

The Protection of Marriage and Family in The Context of Rights and Freedom

Ikechukwu Bartholomew Ekemezie, Ph.D

Department of Philosophy
Nnamdi Azikiwe University, Awka
Email: ib.ekemezie@unizik.edu.ng

Abstract

The institution of marriage has obviously been put to test in recent times, with the quest for equality and equity in marriage reverberating and resounding with great crescendo, especially from women. The lamentation of women in registering their feelings of subjugation by men is currently louder than the fact of what the institution stands for. Humanity's' unbridled quest for rights and freedom within the context of marriage and family- has no doubt been an obstacle to the protection of the human family. This is because, man is a free, conscious and rational being with each individual laden with possibilities and idiosyncracies. The apparent snag associated with the protection of marriage and family- is worsened by the fact of our rights cum freedom as individuals with unique possibilities and potentials. The method of this research is both analytical and phenomenological, as tools of research to enable us resolve the puzzle. Marriage is the official entrant ticket to family life and family is the first school of socialization and organization of human species. Hence, this paper argues that the quest for rights and freedom should not be pursued at the expense of the protection of the human marriage and family which is sacred and sacrosanct in the preservation of human species. The findings of this research is that our rights/freedom within the context of marriage and family is censored and in protecting marriage and family within this context, our rights/ freedom should be exercised with caution and a sense of responsibility.

Keywords: Protection, marriage, family, rights, freedom.

Introduction

The protection of marriage nay family has been an age-long challenge to mankind. This is because marriage is undeniably the official entrant ticket to family life. A family unit begins with the living together of a legally wedded couple under one roof. The married couples not only shares a common abode, but also cooperates with each other physically, socially, emotionally and economically. The topic, "Protection of Marriage and Family in the context of Rights and Freedom" is topical and apt because the family is the cornerstone of human society. Each member of the family unit has a role to play in the protection of the human family without which the family will be in disarray, rudderless and fragmented. There is no gainsaying the fact that without proper family formation the society will be worst for it and genuine peace which the world desperately needs will elude it. Countries, religions, societies, and cultures have sought in their different ways and understanding to protect the human family. However, the pertinent questions yet unanswered are: what is a family? What are the aims or the purpose of human family? How do we properly protect the human family? How do we protect the human family in the light of man's innate quest for rights and freedom? What are each individual's basic rights and freedoms within the context of the marriage and family?

This research is a bold attempt to dissect the concept of marriage and family, especially as regards its protection in a world inundated by secularism with its unbridled quest for rights and freedom. Secularism seeks to promote the longing for rights and freedom within the family context with or without the responsibility that goes with genuine freedom. Conclusively, I will be happier and with much sense of fulfilment if this paper equip individual families intellectually and otherwise, with the tools to protect our families from unbridled freedom without responsibility, while at the same time giving each member of our families the freedom or spaces necessary for the enjoyment or realisation of their fullest potentials as humans.

The Word "Protection"

The meaning of the word "protection" could be traceable to its verb equivalent 'protect'. The word "protect" is etymologically derived from the Latin and word 'pro' – meaning 'in front' and 'tegere' meaning 'to cover'. The parent word 'protegere' translates to 'covered in front'.

The word “protect” means “to keep somebody/something safe from harm, injury etc, [Advanced Learners Dictionary]. In other words, it means to defend or guard somebody or something from attacks, loss, invasion, annoyance, insult etc”¹. The verb ‘protect’ means to keep safe from harm or injury and hence its synonym, includes; keep safe, keep from harm, save, safe, safeguard, shield, preserve, defend, cushion, shelter, secure, fortify, guard etc. The word ‘protection’ is a noun, which means “the act of protecting or the state of being protected”², it implies preservation from injury or harm; a thing, person or group that protects.

The Concept of Marriage

The word ‘marriage’ is derived from the middle English word ‘mariage’. It follows also from an old French word, ‘marier’ which means ‘to marry’ and ultimately from Latin word ‘maritare’, meaning to provide with a husband or wife and then ‘maritari’, meaning to get married³.

Relatedly, the word ‘matrimony’ is derived from the old French word ‘matremoine’, which appears around 1300 CE and ultimately derived from the Latin word ‘matrimonium’, which combines the two concepts. ‘Mater’ meaning ‘mother’ and the suffix – ‘monium’ signifying ‘action, state or condition’. According to Encyclopedia of World Problems and Human Potentials, “marriage also called matrimony or wedlock is a socially or ritually recognized union between spouses that establishes right and obligations between them and their children and between them and their in-laws”⁴.

The above definition signifies that marriage usually creates normative or legal obligations between the individuals involved and any offspring they may produce. Marriages are performed or organized in different shades and forms. It could be monogamous, polygamous, customary marriage, statutory marriage, among other variations.

In Christendom, marriage is regarded as a sacred union between a man and a woman instituted by God during the process of creation⁵. God created man in his image and likeness – male and female. According to the book of Genesis 1:28, “God blessed them saying to them: ‘Be fertile and multiply; fill the earth and subdue it’”⁶. The Catechism of the Catholic Church (C.C.C, 1603) re-echoed the divine mandate thus: “The intimate community of life and love which constitutes the marriage state has been established by the creator and endowed by him with its own proper laws... God Himself is the author of marriage”⁷.

The Concept of Family

The word ‘family’ was originally derived from the Latin word ‘famulus’ meaning ‘servant’ and later on it progressed to the Latin word ‘familia’ which means ‘household, or servants’. In a broad sense, “the family refers to the group comprising parents and children. It may also refer, in some cases, to a group of relatives and their dependants forming one household⁸. The family is the most pervasive and universal social institution. Majority of the world populations live in family units, as it plays a vital role in the socialization of individuals. It is the first society of human beings and thus the first school of citizenship. Every individual is born into a family unit, grows in it, works in it or for it and eventually dies in it. The family is the foundation of social responsibility and acceptance of self discipline and therefore there is always an emotional attachment to one’s family.

The diversity of our world today gave room for different kinds of family structure, which includes nuclear and extended family. In this discussion, we will limit ourselves basically on the nuclear family. A nuclear family, is the elementary family structure or conjugal family which consist of two parents and their children (one or more).

The Concept of Rights

The modern English word ‘right’ is derived from old English word ‘riht’ or ‘reht’. It also stem from Proto-Germanic ‘rixtaþ’ meaning ‘right’ or ‘direct’. And ultimately from Proto-Indo-European ‘regto’ – meaning ‘having moved in a straight line’. The online Wikipedia summed up the concept of rights, thus: “Rights are legal, social or ethical principles of freedom or entitlement;...”⁹ It follows that rights

are fundamental normative rules about what is allowed of people or owed to people, according to some legal system, social convention or ethical theory.

In another dimension, a 'right' is an entitlement or justified claim to a certain kind of positive or negative treatments from others. We can also distinguish between moral or human rights and legal rights. Legal rights require for their justification an existing system of law and they gain their force firstly through legislation or decree by a legally authorized authority¹⁰.

The Concept of Freedom

The word freedom is derived from the word 'free'. The word 'free' comes, from the Germanic word 'Frei' meaning 'to love'. The word 'friend' also shares in this origin¹¹. Therefore freedom could be conceptualized as the condition whereby you have the choice to love any friend of yours.

Broadly speaking freedom is the right and capacity of people to determine their own action in a community which is able to provide for the full development of human potentiality¹². The human community offers the platform for the enjoyment of freedom. So much so that the individual enjoys freedom in and through his/her community. Freedom could be characterized as positive and negative. Negative freedom means the lack of forces which prevent an individual from doing whatever they want; while positive freedom is the capacity of a person to determine the best course of action and the existence of opportunities for them to realise their fullest potential.

Four Types of Freedom

- **Physical freedom:** The possibility for a person to go where he/she wants and do what he/she wants.
- **Spiritual freedom:** The privilege of being able to express one's thoughts or to live according to one's outlook.
- **National freedom:** The authority which enables a person to identify and to live with others of his/her people.
- **State freedom:** The ability of a person to live (preferably in his/her own land) under a government of his/her choosing.

The Protection of Marriage and Family

The family, as one of the most important social institutions has attracted so much attention especially as regards its protection and sustainability. This is because equality and respect for human rights and fundamental freedoms of all family members is essential to family well-being and societal well-being. Organized humanity over the years has always recognized the centrality of human rights of individuals within the family context. That is why the universal declaration of Human Rights, Article 16, observed the following:

- Men and women of full age, without any limitations due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- Marriage shall be entered into only with the free and full consent of intending spouses.
- The family is the natural and fundamental group unit of society and is entitled to protection by society and the state¹³.

Further implications include the fact that states or governments must exercise due diligence to prevent, investigate and punish acts of violence against women, including where these, acts are perpetrated by private persons, such as domestic or family violence.

It also follows that states must take all appropriate measure to protect the child from all forms of physical or mental violence injury or abuse, neglect or negligent treatments, maltreatment or exploitation, including sexual abuse, while in the care of parent(s) or any other person who has the care of the child. This declaration also condemns child marriages, early marriages and forced marriages, which constitutes a violation of human rights, prevents individuals from living their lives free from violence, and has adverse consequences on the enjoyment of the right to education and to the highest attainable standard of health, including sexual and reproductive health.

States must fulfil their obligations to prevent, respond to and eliminate all harmful practices (such as FGM and dowry related violence), wherever and whichever form they occur. Individual States or Governments must ensure that whatever the form of the family, whatever the legal system, religion, custom or tradition within the country in question, the treatment of women in the family must accord with the principles of equality.

Finally, the states must ensure that the men, whom in most cultures and religions are the head of the family are showered with love and respect that befits the captain of a ship in the midst of corresponding equality. Biblically speaking, it is also based on the consciousness of the protection of marriage/family as a sacred institution that, what God has joined together, no human being must separate". (Matthew 10:9). The union of man and woman in marriage is regarded as a great mystery only to be likened to the union of Christ and the Church. (Ephesians 5:32). The husband is expected to love his wife and the wife in turn is expected to respect his husband.

Children on the other hand (whether minors or adults) must honour their parents because of God's fatherhood. This respect must be nourished by a natural affection born from their common bond. Obedience to one's parents is characterized as a Christian duty, and therefore every child is expected to honour his father and mother (Ephesians 6:1-2). Sirach 7:27, observed; "with all your heart, honour your father and do not forget the birth pangs of your mother".

Once a family is blessed with children, it brings about the duty of their moral and spiritual formation. The parents' right and duty to educate their children is primordial and inalienable. Parents must see their children as children of God and educate them in God's law. They are expected as family heads to fulfil their duty by creating a home filled with tenderness, respect and fidelity in which the virtues of self-denial and sound judgment are taught. Parents (by their own example) must teach their children to subordinate material desires to spiritual ones. The book of Sirach 30:1, highlighted this solemn duty thus: "He who loves his son will not spare the rod" and Ephesians 6:4 added "fathers, bring your children up in the discipline and instruction of the Lord".

At home, parents must teach communal responsibility turning their children away from degrading influences that ruin society. It is obvious from the ongoing discourse that the task of protecting marriage and family is not an easy one and in fact a joint responsibility. The society, governments and individual family members are entrusted with the protection of the family.

In The Context of Rights and Freedom

Having considered 'rights' as the legal, social or ethical principles of freedom or entitlement and 'freedom' as the power or right to act, speak or think as one pleases; we are faced with the tension inherent in protecting marriage and family in the context of rights and freedom. This is because there is an apparent conflict of interest here. In protecting marriage and family, to what extent can we go in order not to trample the next person's fundamental human rights? To what extent can an individual within the family context exercise his/her rights? The United Nation's Universal Declaration of human rights observed that each and every one of us have the right to marry and found a family and each partner is entitled to equal rights. How practicable is this supposed equal rights? Perhaps the children when born will also exercise their own rights. How does the exercise of equal rights within the family by all members help in promoting the general well-being of the family? For example, a Facebook friend, Nora Oma Patrick wrote about her good friends younger brother who has been married for less than a year and how he had a serious fight with his wife which drew the attention of both families. The reason being that the wife is always, on the phone, at times even when on her matrimonial bed with her husband. For even at 10.pm, the wife will pick her ex-boyfriends calls and begin a full blown conversation.

On the day of the said fight, the husband came back from work, the wife did not even greet him, because she was having a telephone conversation. The conversation continued for a long time that the husband

got annoyed and snatched the phone from her. The wife went berserk and was furious, saying; how dare you? Who are you to tell me whom to talk to, on the phone? I have my right! It is my right! You want to control me? She grabbed a kitchen knife and the husband got a cutlass and a fight ensued.

Perhaps that's the woman's understanding of her rights and freedom in the context of her marriage and family. For equality is doing whatever she pleases in her marriage without observing the accompanying responsibility. Accordingly, she may not be alone in this crazy mindset. These days, so many Nigerian men/women confuse and misunderstand the whole equality and right fight. So many go into relationship with unrealistic expectations. Men and women of this generation go into relationship battle ready. A good number of married women make other women around them feel bad for respecting or obeying their husbands. Equally from the men's angle, there are men who they despise others for loving their wives in the light of mutual self-giving and make them feel not-man-enough, as for them "Man-ness" implies an unshakable patriarchal mentality.

Another interesting paragraph of the article 16 of United Nations Declaration on Human Rights stated that marriage shall be entered into only with the free and full consent of the intending spouses. However, in Africa, with its cultural heritage, the strict observance of the tenets of this declaration may endanger the well-being of the family. The child rights act stipulates that, "children have the right to protection from abuse, neglect, exploitation and discrimination". How do we concretely observe the following without neglecting the biblical mandate of training our children in the knowledge and fear of God? How do we spare the rod without spoiling the child?

Interestingly a troubling new trend at the International Human Rights level is being observed, where discourses on 'protecting the family' are being employed to defend violations committed against family members, to bolster and justify impunity and to restrict equal rights within and to family life. This campaign to 'protect the family' is driven by conservative efforts to impose 'traditional' and patriarchal interpretations of the family, and to move rights into the hands of the family members and into the institution of 'the family.' Protection of the 'family' efforts are inspired by

- Rising traditionalism
- Rising cultural, social and religious conservation
- Sentiment hostile to women's human rights, sexual rights, child rights and the rights of persons with non-normative gender identities and sexual orientations.

The situation worsened with the UN Human Rights Council Resolution on the protection of the family in July, 2015. According to this resolution; the protection of the family states that, "the family plays a crucial role in the preservation of cultural identity, traditions, morals, heritage and the values system of society"¹⁴. This resolution is very insidious, as it tries to prioritize "the family" over obligations to respect, protection and fulfilment of individual human rights.

Also, we see little or no acknowledgement of human rights violations that takes places within families. Evidently there is a renewed rhetoric around how families are crucial in preserving our cultural identity, traditions etc. Thus, the resolution is neglecting the fact that some traditions, customs, social and cultural practices are harmful. Early, forced marriage, female genital mutilation, breast ironing, forced feeding, virginity testing, dowry. All these things come to bear on women and girls, their bodies and their life.

From our discussion so far, it is obvious that living together as a family is not a very smooth and easy experience. This is because every family nuclear or otherwise is at every point in times faced with numerous challenges that if not properly handled could inevitably, mar the peace of the family and make its protection a dream unrealized. Some of these challenges faced in the family context could be:

- Rivalries among the children
- The family finances
- Illness and grief
- Childlessness, impotence/ frigidity
- Whether or not to use contraception? And if yes which method?

- Relationship with extended family members
- Defining family values and identity
- Acquiring and disposing of properties etc.¹⁵

The protection of marriage and family is a sine qua non for the overall development of man in his remote and immediate environment. However, whenever we juxtapose the quest for the protection of marriage and family with the pursuit of rights and freedom it becomes elusive, because the moment one tries to analyze rights and freedom, it eludes one. Hence, freedom is generally spoken of in negative terms as the absence of constraint or obstacle on one's way to doing or achieving anything.

Conclusion

Marriage is not, then, the result of chance or the product of the evolution of unconscious natural forces. It is the wise institution of the creator to accomplish in mankind his design of love. Through the reciprocal personal giving of self, which is proper and exclusive to them, husband and wife tend towards the communion of their beings by which they perfect one another in order to collaborate with God in the generation and education of new lives¹⁶.

The above excerpt from the papal encyclical *Humanae Vitae* clearly noted the importance of the reciprocal personal living of self to each other in marriage and family life. That means that if we actually want to protect marriage and family as an institution, our rights and freedoms should be exercised with caution and a sense of responsibility. Rights and freedom should not be pursued in its raw form within the context of marriage and family. T.H. Green was right when he explained that "rights are powers necessary for the fulfilment of man's vocation as a moral being"¹⁷. And Beni Prasad corroborated the above view when he observed: "Rights are nothing more or less than those social conditions which are necessary or favourable to the development of personality"¹⁸. As conscious humans, we must recognize the latent ambivalence inherent in protecting the family within the context of rights and freedoms. Therefore, the pursuance of rights and freedom should take care of man's cultural, religious, psychological, ethical and even environmental dimensions. Each of us is entitled to a personal fundamental freedom even within the context of marriage, however, when we sought these rights and freedoms, it shouldn't be an unbridled freedom. Our quest for freedom must observe the 'principle of live and let live' and also come to terms with the fact that where one's freedom ends, another person's own begins. Reminding us that man is free, but everywhere in chains – Jean-Jacques Rousseau.

Rudolf Steiner (1861 – 1925)'s conception of freedom is that it arises when we are able to bridge the gap between our ideals and the constraint of external reality¹⁹. That is, letting our external deeds be inspired by moral imagination. In Steiner's philosophy of freedom, he argued that freedom does not consist in acting out everything subjective within us, but in acting out of love, thoughtfully and creatively. It means also that our enjoyment of freedom within the context of marriage/family is a censored freedom.

No doubt, our society today is ravaged by so many ills especially in the aspect of morality. Marriages and family life has been bastardized by the secular world intent on giving marriage/family life, a new meaning nay interpretations. These interpretations, misconceptions and misrepresentation of the concept of marriage/family are given at random, moving with the tides of a crazy humanity that is fastly losing the essence of its being. Today, as we speak, we have the LGBTQ2+ rights group all over the place clamouring for their own rights. That is, lesbians, gay, bisexual, transgender, transsexual, 2/Two spirit, queer, and questioning social movements. They are seriously lobbying for an equalized acceptance of LGBTQ2+ people in the society.

We also have the abortion rights group clamouring for recognition within the society. Recently, a woman in Asia (Sick) organized a wedding ceremony and married a man-made bridge. Also a lady in Europe decidedly got married to herself in an elaborate wedding ceremony because according to her,

self-love is the purest form of love and since no man has proposed or gotten married to her, there is no other choice.

Interestingly all the various groups above are supposedly married and a family. They are consciously preserving or protecting their marriages/family and within this context, they are exercising their rights and freedom. The question then is, are they really married or a family. And if yes, are they entitled to their right and freedom?

Conclusively, there are several aberrations to the concept of marriage and family. In terms of protecting the family, we have to firstly appreciate the true meaning of marriage as taught by the Church Magisterium. Its purpose and aims as designed by the creator. The Roman Catholic Church teaches without equivocation that; "The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life, is by its nature ordered towards the good of the spouses and the procreation and education of offspring."²⁰

Furthermore, the Encyclical *Guadium et spes* summed up the church's expectation on us thus; "The well-being of the individual person and of both human and Christian society is closely bound up with the healthy state of conjugal and family life".²¹ The true meaning of rights and freedom must be conceptualized and understood. Proper understanding must be followed with a corresponding application within the context of marriage/family.

References

1. Hornby A.S et al (ed). *Oxford Advanced Learners Dictionary*. New York. Oxford University Press, 1998, p.932.
2. "Collins English Dictionary" Complete and Unabridged 2022 digital ed., William Collins and Sons Co. Ltd. in "<https://www.dictionary.com>", accessed, 8/2/2023.
3. Etymological derivation of marriage from old English, Latin and French word (Paraphrased)
4. Marriage, in the Encyclopedia of World Problems and Human Potentials, Accessed, 6/3/23.
5. *Catechism of the Catholic Church...* (First edition, Paulines Publications) Article 7, 1994, p. 394.
6. *The African Bible*, edited by Victor Zinkurature et al, Paulines Publications, Africa, 1999
7. *Catechism of the Catholic Church...* 394.
8. Family: The Meaning, Features and Functions, www.yourarticle.library.com, Accessed 6th March, 2023.
9. Chigozie Nwagbara, "The Concept of Rights – To Be or Not To Be", in *International Journal of Business and Law Research*, 3(3) 66-71, July- Sept. 2015, in www.sealipaj.org, accessed, 6th March, 2023.
10. Jan Garret, "The concepts of Rights", Revised: February 19,2004. Accessed, 6th March, 2023.
11. Freedom @ www.vocabulary.com, accessed, 2/2/23.
12. Nikola et al., "The Freedom As a Fruit of Individual Liberty: Operationalization of Liberty and Demystification of Freedom; *Journal of International Affairs*, vol. 2, No. 1, 2016, p.29.
13. Universal Declaration of Human Rights, (UDHR), Article 16 www.un.org/en/about-us/universal-declaration.of-human-rights#, accessed 27-03-2023.
14. "Protection of the family': What it means for human Rights"; in <https://www.awid.org/news-and-analysis/protection-family-what-it-means-human-rights>, retrieved 6/6/2023
15. *The Challenges of Family Life*, produced by Community Life project. Lagos, Nigeria. P.3
16. Pope Paul VI. *Humanae Vitae*, Akure: Reprinted by Don Bosco Training Centre 1968, p. 9
17. Hemant More, "Introduction to Legal Rights" in <https://thefactfactor.com/> 27/03/2023.
18. Hemant More...
19. Rudolf Steiner; "Rudolf Steiner's Path to Freedom", in <https://philosophyoffreedom.com/page/path-to-freedom>, retrieved 7th June,2023.
20. *The Catechism of the Catholic Church*, p.394.
21. *Gaudium et spes*, 47, paragraph 1