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Marriage after Divorce

David Phillips

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Last year the Convocations of York and Canterbury revoked the long standing resolutions that forbade the use of the marriage service in the situation where one or both of the couple was divorced. It had been argued that there was widespread inconsistency in the practice being followed within the Church, which was undoubtedly true. The decision had already been made that though lifelong marriage is the norm in 'exceptional' circumstances remarriage should be permitted. In order to standardise practice the Bishops have now produced some guidelines.

The responsibility for making decisions rests almost entirely with the minister. Therefore, although lay people should understand the policy being operated in the parish they cannot insist on any particular policy (except that it might be considered a proper subject for consideration when an appointment is being made). However, the laity will undoubtedly be involved where there is discontent because a remarriage has either been allowed or refused.

The new procedures affirm that marriage is between a man and a woman and that it is to be life long. They admit, however, that marriages do break down. They allow that in 'exceptional' circumstances a divorced person may remarry.

The Minister's Conscience.

Under the Matrimonial Causes Act, 1965, a minister has a right to refuse to conduct a marriage of a divorced person. They can also refuse to allow the church to be used for such a ceremony. Until last year a minister was able to say that the resolutions of convocations clearly showed that the Church was of the view that remarriage was not the same as a first marriage. Indeed until fairly recently remarriages were rare in some Dioceses. Now, the emphasis has been changed considerably. It is a matter of personal conscience that an individual minister feels remarriage is not right and therefore they will not conduct it.

Alongside this, some may decide that the complexities of arriving at any consistent and just policy means that they will avoid all the pitfalls by simply refusing to conduct any remarriages.

The opposite extreme is equally possible, namely that to avoid problems a minister will ask no questions and will simply remarry all who ask. Whilst this is a clear breach of the assumption that remarriage will be the exception it is undoubtedly the policy many are following and more are likely to adopt.

The procedures.

Where a minister is willing to consider the possibility of conducting a marriage for someone who is divorced the Bishops lay down a procedure that should be followed. When someone first approaches the minister a leaflet is available which the couple should complete. This will provide the factual background and should, as a result ensure that the couple have face up to some of the facts concerning their previous marriages. It is proposed that the minister then meets at least twice with the couple in order to explore a number of areas on the basis of the information provided. It seems very likely that some couples will require help in completing the form and some may consider that it is best to conduct the first interview so as to elicit the answers and then send the couple away to fill in the form themselves.

The guidelines constantly stress that there must be a decree absolute and that the minister must see evidence of this. The 'background of their case needs to be explored very carefully'. The minister will need to probe fairly deeply and if couples are not willing for this to happen they are making a decision not to go ahead. The Bishops then provide several questions which should be considered. The essence of these is:

Do they have a clear understanding of the meaning and purpose of marriage?

Do they have a mature view of their past marriage?

Are they ready to enter into a new relationship?

Has there been healing from the wounds of the past?

Would this new marriage undermine the credibility of the Church?

Was this relationship a direct cause of the collapse of the previous marriage?

Has either party been married more than once already?

Are they willing to explore the significance of the Christian faith so that their marriage ceremony is not an isolated contact with the Church?

These are good questions and it is vitally important that they are considered. Of course, as in all areas of life it cannot be certain that a couple will give an honest answer.

The guidelines therefore give procedures to follow and helpful questions to be considered. However, at the end of this a decision has to be made. Since one of the purposes of the whole exercise was to standardise practice it might reasonably be assumed that the guidelines would provide some standard by which the individual minister can arrive at a decision as to whether to conduct the marriage or not. However, there is no such guidance given.

As has been stated already, the assumption is that remarriage will be the exception. On any reasonable understanding of the English involved this must mean at least not the majority. This therefore gives some guidance. It is also stated that normally a third, fourth or more marriage is not to be permitted. Other questions, such as to whether this relationship caused the breakdown of the previous relationship, or of the need to ensure that there has been repentance where necessary might suggest standards, but nowhere is this stated.

At first sight this seems a fairly typical case of the Bishops either being unable to agree on proper guidelines, or of being simply unwilling to guide anyone. However, there may be good reasons why the guidance is so vague.

In the first instance the decision has to remain the minister's. Therefore it is probably inappropriate that the Bishops should provide definite guidance as to the standards by which a decision is to be reached. Furthermore, if such standards were set out then there is the real possibility of people doctoring their answers to ensure that they can be remarried. More likely, the couple or others may feel that on the basis of the standards set out the minister has got it wrong. This could quite easily

lead to litigation. Therefore, although it seems strange to have guidelines with no clear guidance as to how to make an actual decision, it may be a necessary omission.

However, this brings us back to the fact that with such vague guidelines and with such a diversity of views amongst the parish clergy how can it possibly be expected that the new emphasis and guidelines can possibly be expected to bring uniformity. Sadly, in the long term, the only uniformity likely to arrive from this is that more and more remarriage without questions being asked becomes the norm. This was always the goal some were seeking.