Mixed Marriages in the Light of Ecumenism
Problems and Prospects
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The author (jbidasanbe@yahoo.com) examines here the question of ‘mixed marriages’ or interdenominational Christian marriages where one of the parties is Catholic. He studies the present canonical guidelines in the context of their historical evolution and shows the responsibilities of such marriages in the Church and sees them as potentially fruitful for ecumenism.

Introduction
Because of the divine mandate given to her and because of her own call to self-renewal and interior conversion, the Church must always seek the restoration of Christian unity. To do otherwise would make of the Church a stumbling block to the work of evangelisation for which it was born. Significant theoretical efforts, sometimes theatrical and quite often practical, have been and are still being made to achieve unity. There is for instance, the establishment of the Christian Association of Nigeria (CAN), the annual Week of Prayer for Christian Unity, inter-denominational services, the ecumenical cathedral being built in Abuja, etc.

However there are still some major obstacles on the path to perfect restoration of Christian unity. They range from inter-ecclesial ‘gangsterism’ to an endemic and sometimes pandemic ignorance on the part of the tutors and the ‘tutored’ alike about the true position of the Church on ecumenism.

There is no other context in which the dialectical tension between ‘being’ and ‘not being’ is felt more than in a mixed marriage, especially because of the many variables that it presents to the couple, their families, and the ecclesial community. What then is the correct attitude to mixed marriage in the context of the ecumenical dialogue? What are the gains and what the inherent difficulties? Is there a way out of them? These questions are the subject matter of this reflection.

Ecumenism: A Resumé
In the words of John Paul: ‘Ecumenism is the study of ecumenical dialogue or Christian unity; which includes the ecumenical movement, life, spirituality, charity.’ As a theological discipline, it touches on spiritual renewal, dialogue toward unity, the common mission, the witness in the world and fellowship. It is a theology that discovers that what is common is proportionally much greater than the differences and divergences. All theology has to be taught with due regard for the ecumenical point of view. This is very important especially in seminaries and houses of formation. It needs be said that ecumenism is rooted in the scriptures. It finds its heart in the priestly prayer of Jesus (Jn 17:21), which is a testimony to the orientation of his words, ‘that the world may believe.’ Hence, ecumenism is not an option but a demand of discipleship explained in the context of a prayer. It is the correct way of preaching the Good News. To choose another is to ignore the dictate of the Lord and by so doing one's life becomes scandalous.

The Church calls on all her members to take an active and intelligent part in ecumenism.’ This challenges us to shun isolationism and a slavish imitation of what
happens in other places, and so presupposes an interior conversion, which implies self-denial and unstinted love.**vi** The difficulties met in the cause of ecumenical activity are challenges to be overcome in the spirit of faithfulness to the healthy traditions of the past, creative attentiveness to the signs of the times and openness to the promptings of the Holy Spirit, who inspires, replenishes, recreates, directs and animates us. With this understanding this paper focuses on ‘Mixed Marriages’.

**Mixed Marriages: A Historical Bird's Eye View**
The term *Mixed Marriage* came into use in the 16th century after the Reformation. It made its first appearance in Papal letters, or in the instructions and decrees of the Congregations, where a prohibition was placed under the heading *Matrimonia Mixta* or *Nuptiae Mixtae*.**vii** The term ‘mixed’ is from the Latin ‘*mixtus*’, the passive past participle of the verb ‘*miscere*’, which means to mingle, to mix. In the strict sense the word refers to *religion* rather than marriage. It is the religion of the spouses that is qualified as *mixed* in contrast to purely Catholic marriages. It may be proper at this juncture to quickly underline the difference between ‘mixed marriage’ and ‘mixed religion’ (also known as ‘disparity of cult’). The latter concerns a marriage where one of the parties is not baptised; the former refers to a marriage in which the non-Catholic party is baptised. In mixed marriage the two in the couple are baptised.

The spouses in a mixed marriage share the same faith in Christ through baptism; however, they do not profess the same faith in its full communion. They are united and divided at the same time, hence the ‘mixture’ in their union. This mixture has the potency of weakening the faith of the weaker of the parties and at times may even lead to the total abdication of that faith. This real danger explains why the Church over the years has exercised caution with regard to such marriages and in actual fact forbade such unions without the *express permission of the competent authority*.**viii**

**The 1917 Code of Canon Law**
The 1917 code, popularly called Pio-Benedictine code, attached an impediment to mixed marriage. C.1060 of this code stipulates as follow: ‘The Church everywhere most severely forbids the contracting of marriage between two baptised persons of whom one is a Catholic: whereas the other is a member of a heretical or schismatic sect...’.

It is informative to note the strong words employed in this canon and the qualifications given to the non-Catholic partner. The prohibition is ‘most severe’ and the non-Catholic partner is seen as a member of a heretical or schismatic sect. Much has changed since 1917! The non-Catholic partner who is baptised is now regarded as a member of a Christian Church or an ecclesial community. He/she is no longer a protestant or a separated brother or sister, but a Christian of another faith. The raison d'etre of this strong prohibition is the protection of the Catholic party from the inherent danger of ‘losing touch’ or perverting the faith, since the partner was considered either a heretic or a schismatic. Hence c.1064, 1* placed an onus on Ordinaries and other pastors of souls to deter the faithful from mixed marriages to the best of their power.

If all else fails, having precluded all violations against the laws of God and of the Church (c.1064, 2*), there was need to verify that there was no solid and concrete evidence of any danger posed to the faith of the Catholic party. It was only then that a
dispensation from the impediment was to be given. Furthermore, in celebrating mixed marriage, the officiating priest was forbidden to wear sacred vestments of any kind or observe any of the sacred rites (c. 1102, #2).

**A Bridge between the 1917 and 1983 Codes of Canon Law**

In an Apostolic Letter of 1970, Paul VI expressed the anxieties of the Church regarding mixed marriages:

‘Mixed marriages do not advance the restoration of unity among Christians, except in some cases. They follow upon differences of religion and upon divisions among Christians, and because of the inherent difficulties, they introduce a kind of division into a living cell of the Church, as the Christian family is deservedly called. For these reasons the Church discourages the contracting of mixed marriages.’

The Church thus still viewed the mixed marriage with suspicion: hence it should be discouraged. The inherent difficulties in such a union, according to the Holy Father are, (i) differences of views on the sacramental nature of matrimony, (ii) the interpretation of some moral principles with regard to marriage and family, (iii) the extent of the obedience due to the Church, and (iv) the competence of the ecclesiastical authority. These cause division in the family unit and life.

On the other hand, the Church recognises the natural right of human beings to marry and beget children and so in its pastoral concern the Church issues legislation that upholds the principles of divine and natural law. With the latter part of the Letter of Paul VI, a change came in the attitude of the Church regarding mixed marriages. The non-Catholic was no longer regarded as a heretic or schismatic but as one put into a kind of relation to the Catholic Church, even though not perfect. The earlier strong language was softened. Instead of the word ‘deter’, used in the old code, the words ‘the Church discourages’ were now used. The phrase ‘most severely forbade such contracts’ has been completely dropped. Furthermore, the old code demanded a guarantee of not obstructing the faith of the Catholic party. The Apostolic Letter asks nothing of the non-Catholic party except to be made aware of the promises made by the Catholic party. A keen reader and observer notices that this document to a very large extent prepared the ground for the current legislation with regard to mixed marriage.

**New Canonical Norms on Mixed Marriages**

The 1983 code, which has been largely inspired by the principles of the Second Vatican Council and the Apostolic Letter quoted above, suppressed the impediment of mixed marriage. On account of this, ‘dispensation’ is no longer required. The code however retains a prohibition with regard to celebrating mixed marriages. This prohibition underlines some reservations of the Church in this context, and makes the marriage between two Catholics the ideal. The reasons for this attitude can be traced to the Apostolic Letter of Pope Paul VI. Besides from the difficulties outlined in the documents, one may cite others: for instance, (i) the mode of prayer to adopt in the home, (ii) the choice of schools for the children, (iii) the faith of the children, and a host of other problems. It is against this background that there is still need for express permission of the competent ecclesiastical authority. Hence c.1124 that states:
‘Without the express permission of the competent authority, marriage is prohibited between two baptised persons …’

This shift in language from dispensation to permission is significant in law. Permission is simply a prescription to act licitly whereas a dispensation is necessary to make the act valid. If a required dispensation is not sought for, the act is invalid, while in the case of permission, the act would be valid but illicit. Permission is therefore not a dispensation of a law but a requirement for the fulfilment of a law. The granting of the permission, with due respect to the conditions prescribed by law, is within the competence of the local Ordinary. The Catholic party therefore must obtain the permission of the local Ordinary, either his/her own local Ordinary or the one of the place where the marriage is to take place. The power to grant this permission, moreover, may be delegated even to pastors since the Ordinary uses ordinary executive power. The law permits that this power be delegated to a specific person; for an individual case or for all cases, unless a law expressly provides otherwise.

The permission for mixed marriage is not to be granted unless there exists a just and reasonable cause. Here too there is a difference from the old Legislation. The old code required a grave cause (which is stronger than a just and reasonable cause) to grant dispensation for mixed marriage. The permission for mixed marriage however is not to be granted arbitrarily. The code stipulates under which conditions this is to come about. This conditionality is contained in c. 1125 that states, inter alia,

‘He (the local Ordinary) is not to grant it (permission) unless the following conditions are fulfilled:
1* the Catholic party is to declare that he or she is prepared to remove dangers of defecting from the faith, and is to make a sincere promise to do all in his or her power in order that all the children be baptized and brought up in the Catholic Church;
2* the other party is to be informed in good time of these promises to be made by the Catholic party, so that it is certain that he or she is truly aware of the promise and of the obligation of the Catholic party;
3* both parties are to be instructed about the purposes and essential properties of marriage, which are not to be excluded by either contractant.’

A careful look at the wordings of this canon is very revealing, though to a large extent it is a repetition of the requirements of Matrimonia Mixta on the part of the Catholic party. First of all, the canon establishes some conditions without which an Ordinary is not to permit mixed marriage; second, it deals with a declaration to be made by the Catholic party. This is interesting from the point of view of a shift in the law. While the old dispensation demanded a guarantee, the new law simply calls for a declaration. While a guarantee calls for proofs, a declaration is merely a formal statement. This is not in any way to undermine the seriousness of a declaration.

Before undertaking the analysis of the text in respect of the Catholic party, it is enlightening to note that the legislation does not bind the other party to the promises made by the Catholic party. S/he is only to be informed. This information is definitely to be carried out before the marriage. This is to respect the principle of religious liberty and to guarantee the observance of the canonical injunction. In places where the non-Catholic party is made to sign the document of declaration alongside the Catholic party, there is an extension of the law (para legem). However, both the non-
Catholic and the Catholic parties are to be instructed about the purposes and essential properties of marriage. This is with a view to understanding, accepting and living the demands of the Catholic doctrine on the sacrament of marriage.

The very first obligation on the part of the Catholic party is to remove all dangers of defecting from the Catholic faith. It goes to underline the great care the Church has for her members. The Catholic party, apart from remaining in the Catholic faith, is to do all within his/her power (pro viribus) to have all the children born of the marriage baptised and raised in the Catholic Church. This duty depends strictly on natural and divine law, which obliges parents to give their children both religious and human education. xviii This requirement soon meets with a problem. For the code places the onus only on the Catholic party while the duty and right to the education of the children certainly rest on both parents. The canonical resolution lies in the fact that the promise is qualified with the term ‘pro viribus,’ that means as far as one's strength or as far as one is able to do it or as far as possible. This ‘as far’ is to be understood within the context of the unity of the marriage, and must avoid its disintegration. In simple terms, it means that the Catholic party is not expected to break the marriage in a bid to keep to this promise.

This slight mitigation of the laws of the Church in respect of mixed marriage reflects the openness of the new code and its consideration of the concrete circumstances of our days. These include among others, the growth and spread of civilization and industry, urbanization and the consequent natural depopulation, migrations in great numbers and the increase in numbers of exiles of every kind. xix One may also point to a better rapprochement among Christians, which is largely inspired by the ecumenical spirit of the Second Vatican Council. xx Furthermore, there is a change in the ecclesiology of the Catholic Church from a perfect society to the Church as a People of God. The shift of attitude in the new law is a key manifestation of the Church's pastoral and juridical concern over mixed marriages. In this connection, Thomas Green suggests that ‘this institute of ecumenical marriages be viewed technically not as an impediment but rather as a special pastoral challenge requiring particular attention on the part of the community of faith.’ xxi21 Green raises a very significant point here. The problems or inherent difficulties arising out of ecumenical marriages should be considered as special challenges to the Church. This is a more positive attitude.

The Canonical Form for Mixed Marriage

There are two canonical forms for mixed marriages, namely, the ordinary and the extraordinary forms. The ordinary form is the canonical form required of two Catholics, except in the marriage with a non-Catholic of oriental rite. This is the prescription of c.1127, #1 in conjunction with c.1128. The marriage takes place in the Catholic Church before a designated minister of the Church.

The extraordinary form for mixed marriage comes in the form of dispensation. This is the mind of # 2 of c. 1127 when it states: ‘If there are grave difficulties in the way of observing the canonical form the local Ordinary of the Catholic party has the right to dispense from it in individual case, having however consulted the Ordinary of the place of the celebration of the marriage; for validity, however, some public form of celebration is required.’
Canonists are interested in what constitute grave difficulties in the tenor of the above quoted paragraph, for the common law does not define, or specify them. Abate\textsuperscript{xxii} in his studies outlines four reasons that qualify as grave, namely: (i) when there is a possibility of the non-Catholic's estrangement from his or her religion or family; (ii) when the Catholic is just a nominal Christian while the non-Catholic is a devout one; (iii) when the non-Catholic party is totally unwilling to have the marriage celebrated in a Catholic Church; (iv) when there is a grave conflict of conscience of the parties that cannot be resolved in any way. The third reason outlined above seems to be more common in the Nigerian experience.\textsuperscript{xxiii} L.Orsy argues for a grave cause, which may arise instead of grave difficulty. This he anchors on the likelihood of a significant improvement in mutual relations between two Christian communities in a given locality.\textsuperscript{xxiv} It is enriching to note that the Ordinary that has the power to grant the dispensation is the Ordinary of the territory where the Catholic party has domicile or quasi domicile or of the place where he or she is at present. Such an Ordinary, to act validly, has to consult the Ordinary of the place where the marriage is to take place, although he is not bound to follow the other's advice.\textsuperscript{xxv}

Ultimately, the law envisions the possibility of substituting the canonical form with some public form of celebration. This form must be such that is recognised by some religious or civil authority. It therefore means that this form of marriage may definitely come about in an Anglican or any other Christian Church. With the dispensation already granted, the presence of a Catholic minister at the ceremony does not add anything juridically. So, the practice where the Catholic minister is asked to perform certain functions at the ceremony does not have substantial juridical effect on the marriage. It may however promote ecumenical dialogue. This leads us to the third paragraph of the canon under examination, which states:

‘It is forbidden to have, either before or after the canonical celebration in accordance with # 1, another religious celebration of the same marriage for the purpose of giving or renewing matrimonial consent. Likewise, there is not to be a religious celebration in which the Catholic assistant and a non-Catholic minister, each performing his own rite, ask for the consent of the parties.’

The point in this paragraph is crystal clear. Another religious celebration wherein an exchange of consent takes place or is renewed is prohibited after a duly celebrated canonical form of mixed marriage. Such would indicate a non-acceptance of the marriage by at least one of the parties.\textsuperscript{xxvi} In view of the diverse nature of the situations of the world, the legislator assigns to the Episcopal Conferences a significant role, i.e., that of determining the manner in which the declarations and promises are to be made and the form they are to take in the external forum and how the non-Catholic is to be informed.\textsuperscript{xxvii} One cannot overemphasize the enormous implication of this legislation in view of contextual and inculturational approach to Church life today.

**Some Attending Problems: The Nigerian Situation**

Under this section, I consider three problems, namely:

(i) the issue of valid baptism;
(ii) the headship of the father in the African/Nigerian family;
(iii) duplication of the canonical form of mixed marriage.
Valid Baptism
From the treatment given above, it is already established that what qualifies Christians to exchange consent within the liturgical set-up is baptism. A discussion of the issue of valid baptism is therefore unavoidable. For if the baptism of the non-Catholic party is doubtful, one can hardly talk of mixed marriage: it is rather a question of marriage of mixed religion or disparity of cult.

In Nigeria, there are a great number of ecclesial communities, especially the Bible Faith and Pentecostals. Sometimes their form of baptism is doubtful: and there may be no records to show that there was an actual celebration of baptism. Practically speaking, in some instances, we are closer to disparity of cult than to mixed marriage. The Catholic Church recognises as valid the baptism of the established Churches. In case of the others, each has to be examined on its own merit while considering the formula, content and the form of the baptism.

It is interesting to note, however, that baptism is one of the sacraments that is administered very liberally. This is quite understandable because of the fact that it is seen as necessary for salvation.xxviii C. 861 #2 shows that apart from the clergy, a catechist or some other person deputed to this office may lawfully confer baptism and in periculo mortis any person who has the requisite intention may do so. Even faith is not required but the intention to do what the Church does.

The above analysis should assist in determining whether a baptism is valid or not. What is required minimally are, real water, with the formula and right intention. There has to be verifiable proof and record of baptism to admit the non-Catholic party to mixed marriage.

The African/Nigerian Father
In the Nigerian context, man is the head of the family and customarily the wife and the children born of the marriage follow him in his religion and to his Church. This situation makes the woman to be ‘religionless’ until married. The danger of losing the faith on the part of the woman is not only possible but also real and very often it does happen. What then becomes of the declaration made, as earlier discussed? Speaking to this problem, the Catholic Bishops' Conference of Nigeria (CBCN) in its complementary norms to the Code of Canon Law makes it binding for both the Catholic and the non-Catholic parties to put in writing the acceptance of the requirements before the marriage. This practice as noted earlier is an extension of the earlier legislation. This was also the practice in the Middle Ages. Furthermore, the Catholic Formulary of the CBCN in a format prepared in context indicated that the non-Catholic party has to agree to the canonical requirement.xxx The present legislation is silent in the case of non-observance by the non-Catholic party of the terms of agreement. What happens then? One should note that the obligation of the Catholic party to remove all dangers of perverting the faith derives from divine law. The fact is that a good number of the non-Catholic parties, especially men, not only renege on the promises in respect of the children, but they go further and order the Catholic party to follow them to their own churches. While the issue of the upbringing of the children can tolerate some elasticity of interpretation, since, education is the duty and right of both parties, the issue of coercing the Catholic party to follow the non-Catholic party to the latter's church is totally unacceptable. Such a situation may in some cases provide a basis for the declaration of nullity of such a marriage. The
younger ladies in the Church and all those who marry with the mixed marriage form must be educated to this fact. It is the considered opinion of this author that it is an insult to the womenfolk to say that they do not have a religion of their own but must follow that of their husbands. This is not only nonsensical but manipulative and retrogressive.

**Duplication of the Canonical Form of Mixed Marriage**

The practice of duplicating marriages is already become commonplace in Nigeria. At times it takes place at the instance of the non-Catholic party who insists on another marriage rite outside the canonical form of the Church. At other times it is the other way round. A Catholic party/minister insist on having a rite of the exchange of consent a day previous to the celebration of the marriage in a non-Catholic Church. Furthermore, there arises a situation where the Catholic and non-Catholic ministers conduct the wedding together sharing the different aspects of the celebration.

The present legislation clearly forbids this type of practice as already mentioned above (c. 1127, # 3). It is better to obtain the dispensation from the competent authority than having a charade wedding to gratify one party or the other. With the dispensation duly obtained, there is no religious role for the Catholic priest within the ceremony. If he so decides to attend, it surely would have positive ecumenical import but nothing essential to the canonical requirement.

**Concluding Remarks**

The issue of mixed marriage is quite engaging especially as it revolves around faith and practice. It serves as a watershed of integration between the ‘ought’ and the ‘is’ in inter-ecclesial relationships. One can hardly deny the inherent difficulties, especially considering the different situations and contexts. This notwithstanding, mixed marriages remain a watershed and a litmus test of the ecumenical drive. Each of the parties is to be encouraged to practice his/her faith with religious liberty and freedom. The issue of the upbringing of the children needs to be discussed with maturity, mutual respect and love, considering the fact that the children belong to the father as much as the mother.

The submission of our Holy Father, John Paul II in his encyclical letter *Familiaris Consortio*, is quite pertinent in this context. He says: ‘Since those involved in a mixed marriage are bound to find some special difficulties because of their divided faith, such marriages deserve special pastoral care and attention. This is because while they experience the tragedy of division, they can also be instrumental on the road to unity.’

The position of the Holy Father is strengthened by the stipulations of c.1128 which states: ‘Local Ordinaries and other pastors of souls are to see to it that the Catholic spouse and the children born of a mixed marriage are not without the spiritual help needed to fulfill their obligations; they are also to assist the spouses to foster the unity of conjugal and family life.’

Particular churches are to design pastoral plans toward the concrete implementing of the stipulation of this canon. Likewise, pastors are encouraged to take this task seriously.
One cannot but appreciate the contributions of the Second Vatican Council to the ecumenical drive. Concerted efforts should be made (though in a well guarded and cautious manner) to promote and celebrate the reality of marriages. The fact is that many young people are in love with each other before they face the issue of which Church do you attend. The difficulties arising from this situation are therefore challenges to be met and surmounted. It must be noted that any authentic pastoral practice must strike a balance between the ecumenical thrust and the preservation of Church membership.

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iii Vatican II, Unitatis Redintegratio, 10.


v Cf Unitatis Redintegratio, 4.

vi Ibid., 7.


ix Cf. c. 1061 of the 1917 Code.

x Paul VI, Apostolic Letter, Matrimonia Mixta, 7th January 1970.


xii Cf. c.1125.

xiii Cf. c.134, #2.

xiv Cf. c.137.


xvi Cf. c. 1061 #1,2 of the 1917 code.


xviii Cf. c. 793, #1.

xix Paul VI, Matrimonia Mixta, 30 May (1970) 257.

xx Orsy aptly describes this change as a transition from inimical opposition to ecumenical co-operation, cf. L. Orsy, Marriage in Canon Law, p. 181.


xxiii It comes about most especially in cultures where marriages are celebrated in the churches of the bride. So, when the bride happens to be the daughter of a very prominent pastor or member of a non-Catholic Christian Church, a grave difficult definitely arises. This fact is corroborated by the Complementary Norms to the Code of Canon Law issued by the Catholic Bishops Conference of Nigeria.

xxiv Cf. L. Orsy, Marriage in Canon Law, p. 191.

xxv Cf. c.127.

xxvi This prohibition does not include civil ceremonies prior to religious ceremonies in countries where this is required by civil law. In such cases, the couple is not regarded as truly married according to canon law until after the religious ceremonies.

xxvii Cf.1127, #2.

xxviii Cf. c.849.


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