

MARRIAGE IN KANT, HEGEL AND AFRICAN TRADO-CULTURAL PESRPECTIVES

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Abstract

This paper attempts to analytically synergize the concept of marriage within the philosophies of Kant, Hegel and traditional African culture, for which marriage is an essential aspect of life. In Kant's perspective, marriage is a legally binding process of acquiring property that involves the transfer of possession from one person to another based on promise and acceptance. The promises of the parties confer contractual agreement that makes the right against one another possible. Conversely, Hegel claims that marriage is nothing but a contract that entails giving up one's identity; a situation whereby each person in marriage renounces his or her individual self in favour of joining a new personality. Kant was challenged by Hegel's assertion that marriage is a contract, noting that such interpretation is undesirable because contract is merely an agreement, which is unlikely in the situation of marriage. However, whereas there are a lot to be learnt from Hegel and Kant on the notion of marriage, the paper argues that the appropriate understanding of marriage can be founded in traditional African culture, where marriage entails the coming together of man and woman as a pair to complete each other as complimentary personalities.

Keywords: marriage, African culture, contract, identity, complementary personality.

Introduction

The institution of marriage has different perceptions in different cultures, yet it faces similar challenges. Despite the passage of civilizations that have continued to transform the lives of so many people, cultures and traditions that make up our population. We are still unable to resolve the issues that are connected to marriage in modern society. Although the obstacles are immense, giving up altogether would be uncharitable. What is right is to examine resolutions to marriage, which

would include look into why marriage has faced such severe challenges and difficulties to the point where people are no longer at ease talking favourably about it and getting married in general. It would also involve examining why marriages fail. In addition, there are more and more unauthorized unions occurring. It is unclear how widespread this trend will be in the future or how society will handle it. In African system, marriage is a unification of two different souls into one soul and such unification is a sort of transition of personality to a new personality. It goes beyond a mere contract; it is a unification of families and communities and a partnership between a man and a woman to raise children who are acknowledged as their own. The Africans see marriage as a spiritual union or covenant, and a social institution whose essence is basically procreation, companionship, and complementarity (Ngihbi and Elechi, 2022, p.228).

Marriage is an agreement between two parties whereby both parties grant the other equal rights and agree to give their entire selves to the other, giving each party full access to the other's entire being (1996:388). In marriage, each spouse promises to submit his or her entire selves, including the physical selves, to the other's ownership under the condition that the other will do the same. Each participant acquires a right over the other person as a result of the mutual submission of personhood. This privilege extends to freely and willful spousal allowance of one's body for sexual enjoyment. The importance of mutuality is crucial in marriage. Marriage prevents the degradation of mankind because, despite giving myself up as someone else's property, I reclaim possession of myself. When I consent to marriage, I simultaneously dispose of and reacquire my entire person, for I gain the person to whom I gave myself as property (Kant, p. 388). Marriage is the only circumstance in which one can morally dispose of oneself because one repossesses his entire person in marriage (Kant, p.278). This common will is temporary and mediated between the two property owners.

There is also another view that marriage is a contract, which accounts for the possibility of gaining property. Hegel claims that the marital relationship between people created for the purpose of exchanging property constitutes the reason why marriage is a contract (1999, p.75). Common-will or 'Unity of Will' defines this partnership. Hegel argues that this 'Will' is only considered to be unified insofar as the parties in marriage 'Will' the same thing, despite the fact that they relinquish their difference and distinctiveness as individuals when they create a contract. There is no significant distinction between Hegel and Kant's views on marriage.

For Kant, marriage makes it possible for there to be claims over the other party especially when commitments are mutually acknowledged, or for Hegel, when the terms of the contract or agreement are agreed upon. In both situation, the joint agreement of the parties is expressed in a common will that dissolves upon the delivery of the items agreed upon, and it is this common will that gives rise to the specific rights. This paper examines the notion of marriage within the philosophies of Kant, Hegel and the traditional African culture.

Kant on the Notion of Marriage

Marriage is the union of two persons of opposite sex for life-long reciprocal possession of their sexual faculties. Kant sees marriage as an ideal relationship, characterized by perfect equality and reciprocity in the surrender of the two spouses' lives and happiness to each other. People can practice their sexuality in this safe environment without turning into objects of use. It is possible to view having children as always being nature's goal in imbuing both sexes with a desire and an inclination toward one another. However, for Kant, it is not necessary for marriage to be contracted based on the intention of having children, as the marriage would dissolve on its own if the childbearing stopped. Even if one accepts that enjoying one another's company while engaging in sexual activity is the end of marriage, the agreement to get married is still required by human nature and not based on arbitrary will (Kant, 1964, p. 95). To put it in another way, if a man and a woman have the desire to engage in sexual activity that is complementary to one another, they must necessarily be married. This requirement follows the principles of pure reason (Kant, 1956, p.xi).

The natural enjoyment arising from sexual engagement is such that one party gives up to the other. In this relationship, turning into an object, which is against the nature of mankind as an individual. Marriage makes it possible for a person who is acquired by the other as an object to also acquire the other equally and reciprocally, regaining and reestablishing the rational personality in the process. The acquisition of a portion of the human organism entails the acquisition of the entire person because of its unity. It follows that the condition of marriage is not only necessary for the surrender and acceptance of one sex in relation to the other. It is also the only circumstance in which it is actually possible. But the personal right so acquired is also real in kind, and this feature is established by the fact that if one of the married individuals runs away or takes possession of another, the

other is entitled, at any time and without question, to return such an individual to the previous relationship as if that individual were a child (Riley, 1983, p. 32).

The relationship between married people is one of equality with regard to the shared ownership of both their persons and their possessions. Marriage, according to Kant in his *The Science of Rights*, can only be fully realized in monogamy, because in a polygamous relationship, the person who is given away on one side obtains just a portion of the person to whom they are given up, and as a result, becomes a mere item. They each have the right to renounce the use of any component of their commodities. Gilson writes that the new natural law theory of marriage emphasizes the benefits of marriage rather than the lawful expression of sexual characteristics as emphasized by Kant (2002, p. 219). Here, it is assumed that marriage is the only institution that ensures both spouse are actively involved in the process of producing and raising children (Beever, 2013, p. 63). The idea is that there is a special marital benefit connected to sexual powers that consists in procreation and fides and can only be realized in marriage. Sex can be had in marriage if it is for the benefit of the union, which is for pleasure and procreation. It suffices for marital sex to express fides and be open to procreation in order for it to be acceptable. This view does not imply that enjoying sex is immoral because it can be beneficial to a marriage. Sex that occurs outside of marriage, as described here, cannot, nevertheless, be focused on advancing the marital union. Additionally, any sexual activity that is not directed towards this good including same-sex relationships, masturbation, sex while using a contraceptive, and unmarried sex is worthless and does not manifest any fundamental good. Such behaviour is also forbidden since it undermines the fundamental principles of marriage. It is believed that marital sex manifests the benefits of marriage. Non-marital sex, in contrast, is only for pleasure (Beever, 2013, p. 54). In addressing sexual powers in a manner that is at odds with the good of marriage, extramarital sex breaches that good. Even a hypothetical desire to treat sex as an instrument excludes appropriate marital commitment, as does the act of an agent just condoning non-marital sex.

According to Soble, Kant sees sex in a heterosexual, monogamous marriage setting as morally acceptable (2002, p.51). Any sexual behaviour that does not fall under these categories is immoral, including homosexuality, masturbation, adultery, and premarital sex. Kant's views on sex are based on his Second Formulation of the Categorical Imperative, which reads: "act in such a way that you always treat

humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end” (Soble, p.32). According to him, the only human impulse that uses the body of another person as its target of gratification is sexual desire. In order to satisfy his desire, the lover may even drive the loved one to the brink of misery. After having sex, the person is then cast aside like a lemon that has been sucked dry, showing how little concern they have for each other's happiness (Soble, p.15). Being moral requires considering people as full beings, but sexual urges lack this. Hence, when we have sex, we are treating the other person like an object rather than as a whole person, which is unethical. Since sexuality is an inclination for the sex of another person rather than an inclination for another person as such, it is a principle that contributes to the degrading of human nature because it causes people to prefer one sex over the other and dishonour that sex in order to satiate their desires (Soble, p. 250). Contrary to Kant, Soble argues that reciprocity exists while having sex within marriage and both partners are treated as entire people. Sex in marriage takes into account the entire person, not just the genitalia, sexual desire, and pleasure. The acquisition of another through sex in marriage is reciprocal, each individual regains his or her personality and hence does not lose it, after all. When I surrender myself to you and you so acquire me, you likewise surrender yourself to me and I thereby acquire you, which you include the Me that you have acquired, we each surrender but then reacquire (p. 278).

In Kant's view, a contract involves a specific way of obtaining possession that entails transferring of ownership through a single individual to someone (1996, p.271). This requires two conclusory acts namely promise and acceptance (Kant p.272). According to Kant, when we use ourselves or others as merely means or tools to some further purpose, it compromises our or their ability to determine goals of action. These two moral issues are resolved through marriage. However we undermine our own or another's capacity to decide on a course of action, we degrade humanity. Kant believed that having sex involved utilizing our bodies as only a tool to achieve a different objective, namely sexual enjoyment. The capacity we have to create goals-seeking actions is compromised when we use our bodies for sexual enjoyment, and this compromise constitutes a devaluation of dignity.

The first ethical issue with sex is that it includes the lowering of our own humanity. Kant argues that it is morally wrong to use one's own body as a simple tool, yet we must do this in order to engage in sex (p. 423). The degradation of another

person's humanity is the second moral issue with sex. Humans possess a certain impulse called a sexual impulse that is focused on their personal delight of another person (Wilson, 2004, p.115). The lowest kind of love is having sex simply to satiate one's sexual hunger, which entails treating the other person like an object. Having sex entails treating the other person like an object, even when it occurs between people who truly care about one another, it is still sinful. In a nutshell, in the view of Kant, regardless of whether the two components of genuine affection and the fundamental sexual craving exist, the act is still motivated by the appetite and not by the genuine affection.

Hegel on the Idea of Marriage

Marriage continues to be a social, legal institution, especially for the idea that this identity would be able to shape the polis as opposed to simply being dictated by it (Hegel, 1995, p. 73). Marriage is the immediate foundation of Hegel's ultimate vision of society as a whole inasmuch as it encompasses the most deeply felt sense of belonging that we encounter in our everyday interactions with others (Wood, 1990, p.158). Hegel thinks on how culture cultivates, and mediates the natural substance of sexuality. We no longer only make love to reproduce as humans. We engage in a difficult process of courtship and marriage through which sexuality expresses the spiritual connection between a man and a woman. The innate want to reproduce has been replaced with an urge that, when unable to achieve its intended result (reproduction), erupts into an endless, legitimately metaphysical passion. In other words, domesticating an appropriately unnatural excess of the metaphysical sexual passion is what the becoming-cultural of sexuality actually is not the becoming-cultural of nature.

Hegel's philosophy of marriage makes plain the limitations of his conception of sexuality. Marriage begins with a contract; it is a contract to go beyond that contract, which is the position from which people are seen in their uniqueness as self-sufficient units (Arel, 2020, p.166). It is an ethical identification of persons, wherein the family is transformed into a single person and its members are transformed into its accidents (even though substance is fundamentally the relationship of accidents to itself). It is obvious how Hegel views marriage as "a contract to transcend the standpoint of contract While a contract is an agreement between two or more autonomous individuals, where each party retains their abstract freedom (as is the case in the exchange of goods), marriage is a peculiar contract where the two parties are required to specifically forego and surrender

their autonomy and abstract freedom in order to submit to a higher organic ethical unity (Hegel, 1999, 201-3).

Hegel disagrees with Kant's contractual interpretation of marriage. According to Brooks, in Hegel's statement, "marriage does not constitute an agreement insofar as its crucial underpinning is understood" (Brooks, 2007 p.163). In fact, he displays outright disgust at the idea that marriage is a form of contract. Marriage cannot be subjugated under the umbrella term of contract. According to Hegel, approving a marriage is equivalent to giving up one's identity. The parties consent to constitute an entity and offer up his inherent and distinct personalities throughout such union when they get married (Hardimon, 1994, p.162). Marriage takes a personality or instantaneous inclusive personality that integrates and completely gives up itself to this partnership to be married. The agreement reached in marriage, according to Hegel, is a commitment to the unfettered submission by both partners of their individuality (Brooks, p.168).

In marriage, both partners renounce their individual self in favour of joining a new persona. The goal is not to take on the other's interests and views at the expense of one's own; this change does not imply that I give up my personality and adopt theirs. Instead, because we both make up a new person, we both start to identify with and set goals for this new person as the unique individuals we are. The subservience of sexuality is also a requirement for marriage acceptance. The reality of marriage is determined by the solemn statement of the partners' decision to enter the moral bond of marriage, as well as its accompanying acknowledgment and affirmation by their family and community. Even though the partners may view this ceremony as little more than bureaucratic formality, it actually enacts the inscription of the sexual bond into what Lacan refers to as the "big Other", an inscription that fundamentally alters the concerned parties' subjective positions. The well-known phenomenon that married people are more attached to their spouses than it may seem (including to themselves) is explained by this. A man may have illicit relationships and may even dream of leaving his wife, but his worry keeps him from acting when the opportunity arises. In other words, we are willing to cheat on our partners as long as the *big Other* is unaware of it.

For Hegel, the fundamental aspect of marriage is not sexual attachment but rather the individuals' free choice to become one person and abandon their inherent and unique personalities in favour of this unity with one another (Brooks, p. 106).

Accordingly, their marriage is a self-restriction, but in reality it is their emancipation because they finally develop a meaningful sense of self through it. While a person enters marriage voluntarily, giving up his or her autonomy by integrating into the substantial unity of the family that operates with regards to the outside world as one person, the function of the family is the exact opposite of such a substantial unity, teaching those born into it to forsake (their parental) family and pursue their path alone.

The substance of the bond of marriage is articulated and established beyond doubt as something ethical, lifted beyond the contingency of sentiment and private inclination, in the real sense of it. Marriage loses its importance if it is seen as a mere exterior formality, a so-called "civil requirement," with the possible exception of serving the aim of edification and attesting the civil relation of the two parties. As a result, it looks like something that is not just uninterested but downright. Marriage ceremony is only seen as a requirement that must come before the parties' complete mutual surrender to one another, but the law forces the heart to place significance on it. Hegel views the fundamental aspect of marriage as not sexual connection but rather the free permission of the parties to become one person and give up their natural and unique personalities in favour of this unity with the other. From this vantage point, their union is a self-restraint, but in actuality, it is their freedom since they are able to develop their substantive self-consciousness through it.

Kant and Hegel on Marriage: A Comparative Analysis

In the context of contract, Hegel asserted that the term "contract" in marriage is exceedingly disagreeable because any contract is only an agreement, which is highly improbable in the context of marriage. At this point, Kant and Hegel disagree with one another. By "contract," Kant does not simply mean social interaction; rather, he meant moral interaction involving duty and promise. Kant was more worried with sex issues because he believed that sex degraded humanity. So, a promise and acceptance on both ends are necessary for moral sexual interaction. Hegel contends that marriage implies a sense of belonging to social life, in contrast marriage for Kant, is created through wedding ceremony because it is crucial to make a public declaration during the wedding ceremony. Hegel further argues that marriage is distinct from contract because it includes a union of wills. A personality changes into a new personality through the marriage

system. Similar to Hegel, it is made clear that marriage is the fusion of two distinct souls into one soul, and that this fusion functions as a kind of personality change.

According to Hegel, living a decent, honorable, and free life entails taking part in various contemporary social institutions and embracing and reaffirming contemporary social duties. Marriage for him, is a component of the individual's integration into civil society, whereas for Kant, marriage is an existential requirement for the survival of the human individual species. Hegel is not comfortable with Kant's individualistic perspective, despite the fact that it is obvious that Kant's seemingly bleak portrayal of marital relations has had a significant influence on him. Hegel's analysis of contemporary marriage provides more emotional solace, but Kant emphasizes gender equality more strongly, while for Hegel, the concept of contract cannot be applied to marriage (William, 2019 p.248). According to Peperzak, marriage is not a legally binding agreement but can be susceptible to estrangement (2001 p.75). A contract is a commitment to trade "individual visible things" (Peperzak, p.68). However, as we have seen, marriage is an agreement between two people to give up their individual characteristics. Although the partners legally own their distinct personalities as property, they are unable to detach them since a personality is not an autonomous, outside item.

However, not exercising control over one's bodily characteristics would constitute slavery. Marriage cannot be properly categorized as a type of contract because the partners are not expected to become spouses by turning against one another. Therefore, the personality sacrifice that marriage entails cannot be the kind of trade-exchange that Kant's conception of marriage would have us believe. Another important point against marriage as contract is that, unlike a contract, marriage results in a change in one's self-identity. Marriage is not a contractual relationship insofar as its fundamental base is concerned. To experience a self-consciousness of one's identity inside this cohesiveness, so that one participates in it not as a separate individual but as a member, is the foundation of a marriage. Marriage therefore is not an agreement since the shared will it creates is based on transcending the sense of separate recognizing oneself that we use to enter into and exit contracts. Introducing an affectionate attitude or correctly conscientious love, a marriage is able to acquire this novel sense of participation, but not in a contract (Brooks, p.161). When two people are married, their shared love and concern for one another unifies their personalities. Hegel claims that the ethical aspect of marriage includes in an understanding of this intersection as a significant

final destination, thus resulting in love, trust, and sharing of the whole of individual existence. This refers to a kind of consciousness as a disposition of the right attitude (Wood, p. 163).

The renunciation of characteristics that makes up marriage explains the perceived shift in character from one that is driven by the unique requirement of the single individual and selfishness to one that is driven by care and acquiring for a collective objective. However, one's attitude towards the other party is irrelevant for the purposes of the contract. How they feel for one another, the parties to a contract are acting primarily in their own interests and will continue to do so. This means that contract obligates each person to carry out his or her own transaction pact without necessarily creating a shared desire amongst those bind by the contract. Shared desire is only truly common inasmuch as it reflects all party's self-interests. In a nutshell Hegel sees at least two significant differences between contract and marriage. First, marriage does not entail the type of trade-exchange that is typical of contractual relationships, namely the exchange of things that may be taken away. Second, a loving community disposition replaces the contractual, self-interested disposition after marriage.

African Trado-cultural Perspective of Marriage

Marriage is a very important element of African ontology. Africans believe that there is a connection between marriage and family in the sense that without marriage there is no family. They believe that marriage provides stability and structure within societies by acting as the cornerstone of family structures. Family defines the guidelines for bringing up children and transferring cultural norms and customs to succeeding generations, ensuring the continuity of culture's heritage. Marriage unites people and families, and promotes societal cohesiveness. It fosters connection among communities by fortifying social networks and linkages that serve as the foundation for kinship and extended family ties. That a man and woman are attracted to one another is not what matters. What matters is that marriage brings families and communities together. It genuinely fosters kinship in Africa by forming a social, spiritual, and traditional legal fraternity of individuals.

Marriage is a sacred institution in Africa that is not exclusively that of the intending couple, or basically a family and community affairs but one that also involves the ancestors of both the families of the bride and the groom. It is a very

strong unifying force between families and communities. It is the focus of existence, the meeting point of all members of the family – the dead, the living and even those yet unborn. It is a drama in which everyone is an actor or actress, and not a spectator (Mbiti, 1969, p.133). African traditional marriages are rooted in African cultures, rituals and serve as a symbol of the morals and customs of families and communities or groups in Africa. Bride price payment is one of the rituals that consummates and enables a groom to genuinely gain custody of the children produced from such marriage. The bride price can be withdrawn or refunded if the marriage is to be terminated. Africans love, but in African traditional society, marriages were not necessarily founded on love, but on responsibility. According to Akingbemi, Africans believe that before marriage takes place between their sons and daughters, the intending couple must understand the implication of it, that it is neither a bed of roses, a trial and error nor a place where irresponsibility is condoned. This understanding makes it almost impossible for divorce to be conceived unlike what obtains in contemporary times. Divorce was considered a taboo and a shame to the couple for not enduring to keep their marriage. African traditional marriages were founded on hard work, respect, and total adherence to the cultural values and standards of the authentic African society (Ngihbi and Elechi, p.225). It was unacceptable for a husband, the head of the family to be idle, lazy and unable to provide for his family. The place of sex is also very important in African traditional marriage and society. This explains why keeping one's virginity as a woman before marriage is highly cherished and appreciated while infidelity for a married woman is disdained and sacrilegious. However, African traditional society allows for polygamy, which requires one man to have many wives.

Progeny is very important in African traditional marriage. Marriage and child-bearing are tied together in such a way that marriage can be dissolved on the ground of childlessness. Childlessness in marriage is worrisome and viewed as a curse (Ngihbi and Elechi, p.228). This "misfortune" situation denies the couple the opportunity to contribute to the population of their family and community as well as the perpetuation of their lineage. Africans believe in the perpetuation of their lineage, which is what Mbiti calls "personal immortality": the need for one not to allow his name to die. This explains why Africans value the male child more than the female child. The male child answers his family name in marriage but the female child is required not to do so, but to answer the name of the new family she is married into. Besides the perpetuation of one's family, child-bearing is

considered a priceless asset in the areas of assisting parents with house chores, errands, farming and in caring and providing for them when they are old.

The birth of a child turns the union of a man and a woman based on sexual relationship into a family. The family is itself a small society, and the foundational composition and existence of all societies, nation and state (Yong 2021, p. 72). The family is the primary institution at the base of our existence as human beings. Through sex in marriage, there is a transition of personality to a new personality. In African system, we find that marriage is the unification of two different souls into one soul and such unification is a sort of transition of personality to a new personality. It goes beyond a mere union; it is a partnership between a man and a woman to raise children who are acknowledged as their own (Nkwi 2021 p.2). Africans believe that living a decent, honorable, and responsible life entails taking part in various contemporary social institutions, embracing and reaffirming social duties. They see marriage as a component of the individual's integration into civil society. The family is seen an institution based on marriage. It is impossible in a large society to legislate correctly for the family unless the rights and duties which go with marriage is correctly defined. The family has the structure of a society, in which the father, and the mother - each in his or her own particular way - both exercise authority, while the children are subject to that authority. Marriage is a union and a community of two persons and their families.

Africans see marriage more as an essential component of the human individual species' ability to survive (Yong p. 6). It is therefore a societal responsibility. Marriage and childbirth, as pointed out above, are used to conserve, spread, and perpetuate humankind for as long as human society exists. Africans also allow life to expand horizontally and vertically. As a result, marriage and having children are the main priorities in life, just as man is the center of the universe (Nkwi 1974 p. 6). The reason for all marriages and unions, even heterosexual ones, is the abundance of life, and this is why many different types of unions are permitted by African religion. These forms all serve to preserve and prolong life, provide for ritual fecundity, and facilitate physical and ritual procreation, even when they are situated within specific social economic contexts, such as social prestige or the assurance of hands to work the fields (which motivations are always present, given the unity of life (Magesa 1998, p.128).

Marriage in Africa carries significant traditional, cultural and financial implications. It has impact on property ownership, inheritance rights, and shared financial obligations between spouses. Certain rights and benefits are guaranteed by traditional recognition of marriage, preserving the welfare of partners and their children. Marriages frequently reflect and uphold cultural gender-role expectations. Broader gender dynamics in society can be significantly impacted by cultural attitudes about the responsibilities of husbands and wives in marriages. A person's social standing and reputation in their community can be greatly impacted by the institution of marriage. According to Nkwi, in his *Kinship and Marriage among the Kom People of the Tikar Dynasty*, marriage improves the social standing and adds to the appearance of stability in a family or society, which affects how people are viewed and appreciated (p.32).

Conclusion

In this paper, we have comparatively explicated the reality of marriage in Kant, Hegel and the African traditional society. It is expected that these understanding will help to provide basic marital principles that will help to reframe the contemporary view of marriage and married life. It must be underscored that marriage is very important owing to the fact that continuity, they say, is more significant than survival. Continuity is the key to existence, and marriage helps people to credibly fulfill this desire. Marriage results in the enlargement of the family, societal status, assurance of continuation and perpetuation of lineage, companionship and complementarity. Marriages must be founded on hard work, mutual spousal respect, and responsibility. It is not a bed of roses, therefore, those intending to go into it are expected to exercise wisdom, courage and patience in responding to its challenges. This is why marriage anywhere in the world should be for individuals who are physically, emotionally, socially, and psycho-mentally matured and balanced.

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