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Licensed Place of Worship and Statutory Marriage in Nigeria: A Critical Appraisal

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Abstract

Many unsuspecting couples have lost some golden opportunities for want of a valid or recognized marriage certificate on issues relating to visa, scholarship, matrimonial reliefs and succession to or administration of an intestate deceased's estate. Unfortunately, most of the victims of these treatments never knew about the deficiencies in the form and content of their marriage thereby leading them to unintended consequences which they had intended to avoid by contracting statutory or Christian marriage which is to preclude the application of customary law principles in any circumstances; in other words, to enjoy the more accepted principles of statutory marriage. These crisis in family law unfortunately, are perpetrated by churches who have taken marriage away completely from the legal framework upon which the churches are founded to the realm of fanatical religious sanctity and sacrament which can at best be described as contra-Christianity on the ground that innocent couple worshippers are made to contract a different marriage than they intended and that such practices are unlawful and unbiblical in view of the provisions of the Holy Bible in Romans 13: 1. If the church is founded on the constitutional freedom of worship and incorporated or registered by the Corporate Affairs Commission (CAC) for recognition and the Local Government Council or the Ministry of Internal Affairs (Now Interior) as a lawful assembly, will it not also be right for its activities which are basically spiritual issues to conform with non-

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conflicting legal requirements? Answers to these and more questions are attempted in this work which reviews the legal requirement for a valid celebration of a statutory marriage in a licensed place of worship otherwise called Christian marriage; a project achieved by critical review of the principal legislations relating to marriage, practices and judicial pronouncements as well as relevant opinions of experts on the concept.

Keywords: Licensed Place of Worship, Statutory Marriage, Matrimonial Causes Act, Customary Marriage.

Conceptual Definitions

Statutory Marriage

In Nigeria, monogamous and polygamous marriages are the two types of marriage that exist.¹Marriages are further classified into Customary, Islamic and Statutory marriages. While customary and/or Islamic marriage may savour both polygamous and monogamous marriages conducted under its principles and procedures, statutory marriage accommodates only monogamous marriages celebrated in line with its own principles which are also called Christian marriage or registry marriage when celebrated in line with the Marriage Act² and Matrimonial Causes Act.³Statutory marriage which is basically monogamous shall be the concentration of this work. Each of these marriages differ in their procedure and place of procurement, dissolution and succession to a deceased's estate in case of intestacy etc., which are strictly legal issues tied to the validity or otherwise of the marriage intended and or actually procured.

Marriage has been defined as “the legal union of a couple as husband and wife”.⁴ Earlier, the court per Lord Penzance had given what may be termed a classical definition of a Christian or monogamous/ statutory marriage. He held that such marriage is the “voluntary union for life of one man and one woman to the exclusion of all others”⁵. This definition which has been widely faulted based on contemporary societal issues like same sex marriage, trans -

¹C.A Umobi and A.D. Umobi, *Crisis in Family Law*, Onitsha: Folmech Printing & Publishing Co. Ltd, 2009, p. 12.

²Marriage Act, Cap M6 LFN 2004.

³Cap M7 LFN 2004 (hereinafter referred to as the MCA)

⁴B. Garner (ed), *Black's Law Dictionary*, 7th Edition Minnesota, West Group, 1999, p. 992

⁵Hyde v Hyde (1866) L.R.1 P.D, 130 at p.133

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sexualism, divorce, free union, short time marriage contract, surrogacy etc.⁶ still represents the position of the Marriage Act and the MCA save to the extent that the union can under the two laws be determined on grounds of irretrievable breakdown⁷ of the marriage hitherto intended for life. The qualified definition of a monogamous marriage under the Interpretation Act⁸ which provides that, “a marriage which is recognized by the law of the place where it is contracted, as a voluntary union of one man and one woman to the exclusion of all others *during the continuation of the marriage*”⁹ is apt on the present state of the law thus preferred for our purpose in this work.

It is however important to mention that neither the Marriage Act nor the Matrimonial Causes Act defined marriage succinctly.¹⁰

Licence

The Black’s Law Dictionary defines license as “a permission usually revocable, to commit some act that would otherwise be unlawful...”¹¹ According to James Kent, a license is “an authority to do a particular act or series of acts...it is founded on personal confidence, and not assignable...”¹²

Suffice it to state that a license could be naked or exclusive. An exclusive license gives the licensee the sole right to perform the licensed act, often in a defined territory, and which also prohibits the licensor, from performing the licensed act and from granting the right to anyone else. A licensee is the person to whom a license is directed to, while the licensor is the authority directing or issuing the license.

Place of Worship

A place of worship may be defined as a location occupied by members of a religious organization or the religious observance of relevant devotion, honour and love shown to a deity or to an object considered sacred. In

⁶See generally Chapter 11 of C.A Umobi and A. D. Umobi, *op.cit.*

⁷MCA, section 15 (2).

⁸Section 18 of the Interpretation Act, Cap 123 LFN 2004.

⁹Emphasis Mine

¹⁰The Attempt under Section 69 of the MCA is rather evasive

¹¹ B. Graner, *Black’s Law Dictionary op.cit.*, p. 938

¹²George Constock (Ed) *Commentaries on American Law*, 11 Edition, 1986 pp.452 – 453 cited in *Black’s Law Dictionary, Ibid.*

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Nigeria, this definition no doubt, is wide enough to include Mosques, shrines etc. but in this work, it shall be limited to Churches because marriages conducted in the mosque are Islamic marriage and those which might be performed before any shrine could be customary or traditional marriage which are inherently polygamous in their nature. The Church, except where the contrary is shown, remains the only place of worship associated with the celebration of monogamous marriage in Nigeria.

The position of the churches in Nigeria, understandably, traces to the colonial era and the theocratic methods of administration adopted by colonial masters which included the relegation of the Nigerian customs to the background thus giving prominence to that part of the English culture – Christianity.

Historically therefore, it is important to state that the first statutory provision on marriage in the present day Nigeria was the Marriage Ordinance¹³ which applied to the settlements of Lagos. This was the law that regulated the celebration of marriage in Churches in England and the present day Nigerian legislation on the subject remains to a great extent, church-tied even with the ban on the English law application under section 8,112 (4) of MCA,1970. Although customary and Islamic marriages are not prohibited under the Act; they cannot benefit, substantially, if at all, from the Act.

The Minister is authorized to issue licenses to places of public worship for the reason of celebration of marriages¹⁴. This is different from the Corporate Affairs Commission (CAC) incorporation of the Church as a non-governmental organization; company limited by guarantee or as trust which on its own part, allows the place of worship to operate as lawful organization but does not confer on the body registered the power to celebrate marriages.

Recognised Minister of a Licensed Place of Worship

This refers to a qualified priest of a licensed place of worship. He or she is the only person qualified to officiate the marriage ceremony conducted under the Act. Qualifications for ordination of priests for places of worship differ like the names of such places of worship from one denomination to another;

¹³No.10 of 1863. Further reading see E.I Nwogugu, *Family Law in Nigeria* (Revised Edition) Heinemann Educational Books (Nigeria) PLC, Ibadan, 1990 p.23

¹⁴Section 6 (1) of the Marriage Act

thus there is no generally accepted qualification. It is therefore submitted that the person who is qualified to celebrate marriage must be ordained in accordance with the church's requirement for such ordination. Where the priest is qualified and ordained in a different church other than the one where he celebrates the marriage, the marriage is void because a recognized minister must be that of the licensed place of worship where he officiates the marriage.¹⁵

Essentials of a Valid Statutory Marriage

Rights, privileges and protections conferred on marriages by the Marriage Act and the Matrimonial Causes Act are conditioned by the strict observance of the proceeding essential requirements:

- 1) **Single Status:** Marriage under the Act is monogamous. Consequently, a party to a subsisting statutory, Islamic or customary law marriage has no capacity to enter into statutory marriage with any other person other than his/her spouse in the subsisting monogamous Islamic or customary marriage. Contracting statutory marriage contrary to this provision renders the subsequent marriage void¹⁶ and is an offence punishable by a term of five (5) years imprisonment.¹⁷ Non – observance of this rule has been argued to constitute bigamy under section 370 of the Criminal Code¹⁸ which provides thus:

Any person who, having a husband or wife, marries in any case *in which such marriage is void by reason of its taking place during the life of such husband or wife* is guilty of a felony and is liable to imprisonment for seven years.¹⁹

It is submitted that although the above statute intended monogamous marriage, a literal reading of the provision relating to bigamy under the Criminal Code reveals that a subsequent marriage is only void if the law on which it was conducted prohibits it. That is to say that a subsequent statutory

¹⁵E.I. Nwoguguop.cit., p. 31.

¹⁶Section 3 (1) (a) of the MCA

¹⁷Section 46 of the Marriage Act

¹⁸Cap C38 LFN 2004

¹⁹Emphasis mine. See for further reading, Section 47 of the Marriage Act

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marriage to an earlier statutory marriage constitutes bigamy but a subsequent customary marriage (which does not prohibit prior or subsequent marriages) cannot constitute bigamy if there is a subsisting statutory marriage. It can at best constitute an offence under section 46 of the Marriage Act which criminalises a subsequent customary marriage to a statutory marriage.

Arguably too, a couple who contracts statutory marriage and subsequently contracts or observes customary law marriage with any third party also commits an offence under the Marriage Act.²⁰ It appears that the Act prefers customary marriage before statutory marriage. See section 33 (1) of the Marriage Act. This might not be the intendment of the draftsman but the inelegant drafts like that relating to bigamy and marriage offences are vulnerable to any interpretation thereby making urgent, the need for a clearer expression of the intendment of these provisions which are lacking in local content. The point being made is that neither of the parties shall be in a lawful marriage with a different person before the intended statutory marriage.

Suffice it to state that the Marriage Act which provides that “any person who marries under the Act, or whose marriage is declared by the Act to be valid, shall be incapable, during the continuance of such marriage, of contracting a valid marriage under the customary law...”²¹ evinces the intention that marriage under the Act shall remain monogamous. However will it be right for the Act to prescribe a condition or capacity for contracting a marriage (customary marriage) which is not its creation? Is it not rather within the exclusive power of the customary law to prescribe the capacity and essential validity requirements of the customary marriage? The writer answers the former in the negative and the later in the positive.

Degrees of Consanguinity and Affinity

Intending couples who are related by blood; descended from the same ancestor/ancestress or related by marriage to any of the herein below specified degrees are prohibited from marrying each other. Under the statute²², marriage between a man and a woman who is or has been the man’s

²⁰Section 47 of the Marriage Act.

²¹Section 35 of the Marriage Act

²²Section 3 (1) (b) of the MCA

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ancestress, descendant, and sister, or vice versa is prohibited on grounds of consanguinity. While on grounds of affinity, marriage is prohibited between a man and his wife's mother, wife's grandmother, wife's daughter, wife's son's daughter, wife's daughter's daughter, father's wife's daughter, wife's son's wife, son's wife, son's son's wife, daughter/s son's wife, the same applies to a wife given the necessary variations. It is no excuse that the relationship is full or half blood, or that it is traced through or to any person of illegitimate birth²³. However, on the written application to a High Court subject to the provision of the statute, parties who are within the prohibited degrees of affinity (related by marriage) may be permitted to marry on exceptional circumstances.²⁴ Thus where at the preliminary stage to a marriage, a caveat is entered or the Registrar or the recognized minister of a licensed place of worship as the case may be, discovers that the parties are so related as to fall into any of the aforementioned categories, the marriage should be stopped, in the case of affinity, pending a contrary directive of a High Court Judge.

Consent

Voluntary consent or agreement of the intending couples is *sine qua non* for the celebration of a valid statutory marriage. Total absence of such consent, or obtaining it under duress, fraud, misrepresentation, mistake as to the party or the nature of the ceremony performed vitiates the consent thereby rendering the marriage void²⁵. This also applies to circumstances where one of the parties for reason of mental incapacity does not understand the nature of the marriage contract²⁶. Instances where by parental or religious leader's coercion, a party enters into an undesired marriage with a particular person for socio-economic or moral security have been viewed as consent vitiating²⁷. The test is; whether the will of the victim was overpowered by that reason.²⁸

The question has also been put as to whether voluntary consent lies in a case that a party to the marriage is compelled to marry the other only on the

²³E.I.Nwogwugwu *Family Law in Nigeria op.cit.*, p. 24. See also First Scheduled to the MCA

²⁴Section 4 (1 -4) of the MCA

²⁵*De Reneville v De Reneville* (1948)1 ALL ER. 56

²⁶Section 3 (1) (d) of the MCA

²⁷C.A. Umobi and A.D. Umobi, *op. cit.*, pp. 64 – 67.

²⁸*Buckland v Buckland* (1967) 3 ALL E.R.,300

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ground of unwanted pregnancy²⁹. Is the marriage valid or void for want of consent?

Age

The Matrimonial Causes Act provides that a marriage in which either of the parties is not of marriageable age is void.³⁰ Unfortunately, neither the Marriage Act nor the Matrimonial Causes Act defined the term “marriageable age”. Recourse will therefore be made to the provisions of the Marriage Act requiring parental consent before a person not being a widow or widower under the age of 21 years can contract marriage³¹. However, the Child’s Right Act which defines a child as a person below the age of 18 years³² prescribes five years imprisonment or a fine of five hundred thousand naira or both for any person who marries, betroths or promotes the marriage or betrothal of a child³³ and also voids the marriage³⁴ notwithstanding whether or not the parental consent was obtained.

In view of the above, conflict between the Marriage Act and the Child’s Right Act is perceived. The question is, can it be said and rightly too that the latter is intended to repeal the former? If it is not so, which should prevail over the other considering that both deal with the age of marriage and that while the Child’s Right Act concatenates all the rights relating to the child, the Marriage Act is specific on marital issues and rules? The writer’s humble view is that the latter being specific on marriage shall prevail. In sum, the marriage is required to conform to the law on solemnization of marriages of the place where the marriage takes place.³⁵

Formal Requirement of a Valid Statutory Marriage

The Act provides certain preliminary formalities, which shall be fulfilled through the Registrar of Marriage before the solemnization of marriage under

²⁹C.A. Umobi and A.D. Umobi, *op.cit.*, at p. 65.

³⁰Section 3 (1) (2) of the MCA

³¹Section 18 of the Marriage Act

³²Section 277 of the Child’s Right Act, 2003, which unfortunately is very slow in domestication by States in Nigeria.

³³Section 22 (2) *ibid.*

³⁴Section 21 *ibid.* see also A.N. Nwazuoke, *Status of the Girl Child in Nigeria and the Child Right Act*, 2003, NBA Journal Vol.5 No.1 Feb 2007, p. 107.

³⁵Section 3 (1) (e) of the MCA.

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the statute. Suffice it to state that the President is empowered to divide Nigeria by order into marriage districts³⁶. The district which is to be headed by the Marriage Registrar appointed for the purpose and assisted by a Deputy Registrar is under the supervision of the Principal Marriage Registrar³⁷. Locations of these officer's offices (the registry) are as designated by the appropriate authority³⁸.

Currently, each of the 768 Local Government Councils and 6 Area Councils in the States and the Federal Capital Territory respectively constitute marriage districts and have a designated marriage registry except where the appropriate authority directs otherwise. Before now, intending couple were thrown into confusion as to where to celebrate their marriage where there is a marriage registry both at the district and at the Local Government, a situation in which Prince L. Hastrup and Miss Abebat O. Akinfemi who were both based abroad found themselves during their intended marriage in Nigeria. There was a serious question as to whether the marriage has to be celebrated at the Ikoyi registry which was earlier created by the Ministry of Internal Affairs (hereafter referred to as 'Ministry') which claimed to have exclusive powers on marital issues in Nigeria; or at Eti-Osa Local Government Council registry created pursuant to the Constitution. The couple, worried about the fact that for them to secure their future stay abroad, the home office council in Britain where they are domicile will verify if the marriage was solemnized in a recognized place before granting their application sued the Eti-Osa Local Government, the Attorney General of the Federation and the Minister of Internal Affairs. Unfortunately, this research is yet to discover any judgement on this suit allegedly filed by one Tijani Ishola Esq for Applicants while Emmanuel Etietop led Mrs. Uwachia for the 1st Respondent (Eti – Osa Local Government).

The issue now becomes, who is that appropriate authority for the purpose of marriage in Nigeria; the Ministry or the Local Government or both? Note however that while the Marriage Act 1970 consistently referred to the

³⁶Section 3 of the Marriage Act; Marriage (Designation of Districts) Order, 1971 Cap 73 LN 1971.

³⁷*Ibid.*, section 4; Marriage (Appointment of Principal Registrar, Registrars etc.) Notice, 1971 Cap 72 LN 1971.

³⁸Section 5 of the Marriage Act; Marriage (Location of Marriage Offices) Direction, 1971, Cap, 74 LFN 1971.

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Governor under the Laws of Nigeria 1971, under the 2004 Laws of the Federation of Nigeria and without any known amendment of the Act, the same law made reference to the Minister. See for instance the provision relating to the issuance of a special license for marriage which obviates the need for strict compliance with the formal requirement of a valid statutory marriage under section 13 of the Marriage Act, Cap M6, LFN 2004.

More so, the powers granted to the Principal Registrar to print books of marriage under section 24 of the Marriage Act was also used to whittle down the argument of the Ministry claiming to have exclusive legal powers relating to marital issues and documents. According to Emmanuel Etietop, the Principal Registrar is the head of the marriage division in the State ministry unto whom the local government Registrars report.

From the argument between the organization headed by one prince M.A. Rogers – Inter-governmental Marital Committee in 2006, the ministry which claimed that the exclusive legal authority was granted to it under the Marriage Act³⁹ and a publication in the Official Gazette of October 5 1983, it could be discerned that the Federal Ministry of Internal Affairs was in charge of marriages in Nigeria at that period. The powers exercised by the ministry relating to marriages included registration; issuance, renewal or revocation and monitoring of licenses for the purpose of celebrating a valid statutory marriage in Nigeria. Perhaps, because there was no corresponding ministry at State Level i.e. State Ministry of Internal Affairs, issues relating to marriage were being handled by any ministry the Governor directs to do so. In some States, to my amazement, the Ministry of Commerce and industry allegedly handled marital issues! Not even the Ministry of Justice. Then there was no uniformity in the marriage certificate and licensing was a peculiar and subjective issue within the realm of each State.

Obtaining information relating to marriages celebrated in different states or registry was difficult, if not impossible. This was because there was no marriage data bank where one-stop shopping on marital issues could be conducted; the best option for foreigners especially, the Embassies and High Commissions was to treat marriage certificate presented by person who are

³⁹Cap 218 LFN, 2004.

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married in Nigeria for official uses with contempt. Visas, scholarships' and residential permits were lost by the victims of that circumstance.

The position seems to have improved with the removal of marriage related issues and authority from the Ministry (now Ministry of Interior) and vesting same in a body called Intergovernmental Marital Committee (IMC) in the Presidency. However the ministry was still battling to reclaim their constitutional mandate as at the time of this research. In Bayelsa State for instance, the State Programme Monitoring Supervisor (SPMS) who is a director under the State's Ministry of Local Government, Rural Development and Chieftaincy Affairs oversees every registry in the State. He is the liaison officer between marriage registries and the IMC and leads the inspection or verification team to places of worship to confirm their claim before license to celebrate marriage could be issued. He also reports each celebrated marriage in the State by transmitting a completed duplicate marriage certificate to the IMC for its posting on the now created IMC data bank achieved under the Local Government Unified Marriage Certificate regime. The IMC website provides answers to enquiries on marriage registration, administration, registries and registrars in Nigeria.

Procedure for Licensing a Place of Worship

Churches seeking to be lawfully recognized in Nigeria apply to the Corporate Affairs Commission for incorporation. This enables them to organize prayers and other religious rituals within the confines of the law excluding the solemnization of marriages worthy of enjoying matrimonial causes reliefs provided under the statute. To confer statutory flavour on church marriage, application for license shall be directed to the Registrar of Marriage in the particular district or registry from the applicant/church in a prescribed form. In Bayelsa State, for example, at the time of this research, the applicant pays an application processing and licensing fee of ₦32, 000.00 out of which the issuing registry collects ₦12,000.00 as administrative and processing fee while ₦20,000.00 is transmitted to the Inter Ministerial Committee (IMC) subject to the application being successful. The application which must disclose the name, address and number of members on the Church's roll shall be supported with copies of CAC incorporation certificate of the church, Registration Certificate with either the Local Council or the Ministry, list and the curriculum vitae of the pastors/ministers, church constitution, and any

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other relevant document like land title or lease agreement relating to Church location.

On receipt of the prescribed fee, the Registrar then arranges for an inspection visit by the registry's officials led by the State Programme Monitoring Supervisor (SPMS) to the applicant Church. The Registrar may recommend the Church/applicant to the IMC for licensing based on his supporting inspection verification report if:

1. The place of worship is a block (cement) building;
2. The building is well ventilated;
3. It has an office where couple can go in and sign their certificate. The office must have steel cabinet for the safe keeping of documents like the marriage certificate.
4. Membership of the Church is reasonable (the members on the roll are up to 100 persons including children).

Where the registrar's recommendation favours the applicant, the IMC may issue the license to solemnize marriage to the Church subject to transmission of ₦20,000.00 to it by the Registrar. The consequence of this is that the Church automatically becomes a licensed place of worship for all intents and purpose of the Marriage Act and the Matrimonial Causes Act, thus entitled to a further clearance of the 25 triplicate copies each of the Local Government Unified Marriage Certificate booklet and operational license while the couple married in the Church is entitled to a Marriage License.

The operational License issued to the Church is for a renewable period of 2 years subject to further inspection. However, the license is revocable at anytime, if the routine inspection visit of the Registrar reveals that any of the requirements upon which the grant was made is no longer in place.

Note however that where the license is refused, the Church/applicant forfeits the ₦12,000.00 processing fee while the ₦20,000.00 license fee due to the IMC upon favourable consideration is refunded to the applicant.

The writer is however amazed that at the time of this research, only six churches out of over thirty denominations/churches with several branches in Yenagoa Local Government Area (State capital) of Bayelsa State are licensed to solemnize marriage. They are:

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1. Church of God Mission, Ovom.
2. Christ Embassy, Ovom.
3. Distinguished People Assembly, Tombia Road, Etege.
4. Foundation Faith Church, Ekeki.
5. Shepherd's Vine, Yenizue – Egene.
6. First Baptist Church, Ovom.

None of the big names in church matters made the list and very few of the members of the big names are aware of this deficiency in their marriages albeit, wedding bells ring every other Saturday and Sunday.

It is important to state that the operational license granted to the churches is exclusive and tied to the particular branch specified in the license. In other words, it is not transferable at any other church or branch of the licensed denomination unlike the C.A.C registration/incorporation.

The reader would have noticed that although the minister's or pastor's curriculum vitae is required in support of the application for license by the desiring Church/applicant, no further emphasis was made on it. The reason for this perhaps is that qualification for ordination as a priest (minister, or pastor) differs and varies from denomination to another as a result of which, the licensed places of worship are advised to set up a marriage committee which may comprise of lawyers/judges, Marriage counsellors and civil servants working at either the judiciary or the marriage registry. In Yenagoa Local Government Council, the registry organizes training for the marriage committee serving in their respective churches in different ways which may include:

1. Explaining to the intending couple, the nature and the consequences of the step they are about to take before the date fixed for the marriage.
2. Investigating the claims of the intending couples relating to the essential requirements of a valid statutory marriage.
3. Liaison between the registry, Church and the intending couples.
4. Completing the marriage certificate based on the information supplied by the couple (especially illiterate couples) before their signature.

5. And such other duties as may be conferred on it by the Church. Thus the recognized minister (no matter his qualification) is left with only officiating the marriage.

The requirement stated above may however vary in some other registries.

Preliminaries of a Statutory Marriage

a) Notice of Marriage: To achieve a valid statutory marriage, the first step to be taken by the intending couples is to complete and sign a Notice of Marriage Form. The Form contains reference number, the marriage district to which it is directed, names, conditions, occupations, rank or profession, age, dwelling place of abode of the intending couple, consent, date and signature. Either of the parties could complete the form which is supplied free of charge on the application to the Registrar of the district or registry. When completed the form is to be submitted to the Registrar of the registry where the marriage is intended to be celebrated. Upon the receipt of the notice, the Registrar enters the details supplied in the form into the Marriage Notice Book which is kept open on working days and within working hours for the members of the public to search while the Notice Form itself is pasted on the public notice board at the registry. Both the Notice Book and the displayed notice at the board are expected to last for not less than 3 months. Hence, where the marriage does not take place within 3 months from the date of the initial publicity, the notice is void and fresh notice should be entered for the said marriage. The Catholic Church, for example also publishes the notice by calling of bans which is done for three Sundays but this is merely complimentary to the Registry's notice publicity requirement.

The purpose of notice of bans is to elicit possible caveat or objections against the marriage. Where none is entered or entered but resolved by a High Court Judge within the prescribed period, the Registrar or the recognized ministers of the licensed place of worship may solemnize the marriage and the unified marriage certificate is issued.

b) Marriage Certificate: The Unified Marriage Certificate which could be issued at the registry or a licensed place of worship contains the serial number, local government registry code, national data registration number, place of celebration, names of the couples and their witnesses, date, where they are married, description as to age, condition, rank or profession, places

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of abode father's name and surname, signatures or parties and witnesses as well as that of the issuer.

The certificate cannot be issued until the officiating ministers or the Registrar is satisfied by an affidavit that one of the parties has been resident within the district in which the marriage is intended to be celebrated for at least fifteen days preceding the issuance of the certificate in addition to the fact that none of the essential requirement of a valid statutory marriage is missing. The affidavit is sworn before the Registrar or the administrative officer or before a recognized minister of religion who is officiating the marriage or a Commissioner for Oaths. Where the officer before whom the affidavit is sworn wilfully fails to explain to the intending couples the prohibited degree of consanguinity and affinity and the consequences which may be incurred if he improperly procures the marriage, he shall be liable to 2 years imprisonment. The official is also required to declare in writing that explanations required by law to be made to the deponents before they swear to the oath were made and when they appeared fully to understand same, they made the oath. The certificate is then issued subject however, to the payment of a prescribed fee.

Celebration of Marriage at a Licensed Place of Worship

A recognized minister of a licensed place of worship is empowered by law, subject to the aforestated preliminary requirements, to officiate the celebration of a statutory marriage. Section 21 of the Marriage Act provides that:

Marriage may be celebrated in any licensed place of worship by any recognized minister of the Church, denomination or body to which such place of worship belongs, and according to the rites or usage of marriage observed in such Church, denomination or body.

It is the further provision of the Act that:

A minister shall not celebrate any marriage if he knows of any just impediment to such marriage nor until the parties deliver to him the

registrar's certificate or the license issued under section 14 of this Act.

This implies that there is a duty on the recognized minister to ascertain that there is no vitiating element to the marriage. This duty is however discharged, if by due diligence, none of such elements exists to his knowledge even though it in fact exists. It also suggests that apart from where the Governor has waived the preliminary requirement by issuing a license to the couple under section 13, presentation of the Registrar's certificate shall constitute *a prima facie* evidence of due compliance with the preliminary requirements and the existence of the all-needed ingredients of a valid statutory marriage.

However, the view is expressed that where the Registrar has issued a certificate, the marriage is a registry marriage and therefore anything done by the minister of the licensed place of worship at best, qualifies as "Church blessing" not marriage solemnization or celebration. This is because, the marriage started and ended in the registry evidenced by the Registrar's certificate because the Registrar shares the same responsibility with the minister thus an alternate whose signature appears on the certificate.

The celebration must be in the particular building licensed except where a contrary directive is contained in the special license.

Merits of Statutory Marriage over Customary Law Marriage:

1. Statutory marriage is registered immediately it is celebrated and marriage certificate is usually issued as *prima facie* proof of statutory marriage as against the customary marriage.
2. Statutory marriage has potentials to preserve its monogamous nature and lasts longer than other forms of marriage in the face of some common marital challenges like infertility/childlessness or absence of desired gender (especially male child) in fertile couple.
3. Because intolerable adultery, cruelty, desertion etc. are evidence of irretrievable breakdown of statutory marriages thus capable of sustaining an application for divorce, the parties to the marriage are more careful and decent in their behaviour which facilitates mutual respect and harmony in the marriage that the others.

4. In the event of a successful application for divorce of a Statutory Marriage, the Courts may grant such reliefs like custody, maintenance and settlement of property towards minimizing the consequences of divorce on the weaker party to the marriage and most importantly on the innocent children of the marriage whose welfare are usually considered prominent.
5. Statutory marriage excludes the application of customary law practices relating to devolution of property where the husband of the marriage dies intestate. The immediate family (wife and children) of the deceased husband are the sure beneficiary of his estate.
6. Statutory marriage is cheaper than other forms of marriage particularly where the marriage steps are commenced and concluded at the marriage registry.

Conclusion

In conclusion, this essay is not intended to vilify the marriages that are indigenous to us but to provoke the urge for the urgent codification of our customary laws relating to marriage and to make those variables that make statutory marriage more attractive part of the customary law. Above all, the most important intendment of this work is to draw awareness on what statutory marriage which a lot of Nigerians refer to as “court marriage” is all about and educate them on how to validly contract it to avoid being deceived into “church blessing” which remains customary marriage where statutory marriage is intended.