

DIVORCING GRACIOUSLY AND REMARRYING HONOURABLY: AN AFRICAN CHRISTIAN CHURCH RESPONSE

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Abstract

To the Christian community marriage is a mysterious miracle. Therefore, the thought of a divorce is intolerable, unattainable and unrealistic to the majority. However, this miracle of two human beings becoming one should not be seen as starting or happening at the altar but during the living relationship that moves through a series of distinct phases. These phases are psychological, emotional, consummation and maturation. To believe that the two are meant for each other and what God has joined together nothing should put asunder, is absolutely valid, but may not make sense in today's rational world. In the first place, God may not have anything to do with the coming together. An error in selection of mates could have occurred, and so incompatibility which may require termination and selecting again. Errors may be due to both human and environmental factors. This study sought to show that the commonly held notion that love is blind may not be factually proved and the errors in marriage may be human and environmental. The high rates of marriage separation, divorce and re-marriages show that there are occasions when both divorce and re-marriage are desirable even among Christians.

Keywords: Divorce, re-marriage, African Christian church.

1. INTRODUCTION

This study raised several pertinent questions. It critically attempted to address the contentious issue of divorcing and re-marrying from both a religious and social cultural viewpoints. The institution of marriage is of interest not only to the Christian church but also anthropologists, sociologists and legal-political spheres of the societies. Such interest is based on what the said institutions stand for as far as marital matters are concerned and in particular the issue of divorce and re-marriage. It is possible that any debate on the issue at hand will not lead to absolute answers because of the cultural, religious and social understanding of what marriage is all about. However, this being a religious-social study of marriage, divorce and re-marriage, the focus was on the following questions: How can we account for the rising separations and divorce rates in the world? What practical steps can be taken to resolve the complex social problems associated with divorce? As a contemporary problem in life, can there be one stand point taken by the church that can universally be applied as a resolution mechanism? Was Jesus' intention on the teaching of divorce intended to be a new legislation? Why did Jesus take an absolute stand on the issues of divorce? Then finally what would be the best way to minister to a person who contemplates divorce and is feeling guilt and pain about it yet may be thinking of re-marriage as still desirable?

According to Kisembo (1998), the phenomenon of marriage means any formal commitment between a man and a woman to cohabit more or less permanently. Most Christian churches, Roman Catholic and Protestants require a marriage certificate or church ceremony or both even though they recognize civil or customary marriage for their adherents. They advise for a church's blessing on all marriages conducted outside the religious realm. This raises the question of whether in such arrangements, marriage is still a sacrament. As to whether it is a sacrament, different religious organizations put various arguments. Catholicism has taken it as a sacrament. Their belief is that marriage is a sacrament because it is part of the created order – a symbol of reality, just like birth, death, eating and drinking. Ideally then, marriage is a relationship that communicates values and not an indissoluble institution.

Okullu (1990), on the other hand, argues that the term divorce is foreign to the Africans since there is no such a word in Africa. This is because, marriage, whether biologically or African speaking is supposed to be a lifelong union. The question of re-marriage after divorce is an issue many churches wish it does not confront them. This means it is a contentious pastoral issue. Many churches have ambiguous stand points on their teaching on insolubility of marriage. The Presbyterian Church practice agrees to remarry divorcees under certain circumstances. These circumstances are themselves contentious because there is no set rule defining them. In most cases, it is the pastor or priest in charge of the parochial area together with the elders who determine when marriage is desirable or undesirable. This desirability could therefore be spontaneous, contextual or circumstantial, thereby, subjective and lacking objectivity.

2. LITERATURE REVIEW

Divorce was possible according to customs of most African groups before the coming of the missionaries and colonialism. Most post-colonial African legislations however prevent divorce by making it difficult to be attained. This is a western model of Marriage Acts. Generally for most cases, in African context dissolutions are justified by personal incompatibility, infidelity, desertion, laziness, drunkenness and barrenness. The western model may in addition consider refusal of conjugal rights and need for independence. In the United States for example, factors influencing the rising divorce and separation rates are diverse. According to Hughes (2009), both men and women rely less on one another for economic survival. As women gain higher academic and professional achievements, they rise higher in the work place and often qualify for their own medical and retirement benefits which enable them to be less dependent on the male head of the household. Consequently, women who are gainfully employed and self-sufficient may be more willing to dissolve a marriage because they are not perceived as financially dependent spouse.

In Kenya and Africa in general, the family is regarded as the natural and fundamental unit of society and the basis for social order. Every adult is expected to marry under normal circumstances (Mbiti 1969, Kenyatta, 1938). This right is enshrined in the Bill of Rights, article 45(2) of the Kenyan constitution (Constitution of Kenya, 2010). Recognized marriage in Kenya

must conform to any of the following systems: religious, civil and customarily. Parties to a marriage are entitled to equal rights at the time of marriage, during and at the dissolution.

Theologically, divorce is mentioned by the four New Testament writers, in Matthew 5:32 and 19:3-9; Mark 10:2-12; Luke 16:18 and St. Paul in 1 Corinthians 7:10-16. While Mark and Luke express the unequivocal opposition of Jesus to divorce, Matthew and Paul introduces restriction upon this directive attributed to Jesus Christ. Matthew gives room for human shortcomings or limitations while St. Paul argues there is a situation where a Christian may not oppose divorce like if pagan partners in a mixed marriage demands so (Kisembo, 1998). This argument looked against 1 Corinthians 7:39 and Romans 7:3 conclude that what St. Paul implied was that marriage and divorce rules are binding according to the original directive. However, this should be understood as simply a social ideal which couples should aim at. Consequently separation, divorce and remarriage, though not recommended, are not overruled.

A study carried out by a team of experts from the Standard Group of Newspapers in Kenya (September, 2015) revealed that the numbers of marriages on the rocks is on the rise in Kenya. Records at Milimani Law courts indicate that between 2001 and 2014, there has been a gradual increase in the number of couples seeking to null their marriages.

The Standard Group study (2015) revealed that in 2001, a total of 101 divorce cases were filed at Milimani Law courts. The number further rose to 115 in 2002 and then to 206 in 2003. This trend continued until the year 2015 when a total of 246 cases have been filed. This is just one law court which reflects the national situation throughout the country.

According to the statistics from the Kenya National Bureau of Statistics, the 2009 census revealed that 212,972 couples in Kenya are divorced throughout the country. The study established that money ranks top on the list of what leads to marriage breakdowns. Other factors include infidelity, lack of communication, mistrust, family ties and cruelty, barrenness, impotence and rape as the causes of marriage breakups.

Marriage counselors emphasize on the five pillars of marriage: love, respect, trust, forgiveness and communication. Due to breakdown of traditional African values that enabled couples to

achieve these through the elaborate social set-up, many marriages face numerous challenges. Lack of proper courtship and social values are triggering problems in marriages.

As a religious ceremony, the practice of remarrying divorced people in church is followed by Anglican Communion and other Protestant Churches. In many ways, remarriage in church is both logical and a more theological solution to the problem of the divorced and remarried. It acknowledges that whatever the rights and wrongs in the married that failed and which cannot be restored, here now is a stable, loving relationship from which the love of God in Christ is present.

According to Bowman (1992), during the time of Jesus as like in majority African communities, marriages were arranged by parents or through an intermediary. Although young people had a choice of the matter, they had no freedom of the choice. Courtship as understood today was non-existent. This, plus the attitude towards women gave the husband property rights in the wife. Conjugal love developed in marriage and romantic love was not considered the basis for marriage.

Betrothal was almost marriage and it could be dissolved as the marriage could. A betrothed woman, whose fiancé died, for example, was considered a widow (Matthew 24:1-18). Divorce occurred through a bill of divorce according to the Law of Moses (Deuteronomy 24: 1-2). Remarriage was acceptable.

In the African context, the relationship between love, sex and marriage is not a defined chronological system. Figure 1, shows that this relationship can start at any point.

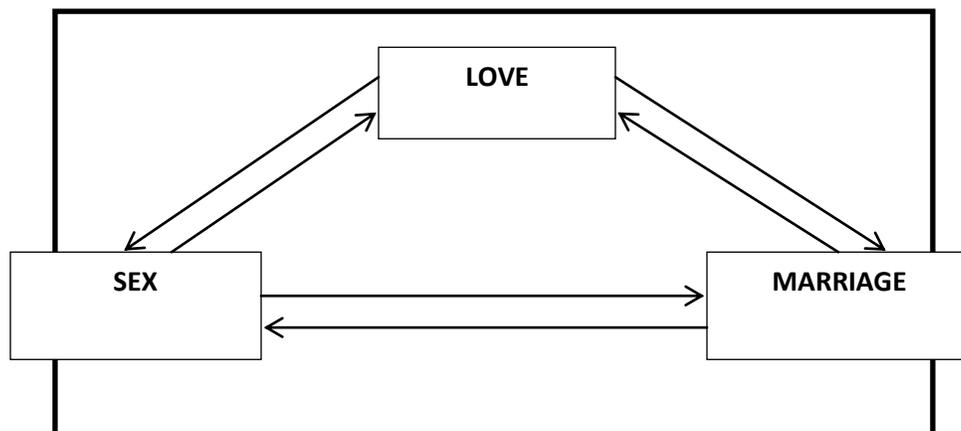


Figure 1: Relationship between Love, Marriage and Sex

The model illustrated in Figure 1 confirms the contention that there are many factors underlying marriage and therefore inevitability of separation, divorce and remarriage. The African models that mitigate divorce and remarriage may substantially differ from the western and Christian ones. Missionary and post missionary eras in Africa had to contend with African marital systems. Unfortunately there were conflicts of interest as African Christian writers have and scholars have demonstrated (Mbiti 1969, Kenyatta 1939). These scholars compared the African and Western marital systems in terms of preparation for marriage, choosing marriage partners, betrothal and courtship, wedding ceremonies, polygamy and in heritage, divorce and sexuality. There is a general consensus therefore that in the African context, it is possible to marry, separate, divorce and re marry. The confusion however is when these instances are defined in the context of western Christianity. There is need therefore, of engaging scholars, theologians, sociologists and anthropologists in debates on what constitutes marriage, divorce and remarriage within this context.

3. CONCLUSION

Today, care needs to be taken in discussing the issue of divorce and remarriage. This is because it is a relative, subjective matter. Two partners are involved. Basically and naturally when there are conflicts, the tendency is to conclude that there in an innocent party and the guilty party,

This distinction may be wrong because divorce law is evidential and depends on court contests, prove of injury and interpretation. The court assumes that one party is purely guilty, committed the offense, and injured the other spouse who is purely innocent. This is the evidence and offense that the court depends on and the resultant injury supposed to have occurred to allow divorce.

This system has glaring shortcomings because many couples go to any pain to fit their marriages-divorce situations into the framework of the law, even when they are aware that they are misinterpreting the facts. Practically, experiences show that in all cases, both persons share blame because as the time of wedding each took responsibility or the welfare and success of the

marriage. In this case therefore, the principle of injury and contest as established by law is not in accordance with the facts.

In the African context, divorce is a delicate accident in a marital relationship. What constitutes divorce should also be viewed against the fact that marriage is a process. Marriage involves many people, and has

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