

**WHEN DIVORCE COULD BE A CHILD OF NECESSITY: A MORAL ARGUMENT
FOR SITUATIONAL DIVORCE**

BY

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Abstract

Divorce as a social phenomenon has received different attentions from various perspectives, especially from moral philosophers and theologians. The issue has assumed polemical status, where we have view of the conservatives versus that of the liberals. The former holds to the absolute impermissibility of divorce irrespective of the situations and conditions that warrant it, while the latter submits that marriage can be dissolved at the will of the couple. However, the two views are extremes, which have flaws in the way the issue of divorce and remarriage is to be handled. Therefore, this piece is taking a moderate stand, using Joseph Fletcher's Situation Ethics as a tool to argue that moral judgment of divorce should not be done ontologically, rather the situation and condition that surround the step of divorce in a marriage should be considered in its moral evaluation. The work considered Christian views on divorce, the common causes and the effects of divorce and situations when divorce could become a child of necessity. Recommendations are made towards how to have divorce-free marital unions, how the church should view divorce cases when it becomes inevitable and how to handle marital dilemma that are critical in nature.

Keywords: Christian, Divorce, Marriage, Moral, Union

Introduction

The issues surrounding divorce suggest that there was a marriage that has collapsed or about to collapsed. The concept sound as a negation to the normal societal, social and marital order in the community. This occasions how those who are divorcees are treated or disdained either in the religious centres or in the community as a whole. The subject of divorce and remarriage has received laudable attention in the academic fields. Some have worked on the possible causes, the process, the effects and the moral, religious and social implications of divorce. It is now obvious that the issue has assumed a polemical status in the recent time, which results to the creation of two opposing camps in the academic enterprise. The two camps are the conservative school and liberal school of thought.

The conservative scholars, who are mostly the classical Christians, hold to the Christian traditional view about marriage which gives no room for divorce irrespective of the condition threatening the sustainability of the marriage. While liberal scholars, on the other hand, believe that human being is free to take any decision about his or her marriage (including the option of divorce) that he or she deems fit in any situation. Based on what we can observe in marriages today, we discover that both the opinion of the conservatives and that of the liberals are extremes. This is because the conservatives hold to legalism which sees moral rules and principles not as guides but absolute norms that must be obeyed at all cost and in all situations, while the liberals submit to antinomianism which is lawless and principleless approach to moral decision making.¹

Thus, this work is going to adopt moderate approach to the study of divorce as a phenomenon that can conditionally or situationally become a moral decision, based on the factors that necessitate the decision. Hence, the study will be done in the light of Joseph Fletcher's Situation Ethics which emphasizes the situation as the determining factor in the morality of any action.² This implies that the work intends to prove that not in all cases is the option of divorce an aberration in marital union. There are situations where divorce is a child of necessity in order to guide against higher evil that is more serious than divorce. If the decision made by the couple was to live together still the death separate them is to be potent, what of the situation where one of them wants to bring the death prematurely in order to be free from the bond of the marriage? This will be the focus of this pieces, this is to establish that

¹ J.I. Omoregbe, 1993. *Ethics: A Systematic and Historical Study*, Lagos: JERPL, 257

² J. Fletcher, 1966. *Situation Ethics*, London: SCM Press, 18

strict application of legalism in Christian marriage in regard to divorce may do more harm than good.

Understanding Christian Marriage

The simple and common definition of marriage is the union between man and woman to become husband and wife. It is the state in which a man and a woman are formally united for the purpose of living together and with certain legal rights and obligation towards each other.³ It has also been viewed from Christian perspective as the sacred, covenantal union of man and woman formed when the two swear before God an oath of lifelong loyalty and love to one another. The union has sexual, legal, cultural, social, religious, and procreative dimensions and implications. One should note that the coming together of the two parties in a union like marriage has permanent implication in an ideal marriage. Therefore, it is believed that marriage should be a life-time engagement.

Marriage has biblical origin which happened during the creation of man by God. The intention of God was to see that man was not alone; he created a woman in order to meet the emotional needs of man. The divine approval of marriage is rooted in Gen.2:24 with its insistence that a man and his wife become “one flesh”. This unity was upheld by Jesus in Matthew 19:3-6. These biblical references and many similar ones have been the tools used by the church to tighten the bond of Christian marriage. This implies that homosexuality, divorce, adultery, bestiality even polygamy are challenges to the biblical meaning of marriage.

It is believed in Christendom that the “one flesh” means 'one person' which describes the togetherness of the husband and wife in Christian marriage. This gives no room for the third party to intrude into the affair of the couple. Parent and child always remain two individuals. But the most important thing about husband and wife in Christ's teaching is that 'they are no longer two'. Couples cannot destroy the oneness God gave them when they married. This made many Christians to hold that remarriage, according to Jesus teaching, is adultery. This can only be because the original marriage -the oneness, the joining together -still exists. This is why they teach that a divorced Christian, even when reconciliation is no longer possible must continue to think: 'I am married and therefore not free to contemplate marriage to anyone else. While married, he could never think of marrying a second partner. His legal divorce changes nothing in God's eyes and therefore should change nothing in his: he is still married; he is not free to

³ R. Odudele, 2006. *Religion and Moral Instruction in Schools*, Akure: Al-Hafiz Publishers, 24

contract a second marriage. Therefore, it is held that nothing is capable of breaking the bond of Christian marriage, not even the immoral of one of the spouses.

The Phrase: “For Better, for Worse”

According to Dzurghba, the term “for better, for worse” is a phrase from a full statement of the Christian marriage vow that is read in church by the bridegroom and the bride, which is the most important aspect of the Christian marriage vow.⁴ This vow has a lot of implications for Christian marriage. It serves as the major cord that binds the couple together for the rest of their lives. It means that the permanence in marital union, especially in Christian marriage, is hinged on this phrase. It also suggests that there is an understanding that a Christian marriage has both benefits and burdens or prospects and problems. It is a realisation of the impression, beauty, grandeur, wealth and glamour in one side and the reality of limitation, shortcomings, inadequacy, lack and dryness of any kind at the other side.

It is expected that the couple have known the implication of the vow, hence, they are warned that once you are married, no more chance to opt out of the union. But it is obvious that not everybody can cope with the worse aspect of the vow, this occasions the various kind of complains which may threaten the unity of the couple, and many a times it may eventually lead to the dissolution of the marriage. It becomes so difficult to bear when the husband and wife lack the understanding to live together. This is why some people believe that since the two of them are not from the same background, orientation, worldview and philosophy, there is a tendency of having clashes of interests in their marital journey.

The above view might prompt Mbiti to opine that “marriage is a drama in which everyone becomes an actor or actress and not just a spectator”.⁵ The statement could be understood from different perspectives, but we can conveniently say that the parts played by different actors in a drama differ from one another, and the area of strength and weakness of each actor also differ. Little wonder that the cause(s) of trouble in a particular marriage is different from that of the other one. Hence, the popular saying, “there is no perfect marriage”. Christians believe that there is a limitation to the perfection of human nature, especially after the fall of man; therefore, since man that is the major actor of the marriage is not perfect, his actions are not expected to be perfect. This understanding calls for endurance on parts of the couple in order to have a successful, productive and lasting marital union. We can equally say that this kind of endurance

⁴ A. Dzurghba, 2007. *Contemporary Ethics: Theory and Issues*, Ibadan: JOHN ANCHERS (Publishers) Limited, 96

⁵ John Mbiti, 1982. *African Religions and Philosophy*, London: Heinemann, 133

in marriage knows no end, because it is believed that irrespective of the challenges one is facing in marriage, the biblical injunction gives no room for divorce.

Purpose of Christian Marriage

As touching the question of what marriage is for, one can argue from scriptural point of view that there are five possible reasons for marriage. Though cultural and traditional values on marriage differ from one tribe to another, the biblical emphasis on marriage will be presented here.

- *Unity*: the desire for is found in Gen. 2:24 where emphasis is laid on oneness of man and his wife as becoming “one flesh”. The New Testament upheld this through the statement made by Jesus in Matt. 19:3-6, where he concluded the verses by saying “Therefore what God has joined together, let not man separate.” This motive for marriage is very strong in Africa, where a man without a wife is considered to be incomplete, and a woman without a husband is disdained. We can conveniently say that the ideal of unmarried man or woman is strange to traditional African societies.
- *Companionship*: the desire for companionship is also rooted in the creation ordinance where God states, “It is not good for the man to be alone; I will make a helper suitable for him” (Gen. 2: 18). Marriage is important and imperative if one is to have companionship, love, respect and dignity. This makes to become a universal purpose for marriage, for instance, in African culture, unmarried person is regarded as lonely, miserable, helpless and even immature.
- *Procreation*: after God had made the new couple – Adam and Eve, He blessed them to “be fruitful and increase in number” (Gen. 1:28). One of the fulfilments of promises of God for Christian marriage is the ability of the couple to reproduce. In Africa, it may be said that over-emphasis is laid on the issue of procreation, for any couple who fail to have children at the expected time after their wedding will face public shame, which could cause agony for them. In facts, many marriages have been broken because of lack of issue. When one can say that African cherish children, we can equally say African Christians hold to the belief that God is the giver of the fruits of the womb.
- *Love and Pleasure*: the issue of love (*eros*) is specially designed to be taking place between husband and wife. By nature, we want to be appreciated and loved, the hug, warmth, caressing, kissing and touching are all meant to show love and for the derivation of pleasure. If the desire to be loved and the urge for pleasure are not tailored

towards marriage, man will not be different from animals that are living amoral life. For they can have sexual intercourse with any animal of their kind anytime, anywhere and anyhow. This makes Jeremy Bentham to opine that man is a pleasure seeking and a pain avoiding animal.⁶ God confines the sexual pleasure within the married couple. This made King Solomon to admonish his listeners that “Enjoy life with your wife, whom you love”. (Ecclesiastes 9:9).

- *Cubing Sexual Immoralities*: By nature, man is sexually created; this implies that human beings derive pleasure from sexual activities. If it is not controlled, the urge in man could take him to any level in his bid to satisfy it. The best way is to guide against fornication and adultery is to go into marriage as advised by Apostle Paul (1 Cor. 7:1-2). History and Bible show – a husband a wife living in marital fidelity is the only normal way to live.⁷

Divorce as a Concept

Divorce is the legal termination of a marriage; the separation of wife and husband that were together.⁸ It is viewed as a failure on part of the couple, their relatives, friends and the church of God. This is because they have come to celebrate them on the day of their wedding, it is tagged an aberration to see the dissolution of such a union. And again since marriage, especially in Africa, is always involves the two families of the couples, its separation may led to an extended enmity in the society. To the church, divorce suggests the low level of faith of the concerned couple; it has the connotation of lack of faith on their part. Little wonder that those who are divorcees are exempted from the some services that are believed to be carried out by the ‘serious’ Christians in some churches, services like Holy Communion, leadership role, teaching, etc.

While there is an argument concerning the stage where couple usually get it wrong in the marital union, one can opine that the causes of divorce vary from one marriage to another, from one culture to another, from one religion to another and from one denomination to another. This suggests that we have cultural, religious and doctrinal dimensions to the issue of divorce. The evil it does in the lives of the victims, in the lives of their children, in the church and in community in general makes people to preach against its occurrence without weighing the causes and the possible ‘good’ it might bring to any of the aforementioned groups. This

⁶ J.I. Omoregbe, 1993. *Ethics: A Systematic and Historical Study*, 233

⁷ R. Mahoney, 1993. *The Shepherd's Staff*, Kilpauk: World Map, 56

⁸ R. Odudele, 2006. *Religion and Moral Instruction in Schools*, 24

occasions how many people view divorce ontologically, that is, they view it as what is inherently bad.⁹

Many people believe that when there is a clash between personal principles or worldview and the biblical declaration about marriage, then the cloud of divorce is condensing. This implies that human action of one or both of the parties in the union result to divorce; this is what makes it an ethical subject. According to Abimbola, the foundation of any marital union goes a long way to determine its permanence. He emphasises this when he asserts that:

Marriage is a lifelong association, any shaky foundation may lead to a big collapse of the marriage structure, or it may lead to enduring the marriage rather than enjoying the marriage. Marriage is not a theory, marriage is practical. Marriage is like building house, and in building if you want a solid and durable house foundation matters a lot and it is the most difficult part of building.¹⁰

From the above assertion, one can infer from Abimbola's opinion that the workability of marital union starts from the beginning of the relationship that has to do with how the couple handled the stages of friendship, courtship and engagement before they finally consummated their relationship in a marital union. While his argument from the Christian perspective is plausible, he did not explain what form the materials to lay the foundation neither did he explain how to lay it.

Christianity as a religion rejects divorce on the basis of its effects on the parties involved. Instead of giving it second thought, Christians prefer to resolve to prayers, patience and endurance which are workable tools to face life situations that are not conducive, especially in marriage. This is because living together as husband and wife is a source of joy and it is likened to the relationship between Christ and the church (Eph. 5:25). Therefore, since it is believed that there is nothing the church could do that can make Christ to forsake His church, so also it is held that nothing should by any means separate couples that are joined in the Lord. The Christian values like forgiveness, endurance, patience, love, mercy and perseverance should be at work in Christian marital union.

Christians believe that God's original plan for marriage envisaged such a fundamental unity between the man and his wife that they would enjoy a loving, trusting and happy married

⁹ J.K. Ayantayo, 2009. *Fundamentals of Religious Ethics*, Ibadan: End-Time Publishing House Ltd., 6

¹⁰ F. Abimbola, 2015. *Pitfalls that Rob Men of Destiny*, Abuja: Dee Joe Press Limited, 23

life (Gen. 2:24). However, with the fall, as opined by Kunhiyop, sin and hatred became part of the human condition, and thus divorce came into our world.¹¹ This implies that divorce as one of the human negative actions can be directly linked with the formative period of the human society, especially from the first sin committed by the first generation of man in the Garden of Eden (Gen 3)

If they have become ‘one flesh’ according to the biblical teaching, it is in the opinion of the church that one cannot cut any part of his body away because of simple mistake made by that part without necessarily causing injury and pain to the rest of the body. This is applicable to the view of Christians about marriage that there is no way that two who are cloven together can be separated without causing life injury and pain on both of them. Since this kind of a pain is inevitable whenever divorce occurs, Bible teaches against divorce altogether.

Different Christian Views about Divorce

Because different doctrinal, exegetical and expository teachings on the biblical texts that express the Christian view on divorce, there are diver views about how to handle the issue of divorce in the church. Some of these views will be considered in this section of the work, this to establish the fact that we have different interpretations to these texts. Since this topic is not viewed from theological perspective, we will only consider the general views of Christians without necessarily going to exegetical exposition of the concerned texts.

Absolute Impermissibility of Divorce

One of the views some Christians is that there is no room or chance for divorce in the Bible irrespective of what the couples are passing through. They hold that marriage is for life and can only be terminated by death. One of their strong arguments is that “anyone with knowledge of Scripture will know that divorce is contrary to the will of the God, who says ‘I hate divorce’” (Mal.2:16).¹² Those who belong to this camp also support their view with the teaching of Jesus Christ in the New Testament. They hold that the words translated “except for marital unfaithfulness” in Matthew 19:9 should actual be translated “not even in the case of marital unfaithfulness”. In their view, nothing justifies divorce. If the couple decided to separate, the proponents of this view hold that their marriage is still intact. The conservatives believe strongly in the analogy made by Paul in Romans 7:2-3:

¹¹ S. W. Kunhiyop, 2008. *African Christian Ethics*, Nairobi: WordAlive Publishers, 250

¹² N. Shields, 2004. *Christian Ethics*, Bukuru: ACTS, 215

For Example, by law a married woman is bound to her husband as long as he is alive, but if her husband dies, she is released from the law of marriage. So then, if she marries another man while her husband is still alive, she is called an adulteress. But if her husband dies, she is released from the law of and is not an adulteress, even though she marries another man.

Hermeneutically, Paul was not actually discussing marriage and remarriage in the chapter, but this verse and many other ones in both Old and New Testament have been the sources of their argument.

It is obvious that the strictness of the interpretation of these verses will go a long way to keep Christian couples together and it will give them a sense of endurance and patience in their marital union irrespective of the challenges they may be facing. However, the view has its flaws by not giving room for exceptional cases where divorce may become necessary evil. There are some situations where divorce will serve as a way out of the greater evil that is facing the couple in the marriage.

Divorce Permitted, Remarriage Impermissible

Another view is that under certain circumstances, divorce is permitted in the Bible, but the separated couple cannot remarry. This simply means that after the couple have found fault in each other that they think it is capable of dissolving the union, they could go for divorce, but they must remain unmarried for the rest of their lives. It is argued that the “indecency” referred to by Moses in Deuteronomy 24:1 cannot be adultery because the law laid down that adultery was punishable by death, not divorce. This stand is logical because the tradition of the Jews was to stone to death any woman found in such an act, which was still reflecting even at the time of the ministry of Jesus Christ (John 8:1-11).

The proponents of this position admit that in Matthew 19:9, Jesus was permitting divorce on the ground of *porneia* that is, adultery, but deny that he would permit remarriage. They submit that remarriage is adulterous as long as the other partner is still alive. We have many people of this type in the church that are passing through severe and serious emotional trauma because their marriage did not work and the authority of the church via the interpretation of the Scripture do not allow them to remarry. If they remarry, they are immediately subject to church discipline. Someone who has remarried cannot be elected to any leadership position in the

church and is not permitted to participate in Holy Communion, simply put; they lose all their membership rights.¹³

This position equates divorced people with the unbelievers whom we must not have any relationship with, thereby isolates adultery as the unforgivable sin. The issue of divorce and remarriage is seen as the one that affect the fundamentals of Christian faith, which implies that whosoever fails in that regard is no more qualify to be a Christian. Biblical scholars do not also have consensus on limiting the meaning of *porneia* in Matthew to adultery and nothing else.

Divorce and Remarriage permissible

The last opinion to be considered in this section of the work is that of those who argue that Jesus explicitly permitted divorce on the basis of adultery. It is claimed that both in Matthew 5:31-32 and 19:1-12, Jesus is recorded as making an exception to the principle that marriage is for life. This applied in cases in which a wife had been unfaithful, he *allowed* but not *require* the husband to divorce. Others extend this permission to cover other grounds for divorce such as mental illness, apostasy, desertion, conviction of a crime, and imprisonment for a serious crime like murder. They hold that the innocent party is allowed to remarry.

This position holds that one can divorce if one finds error on part of the partner that is deemed capable of dissolving the union. They hold this position because of their interpretation of the above named texts in collaboration with what Moses said in Deuteronomy 24:1-4¹⁴, thus, to them anything that is not pleasant done by one of the couple could be interpreted as unfaithfulness which is potent enough to end the marital union.

The major weakness of this position is that it fails to emphasize the permanence of marital union and stresses the justifiability of divorce. It creates room for excuses and also justifies less important reasons for divorce. Many people in the society hold to this view and the direct effect of such idea is the increase in the number of broken marriage today. What only needs endurance and patience on parts of the couple are used as a ground to file divorce. Many issues that end some marriage today are what can be settled amicably, but because the couples believe that they possess freedom to decide on how their marital issue should be handled, the unions are broken and dissolved.

¹³ S. W. Kunhiyop, 2008. *African Christian Ethics*, 253

¹⁴ J.O. Adeyanju, 2012. "Jesus' Attitude to Women in the Gospels: A Recipe for Women's Involvement in the Socio-Religious Transformation of Nigeria" in O. A. Adewale, *Biblical Studies and Feminism in the African Context*. A Publication of the Nigerian Association for Biblical Studies (NABIS) Western Zone, 183

Types of Divorce

There are various types of divorce; the categorization is either done by the method of adopted in the process of divorce or the effect of divorce on the parties concerned. Some of the common types of divorce will be considered in this section of the work. We consider some the various types created by scholars as duplication and repetition; therefore, the major ones shall receive our attention here.

Emotional Divorce

Some couples are not legally divorced, but they are emotionally separated. In a case like this, they are only living together they are no more 'one flesh'. This type of divorce occurs when the spouse fail to meet each other's most important emotional needs. According to Harley, marital conflict is created one of two ways: first, couples fail to make each other happy, and second, couples make each other unhappy.¹⁵ The first one make come as a result of ignorance or unawareness of one's emotional needs, while the second one may deliberate or as a retaliatory step in the marital journey.

This type of divorce can be technically referred to as potential or embryonic divorce, because the separation is only internal and not external. The church, relatives and friends may know little or nothing about what the couple are passing through at this stage of divorce. When the expectation of a spouse is not met, his or her reaction towards the partner will change, this will definitely breed misunderstanding. The officially divorce find its root in this stage of misunderstanding, if it is not curbed within a reasonable period, the couple may not be able to handle it amicably which may call for the service of the third party.

Poor communication has been identified as the major cause of emotional divorce.¹⁶ This can also take two forms; the first one is when the couple do not know how to express their personal feeling to each other, which may hinge on assumption on part of one of the spouses. This assumption could happen when a spouse thinks that his or her partner understand that love exist between them, when love is not actually there anymore. This a notion will not lead to ignorance about the feeling of one's partner. The second form of poor communication is when

¹⁵ W.F. Harley, 1986. *His Needs Her Needs: Building an Affair-Proof Marriage*, Oxford: Monarch Books, 9

¹⁶ *Ibid*, 60

the couple have no time at all to communicate. This may happen as a result of the nature of their work, thereby giving room for a third party to be carrying out this responsibility. The aftermath of such step is divided loyalty and commitment which could end a marital union.

Legal Divorce

This is when the man or the woman goes to the court of law to file divorce paper and finding excuses to justify the divorce plan.¹⁷ Legal divorce takes place when one of the spouses is seeking legal authority in separating his or herself from the marriage. The law has provision for such a step, which make a legal right for either of the spouse who thinks the union can no longer bring the initial goal. There are many reasons that can prompt the filing of divorce paper and it varies from one marriage to the other, putting into consideration the difference of culture, societal values and religion.

The process of divorce in a law court depends mostly on the situations that surround the marriage to be dissolved. In some cases, the judge or jury would give a lot of time for hearing, the brain behind this is to ensure whether the issues between the couple could be settled amicably, especially with the intervention of the third party. While in some cases the separation of the couple will be done as quickly as possible, especially, when life of one of the spouses is being threatened.

No-Fault Divorce

Before now the legal termination of marital union would be as a result of at least a particular fault on part of one of the spouses. This stand changed in 2013 when the government of New York approved that couple could dissolve their marital union without any serious fault on part of either of the spouses. The sanctity of marriage is brought so low to the extent that people are now going into ‘contract marriage’ which is done based on the agreement of purpose, period and conditions. Once the purpose of the contract has been fulfilled, the marriage comes to an end automatically.

Therefore, it is not necessary to find special reasons why such a marriage should be brought to an end, because by its nature it is not meant to be a permanent engagement. They have only used it as a means to an end, and it cannot serve as an end itself. Though this type of marriage and its consequent divorce are not popular in Africa, one can submit that

¹⁷ T.O. Ojo, 2006. *The Acts of an Ideal Home*, Ibadan: The Apostle Ministry, 54

westernization can be breeze it to African land, since whatever is done overseas is considered right in Africa without considering the moral implication of such a step.

Uncontested Divorce

This type of divorce takes place when both husband and wife reach a mutual agreement to end the marriage. There will be 'peaceful' ending when they are able to come to an agreement regarding the division of property, settle financial issues, decide the children's custody and other important issues. This may not involve court action, but the representatives from the family of both sides are usually present at the time of decision making and the final dissolution of the marriage.

Simplified Divorce

This is uncontested, no-fault divorce where there is no conflict between the spouses. It takes place in a marriage of short duration where there are no children and very few marital assets to bicker over. The court law usually grants this kind of divorce within 30 days of filing. It is very similar to no-fault divorce, because it is for a marriage of short duration, which could be known to the spouse even from the beginning of the union the time the contract is going to come to an end.

Mediated Divorce

A divorce is a mediated type when both husband and wife attend a several sessions with a professional mediator in an attempt to resolve their major differences. Usually the mediator acts as a neutral party and will report to the judge and not to the court whether or not an agreement was reached by the parties.

Contested Divorce

It is similar to legal divorce in which the parties eventually allow a judge or a jury to make determination as to what the terms of the divorce will be. In the process of hearing, the couple are separated from each other, and there is no room for sexual activities between them not even with any third party. The judge will help them to determine how to divide their property, settle financial issues, and determine the children custody and many other important issues.¹⁸ This happens when the parties are not able to reach agreement on these issues.

¹⁸J. E. Barnett, 2009. "Ethical and Professional Considerations in Divorce and Child Custody Cases" in *Professional Psychology: Research and Practice*, 541

Common Causes of Marriage Divorce

There are several factors responsible for marriage divorce in Africa and in the globe generally. We have cultural, social and geographical difference to the causes of divorce, some of these causes will be considered here.

Infertility

One of the popular causes of divorce especially in Africa is the inability of the marriage to produce children. Africans value procreation far more than other aspects of marriage such as companionship, sexual pleasure and love. Thus, infertility is seen as a negation of life, destruction of the individual and the community. The couple without procreation are object of pity or ridicule in the society. This fact prompts Mbiti to assert that:

The chief purpose of marriage is to provide opportunity for the unborn members of the family to spring forth. The person, who fails, for various reasons, to have children, is one of the most miserable members of the society, since he will be despised and regarded as the cul-de-sac of his family.¹⁹

The above assertion shows that any marriage that is not blessed with children is not yet considered to have achieved its aim. Most of the time, women are always at the receiving end of infertility in marriage, for it is believed that the wife is the one that has problem of infertility. If the problem did not lead to the dissolution of the marriage, it could make the husband to take another wife in his bid to produce children. However, research has shown that infertility can be blamed on the women alone, for men also have high tendency of being the cause of the infertility.

Despite the different works of Christian and moral theologians debunking the notion that procreation is the sole aim of marriage, and that the expression of the oneness of love is the principal end of sexual intercourse in marriage,²⁰ the rate of divorce for the reason of infertility is still increasing in Africa. These scholars teach that Christian childless couple should simply accept their position and find fulfilment in their marriage even though there are no children.

Adultery

In any society (whether early or modern), adultery represents a vexing problem in marriages. Adultery is defined by moral theologians as the “act of sexual intercourse between

¹⁹ J. Mbiti, 1969. “African Concept of Human Relation” in *Ministry* 9, 160

²⁰ D.H. Pretorius, 1975. “Childlessness” in T.D Verryyn (ed.), *Church and Marriage in Modern Africa*, South Africa: Ecumenical Research Institute, 112

a married man and a woman not his wife or between a married woman and a man not her husband.²¹ The era when fidelity is celebrated in marital union is fading away in our society; we are now living in the world that singing praise immorality. The deplorable situation of morality in our society makes Oderinde to lament that “traditional sexual morality has become quaint and meaningless. Marriage has lost its sanctity.”²² Kennedy also believes that the present conditions of our society offer little encouragement for faithful couples. He argues that the present world is a changing society. According to him, recently on the radio and television, and in articles and books, “there is increasing emphasis on the enticing aspects of infidelity”.²³

As a result, adultery may lead to divorce of a valid marriage among Nigerian Christians when the couples do not accept the situation. In Christianity, it is clearly stated that if one is guilty of adultery, the other party has the right to a permanent separation. The innocent spouse is not obliged to readmit the adulterous spouse to the community of married life. All the same, Christianity teaches that it will benefit the innocent partner to forgive the guilty and adulterous partner when he or she repents, on the ground for keeping the family intact.

Domestic or Marital Violence

In African societies, some couples have failed to achieve the ideal marriage, meaning that some couples do not live in harmony with one another. Continuous beating and maiming in marriage could either lead to death of one of the spouse or to dissolution of the marriage as a measure to ensure safety of lives of the couple. Some cases which lead to the death of spouses in different marriages come to mind. The case of Mr. Akolade who stabbed his wife, Titilayo, a banker, to death on 24th June 2011 is still very fresh in the mind of their neighbours at Isolo area, Lagos State.²⁴ The residents of Akobo area in Ibadan have not recovered from the shock of the death of Mr. Oyelowo Oyediran who was allegedly stabbed to death by his wife, Lawyer Yewande Oyediran on February 2, 2016.²⁵ We have several cases of domestic violence that did not lead to death but which bring the marriage to an end through divorce.

Immaturity

²¹A.G. Miller, 1991. “Divorce-risk trends in Sweden 11971-1993”, *European Journal of Population* 11, 293

²² J.T. Oderinde, 1993. *An Introduction to Social Ethics and Contemporary Issues*, Ilorin: Delma & Sons Press, 71

²³ S. A. Kennedy, 1994. *African Christian marriage*, London: Geoffrey Chapman, 34

²⁴ Ben Ezeamalu, 2014. “Why Judge Sentenced Slain Banker Titilayo’s Husband to Death”, in *Premium Time* online News, February 21, 2014. Accessed on April 1, 2016.

²⁵ Gbenro Adesina, 2016. “Yewande Oyediran Backs in Court for Killing Her Husband” in *P.M. News Nigeria*, Online News, February 16, 2016. Accessed on April 1, 2016

Age at marriage is one of the leading factors in divorce. It seems that it is best not marry too young or wait too long before marrying. Women who marry while still in their teens are twice as likely to divorce as women in their thirties. But those who marry in their thirties are half again as likely to divorce as those who marry in their twenties. It has been observed that, higher ages at marriage are typically thought of as an indicator of female autonomy.²⁶ Therefore, one can arguably opine that many of the couple who are not mature enough before they involved in marital union are liable to face divorce in marriage.

Financial Challenges

Money is very powerful in our society and the love of it is said to be the root of all evils. Mba observes that money can often be a troublemaker in marriage.²⁷ Financial difficulty is today considered as one of the leading causes of divorce among families. Lack of money has an effect on marriage. Lack of money has led to crisis in marriage relationships. It has destroyed many Christian families. It is rather improper to talk about the rate of divorce among the Christian families without relating it to other variables. Poverty is largely responsible for the explosive rate of divorce among couples in Africa, especially in Nigeria. Poverty stems from widespread unemployment. Many able couples are not properly employed in the labour force, which results in many broken families, due to the fact that unemployed couples cannot support their families.

Indiscipline use of Technology

The technological advancement in our society has increased the level of communication and interaction among people of various categories. As good and advantageous as this advancement is to our living, adversely, it has contributed to the breaking of many homes. As Obi rightly opined, most families in Africa are highly influenced by social activities, mass communication techniques, and community friends; and these factors could pose dangers on some homes.²⁸ The social media chat, text message, phone call with the opposite sex may threaten the unity of the family thereby create room for lack of trust between the couple. This is rampant when one of them is suspicious about how his or her partner is using his or her phone or when calls or messages that suggest involvement in an affair with a third party are frequently reported on the phone.

²⁶E. Komblum, 2001. *Marriage and Divorce: Sociology in a Changing World*. Oriando: Harcourt Brace and Company.

²⁷ C.S. Mba, 1980. *Towards a Successful Marriage and Family Life*, Enugu: Rex Publishers, 22

²⁸ P.R. Obi, 1990. "Stability of marital unions and fertility in Nigeria".In *Journal of Biosocial Science*; 30:33-41

Immoral use of the internet by the married couple could also have negative effects on their marriage. In a situation whereby one of them is busy with pornographic pictures and videos that could cause sexual stimulation as against the wish of the partner, the result would be either frequent quarrelling or extra marital affair which is capable of leading to dissolution of the marriage.

Effects of Marriage Divorce

The effects of divorce are felt in various aspects of the society. Obviously, we have moral, social and religious implications in the community. Since divorce is a negation of normal system of the society and because family is the small unit of the society, one cannot deny the havoc it will have on the societal system as a whole and on family particularly. However, it has argued that the children of divorced parents suffer the worst effects of divorce. Divorce leads to the messy dissolution of families, which hurts children. In this situation, Sons are likely to stay with their father, and daughters are more likely to stay with their mother. The aim of marriage - the creation of a family - is therefore defeated by divorce.²⁹ The argument of Meneghan and Parcel is convincing about the effects of divorce on children:

When parents divorce each other, another sort of divorce occurs between the parents and their children. The primary effect of divorce (and of the parental conflict that precedes the divorce) is a decline in the relationship between parent and child.³⁰

The above assertion shows that the life of the children could be disorganised by the dissolution of union experienced by their parents. The problem of the children started from the point of making decision on their custody. If care is not taken, the children could become nuisance and menace in the society as a result of negligence on part of their parents. The process of adjusting to the new status and the conditions that surround the new and sudden change may cause instability in the lives of the children. This makes us to agree with Fagan and Churchill who submit that immediately after a divorce; most parents have two sets of problems: their adjustment to their own intrapsychic conflicts and to their role as a divorced parent. The stress

²⁹ L.O. Aguru, 2014. "Social Indicators and Effects of Marriage Divorce in African Societies" in *The Business & Management Review*, Volume 4 Number 4, 381

³⁰E. Meneghan and T.L. Parcel, 1995. "Social Sources of Change in Children's Home Environments: The Effects of Parental Occupational Experiences and Family Conditions," *Journal of Marriage and Family* 57, 69-84.

of divorce damages the parent-child relationship for as many as 40 percent of divorced mothers.³¹

One of the moral effects of divorce is breaking of promise and trust the couple have in each other. Parts of the Christian and moral principles are love, truthfulness and honesty.³² The journey of Christian marriage hinged on these principles, because it takes love for the couple to agree to marry each other, it also involved trust before they agreed to go to the church altar for the joining, while principle of honesty is expected to manifest in trustworthiness, truthfulness, sincerity, integrity and fairness, which proves absence of deceitfulness and untruthfulness. The sudden end of the union different from what was planned at the beginning shows that either one of the couple has come to the union without these principles or they were broken as they are journeying in their marital union. The innocent person between the couple would find it very difficult to trust anyone again, he or she could also be preaching against the reality of these moral principles, as means of expressing the pain.

The stigmatization that follows divorce in the church and society at large can only be expressed as one of the inevitable aftermaths that await the divorcees. The society reduces any married person who opted out of marriage to object of ridicule, he or she is considered as a failure and incompetent who is not capable of handling important issues. The shameful experience of these set of people in the church is capable of chasing them out of the gathering of the people of God. The punishment ranges from the suspension to the banning from participating in some special services. We are not advocating for divorce or soliciting for lawlessness in the church of God, but we must know that not in all cases that the church should be hostile to those who are passing through tough time in their marriages; in fact some of them need church support at this difficult time they are passing through.

Little is to be said about the psychological and emotional effects of divorce on the couples who broke the cord of their marriage.³³ The trauma that follows divorce has made many victims to become insane thereby having permanent bed in psychiatric ward in the hospital. In order to cope with the psychological trauma, it is common for divorcee to resolve to sexual immorality or drunkenness and drug abuse. There are many cases of suicide that

³¹P. F. Fagan and A. Churchill, 2012. "The Effects of Divorce on Children" in *Marri Research: Marriage and Religion Research Institute*, 3

³²A. Dzugba, 2007. *Contemporary Ethics: Theory and Issues*, 35

³³N. H. Mattoo, and Y. Ashai, 2012. "A Study on Impact of Divorce upon the Attitude and Social Relations of Women in Srinagar District" *Institute of Home Science Journal, University of Kashmir, India: Kamla-Raj*, 113

occurred as a means to escape from the reproach caused by divorce. This implies that divorce can breed another moral problem in the society.

The level of poverty in our society is increased as a result of increase in the number of broken homes.³⁴ This is because many wives who were not working when they were with their husbands will face financial difficulty after the divorce. According to Uniamikogbo, we have levels and types of poverty in Nigeria; he submits that “poverty has many dimensions, such as inadequate income, malnutrition, lack of access to social service, and lack of social and political status.”³⁵ One can arguably submit that many dissolved families are liable to face these dimensions of poverty, especially when one of the couple is the financier of the home before the separation.³⁶ Little wonder that the children of the broken homes are usually involve immoral activities as a means of ameliorating the effect of poverty. This argument is in line with that Familusi and Oke who affirm that there are female students who engage in prostitution at the neglect of their studies because they have to cater for themselves and other family members financially,³⁷ many of these female students are from broken homes.

When Divorce Could Become a Child of Necessity

The enormous effects of divorce and the scriptural teachings that confirm its condemnation make people not to see any benefit from it. However, we have some situations where divorce may become a necessary evil. This implies that before we judge a case of divorce morally, we must consider the situations and circumstances that surround its occurrence. Omoregbe supports this view when he opines that:

No human action ever takes place in abstraction, but always in given circumstances, in concrete situation, with define intentions, i.e. intended and anticipated results or consequences. All these combine to make an action good or bad; they constitute the morality of an action and they must be considered before a moral judgement can be made about any action.³⁸

³⁴R. Finnie, 1993. “Women, Men, and the Economic Consequences of Divorce: Evidence from Canadian Longitudinal Data” in *Canadian Review of Sociology and Anthropology*, 30, 205-241.

³⁵ S.O. Uniamikogbo, 1997, “Poverty Alleviation under Nigeria’s Structural Adjustment Programme: A Policy Framework” in P.J. Obaseki *Poverty Alleviation in Nigeria*. Ibadan: Pat Mag Press Ltd., 21

³⁶ Anne-Marie Ambert, 2009. *Divorce: Facts Causes and Consequences*, New York: The Vanier Institute of the Family, 17

³⁷ O.O. Familusi and O.P. Oke, 2011, “A Christian Dimension to Poverty Discourse in Nigeria” in *Orita: Ibadan Journal of Religious Studies*, XLIII/2, 85

³⁸ J.I. Omoregbe, 1993. *Ethics: A Systematic and Historical Study*, 74

Thus, the intention of a spouse who is filing divorce paper in conjunction with the situations and circumstances that surround such an action are very important in considering the morality of dissolution of any given marriage. We want to submit here in this paper that it will be immoral to view divorce ontologically without paying attention to what the spouses are passing through in the marriage which occasion the step of divorce, but condemning it all in the name of doctrinal and religious belief. We shall consider some situation where divorce can be necessarily and essentially justified.

The fundamental argument of the Christian belief about marriage is that “what therefore God has joined together, let not man put asunder” (Matt. 19:6). The moral question that we need to ask is that does this biblical declaration covers the union where one of the spouses intentionally pretended to claim what he or she is not, that is, where one of them based his or her claim on falsehood in order to win the heart of the partner? Would God endorse falsehood because he hates divorce? Would He overlook the means to justify the end as human being does? Or has He joined them together in the first place having foreknown the pretence of one of the spouses? If answers to all these questions are positive, then, one need to ask if God’s Justice can still be upheld.

Having known that parts of the aims of marriage are sexual pleasure and procreation, pretence or falsehood can manifest in a situation whereby the husband-to-be knew he was an impotent man, and Christian and moral teaching do not support premarital sex, if he lured the woman into the marriage without revealing his deficiency to her, we have no moral right to blame the woman if she take a step of divorce. Apart from the fact that the whole decision of the marriage has been made without her knowledge of this problem, which is capable enough of ending the union, the truth is that the major qualification that make a real man is absent in the life of the husband. The union supposed to be between a man and a woman and not between two “women” which makes the marriage invalid.

We also have the other version where a lady has undertaken abortion several times which has led to the damage of her womb, which implies that she could no longer conceive a pregnancy. If she involved in a marital union without revealing the challenge to the man she wanted to marry, and the husband later discovered after the wedding in the church, irrespective of how religious and ceremonious the wedding was, the man has a moral right to divorce the woman. Since her “Christianity” that is demanding for the validity of the marriage did not

compel her to confess the damaged womb to the man, the woman lacks integrity and moral claim to challenge the divorce step of her husband.

Apart from the pretence and falsehood that can manifest in different form which may give the innocent party in a marital union to take a step of divorce, frequent violence could also be a moral ground to end a marriage. We need to know that the greatest value to be protected is human life, which is greater than the value of marriage. In a situation where one of the spouses is using dangerous weapons to injure the other one, before it leads to loss of life, divorce could be an essential solution. The case of late Titilayo who was stabbed by her husband comes to mind. It was reported that her parents admonished her to opt out of the marriage because of the repeated beating and maiming, her usual response was that “God will change him and touch his heart.” Unfortunately, God did not touch Akolade’s heart until he finally murdered his wife in a very tough and violent argument³⁹. That of late Oyelowo was also similar to this, because his neighbours advised him not to sleep in the same room with Yewande, his wife, after he had been discharged from the hospital that night due to the injury he first sustained when she attacked him, but he declined, claiming that she would not attack him again. He could not live to tell the rest of the story as his loving wife stabbed him in the neck that fateful night which led to his death.⁴⁰

We are not by any means doubting the potency of prayer and the place of patience in the marital challenges, but there are some situations where precaution has to be taken in order to guide against such occurrence of loss of life. We cannot justify the step of divorce on little domestic argument, but we are submitting that when the argument is leading to beating and maiming, couple need to be separated either temporarily or permanently. This is to preserve the lives of the couples, which is the highest value on earth. We assert that God would not be happy when one of the couple deliberately killed his or her partner because the church or society preaches against divorce. With the mindset that Christian couples are not to divorce, many people are using the opportunity to maltreat their spouses.

It is recorded in the Bible that Jesus permits divorce on the ground of *porneia* that is, adultery, which implies that immediately one of the spouses commits adultery and he or she is

³⁹ Ben Ezeamalu, 2014. “Why Judge Sentenced Slain Banker Titilayo’s Husband to Death”, in *Premium Time* online News, February 21, 2014. Accessed on April 1, 2016.

⁴⁰ Gbenro Adesina, 2016. “Yewande Oyediran Backs in Court for Killing Her Husband” in *P.M. News Nigeria*, Online News, February 16, 2016. Accessed on April 1, 2016

caught, the innocent party could decide to file in divorce letter. We need to say that scholars have no consensus on the meaning of *porneia*, besides, there is a room for forgiveness in the case of adultery in the contemporary society, especially, when the victim is ready to change from the evil act. The room for repentance and forgiveness is created in the interpretation of the text, for it is claimed that after the divorce on the ground of adultery, the innocent party cannot remarry, therefore, it is profitable and reasonable to give room for forgiveness in such a case. But in a situation where the adulterer or adulteress is not ready to change, and the spouse doubt the state of his or her health, one may not condemn a step of divorce on a moral ground.

The case of deliberate abandonment in marriage is worthy of our attention in this pieces. It is now very common in Nigeria to see a wife or husband being abandoned by the spouse without any convincing reason, after having one or two children. The fellow will be expecting the run-away lover to come home one day, and most of the time the expectation usually results to a mirage. The unpleasant news that usually follows this running away is that the vagabond lover has settled with another lover where he or she chooses to stay. Another version to this issue of abandonment in marriage is what we refer to as *International Desertion*. This is a situation where husband and wife are separated immediately after their wedding, and one of them travels overseas with the promise to come and pick the spouse after he or she has settled down in the new country. Due to the challenges over there, the travelled spouse may not fulfil the promise, and many a time, he or she may not even call to keep contact with the abandoned spouse. Mostly, in order to obtain some vital documents that will solidify their staying in a foreign land, many married persons involve either in a contract marriage or taking another spouse formally.

Since the oath of Christian marriage reads ‘till death do us apart’, and the run-away spouse is still living, the moral question is: what is the fate of the abandoned spouse? We may not get biblical answer to every question, but one can use reason which is another source of Christian ethics to solve moral issues. Reason in this context means the exercise of the power of thought or ability to use one’s power of thought in examining and evaluating issues. Though the application of reason to morality or moral decision making and actions is a major problem for churches today, it has been helping to proffer solutions to many ethical matters. Therefore, one can reasonably submit that if the abandoned spouse has waited for a good number of years without hearing from the run-away spouse, it is not morally wrong for him or her to take a step of divorce. This will give him or her opportunity to remarry in order to continue with the normal life.

We may not condemn a spouse who takes step of divorce after his or her spouse has been convicted of a criminal offence and sentenced to a life imprisonment. If he or she has committed immoral acts like murder, arson or robbery without the conscience or after the warning of his or her spouse, a step of divorce may be justified in this sense. Keeping the woman waiting when we are sure that the husband who was imprisoned can no longer gain his freedom amount to committing double evil, for the life of the prisoner can no longer be productive and the innocent wife will also waste her life by waiting for the uncertainty.

Above all, we encourage spouses to investigate into the life of one another before going to the church altar for marital joining. We also want to submit that cases that are not critical or which are manageable with the employment of Christian virtues like patience, endurance, love, and longsuffering should not be a basis to file in divorce paper. Christian couples should live together with love, sincerity, understanding and honesty.

Recommendations

The various views on divorce show that we have different opinion as touching the scriptural stand on the subject. Therefore, it is not an aberration to use human reason to examine and evaluate divorce as a phenomenon. On this ground, the following recommendations are made:

Potential couple should try to understand each other very well before they go to the altar the marital joining. This is because lack of understanding has cost many their marital blissfulness. It is very paramount to open to each other the past experiences that made have implication on the union in the future, this will help the partner to decide whether to go into such relationship or not. If this is done, it will reduce the number of broken homes in the society. We recommend that premarital counselling that can help to unfold the hidden things before they finally consummate their courtship.

The church must not submit to legalism in dealing with divorce cases, especially being too strict in interpreting and applying of the doctrinal tenets on very case of divorce in the church. We have some exceptional cases where a step of divorce could be justified as argued in this piece. We suggest that we can reasonably study and examine the situations of each case of divorce before passing judgment, knowing fully when that social condition, worldview and philosophy of the Bible world are different to what we are passing through in our contemporary

time. Haselbarth understands this simple fact when he asserts that we have to expand and adjust our ethical thinking to the growing diversity of life today.⁴¹

Care must also be taken by the church not to equate issue of divorce and remarriage with the fundamental requirements for salvation. This means we should be careful on how to handle the divorced people in the church, so that we will not chase them away from the gathering of the people of God, instead, we should show love to them and see to how they can recover from the psychological trauma they may be passing through as a result of the marital challenges. We must take our stand to have them in the church than to chase them out of the church to be living immoral life. Thus, brotherly acceptance must be extended to them⁴², and where we have moral divorced person, we should not deny them the rights of full membership.

We also recommend that where there is a continuous domestic violence that involves beating and maiming between the couple, the innocent spouse should try to separate from the violent spouse either temporarily or permanently. The rightness or wrongness of this step can be considered while the victim is still living. For if he or she dies of ignorance by claiming that the church or God is against divorce, people are still going to pass moral blame on the deceased for not running for his or her dear life.

Concluding Remarks

This paper has established the fact that not all divorce cases are morally bad, in fact some can serve as a solution to the existing problem and that it can situationally and essentially be a child of necessity. The two extreme opinions that divorce could take place at will is debunked in the paper while we also submit that strictness exhibit by the church against the step of divorce without considering the situations that surround it is also vehemently rejected. Based on this, we made the establishment of the situations where divorce could be morally justifiable. Hence, recommendations were made towards how to have divorce-free marital unions, how the church should view divorce cases when it becomes inevitable and how to protect lives in the cases of domestic and marital violence.

⁴¹ H. Haselbarth, 1976. *Christian Ethics in the African Context*, Ibadan: Daystar Press, 85

⁴²“Divorce and Remarriage” as contain in the *official statement of the General Presbytery of the Assemblies of God in August 2003*.

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