

Dynamic Canonical Complexities Surrounding the Freedom of African Women in the Choice of Spouses

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Abstract

Dynamic canonical complexities surrounding the freedom of African women in the choice of spouses investigates, in the light of the normative provisions of canons 219 and 1103 CIC, the peculiarity in the circumstance of an African woman's choice of life partner. Intersecting factors such as family, age, psychological disposition, and socio-cultural background determine the extent to which African women are immune from any kind of coercion in the exercise of their right to marry. Drawing upon a combination of canonical exegesis, interviews and surveys, this paper delves into the socio-cultural, economic, and familial factors that influence the African woman's will in the choice of a life partner. Some of the findings expose the challenges encountered especially by the judges of the ecclesiastical tribunal in their quest to achieve a more critical evaluation of cases about limitations of freedom in the choice of marriage among African women. The study uncovers a spectrum of coercive mechanisms, ranging from overt familial expectations to subtle socio-cultural biases, which exert varying degrees of influence on African women's decision-making process. It proffers interventions aimed at promoting friendlier environment for a less restricted freedom in the choice of a life partner.

Key words: Dynamic, Canonical, Complexities, Freedom, Choice, African women

Introduction

By virtue of baptism one is constituted as a physical person into the Ecclesiastical society. The constitution as a physical person by virtue of baptism grants one access, according to one's capacity, to all the rights and duties as a member of the Church. Such physical person, having been thus incorporated into the Church of Christ, takes responsibility for all the juridical actions posited in accordance with the law. In canon law, all legally capable persons who willfully posit juridical acts are obligated to own their actions. To legitimately be the protagonist of their actions, the subject who posits the juridical action must be free in his knowing, free in his willing and free in his choice to execute the act. In this sense, for every juridical act to be validly performed, it is required

that it be knowingly, willingly, and freely performed by a legally capable person.

Freedom, a requirement of both natural and ecclesiastical laws, is an essential element for the establishment of marriage contract. Any matrimonial consent, including those marriages between non-Catholics, exchanged under the threat of violence or fear in which a party was unable to resist is regarded as invalid. Such marriage consent lacks the requisite freedom that makes it valid. This paper dwells on factors that limit such freedom with a particular focus on African women in their choice of life partners. The paper will analyze the dynamic canonical complexities, occasioned by both familial and socio-cultural pressures, in the limitation of freedom of African women in their marital choices.

1. Freedom of Choice and Validity of Matrimonial Consent

The discourse on freedom to choose and the validity of matrimonial consent is deeply intertwined with the moral and legal principles that underpin the institution of marriage. Freedom, understood as the exercise of right and capacity to choose, is both the natural and legal status to make choices without constraint. In the *Digest*, Justinian defines it as “the natural ability of doing what one pleases, except when prevented by force or by law” (*Digest*, 1,5). It is a natural human inclination to self-expression and self-determination. Recognition of right to freedom of choice is, indeed, respect to human dignity.

The fathers of the Second Vatican Council placed particular emphasis on the respect for human freedom in the choice of his/her state of life. In the Pastoral Constitution, *Gaudium et spes*, (Vatican Council II, 1975) from where the legislator adopted some of the letters of canon 219, they insist that basic human needs should always be provided. Inspired by the idea that lack of some basic human needs can lead to limitation of freedom in the exercise of right to make a choice of state of life, the Council fathers demand that social order and its development should continually yield to the good of the person. This affirmation underscores the fact that lack of basic human needs could limit the right to the freedom of choice in human persons.

Marriage is both a natural and a sacred reality (Vatican Council II, 1975). A man and a woman establish it through their freely given and mutually accepted consent exchanged by both for the purpose of committing themselves totally to each other. In order to truly constitute marriage, such mutually exchanged consent must be immune from all kinds of coercion. In this sense, consent, as an essential constitutive element of marriage, (Giacchi, 1968) must be a human act. That is to say, the decision of the will to choose marriage must presuppose the act of the intellect. As such, consent must be a free, a conscious and a responsible act (Turnaturi, 2007). It must be freely given and freely accepted (Mbah, 2023), devoid of coercion that might threaten the free exercise of a subject's right to choose marriage.

Therefore, the validity of a marriage is determined by the extent to which the contracting parties were free in choosing one another to be together for life. The two parties must choose each other in a free and unrestrained manner. As already indicated so far, the exchange of matrimonial consent requires specific protection from undue interference because it confers rights and obligations on the spouses. Therefore, any form of coercion that inflicts grave fear or violence, which compromises the will, undermines the integrity of the marital union and renders it invalid. In fact, according to the Commission for the revision of the 1917 Pio-Benedictine Code, in the preparatory work of the redaction of canon 1103 (*Communications*, 1981), any fear inflicted to induce a person to marry is always unfair and is an attack against personal freedom (Wernz-Vidal, 1946) to make a choice. The spouses establish, by freely exchanging their matrimonial consent, a state in which love becomes not merely a personal affair, but something with a concomitant juridical value (John Paul II, 1999). Thus, the exchange of matrimonial consent stimulated by force or grave fear imposed from outside is invalid (cf. can. 1103).

2. Fear as an Invalidating Factor of Matrimonial Consent

Force, also classified as violence or physical force, is a true ingredient of coercion externally imposed with the intention to alter a subject's free execution of a juridical act. It is a physical violence externally imposed on an individual with the intention to modify the free exercise of their juridical action. Fear, on the other hand, is the trepidation in the mind of the subject, provoked by the psychological or ethical coercion. While physical force acts on the external manifestation of consent, psychological fear acts on the internal psychic state or mind of the contracting party. In such situation, a subject can only be free from the threats incited by fear when and only if he/she chooses a particular course of juridical action he/she would ordinarily not have chosen, which, in this case, is establishing marriage with a particular person.

Fear, known in Latin as *vis impulsiva* (impulsive fear), or *vis animo illata* (fear inflicted on the mind), is the psychological pressure exerted by an agent over the passive subject by means of threats. Fear is the internal effect of this moral coercion, which affects the psyche of individuals and distorts their ability to freely make legal choices. Such psychological pressure creates fear in the mind of a passive subject through threats of harm, thus compelling the subject to choose marriage with a particular party so as to escape the threat. Through its internally induced fear, moral coercion distorts the willing heart and as such vitiates the origin of consent. In the case of institution of marriage, moral coercion does not leave any option to the contracting subject to the free exercise of the right to marry. Notwithstanding his/her aversion to marriage with a party, the subject accepts it in order to escape from the perceived threat of harm or evil. Consent obtained under this circumstance is considered defective because of the defect in the willing heart due to the threat. In this way, moral coercion causes defect of consent in a contracting subject who is denied the essential willingness required for a valid matrimonial contract.

It is important to note, however, that moral coercion does not totally eliminate certain degree of consent. While physical force completely incapacitates the individual's ability to consent, moral coercion affects the volitional process by weakening the freedom of the subject through the threat of harm. This distinction is crucial as it recognizes that moral coercion may still allow for a certain degree of consent to exist, albeit compromised by external pressures. Following the principle of natural law, the legislator affirms the validity but possible vitiation of juridical action posited under grave fear unjustly inflicted (cf. can. 125). In sum, an act placed under fear is a voluntary act, notwithstanding the fact that it is not totally free (D'Auria, 2020). Indeed, in civil law (*ius civile*), a juridical act vitiated by moral violence is generally considered valid, since the will to negotiate is intact (*Digest*, 4.2.21.5). Agreeing with the above, an author argues that moral violence is a compulsion that excludes neither the will to act nor the causal determination; it however diminishes the freedom of the subject since it affects the volitional process with the threat of harm (Betti, 1942). This is possible because fear leaves the intellectual capacity of the subject intact thus allowing a possibility of judgment while acting more properly on the will (D'Auria, 2020).

Consequent, ecclesiastical legislation admits of the validity but rescissory of juridical acts performed under grave and unjust fear (cf. can. 125 §2). This legislative position has its roots in Thomas Aquinas' (Aquinas, I, II, q. 6, a. 6) idea that an act posited under fear could not have been posited in an absence of fear. In the classical example that supports his theory, Aquinas recounts that during a tempest, a captain of a ship decides to throw the entire consignments overboard to save the ship from sinking. It is clear that this solution is repugnant to him, although he does it deliberately because it still appears to him the only possible way out of the imminent danger (Meyer, 1906). However, juridical act of marriage or sacred ordination cannot be rescinded because ratified and consummated marriage is indissoluble and sacred ordination imprints indelible character. Therefore, marriage contracted under the influence of *metus* has to be declared invalid (Wernz, 1911) rather than rescinded.

In all, psychological/moral fear with the capacity to invalidate matrimonial consent can either be directly or indirectly inflicted fear.

2.1 Directly and Indirectly Inflicted Fears

A directly inflicted fear is that moral violence intentionally directed at a subject to coerce him/her to posit a particular juridical act (cf. can. 1087 CIC/1917). Initially, directly inflicted fear was the only acceptable fear in the practice of Rotal jurisprudence. It is that grave fear known in classical canonical doctrine as compulsion, psychological pressure, and threat of an imminent, serious and unjust evil. It is a type of fear that causes a state of apprehension, or even a serious disorientation in the will of the passive subject, which makes him/her do something that in reality he does not want to do. In this case, a juridical act is performed with the sole purpose to free oneself from the threatened harm (D'Auria, 2020).

Indirectly inflicted fear, on the other hand, is one of the novelties of the current 1983 Johann-Pauline codification. Canon 1103 of the new Code applies the expression: *etiam haud consulto incussum* (even if not imposed intentionally). In other words, the fear experienced by the subject must not be intentionally directed to him or for marriage. What matters is that the passive subject feels threatened by the fear inflicted and as a way of freeing himself/herself from such fear, chooses marriage. In this way, and following a part of doctrine, one would conclude that indirect fear also invalidates marriage consent (De Lugo, lib. IV, disp. 12, n. 3).

Ultimately, this doctrinal position maintains that both directly and indirectly inflicted fears produce the same effect on the victim. That someone did something out of grave fear does not require that the fear be inflicted with the intention to persuade the subject to posit a juridical act. It is just enough for the subject to experience the fear and its psychological effects, even if these are not intentionally directed to him or her. Accordingly, the Pontifical Commission for the revision of the Code establishes that in *enduring fear*, be it directly or indirectly inflicted, the effects are the same independent of the intention of the subject inducing fear (*Communicationes*, 1971). This is so because “freedom” is restricted both in directly and indirectly inflicted fear. By acting subtly in a very disguised or morally compromising manner, one is able to create in a subject the conviction that, to liberate him or her from the existing danger, the only way out is marriage (Adami, 2006).

This point is better demonstrated here using, as an instance, the case of one of the respondents from an oral interview conducted for the purpose of this research. Adaeze, the first daughter of late Mr. Chukwueze insists that she married Chinedu out of fear resulting from the threats of her uncles to strip them of all her late dad's properties. Marrying Chinedu was the only route to save her family from the wicked plans of their uncle; since she believes that Chinedu her husband will join forces with her to reclaim what belong to her family. Here, Adaeze was not directly coerced into marriage; she chose it as a means to escape threat of harm from her uncle. In this case, Adaeze consents simply but not freely since fear has been instilled. Adaeze's story is a classical example of indirectly inflicted fear that can compel someone to marry. But the one who causes the unjust threat would have indirectly imposed it (De Lugo, 1893).

Having so far established the invalidating capacity of both directly and indirectly inflicted fear, we shall now consider the fear capable of invalidating matrimonial consent.

3. Fears Capable of Invalidating Matrimonial Consent

It is not all fears that have the capacity to invalidate matrimonial consent but only grave fear, which could either be absolute or relative. On the one hand, fear is said to be absolutely grave when “the threat is capable of significantly conditioning the will of anyone. As such the fear must be severe enough to

significantly impair a contracting party's aptitude to freely consent to marriage. On the other hand, it is considered relatively grave when "the fear is not objectively serious in itself, but due to a complex of psychological or existential circumstances in which the person finds himself or herself, it is able to significantly influence his/her will" (D'Auria, 2020). These circumstances are identified in doctrine and jurisprudence as age, sex, socio-cultural background, physical and mental health, all specific conditions of the individual considered as essential elements that could constrain a subject to carry out a specific juridical act (Ghisoni, 2000). This rendition reaffirms that a form of coercion could be grave for a particular subject and trivial for another (Ghisoni, 2000). Hence, applicable principles in the determination of invalidating fear are the object of the fear and/or its effect on the subject who suffers the threat (*coram* Lanversin, 1992).

The above position of jurisprudence represents the objective and subjective criteria of evaluating fears capable of invalidating matrimonial consent. Doctrine also holds that fear capable of invalidating marriage consent is determined by both factors that are external to the passive subject as well as the unique characteristics and vulnerabilities of the individual experiencing it. This subjective circumstance that causes fear can be of such significance as to totally eliminate human freedom to consent (Mbah, 2023). However, while considering the invalidating subjective element of fear, care should be taken not to commit the error of subjectivism. Doctrine and jurisprudence are emphatic that the principle of causality must be the determining criterion of invalidating capacity of fear (*coram* Canals, 1964). Put more succinctly, fear is capable of invalidating consent only if the causal link between the threats exercised and the fear produced in the contracting subject is clearly established. The link should demonstrate the inevitability of choosing marriage as the only alternative to escape from the threat (*coram* Stankiewicz, 1986). The choice of marriage becomes the natural result (effect) of the fear (cause) (*coram* Manucii, 1921), such that the cause (fear) becomes the only reason of choosing marriage. In this case, marriage is not freely chosen but as an escape route from danger.

Furthermore, a part of doctrine sustains that threat that produces fear capable of invalidating matrimonial consent must be extrinsic and not intrinsic (*Communicationes*, 1977). This implies that the mental anguish, characteristic of fear, is not a product of the victims themselves but it is induced by a cause that is *external, human, free, concrete and identifiable* (*coram* Funghini, 1998). However, we make bold to observe that extricating the invalidating elements of fear of intrinsic character would not be sustainable in current practice of jurisprudence, as we have already seen above. What is important is the psychological condition capable of invalidating the matrimonial consent of a subject. As such, it would not be prudent to say fears produced by supernatural believe does not invalidate consent (Conte A Coronata, 1950). A party could experience an overwhelming feeling of preoccupation, accompanied by intense anxiety or distress that marriage is an obligation from God to be fulfilled. Such a party influenced by the fear of threat of disobeying God could invalidly

consent. Again, fear due to a natural cause such as earthquake can invalidate marriage consent since it can remove the psycho-volitional capacity in the subject, be it in the temporal or permanent manner. Such fear could also lead to consensual incapacity (can. 1095).

Finally, fear capable of invalidating marriage consent must be antecedent, that is, such fear must exist before marriage consent is exchanged. It must not be concomitant because consent is not determined by the threat but rather associated with an already made decision to marry (Capello, 1961). In this case, marriage is null if it is celebrated out of fear (*ex metu*), but it is not so if it is contracted with fear (*cum metu*). This is simply because fear that causes marriage is also what causes nullity (Ang. D'Auria, 2007). Parents or superiors' indiscreet advice or imperative presentation of advantages and conveniences in celebrating a particular marriage may invalidate marital consent on the ground of reverential fear.

3.1 Reverential Fear

Reverential fear is an attitude of respect, a state of mind, which induces obedience in the subject by virtue of the affection that exists between the subject and the superior, and which arouses the incapacity to resist the pressure by the feeling of inferior, shyness or timidity, duty or even indebtedness. It is a state of threat that arises in a subject in the face of pressure exerted by people to whom the subject is bound by a bond of affection, kingship or subjection (D'Auria, 2020). Such close ties of relationship instill in the subject the feeling that acting contrary to their wish will lead to serious consequences such as losing their affection or some other misfortune (*coram Faltin*, 1992). Thus, the subject is convinced of receiving some harm from his father, master or superior if he fails to yield to the pressure (Gaspari, 1932).

Though the legislator did not capture it both in the normative provisions of 1917 Code and 1983 Code, it is one of the fears capable of invalidating marriage consent. Evidently, cases concerning fear and threat keep recurring in form of reverential fear in the ecclesiastical tribunals. In fact, Rotal jurisprudence affirms in concrete terms that the people with whom the passive subject is linked by obedience, respect or love induce reverential fear. It is interesting to note that the study of Rotal sentences between 1983 and 1998, 117 sentences were published concerning *vis et metus*, 80 of those sentences concern reverential fear (Badii, 1927; Mbah, 2023). Published Rotal decisions of 1998 indicates that out of eleven sentences that bother on canon 1103, all (except one) contain specific cases of reverential fear or at least reflects the pressures and coercions exerted by parents on their children (Gullo, *pro manuscripto*).

Now, marriage seen as a powerful interplay of nature, culture and faith (Ortiz, 2003), is influenced by some African cultural realities whereby parents often play a decisive role on the choice of the spouse of their children. These cultural realities, prevalent in some African society and which aggravate reverential fear may arouse another sort of fear, namely, the so-called *metus a suspicione*.

3.2 Fear Arising From Suspicion (*Metus A Suspicione*)

Metus a suspicione (D'Auria, 2020) is a Latin term that translates to “fear arising from suspicion” about conceivable consequences rather than concrete evidence of coercion. It refers to a situation where a party agrees to a marriage they would not otherwise want because they fearfully suspect that refusing may lead to threats, violence, or extreme consequences for themselves, their partner, or a third party. The subject contracts marriage solely to either save oneself, a partner or third party from a suspected threat. Put in concrete terms, an African woman suspicious of her uncle, as we cited above, sees marriage as the only way that her mother would escape from the consequences of her uncle's threat.

Suspicious fear highlights the complexity in assessing the validity of matrimonial consent resulting from indirectly inflicted subjective grave fears. It has to be noted, moreover, that authors are in disagreement regarding suspicious fear as an invalidating factor of consent. The word “Suspicion” is not actually a strong legal term since it is inclined to doubt/uncertainty. Its application to decisive legal matters reduces law to mere theory contrary to its being a practical science. The legislator was categorical in affirming that marriage enjoys the favor of law in state of doubt (cf. can. 1060). As such, it would not be a smart legal move to argue the invalidity of consent founded solely on a mere suspicious fear. Such invalidating element could result from simulation of consent (cf. can. 1101 §2) and not from *metus*. In this case it could be said that consent is non-existent and not simply vitiated, because it is different from a case of a subject that wants marriage to be saved from a threat.

In all, suspicious fear can constitute an invalidating element of consent if it is established that the will was compromised by the threat in such a way that the subject would not have married if there had not been the fear and the relative threat of evil.

4. Common Fears among African Women Capable of Invalidating Matrimonial Consent.

Christian marriage in Africa embodies a complex interplay of divine, natural, socio-cultural and ecclesiastical laws. Matrimonial unions in African societies are not just legal contracts but also deeply rooted in cultural traditions and communal expectations. Marriage is not only viewed as a personal choice but also as a fulfillment of societal expectation and a marker of maturity and responsibility. Thus, certain socio-cultural norms and values in Africa hold significant influence over marital dynamics, often overshadowing other legal aspects of marriage. These cultural influences can shape individuals' attitudes towards marriage and even the process of partner selection. Thus, individuals can enter into marriages, even if it is not their preferred choice, due to the following fear factors:

4.1 Socio-Cultural Bias on Women Proposing Marriage to Men

It is indeed disturbing that in certain African society where marriage holds great significance, unwritten customs or what one might call socio-cultural bias

discourages the idea of women initiating marriage talks with the male counterpart. It is inconceivable within these cultural frameworks for a woman to propose marriage to a man. Instead, the expectation is that the initiative to establish marriage union should come solely from the male, relegating female to passive roles within the African marriage context. Proponents of this socio-cultural bias argue that it is the duty of the male to find his wife not of the female to find her husband, using the biblical reference of proverbs 18:22 (“He who finds a wife finds a good thing”) as basis. Yet, it is important to note immediately that the interpretation of this verse should not be subject to cultural and historical analysis, and should not necessarily be viewed as prescriptive for all societies and situations.

Again, it is noteworthy that women's proposing to men or vice versa does not imply the initiation of marriage rites in its strict sense. Hence, a distinction should always be made between marriage proposal and the establishment of marriage contract. In fact, the legislator reiterates that “no right of action to request the celebration of marriage arises from a promise of marriage” (can. 1062 §2) which is attributable to a proposal. The African marriage is formerly established through traditional marriage rites performed by the families of both parties, at the instance of the male party and/or through sacramental ceremony in Church, where mutual consent is exchanged between the two parties. In both instances, consent is crucial, and no one party holds exclusive responsibility of establishing the marriage since consent is mutually given and accepted (can. 1057 §2).

Hence, while the biblical position that the man finds his wife and not the other way round remains valid in the African traditional marriage sense. In a contemporary times, the verb “to propose” can encompass the initiation of marriage talks by either the male or female party. Just as a man can express his intention to spend the rest of his life with a woman, nothing prevents the woman from doing the same. The goal of such proposals is to foster justice, equity and inclusive relationship dynamics, where both men and women have equal right and freedom to initiate discussions about partnership and marriage with a person of their choice. Removing injustice promotes human freedom and dignity (Pontifical Council for Justice and Peace, n. 137) at every levels of human endeavor (Dicastery for the Doctrine of the Faith, 2024).

The argument for preserving traditional customs based on religious or cultural grounds often clashes with the principle of spousal equality emphasized in Christian marriage. While traditions hold significance place in shaping societal norms, it is essential to ensure that they do not perpetuate inequality or restrict individuals' rights and freedoms. There is no better way to give expressions to equal matrimonial dignity than creating a level playing ground for both male and female parties. This socio-cultural bias creates in African women intense fears, anxieties, obsessive doubts and worries, questioning whether they will ever have suitors in their lifetime. These fears and anxieties compel African

women to accept any marriage as an escape from the threats. In other words, while this socio-cultural bias restricts African women's freedom to choose their partners based on their own desires and preferences, they are coerced into accepting whoever is available, to the detriment of their personal preferences.

4.2 The Identity and Rootedness of a Child Born Outside Marriage

Pre-marital sexual intercourse leading to pre-matrimonial pregnancy and childbirth predates the modern society. The natural drive of concupiscence and/or other personal reasons are identified as the motivation for procreation outside marriage (Amuh, 2022). However, the consequences of such occurrences extend beyond the individuals involved, particularly impacting the children born out of wedlock. This is because out-of-marriage childbirth is disdainful. Indeed, out-of-wedlock childbirth is often viewed unfavorably, carrying a stigma that affects not only the child but also the mother and her family.

In the African context, marriage has long been regarded as the acceptable institution for procreation and children upbringing (Amuh, 2023), forming the foundation of family identity and rootedness. Within African cultures, complex interpersonal relationships play a crucial role in defining family dynamics, encompassing roles such as married life, fatherhood, motherhood, filiation, and fraternity (John Paul II, 1982). As a result, some of these well-traditionally rooted families do not fully accept children born to unmarried women. Particularly, the boy child may find himself marginalized within the mother's family, lacking rights of inheritance or even a dignifying status in community life and affairs due to his perceived lack of rootedness within the family.

Again, marital status holds significant weight in determining one's qualifications for important socio-cultural roles within African societies. Thus, individuals who lack identity and rootedness in a given family, such as children born to unmarried mothers, may face exclusion and discrimination, impacting their social status and psychological well-being. The societal stigma attached to such children born to unmarried women, as well as the lack of recognition of the motherhood of such unmarried women, can have profound effects on the psychological development of the child. In fact, recent studies (such as the Fragile Families and Wellbeing Study) have provided evidence of negative cognitive, behavioral, and health outcomes for children born to unmarried women, highlighting the challenges they face within society (Willian, Kristi et al, 2013; Bzostek, Sharon and Beck, 2011; Carlson, Marcia, and Corcoran, 2001).

The common consequence of the above fact within the African cultural context is that unmarried mothers may perceive marriage as the only means to escape the threat imposed by the above factors. Marriage, to them, becomes the only means to ensure their and their children's economic and family stability (Bzostek, Sharon and Beck, 2011; Heard, Holly, 2007) as well as the route to escape the threat of hunger (Edin, Kathryn and Kefalas, 2005; Graefe, Deborah and Lichter, 2007). It is evident that these marriages are established as a means

to escape the threat or harm resulting from lack of family identity and rootedness as these women often marry who they would ordinarily not have married in the absence of the threat. In other words, they do not settle down with the kind of spouses they would have wanted. Often, they end up with marrying men who already have children or who have low levels of income and education (Lichter, Graefe and Brown, 2003). This challenges the assumption that unmarried mothers' later marriages will necessarily promote the health and well being of their children (Bzostek, Sharon and Beck, 2011). However, these African mothers are not so much concerned with their well-being as to the acquiring family rootedness and identity for both themselves and their children.

With the above in mind, most young or adult unmarried mothers are coerced into marriage regardless of the spouse to escape the threat imposed to them and their children by lack of family rootedness, which invariably protects their mental health. Thus, pre-matrimonial procreation and the decision to contract marriage are causally connected in the socio-cultural disposition of an African mind (Amuh, 2022). This causal link leads us to the consideration of the importance of age to the freedom of choice of a life partner in Africa.

4.3 The Effect of Age to the Freedom of Choice of a Life Partner

In many African cultures, marriage is considered to be one of the most critical events that mark an individual's transition into adulthood. Marriage implies that an individual could leave their original family, be independent of their parents, and establish their own household. Marriage opens the floodgate of legitimate procreation, which ensures the sustainability of the family bloodlines, as well as stamps the full dignity of motherhood in a woman.

As such, women's age is central in decision to marry especially because of the causal connection between marriage and procreation in the African context. The unwritten conventional average age for an African woman to marry, without prejudice to various nations' Marriage Acts, is taken to be between 18 and 28 years. Most African marriages established for the purpose of procreation are primarily based on the female reproductive age. A not too recent study among 7,288 menstrual cycles (Dunson, Baird and Colombo, 2004) discovered that fertility began to decline as people advance in age. The statistical report of the findings indicates that fertility began to decline by the late 20s for women and by the late 30s for men (Dunson, Baird and Colombo, 2002). Thus, an African woman is said to have married at a suitable time if she marries within the age bracket of 18 – 28 years. One is said to have married late if she fails to marry before her 30th birthday.

There is no gainsaying the fact therefore that pressure to marry weighs heavily on African women, particularly as they approach their 30th birthday and beyond. At this stage, there is often a noticeable decrease in the attention from potential male suitors, leading to feelings of insecurity and concern about the possibility of remaining unmarried. Family members, friends, and society as a

whole become increasingly focused on the woman's marital status. Such women are usually laden with feelings of inadequacy or incompleteness and even guilt or obligation to enter into marriage. Additionally, the looming threat of approaching menopause, potential childlessness, and the fear of loneliness outside of marriage further exacerbate these anxieties. All these are engineered by the socio-cultural context that presents marriage as the only pathway to a fulfilling and healthy living, offering companionship, security and social acceptance.

In the face of the above fears, yet-to-be married African woman is left with the option of marriage to escape the threat. She is rubbed off the right to immunity from any kind of coercion in choosing marriage (cf. can. 219). She chooses marriage as the only escape from the grave fear imposed by the external threats (cf. can. 1103). The society's threatening and hostile environment towards the unmarried women in African society inadvertently contributes to such coercive choice of marriage.

While some privileged African women keep postponing their marriages as a result of some personal reasons, others do not enjoy the privileges of having suitors in their youthful suitable marriage age. In the former situation, in my own opinion, the party may not have sufficient ground to petition for her matrimonial nullity on the grounds of the normative provisions of canons 219 and/or 1103, whereas in the latter situation, the subject may lay claim to the normative provisions of the aforementioned canons.

5. *Metus Communis* and Rotal Jurisprudence in Matrimonial Consent

Prior to the promulgation of 1983 Code of Canon Law, constant practice of jurisprudence affirms the unjust (*coram* Funghini, 1988) and invalidating characters of both directly and indirectly inflicted fears. *Coram* Cattani Amadori (1920) proposed a general principle on how a judge must evaluate a case concerning grave fear. In the sentence of 20th March 1920, he opines that the invocation of grave fear as an invalidating element in marriage requires the proof of violence or at least a threat of it. He asserts that the freedom of the will is an interior act, known only to God, while violence and the fear that derives from it are perceived by the senses of the body (*coram* Amadori, 1920). With this, the Rotal decisions began to be based on quality, condition, and nature of the person on whom fear is inflicted (Mbah, 2023). This is evidenced in the sentence of *coram* Florczak, who declared the invalidity of marriage contracted by a coerced will, since the subject cannot be said to be free (*coram* Florczak, 1933). Subsequent Rotal decisions reaffirm the necessity to take into account the actual personal and social condition of the contracting subject (*coram* Wyne, 1930; *coram* Brennan, 1965).

So, to the extent we were able to expose the *common fears* that influence the matrimonial consent of African women, one may say that they might constitute invalidating elements of marriage consent. These outlined invalidating *fear* could be said to share similar characteristics with other common fears by the

fact that they restrict a subject's freedom of choice by the directly or indirectly inflicted threats. Already, canon 1103 legislates that the gravity of invalidating fear could be subjectively determined (Ghisoni, 2000). As such, the *criterium subjectivum* could also be applied in the determination of the invalidating fear common among some African women.

6. Way Forward

Navigating societal pressures that prioritize marriage over individual autonomy can be challenging for some African women. It is crucial that African women embark on a journey of re-discovery of their identity, proper self-knowledge and boosting of self-esteem. Building supportive networks, seeking counseling or therapy, and engaging in self-reflection are sure ways to such re-discovery of personal identity. African women's re-discovery of self-identity would decisively enhance their critical examination of the socio-cultural expectations by challenging restrictive gender roles, and asserting their rights to make informed choices about their relationships and futures.

Moreover, encouraging African women to take a proactive role in initiating marriage discussions may help to challenge repressive traditional gender norms but also promotes gender equality within relationships. This could be achieved through open, deliberate, and constructive trans-cultural interactions on the subject. Promoting open dialogue and challenging restrictive gender roles can contribute to fostering healthier and less coercive marriages within African societies. Inspiring women to freely express their desires and preferences in matters of marriage fosters mutual respect and acceptance between the couples. Ultimately, it protects the inherent human dignity and right to immunity from all kinds of coercion, regardless of gender especially in dealing with the complexities of choosing a spouse.

Again, the Church in African, with her understanding of the socio-cultural set up, has a vital role to play in their journey towards self-determination embarked upon especially by women. Indeed, encouraging the formation of peer groups among women and creating pathways for their development by the Church can provide valuable support and empowerment. The Church, committed to understanding the human condition in all its dimensions (Himes and Coriden, 2004) by reading "the signs of the time" (Vatican Council II, 1975) should promote programs and cultures that boosts female confidence and foster equal self-expression.

Finally, the Church in Africa can do better in encouraging young people to embrace marriage opportunities at a younger age, rather than waiting until later in life when the pool of potential suitors may diminish. By advocating for the provision of basic needs and promoting social justice, the Church serves as a moral conscience within society, advocating for the well-being and dignity of all individuals. Through these efforts, the Church can contribute to creating a more equitable and supportive environment for women to navigate the complexities of relationships and marriage.

Conclusion

We have attempted to establish here the invalidity of marriages contracted under the influence of force or fear externally and directly or indirectly inflicted. A matrimonial consent is vitiated by limitation of freedom to exercise the right to marry. This is simply because the will is denied the freedom of choice of a life partner through the moral threat of harm or violence resulting from familial or socio-cultural circumstances.

We went further to evaluate the avenues that can forestall such fears that could repress the freedom of choice of a life partner in African women. Primarily, the ecclesiastical and the global declarations of equality and dignity of human persons should be revived in the consciousness of African cultures and peoples. Women folks were also enjoined to activate programs to enhance their self-esteem to better oppose the socio-cultural biases that inhibit their right to freedom to make adequate and informed marital choices.

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