promulgated. These three shortcomings were remedied by the Decree *Ne Temere* of 1907 which was promulgated for the whole Church and which made the presence of the parish priest or Ordinary *active* and the faculty of the parish priest or Ordinary to assist at marriage territorially circumscribed <sup>(5)</sup>. Canon 1094 of the 1917 Code and canon 1108 of the present Code adopted the discipline of *Ne Temere*.

The kernel of this norm is the active presence of a qualified person and two non-qualified witnesses in the ordinary situation envisaged by the canon. In the ordinary situation in which a catholic is involved <sup>(6)</sup>.

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<sup>(3)</sup> Council of Trent, Session XXIV: *Decretum super reformatione circa matrimonium*, « *Tametsi* » DZ 1816.

<sup>(4)</sup> *Ibid.* no. 1813.

<sup>(5)</sup> Congregation for the Council, Decree « *Ne Temere* », DZ 3469-3474.

<sup>(6)</sup> According to canon 1117, the canonical form is prescribed *ad validitatem* if at least one of the parties was baptised in the Catholic Church or received into it and

The marriage can only come into being through the assistance of this qualified person. This person is said to assist at the manifestation of matrimonial consent, if he or she, being present, asks the contracting parties to manifest their consent and in the name of the Church receives it (can. 1108, § 2). The qualified person (*testis qualificatus*) can be the local Ordinary or the parish priest who act ex-officio and with ordinary power and within their territory (can. 1109). Personal Ordinaries and personal parish priests assist by virtue of their office within the limits of their jurisdiction at marriages in which at least one of the partners is their subject (can. 1110). Others who are qualified to assist are priests and deacons delegated by either the local Ordinary or the parish priest according to the norms of law to assist at the marriage (can. 1111). Canon 1112 gives the conditions for the delegation of a lay person to become a qualified assistant at a marriage. Before the diocesan Bishop can delegate a lay person, it has to be verified that there are neither priests nor deacons and the Bishops' Conference must have given its prior approval and the permission of the Apostolic See has been obtained. When these conditions have been met, a lay person delegated by the diocesan Bishop can be a qualified person whose active presence is required for the valid manifestation of matrimonial consent.

Besides the active presence of a qualified person, the law requires the presence of two witnesses. There is no qualification for the two witnesses. But it is sufficient that they have the general capacity required of witnesses, that is, that they enjoy use of reason and the « capacity of reasonable perception of the marriage at which they are assisting » (7). It is juridically required that their presence be simultaneous and contemporaneous with that of the qualified person.

Canon 1108 contains exceptions to the norm in the canons listed in it. Canon 144 provides for the supply by the Church of power to assist in marriage in case of common error and in positive

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has not by a formal act defected from it, without prejudice to the possibility of dispensation in the case of mixed marriages as provided for in canon 1127, § 2. The juridical understanding and relevance of the formal act of defection is studied by ALEX STENSON in: *The Concept and Implications of the Formal Act of Defection of Canon 1117*, *Studia Canonica* 21(1987), 175-194.

(7) E. CAPARROS, M. THÉRIAULT and J. THORN, eds., *Code of Canon Law Annotated* (Montréal: Wilson & Lafleur, 1993), p. 701.

and probable doubt, canon 1116 establishes what is known as the extraordinary canonical form, by which a couple can validly manifest the matrimonial consent without the active presence of a qualified person. If those who are qualified persons for assistance at the celebration of marriage cannot be present or be approached without grave inconvenience either in danger of death or if it is prudently foreseen that the state of affairs will continue for a month, the marriage can be validly celebrated in the presence of witnesses only. Canon 1127 § 2 grants the local Ordinary of the Catholic party the faculty to dispense from the observance of the canonical form in mixed marriage if there are grave difficulties in the way of observing it, provided some public form of celebration of marriage is required for validity.

Theoretically speaking, both the ordinary and extraordinary forms of celebration of marriage can be validly used without any prescribed liturgical rite. But as John Paul II stated: « Christian marriage normally requires a liturgical celebration expressing in social and community form the essentially ecclesial and sacramental nature of the conjugal covenant between baptized persons »<sup>(8)</sup>. Canon 1119 prescribes the use of liturgical rite for the celebration of marriage apart from a case of necessity. According to that canon, the celebration of marriage has to be done according to the rites in liturgical books approved by the Church, or which are acknowledged by lawful customs. The first point to be made is that the liturgical form of marriage is not essential for validity since the canon does not expressly mention validity (can. 10). Secondly, there is a provision for rites which are acknowledged by lawful customs. The customs meant here are ecclesiastical customs (cans. 23-27).

The liturgical rite that is in use in the Latin Church is the Roman rite. According to liturgical laws, marriage is normally to be celebrated within Mass or with a liturgy of the Word<sup>(9)</sup>. It consists of questioning the parties about their readiness and freedom, exchange of consent, exchange of the wedding rings and nuptial blessings. The heart of the celebration is the exchange of consent. According to canon 1104, § 2, the spouses are to express the matrimonial consent in words; if, however, they cannot speak, then

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<sup>(8)</sup> JOHN PAUL II, Apostolic Exhortation, *Familiaris consortio*, no. 67.

<sup>(9)</sup> ANNIBALE BUGNINI, *The Reform of Liturgy 1948-1975* (Collegeville: Liturgical Press, 1990), p. 697.

by equivalent signs. In the Roman rite the manifestation of consent is done with the following formula:

I, (Name of the party), take you, (Name of the spouse) for my lawful husband/wife, to have and to hold, from this day forward, for better, for worse, for richer, for poorer, in sickness and in health, until death do us part <sup>(10)</sup>.

A critical look at the formula shows that it needs to be updated to reflect the new Code and modern sensibilities. According to the new Code, matrimonial consent is « an act of will by which a man and a woman by an irrevocable covenant mutually give and accept one another for the purpose of establishing a marriage » (can. 1057 § 2). In the formula of consent, the parties take without giving. The proposed formula should read: « I, (Name) give you myself as your husband/wife and accept you (Name of the other spouse) as my husband/wife... » In that way, the *mutua donatio et acceptatio* is clearly expressed. The other point is a matter of being positive. It may sound better to say « all the days of our lives » instead of « until death do us part » to express the lifelong character of marriage as a « partnership of their whole life » (canon 1055, § 1).

In the wake of the openness of the Catholic Church to the realisation that the Church, and even the Latin Church is a multicultural reality, the Second Vatican Council allowed the competent, territorial ecclesiastical authority to prepare its own rite, suited to the usages of people and place which must include the necessary active presence of the assisting priest <sup>(11)</sup>. The 1969 Rite of Marriage permitted the adaptation of the Roman Rite in local rituals in the questioning of the parties, the actual words of consent and other signs such as exchange of rings, holding of hands and even permitted the drawing up of a new rite proper and suited to a region, provided that the rite conforms to « the law that the priest assisting at such marriages must ask for and receive the consent of the contracting parties, and the nuptial blessing should be given » <sup>(12)</sup>.

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<sup>(10)</sup> *The Rites of the Catholic Church* (as Revised by the Decree of the Second Vatican Council and Published by Authority of Pope Paul VI) (New York: Pueblo Publishing Co, 1976), p. 542.

<sup>(11)</sup> Second Vatican Council, The Constitution on Liturgy *Sacrosanctum Concilium*, no. 77.

<sup>(12)</sup> *The Rites* vol. I, p. 538.

A further concession was made to peoples among whom marriages take place in the home and sometimes over a period of several days for these customs to be adapted to the Christian spirit and to the liturgy <sup>(13)</sup>. By this concession, it is possible to celebrate the marriage in the home of the spouses even though canon 1109 of 1917 Code and canon 1118 of the 1983 Code prescribe that the celebration should normally take place in a church or oratory. Canon 1118, § 2 gives the local Ordinary the power to allow a marriage to be celebrated in another suitable place which can be the home of the parties.

John Paul II recognised that the celebration of Christian marriage could be done in the sphere of ancestral cultures or traditions following the principles laid down <sup>(14)</sup>. The norm of the Council is reproduced by canon 1120 which specified the competent authority as the Episcopal Conferences and replaced the « priest assisting » with the « person assisting » in line with the opening given for the assistance of not only deacons but also lay people.

The path to the inculturation of the Roman rite has been recently given by the Congregation for Divine Worship and Discipline of Sacraments. In this document, whatever inculturation must be compatible with the true and authentic spirit of the liturgy, always respecting the substantial unity of the Roman rite as expressed in the liturgical books, meaning that the document envisages not inculturation but adaptation of the Roman rite to the usages of other cultures <sup>(15)</sup>. Specifically on marriage, the document states that it is the marriage rite that calls for the greatest adaptation so as not to be foreign to social customs and reiterates the faculty of each Episcopal Conference « to prepare its proper marriage rite, which must always conform to the law which requires that the ordained minister or the assisting layperson, according to the case, must ask for and obtain the consent of the contracting parties and give them the nuptial blessing » <sup>(16)</sup>. This rite to be prepared by the Episcopal Conference must obviously bring out

<sup>(13)</sup> *Ibid.*

<sup>(14)</sup> JOHN PAUL II, *Familiaris consortio*, no. 67.

<sup>(15)</sup> Congregation for Divine Worship and Discipline of Sacraments, *The Roman Liturgy and Inculturation: IVth Instruction for the Right Application of the Conciliar Constitution on the Liturgy*, nn. 37-40, (Rome 1994), p. 18.

<sup>(16)</sup> *Ibid.*, p. 26.

clearly the Christian meaning of marriage, emphasize the grace of the sacrament and underline the duties of the spouses <sup>(17)</sup>.

We have presented in a summary fashion the universal norms on the form of celebration of marriage. We will now see how these norms can be applied in the socio-cultural context of Africa.

### *The Situation in Africa.*

Generally, canonical and liturgical forms of celebration of marriage have gone together so that in the minds of people they form one and the same thing. They need not be. The canonico-liturgical celebration is usually called church marriage or wedding or « white wedding ». This celebration is precisely the source of difficulty which Africans experience in marriage. The problem arises because they have gone through what is to them a real marriage ceremony — the traditional or customary marriage. On account of the problem, many African Catholics either cohabit before the church marriage or refuse to perform it. This results in many Catholics being married according to their traditional rites, and living in « irregular unions » because of the fact that they have not observed the canonical form. This situation prevents them from receiving the sacraments.

It may be useful to analyse just exactly of what the traditional marriage consists. The traditional form of marriage is a complex and phased marriage process by which traditionally and socially recognised marriage is entered into. It is made up of visits, exchange of gifts and different rituals which vary from one locality to another. There are some elements which are more or less common to most of the communities of Sub-Saharan Africa. Taking the Igbo people of Southern Nigeria as an example, we can see that the traditional celebration is public, community-based, highly symbolic and very meaningful. Four common stages in the traditional marriage process have been identified by a commissioned study of the Interdiocesan Liturgical Commission of Igbo-speaking Areas of Nigeria (IDLC-ISA) <sup>(18)</sup>:

- i) Preliminary Visits (Knocking at the door) in which the relations of the young man go to the house of the girl to ask in oblique ways and signs for the hand of the girl in

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<sup>(17)</sup> *Ibid.*

<sup>(18)</sup> Inter-diocesan Liturgical Commission of Igbo-speaking Areas of Nigeria.



marriage. At the ceremonies, the elders on the two sides discuss. The initial consent of the girl is manifested privately to her parents or guardians who then gives the suitor and his people the go-ahead to continue their visit. In the meantime, both families carry out exhaustive investigation into each other's family to determine their suitability, the social purity and health of the family line, their behaviour, fruitfulness and marriage records.

ii) Settlement and Payment of Bridewealth (*Ngo* or *Aku mwanji*) which is central and universal in marriage in Igboland. The two families speaking to each other through a mutually accepted intermediary (the middleman) negotiate the amount or goods or services to be given by the family of the suitor for their daughter. The two families are fully aware that they are not engaged in a trade for the woman is neither sold nor bought. The money or goods given is symbolic and remains the token of the existence of the marital bond between the two families. In the event of the failure of the marriage through any cause, the Bridewealth is returned to the family of the man as the symbolic breaking of the union in a traditional divorce. The payment of the Bridewealth initiates the marriage and grants the man the right over any child born by the woman as long as the Bridewealth is not refunded to the husband.

iii) Public celebration of the marriage (*Igba nkwu mwanji*, wine ceremony). The relations, friends and well wishers of both families come together in the ancestral house of the woman to celebrate the marriage. The man's family comes with plenty of drinks while the family of the woman prepare plenty of food for the celebration. The celebration is simple: The girl is given a cup of wine by the eldest in her family and she sips the wine and gives the cup with wine to her « husband » who finishes the drink. They are acclaimed. They go before the oldest man from the girl's family who blesses them with a happy, fruitful and prosperous marriage. The man's family give out gifts of wine, clothes, tobacco and money to the relations of the girl according to the degree of relationship. This is followed by feasting.

iv) Taking home of the bride (*idu na uno*) and giving the newly married girl gifts (*idu uno*). The girl is led by a retinue of her friends carrying various household articles and the personal trousseau of the bride to the house of the husband. Her family gives her almost everything which she will need to live in her new place. With the *translatio*, the woman is regarded as a fully married woman with all the rights due to her as a wife in the new home.

From the above description of the traditional marriage rite, it can be seen that it is an elaborate and expensive process in which the people manifest that marriage is not the private affair of the two spouses. According to John Raur, African marriage « is a communal event that deeply involves two clans and is effected in stages, of which some permit cohabitation »<sup>(19)</sup>. An intricate bond of relationships is knitted between members of the two extended families. And the two clans enjoy the rights and benefits as well as bear the burdens of the relationship after a certain stage of the process, generally after the payment of the Bridewealth. They are surprised and they can hardly understand it when they are told that they are not yet married. They themselves regard themselves as married. The community regards them as married. And in most cases they begin to live as husband and wife after a certain stage in the traditional rite.

For the generality of Africans, the requirement of the ordinary canonical form and liturgical form is superfluous and unnecessary. According to Kitembo and others,

the attraction of church marriage even when it accompanies customary marriage, is often that it « dignifies » the marriage, and, as an « appendage » or « additive », confers greater social prestige<sup>(20)</sup>.

Many regard it as « white » wedding. The women may look forward to it as a status symbol in which they wear a white gown and white veil. Often there is a clash of symbols and values. The symbolism of white and the veil as signs of virginity is lost when many

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<sup>(19)</sup> JOHN BAUR, *2000 Years of Christianity in Africa: An African History* 62-1962 (Nairobi: Pauline Publications-Africa, 1994), p. 330.

<sup>(20)</sup> B. KISEMBO, L. MAGESA and A. SHORTER, *African Christian Marriage* (London and Dublin: Geoffrey Chapman, 1977), 13-14.

of the brides who are already visibly pregnant insist on putting on the wedding gown and veil. Secondly, church marriage or wedding is seen as an expensive burden. The expense comes from the social celebration in which the couple is faced with the cost of feasting for a multitude of relations and friends. In some cases, the couple may not have recovered from the heavy expenses of the traditional marriage feast. Again, the idea of regarding the church wedding as the event that creates an indissoluble union scares many an African, especially if he or she is not sure of the fruitfulness of the union. The couple would generally try to live together until the woman becomes pregnant before committing themselves to an absolutely indissoluble marriage. The result is that many African Christians put off the church wedding.

*The solution.*

It must be clearly stated that the continued call by Africans for the merging of the church marriage and the traditional African marriage rite should be addressed to the Bishops' Conferences of Africa. If the local rite is not prepared or if it is delayed, it is not because the Vatican is in the way. The Church in Africa must bear the full responsibility for the delay in addressing many of the problems of the African Church since the universal Church has granted it the necessary power. The problem of the form of celebration of marriage is a test case. The Bishops are aware that this problem constitutes a very serious pastoral issue and keeps many African Catholics away from the sacraments. Still finding a solution to it does not seem to be a pastoral priority. Since 1981 when the Symposium of Episcopal Conferences of Africa and Madagascar recommended the study and since 1983 when the Code of Canon Law sanctioned the preparation of local marriage rites, there is nothing to show for the concern of Episcopal Conferences for a solution. According to John Baur, it « seems that episcopal concern has been side-lined to the study of family planning, which the same SECAM conference [1981] also recommended »<sup>(21)</sup>.

The Bishops' Conference should take up the various studies done by scholars in various parts of Africa<sup>(22)</sup> and implement the proposals.

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(21) JOHN BAUR, *2000 Years of Christianity in Africa: An African History* 62-1962, (Nairobi: Paulines Publications-Africa, 1994), p. 332.

(22) See for example, JUSTIN UKPONG, *Adaptation in the Liturgy of Marriage: An Ibibio (Nigerian) Model*, *AFER* 20 (June 1978), p. 145; J.C. ATADO, *African Marriage*

According to the present law, what is expected is a marriage rite that will be in line with the customs and usages of the people and place. The solution seems to be the combination of the traditional African rite with the Christian rite. One of the problems of creating a rite of marriage which combines the traditional marriage rite with the requirement of the canonical form is the exact stage of the traditional marriage at which the canonical form will be inserted. The problem arises from the fact that the African marriage is « brought about by a dynamic process in successive stages »<sup>(23)</sup>. It is often difficult to pinpoint the exact stage in which the marriage takes place. The Episcopal Conferences in Africa were to

see how this process could be celebrated in a Christian way and find at what exact moment the canonical form could be inserted, in such a way as to eliminate the present dichotomy between the liturgical and the traditional forms<sup>(24)</sup>

In Igboland, for example, the Interdiocesan Liturgical Commission of Igbo-speaking Dioceses of Nigeria has proposed a rite which will bring together the customary and Christian marriage rites using *Igbbá Nkwu* (wine ceremony) as the stage in which to insert the canonical form. The ceremony should take place at the house of the bride and later a thanksgiving mass (called the Nuptial Mass) will be celebrated as soon as possible in the parish church of the bridegroom<sup>(25)</sup>. The proposed rite takes care of the problem of duplication of rites but its success will depend on the readiness of

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*Customs & Church Laws: A case study of the Igbos* (Kano: Modern Printers, 1988), pp. 112-118; B.H. OKONKWOR, *The Role of Matrimonial Consent in Igbo Marriage in the Light of the New Canonical Legislation: A Comparative Study* (Rome: 1985), p. 77; IDLC-ISA, « Inculturation and Igbo Marriage Rite », *The Leader*, (February 18, 1990), p. 5; C.S. MBA, *Evolving an Igbo Christian Rite of Marriage: A Reflection on Canon 1120* (Orlu: 1994) and NATHANIEL NDIOKWERE, *The African Church, Today and Tomorrow*, vol. II: Inculturation in Practice (Enugu: Snaap Press, 1994), pp. 132-148.

<sup>(23)</sup> S.E.C.A.M., « Recommendations and Conclusions on Christian Family Life and Marriage in Africa Today », *AFER* 23(December 1981), 372.

<sup>(24)</sup> *Ibid.*, 373.

<sup>(25)</sup> IDLC-ISA, « Inculturation and Igbo Marriage Rite », *The Leader*, (February 18, 1990), p. 5. It is to be noted that the *Igba nkwu* ceremony is not universal in Igboland and it is not absolutely necessary as N. Ndiokwere asserts in his book, *The African Church, Today and Tomorrow*, p. 132. The ceremony is now gaining currency in almost every part of Igboland.

the people to accept such a marriage ceremony as the ceremony that brings into existence the indissoluble union which the Church wedding does <sup>(26)</sup>.

A lot of pastoral catechesis is needed to educate the people so that they will abandon their mentality of ascribing to the Church wedding with its socio-liturgical trappings from Europe that efficacy of creating an absolutely indissoluble bond of marriage which they do not attribute to the traditional marriage. It must be insisted upon that every marriage, by its very nature, is indissoluble and this property is not tied to the fruitfulness of the union. The marriage is therefore indissoluble whether it is blessed with offspring or not. Children are indeed the supreme gift and crown of marriage but as the Fathers of the Second Vatican Council insisted, « marriage persists as a whole manner and communion of life, and maintains its value and indissolubility, even when offspring are lacking — despite, rather often, the very intense desire of the couple » <sup>(27)</sup>. Pastoral catechesis needs to focus on inculcating the true understanding of marriage among African Christians.

From the canonical perspective, it may be necessary to take another look at the continued requirement for the canonical form for Africa. From the beginning of Christianity, the Church was interested in the marriage of its members. However, it did not impose any particular form for its celebration until the Council of Trent issued the decree *Tametsi* which imposed a form of celebration of marriage *ad validitatem*. This form called the canonical form was introduced in the Latin Church to combat clandestine marriages. From the point of view of the original intention of the legislator, there is no need to apply the canonical form to African marriages because there can be no African marriage that is clandestine.

But if the requirement is now to ensure the juridicity of the celebration, the active presence of the canonically recognised assistant may create difficulties. Such difficulties may lead to

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<sup>(26)</sup> F. Urrutia rightly points out the problem of the combination of the traditional rite and the Christian one is the fear that Africans might not recognise that celebration as the rite that begins the indissoluble marriage. See FRANCESCO URRUTIA, *The Challenges on Canonical Doctrine on Marriage Arising from Africa*, *Studia Canonica*, 23(1989), 20.

<sup>(27)</sup> Second Vatican Council, Pastoral Constitution on the Church in the Modern World, *Gaudium et spes*, no. 50.

having a parallel celebration even in the home of the bride. The asking for and receiving the bride's consent is the prerogative of the oldest man (*Okpala*) in the bride's family. The insistence on active presence of a person recognised by the Church will mean that this person will also ask for and receive the matrimonial consent of the spouses. The way out may be for the Church to delegate the *Okpala* to perform the ecclesial function as well as the traditional one even when priests and deacons are present. This will require a derogation from the norms of canon 1112, § 1.

Another problem in the way of this solution is that the oldest man in the family may not be a Christian and therefore is not to be delegated as a qualified witness since the law states that a lay person can be delegated to assist at marriage. This presupposes that the person is baptised (can. 207). Any of these solutions will need a derogation of the law (cann. 1112 and 1120). This derogation may be necessary to achieve the objective of inculturation of the form of celebration of marriage.

The canonical form continues to be an albatross around the neck of the African Christian. A workable proposal can be that the church community will work in cooperative effort with the various families/clans to have a marriage ceremony which both the church and the society will recognise as true marriage. The church community will assure itself of the personal, spiritual and canonical pre-marriage preparations of the parties and their freedom and maturity to enter into a true marriage in the Lord. This can be easily done if the christian community is organised in Small Christian Communities or Basic Ecclesial Communities patterned along the lines of the traditional family (*umunna*). These communities will have christian leaders who are trained to prepare the people for marriage in line with the norm of canon 1112, § 2. The celebration of marriage will take place according to the customary rite. The church community through appointed witnesses will be present but their presence will not be active as required by the present law. The leaders of the Small Christian Communities will ensure the registration of the marriage which will be given all the canonical effects. In order to satisfy the liturgical needs, a mass of thanksgiving in which special blessings will be given to the newly married couple can be arranged in the church as soon as possible. This mass should not be required for validity or for licitness.

*Conclusion.*

We have seen the problems of the forms of celebration of marriage in Africa. The universal law has made provisions which, if implemented by the Bishops' Conference, can lead to a solution of the problem. This entails the preparation of a local rite of marriage which takes into consideration the usages of the people. In Africa, this can lead to a blending of the customary and Christian marriage rites to produce one rite that will be acceptable to both the traditional African community and the church community.

However, the law requires that this rite has to embody the canonical form, that is, the active presence of a person recognised by the Church to assist at the marriage by asking for and receiving the matrimonial consent of the parties in the name of the Church. This requirement creates difficulties of its own, which can be solved by working out a marriage rite with the traditional society in which the oldest man from the family of the bride will ask for and receive the consent as in the customary marriage while the representatives of the church community will be passive witnesses.

This proposal does not seek to do away with the canonical form but to adapt it to the realities of the African world. Canon Law itself contains both the ordinary and the extraordinary forms. The extraordinary form in canon 1116 allows for the valid and lawful celebration of a true marriage in the presence of witnesses only under certain conditions. Canon 1127, § 2 allows for the dispensation from the canonical form in the celebration of mixed marriages if there are grave difficulties in the way of observing the canonical form, provided some public form of celebration is used. The sacramental nature of marriage is not in anyway compromised since it is a valid marriage contract between baptised persons that is by that fact a sacrament (can. 1055, § 2).

In celebrating their marriage according to their customary rites and without the necessity of observing the ordinary canonical form, African Christians will realise better that it is the natural reality of their marriage that has been raised to the dignity of the sacrament. In that way, the dichotomy between their traditional marriage and the church wedding will be removed.

