

The Sacrament and the Statute: Pastoral Challenges in Promoting the Family Institution in the African Context “What God has Joined Together, Let No One Separate” — Matthew 19:6

Fr. Emmanuel Jongwe

Zimbabwe Catholic Bishops' Conference, Zimbabwe

DOI: <https://doi.org/10.51244/IJRSI.2026.1304000065>

Received: 07 April 2026; Accepted: 14 April 2026; Published: 30 April 2026

INTRODUCTION

Marriage is one of the most complex institutions in human society. The Church recognises marriage as a sacrament, a sacred covenant instituted by God. It was elevated by Christ to a sign of His own union with the Church and governed by divine and Church Law. Civilly, marriage is recognised as a legal contract between two persons, governed by the state and dissoluble according to its terms. This distinction brings some pastoral challenges. These challenges include less value being given to the sacramental marriage because couples believe they have “security” with the civil marriage. In civil circles a marriage can be dissolved by the court; the court cannot force people to remain in their marriage if they do not see it workable. The civil law does not wrong anyone by doing so. It operates in its proper sphere, as Canon 1059 rightly acknowledges. The pastoral problem arises, however, when Catholics internalise the civil law’s contractual understanding of marriage as the whole story. As Nzekwe and Iroegbu (2010) rightly observe, the African understanding of marriage has always carried something of the covenantal character that the Church affirms, a bond between families, communities and the living and the dead.

Canon 1055 captures the Church’s vision with precision: marriage is a covenant by which a man and a woman establish between themselves a partnership of the whole of life, ordered to the good of the spouses and the procreation and education of children and raised by Christ to the dignity of a sacrament between the baptised. The Second Vatican Council, in *Gaudium et Spes* (1965, n.48), deepens this understanding by describing the marital covenant as a “community of life and love” willed by God himself, sealed by a mutual and irrevocable gift of self. Pope John Paul II, in *Familiaris Consortio* (1981, n.11), further affirms that Christian spouses are not only a sign but a participation in the covenant love of Christ for his Church. It is this covenantal depth that the contractual framework of civil law cannot contain, and it is the pastoral task of the Church to help the faithful understand the difference.

Two Legal Worlds: Church Law and the Marriages Act [Chapter 5:17]

Some Catholics who marry in Zimbabwe simultaneously inhabits two legal universes. On the one hand, the statutory law governed by the Marriages Act [Chapter 5:17] and related statutes like the Matrimonial Causes Act [Chapter 5:13] and the Administration of Estates Act [Chapter 6:01]. On the other hand, the Church law, governed by the Code of Canon Law (1983). These two legal worlds govern the same lay faithful.

The state is concerned with the civil dimensions of marriage: property rights, inheritance, maintenance, the legal status of children, and social order. In practical terms, this means that when a couple marries under the Marriages Act [Chapter 5:17], the law immediately governs what happens to their property if the marriage dissolves, who maintains the children, who inherits the estate of a deceased spouse, and what rights each party may assert against the other before a civil court. The Matrimonial Causes Act [Chapter 5:13] provides the procedural framework for the dissolution of marriage and the distribution of assets, while the Administration of Estates Act [Chapter 6:01] determines the inheritance rights of a surviving spouse. The state’s concern is, in short, the ordering of temporal affairs and the protection of the vulnerable within the marital relationship.

The Church, while concerned primarily with the sacramental dimensions of marriage, also provides for the accommodation of civil marriage laws that are not contrary to Gospel values, the Magisterium, Church law, and the social teaching of the Church. For example, a Catholic priest who is designated as a marriage officer under the Marriages Act [Chapter 5:17] may solemnise a civil marriage in church in the same celebration as the sacramental marriage. The requirements of civil marriage, in this respect, do not conflict with the Church’s teaching: civil marriage requires one husband and one wife, it demands free consent. A civil marriage in Zimbabwe is registered at the Registrar-General’s Office or before an authorised marriage officer under the Marriages Act [Chapter 5:17].

It must be emphasised, however, that being married in a civil ceremony, what is colloquially known in Zimbabwe as *muchato weku* court, is not equivalent to receiving the sacrament of matrimony. This is a confusion frequently encountered in pastoral practice: a couple who has married before a magistrate comes to the parish and asks the priest simply to “bless” their marriage, as though the blessing would render it sacramental. In the eyes of the Church, this is not possible. The canonical form required by Canon 1108 is different from and additional to civil registration. A couple married only civilly has not yet received the sacrament of matrimony and, consequently, may not receive Holy Communion on the basis of a civil marriage alone, as their canonical situation remains irregular in the eyes of the Church. They must come forward for a canonical celebration, not merely a blessing.

The two systems are not rivals but parallel jurisdictions governing different aspects of the same reality, as Canon 1059 rightly acknowledges. The pastoral challenge is that couples who first obtain a civil marriage often do not understand this distinction. A further pastoral difficulty is that some couples, once civilly married, are reluctant to proceed to the canonical celebration, citing the cost and the public nature of a church wedding. The Church, it must be clarified, does not require elaborate or costly ceremonies. What is required is the observance of canonical form: the presence of a priest or deacon and two witnesses and the free exchange of consent by the parties in accordance with Canon 1108. The canonical celebration need not be a great social event. Gradually, however, the “blue certificate” of the civil marriage has been losing its prominence in the consciousness of some Catholic communities, and there is an urgent need for strong and sustained catechesis on the irreplaceable value of the sacrament of matrimony.

A case that illustrates the pastoral stakes is that of a priest who was invited to bless the marriage of a couple who had already registered a customary law union. Under the Marriages Act [Chapter 5:17] and the customary law framework, such a union is potentially polygamous. The question immediately posed is what it means to “bless a marriage” in this context. The answer, canonically, is that a blessing of an existing customary union does not transform it into a sacramental marriage. To make the situation more complex, a registered customary law union cannot simply be transformed into a canonical marriage by the addition of a blessing or a liturgical ceremony. What is required is a new celebration in canonical form, either a convalidation under Canon 1160 or, where the renewal of consent is impossible or inadvisable, a radical sanation under Canon 1161 granted by the diocesan bishop.

The Marriages Act [Chapter 5:17] recognises four broad categories of union: civil marriages, customary law marriages (registered and unregistered), and civil partnerships. The Church recognises one valid form of marriage for Catholics, the canonical celebration in accordance with Canon 1108 (or, in exceptional circumstances, a dispensation from canonical form). The table below maps the key differences between these systems and their pastoral implications.

Issue	Canon Position	Law	Marriages Act [Ch. 5:17]	Pastoral Implication
What constitutes marriage	Free consent of the parties (Canon 1057)	personal of the (Canon	Solemnisation, registration or recognition under the Act (s.2)	Civil marriage: compatible. Customary union: tension between consent and roora.
Nature of the	Covenant	—	Contract — dissoluble by	Fundamental conflict: the Church

Issue	Canon Position	Law	Marriages Act [Ch. 5:17]	Pastoral Implication
bond	permanent, irrevocable, exclusive (Canon 1055)		court order (s.45)	says covenant; the state says contract.
Dissolution	Impossible once ratified and consummated (Canon 1141)	once and	By court order; civil divorce available to all (s.45)	Civil divorce has no canonical effect on a valid sacramental marriage.
Polygamy	Absolutely prohibited (Canon 1056)		Permitted under customary law unions (ss.3–4)	Irreconcilable. A polygamous union is canonically impossible.
Roora Lobola /	No canonical role; consent makes marriage, not payment (Canon 1057)	makes not	Not required for civil marriage; central to customary unions	Reconcilable if roora is understood as sign, not cause, of the union.
Canonical form	Required for validity — Canon 1108	for — Canon	Not required; civil registration suffices	Catholics must satisfy canonical form regardless of civil registration.
Civil partnerships	Canonically equivalent to adultery when entered alongside an existing marriage	to when alongside an existing	Recognised for property purposes alongside existing marriages (s.41)	Acute conflict. The Act legitimises what canon law prohibits.
Unregistered customary unions	Not canonical marriages; require convalidation for regularisation	canonical marriages; require convalidation for regularisation	Recognised for limited purposes: guardianship and succession	A Catholic in such a union is not canonically married.
Minimum age	Canon 1083: 16 men, 14 women; Zimbabwe effective minimum: 18		18 for all — universal (s.3)	Consistent. No conflict.

The pastoral implication of this comparison is immediate: when a Catholic couple presents for marriage preparation, the priest must establish clearly which framework governs their current situation, whether any prior unions exist on either side and what steps are required to ensure that the canonical celebration is indeed a valid canonical marriage. This is not bureaucratic formalism. It is, in the words of Pope Francis in *Amoris Laetitia* (2016, n.211), an act of genuine pastoral charity, a love that does not abandon people but accompanies them towards the fullness of sacramental life.

Civil Divorce and the Indissoluble Bond

Marriage becomes very complicated when the love between a couple is broken. In civil circles, the parties need not agree mutually to dissolve the marriage; one party may petition the court for divorce and love cannot be compelled by law. The civil framework does not force anyone to remain in a marriage they regard as

unworkable, and Section 45 of the Marriages Act [Chapter 5:17] provides that no marriage shall be dissolved except by order of a court of competent jurisdiction. Civil divorce has real and important consequences: it governs the sharing of property accumulated during the marriage, determines maintenance obligations and resolves the guardianship and custody of children. In this respect, the civil law serves a genuine protective function, particularly for the more economically vulnerable spouse.

The Church, by contrast, brings all of its pastoral resources to bear in support of a marriage that is in danger of breaking down. This includes the sacraments, particularly the Eucharist and the sacrament of reconciliation, spiritual direction, marriage counselling, prayers and where culturally appropriate, the involvement of family elders and traditional structures of conflict resolution. The Church does not abandon a struggling marriage to the civil courts; it accompanies the couple with patience, prayer and pastoral care, trusting in the grace of the sacrament that was received on the day of their wedding.

There are, however, special circumstances in which the Church can declare a marriage null. A declaration of nullity, commonly but imprecisely called an annulment, is not a dissolution of a valid marriage. It is a juridical finding by an ecclesiastical tribunal that the marriage, despite its apparent celebration, lacked from the very beginning some essential element required for canonical validity. Canon 1095 specifies that a marriage is invalid if either party lacked sufficient use of reason, lacked the discretionary judgement necessary to assume the essential rights and duties of marriage, or was psychologically incapable of fulfilling those duties. Canon 1103 provides for nullity on the ground of force or grave fear, a provision of particular pastoral relevance in the African context, where the pressure of family expectation, roora negotiations, and communal obligation may in some cases compromise the freedom of consent that the sacrament demands. Canon 1101 addresses the ground of simulation, where a party excludes marriage itself or one of its essential properties by a positive act of the will. These are among the most commonly invoked grounds for nullity in the African pastoral context (Kasper, 2014; Örsy, 1994).

Canon 1141 is unambiguous in its teaching: a ratified and consummated sacramental marriage cannot be dissolved by any human power or for any reason other than death. A civil divorce obtained under the Marriages Act changes the civil status of the parties; it does not and cannot alter their canonical status. A Catholic who has obtained a civil divorce remains, in the eyes of the Church, canonically married to their original spouse, and is not free to enter a new canonical marriage without a declaration of nullity from an ecclesiastical tribunal. This distinction, between civil dissolution and canonical indissolubility, is among the most frequently misunderstood in the pastoral context and must be addressed clearly, compassionately, and consistently in catechetical formation. As Kasper (2014) and Schillebeeckx (1965) both affirm, the Church's insistence on indissolubility is not a refusal of compassion but its highest expression, a refusal to abandon the faithful to the illusion that what God has joined may be dissolved by a court order.

Pastoral Solutions and the Way Forward

Education and Formation

The pastoral challenge is one of formation: the majority of the laity do not understand complex landscape of civil, customary and canonical marriage without a clear understanding of how these three marriages relate to each other. The result is a widespread canonical irregularity that excludes many faithful from the full sacramental life of the Church, not through bad will but through ignorance. Couples who have married only civilly or only customarily and who have not proceeded to the canonical celebration, find themselves unable to receive Holy Communion and uncertain of their standing in the Church. This situation calls for a response that is both doctrinal and pastoral in character.

The most urgent pastoral need is robust and accessible marriage education, not only for engaged couples in formal catechetical preparation and ongoing formation courses. This formation must be genuinely inculturated: as Nzekwe and Iroegbu (2010) and Magesa (1997) both insist, marriage education in the African context must engage honestly and respectfully with customary practices rather than dismissing them, while clearly articulating where those practices require canonical complementation or correction. Parish catechists, marriage

preparation teams, and family life committees must be trained and equipped to deliver this formation at the grassroots level, in the language and the cultural register of the communities they serve.

Accessible Tribunals

The pastoral challenge here is one of access and justice. The new legislative landscape created by the Marriages Act [Chapter 5:17], which recognises previously unprotected unions, tolerates civil partnerships alongside existing marriages and provides for civil divorce, will generate an increased number of situations in which Catholics in canonically irregular unions seek declarations of nullity in order to regularise their status and access the full sacramental life of the Church. Many of these faithful are people of limited means, living in rural or peri-urban communities far from diocesan pastoral centres, without the financial resources or the legal literacy to navigate a complex canonical process. If the tribunal is effectively inaccessible to them, the Church's promise of pastoral accompaniment rings hollow.

The Zimbabwe Catholic Bishops Conference tries ensure that its marriage tribunal is adequately resourced, geographically accessible and equipped with the cultural and linguistic competence to handle the specific challenges arising from customary union cases, consent under roora conditions and the new landscape created by the Act. Mobile tribunal services, trained parish-level advocates and clear accessible information about the nullity process in local languages are all practical steps the Church can take to bring the tribunal within reach of ordinary faithful. As Örsy (1994) observes, justice delayed is frequently justice denied, and in the canonical sphere the cost of a delayed nullity process is paid in the sacramental lives of the faithful.

The Priest as Marriage Officer: A Dual Ministry

Priests who are marriage officers should understand and embrace the dual character of their role as ministers of the sacrament and as officers of the civil law. This dual ministry allows the Church to speak to the concrete civil realities of the couples in its care, to provide both sacramental grace and civil security and to demonstrate that the Church takes seriously both the spiritual and the temporal welfare of the families it serves. The couple who leaves the church after a canonical celebration officiated by a priest who is a marriage officer receives not a choice between God and the state but both together, in a single act of the Church's generous and comprehensive care for the family.

This dual role must be understood not as an administrative convenience but as a pastoral opportunity. It is an opportunity to ensure that every canonical marriage celebrated in Zimbabwe is also a registered civil marriage, giving the spouses the full protection of the law alongside the grace of the sacrament. Priests should be proactive in making couples aware of this possibility and in encouraging them to complete both the canonical and the civil requirements in a single celebration, rather than treating the civil and sacramental aspects as separate events requiring separate ceremonies. In doing so, the priest gives practical expression to the Church's conviction, stated in Canon 1059, that the two jurisdictions governing marriage are not rivals but complementary authorities, each serving the good of the same human persons in its own proper way.

CONCLUSION

The Marriages Act [Chapter 5:17] has created a more complex pastoral landscape for the Church in Zimbabwe than the one that preceded it. There is still much darkness in this landscape: confusion about the fundamental nature of marriage as a covenant rather than a contract; widespread misunderstanding of the effect of civil divorce upon the indissoluble sacramental bond; growing legal tolerance for civil partnership arrangements that the canonical tradition cannot recognise; and the persistent perception among some of the faithful that civil legal security is a more reliable foundation for a marriage than the covenant sealed by God himself. At the same time, legislation has force and effect. The Church cannot ignore the Marriages Act [Chapter 5:17]. It must engage it with intelligence, accompany its faithful through its complexities with pastoral charity, and hold firm to its sacramental teaching with the clarity and courage that the truth demands.

The sacrament of matrimony is not at the mercy of the statute. No legislation can dissolve what God has joined, no court order can alter the grace of the sacrament and no act of Parliament can diminish the dignity of

the covenant that Christian spouses are called to live. And it is in that truth, proclaimed clearly, compassionately and without compromise, that the Church finds both its pastoral challenge and its pastoral hope.

“For I am convinced that neither death nor life, neither angels nor demons, neither the present nor the future, nor any powers, neither height nor depth, nor anything else in all creation, will be able to separate us from the love of God that is in Christ Jesus our Lord.” Romans 8:38–39.

REFERENCES

Church Documents and Magisterial Sources

1. Code of Canon Law (1983). Canons 1055–1165. Vatican City: Libreria Editrice Vaticana.
2. Francis, Pope (2016). *Amoris Laetitia: Post-Synodal Apostolic Exhortation on Love in the Family*. Vatican City: Libreria Editrice Vaticana.
3. John Paul II, Pope (1981). *Familiaris Consortio: Apostolic Exhortation on the Role of the Christian Family in the Modern World*. Vatican City: Libreria Editrice Vaticana.
4. Second Vatican Council (1965). *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World*. Vatican City: Libreria Editrice Vaticana.

Books and Academic Works

1. Kasper, W. (2014). *The Gospel of the Family*. Mahwah, NJ: Paulist Press.
2. Magesa, L. (1997). *African Religion: The Moral Traditions of Abundant Life*. Maryknoll, NY: Orbis Books.
3. Nzekwe, B. and Iroegbu, P. (2010). *The African Philosophy of Marriage and Family*. Lagos: Olusegun Press.
4. Örsy, L. (1994). *Marriage in Canon Law: Texts and Comments, Reflections and Questions*. Wilmington: Michael Glazier.
5. Schillebeeckx, E. (1965). *Marriage: Human Reality and Saving Mystery*. London: Sheed and Ward.

Legislation

1. Administration of Estates Act [Chapter 6:01] (Zimbabwe).
2. Marriages Act [Chapter 5:17] (Zimbabwe, 2022).
3. Matrimonial Causes Act [Chapter 5:13] (Zimbabwe).