
A table of contents for *Anvil* can be found here:

https://biblicalstudies.org.uk/articles_anvil_01.php

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The Changing Face of Marriage and Divorce

Church of England dioceses are currently being consulted about the proposed changes to the church's practice with regard to the marriage of divorced people. Greg Forster's article is timed and designed to help churches and individuals to focus on the key issues involved. He sketches the sociological background, argues for a fresh look at what Jesus said and the context in which he said it, and raises specific questions with which those responding to the consultation will need to engage.

Recently, the issues of marriage and divorce have come to prominence within the Church of England, with the publication by the House of Bishops of a teaching document on marriage, and prospective guidelines on the remarriage of divorcees.[1] These are responses to significant changes in attitudes to marriage and divorce within wider British society, which include stalled changes in divorce law itself in England and Wales and a massive rise in cohabitation before or instead of marriage. This article looks at these developments, in the light of the secular challenge to marriage, the social changes in our society, and the ongoing debates within the Christian community. In addition, a new marriage liturgy is about to be authorized which scarcely registers these changes.

The secular challenge

From time to time it is suggested that mankind (I use the word 'man' advisedly) does not naturally behave monogamously. 'Love' (by which is meant the intense sexual attraction of courtship) does not last more than a few years, sufficient to allow the conception, birth and perhaps weaning of a child. This is 'love's biological function' (by implication it is merely a biological function), enabling the replication of the species. But this begs a number of questions and implies a number of unwarrantable ethical assumptions. The bishops' recent teaching document on marriage rightly points out that love in marriage covers a wide range of emotional experience, and is a process of growth and enrichment, not a static state or mere biological function.[2] It may be possible for women to raise children in urban

1 *Marriage: a Teaching Document from the House of Bishops of the Church of England*, Church House Publishing, London 1999 (hereafter referenced as *Marriage*); *Marriage in Church after Divorce: a Discussion Document from a Working Party Commissioned by the House of Bishops of the Church of England*, Church House Publishing, London 2000 (hereafter referenced as *Marriage after Divorce*).

2 *Marriage*, p 9.

America or Europe after their man has moved on, though research reported by the British charity 'One Plus One' suggests that such children do not fare as well as those in stable two-parent households.[3] It may be true that there is a tendency for human infatuation to wane, but the adulterer who justifies himself morally by claiming 'it's only natural' needs at the very least to recognize his partner's equal moral instinct that 'it's not fair'.

Furthermore, even within the parameters of the human sciences there are reasons to be sceptical about these conclusions. Those who study human origins now suggest that a distinctive feature of the human race which has enabled us to develop so successfully is grandparenthood! The survival of women beyond normal reproductive years allowed children to be minded during their long development to maturity while their parents were free for extensive food gathering. The transmission of cultural skills (by fathers as well as by mothers) is also a distinctive adaptive dimension of our race (I suggest that this includes the interpersonal skills which we express through morality). This does not *prove* that monogamous marriage is normative; it does suggest that stable communities based on family units will have been more successful. Any description of 'human nature' which fails to recognize this is incomplete.

Such challenges are not new. Back in the 1960s, Desmond Morris attracted widespread attention with *The Naked Ape*, in which he suggested that humankind's natural pattern for sexual relationships was the same as that of Hamadryas Baboons, namely a harem enjoyed by a dominant male.[4] His reasoning was that our ancestors occupied the same ecological niche as these baboons, and that our instincts have not evolved as rapidly as our society. (To be fair, he then argued that our moral education should recognize this conflict between instinct and civilization.) He was wrong. Other baboon species behave differently, and particular ecological niches are not determinative of human capacity. Human behaviour has moved beyond baboon ethology, even if it ever coincided. To assume that humankind is little different from the animals, full stop, is an ideological (rather than scientific) assumption which begs as many questions as it answers.

The implication is that we can observe and describe human nature scientifically, and that what we describe is normative, or at least that we should not impose a morality which conflicts with that norm. These implications are usually tacit, and the researchers may not intend to challenge conventional morality,[5] though one detects a certain *frisson* as the press reports it. There are two false premises: one is that the behaviour we observe is never dysfunctional (or, in theological terms, it is not 'fallen'); the other is that we can make a simple shift from what is to what ought not to be repressed. How glibly people argue that what they feel is 'natural' for them in terms of sexual behaviour is all right, but have strong moral objections, say, to man's natural hunting instinct. There is a link between the world as it is and the world as it might be, but before we can draw it out, our moral discernment needs prompting by other factors.

3 J. Dominian et al, *Marital Breakdown and the Health of the Nation*, One Plus One, London 1991. See also their leaflet, 'Divorce Today'.

4 Corgi, London 1967.

5 This is not always the case. Kinsey's influential rapportage of homosexuality proved to show notorious partiality.

My reason for delving into ethology is not esoteric. Both old and new prayer books assert that marriage was instituted by God in the time of humanity's innocence – is a gift of God in creation – while Jesus referred to God's intentions in creation. These modern studies do not give us reason to alter that assertion. We may have to defend it, and we may not be able to demonstrate a fully 'Christian' view of marriage just from the anthropology, but it is far from being ruled out by such studies.

Some people object to conventional marriage, and support the 'freedom' of cohabitation or even looser arrangements, on the grounds that marriage is a 'patriarchal' institution. That has at times been a danger, but controls on male power offered by the institution, even if flawed, are better than no restraint. In this context, criticism of the Church for asking wives to 'obey' their husbands (as in the BCP, following Ephesians 5:21f) misses Paul's point. In the next breath (v 25) he asks husbands to be as self-sacrificial as Christ, while in 1 Corinthians 7:3-4, he emphasizes the wife's equal rights.

Social changes

Divorce

We are familiar with the statistics of rising divorce rates, and falling rates of marriage. There are also other, positive statistics! A greater percentage of marriages today, for instance, last over 20 years than did in the nineteenth century (when mortality admittedly curtailed them). If 1.3% of marriages end in divorce in a year, 98.7% do not! Bald statistics do not tell the whole story. Many relevant ones are quoted in *Marriage in Church after Divorce* but some are not now the most recent.[6] The number of divorces in England and Wales rose dramatically after the 1969 Divorce Reform Act, which extended grounds for divorce and simplified procedures. If, however, the number of separations is added to that of divorces before 1969, the increase is less dramatic, and we can see how the law was catching up with behaviour. After an initial surge the level of divorces has stabilized, and the latest figures available (for 1997) actually show a decline both in the absolute number of divorces (from 165,000 in 1993 to 147,000 in 1997) and in the proportion per 1000 married couples.[7] After a peak of 14.2 per thousand in 1993 there has been a decline to 13 per thousand – still too many, but a decline and, please God, a straw in the wind. There are more: in 1987 the median duration of marriages which failed was 9½ years; in 1997 that had risen to ten years, with a decline in the number of early failures only partly outweighed by an increase in the rate of failures among marriages which had lasted over twenty years. So among those who do marry there are signs that it is being worked at more seriously.[8]

There is a similar fall in the number of children under 16 affected, from a peak in 1993 of 176,000 to 150,000 in 1997, although still about 55% of couples who

6 *Marriage after Divorce*, pp 20ff, p 87.

7 Marriage statistics are culled from *Marriage, Divorce and Adoption Statistics 1997*, Office For National Statistics, London 1999. They relate to England and Wales, and have been rounded.

8 So some points made in *Marriage after Divorce*, p 20, may need revision.

divorce have children under 16, and a further 14% have older dependent children. So we should remember that behind the statistics lie individual stories, of couples, their children, and their children's grandparents, hurting and causing hurt. On some stories we might comment 'could try harder', but in others divorce is a genuine relief.

Cohabitation

What many people find unsettling is that the number of marriages has also fallen quite dramatically (which leads to the spurious statistic that 'more than one marriage in every two fails'. The ratio of divorces to current weddings in 1997 was 1:1.85, as compared with 1:2.33 in 1987, but that does not predict the failure rate of today's weddings or describe the real divorce rate, which is, as we have seen, 1.3% of existing marriages per annum). Marriages are also taking place at an older age than twenty years ago. The most prominent reason is probably that cohabitation is more acceptable before and instead of marriage, and can be far less stable than formal marriage. This is however difficult to record. Producing figures for cohabitation is problematic because including all cohabitation together masks the fact that for some, it is a long-term, loyal relationship.

We can chart cohabitation in two ways: how many couples record the same address when they marry; and how many from the same address register jointly a birth outside wedlock. This picture is not complete. Under one heading are those who see no problem in moving in together in the months before their planned wedding; those who do not use the fiction of a parental address for marital purposes (no longer necessary in civil weddings now that residence requirements are looser); and those who opt into the legal securities of marriage after years of opting out.

In 1997, 272,500 marriages took place, of which 107,000 were 'religious'. Of the total, 189,000 (69%) of the couples gave the same address (from teenagers to over-75s, the proportion was over half!). Of the 'religious' marriages, (51,000) 48% gave the same address (between 30 and 60 the proportion was over half). There are variations among the denominations, with 43% of Church of England marriages registering the same address (but only 31% in the Church in Wales – these figures mask regional variations); 58% of Roman Catholic weddings are from the same address, and 69% of Methodist weddings. Even in stricter denominations, the proportion from the same address is significant (e.g. 24% of Brethren weddings).

Turning to birth statistics, in 1988, 26% of all births (177,000) were outside marriage (12½% of the total jointly-registered from one address) but in 1998 the percentage was 38% (241,000, with 30% jointly-registered, 23% from the same address). Thus the proportion of families with new children where the parents are cohabiting rather than formally married has doubled in ten years. Over that decade, the proportion of births registered by mothers alone was virtually unchanged at 8%. The rise in cohabitation does not imply a commensurate rise in irresponsibility, though the legal security for children and their fathers in such relationships is less than in a formal marriage.

So cohabitation of some kind – prior to, or as a substitute or trial for marriage proper – is a significant feature of the experience of people of marriageable age

today, and their families. It is therefore surprising that no worthwhile reference to this is made in the draft Common Worship marriage service.[9] Neither preface acknowledges clearly the possibility that most of the younger guests at a wedding are or may have been cohabiting, even if the couple themselves have not been (the purpose of the prefaces, like the homily in the BCP, is to remind all present of the Christian teaching on marriage, not just the couple). Only one prayer (§25) recognizes that there might be existing children in the newly-married family, and one (§15) acknowledges that there might be past hurts to be healed. In spite of this, the bishops write as if there is extensive provision![10] What is needed is some such clause as this in the preface: 'It is God's purpose that man and woman declare publicly their love and the pride that they have in each other, and that their community recognizes and supports them in that open commitment; it is his purpose that such avowed commitment be a defence for them against temptations to fall short of the ideal of loyalty and love which he sets before us in Christ.'[11] Even though the new draft Common Worship preface does speak rightly of how marriage strengthens community life, it fails tamely to assert that lack of commitment diminishes us all individually and in our community. Perhaps the final version will turn out better.

The bishops' teaching document is more helpful. On p 11, it admits that the path of some towards marriage might be complicated, and suggests that to come to marriage after living together is not a route to be recommended, even if it often happened in earlier periods of history. In an appendix they elaborate on this paragraph (pp 21f), encouraging couples to go public about their commitment and to talk it over with each other and their vicar, and asserting that any relationship outside fellowship with God and his people is not as full as it could be. In this they fail to do justice to the commitment of some cohabitants, which should be celebrated positively if they do ratify it in a church wedding. They fail to state what every cohabiting couple should realize: that there are still legal disabilities (not penalties, but rather inadequacies or complications in the law) for couples who merely cohabit. In England and Wales, 'common law marriage' does not exist, and (to give an example) a cohabiting father currently has no more rights over his own children than the baby-sitter, unless he has specifically sought them from the courts.

Second marriages?

I suggested that the new Common Worship service fails to address the issue of divorce, except with the hint of hurts from the past to be healed. I am glad to see that prayer, but more is needed.[12] We perhaps do not realize the extent to which second marriages after divorce do take place in church. Of those 107,000 religious marriages in 1997, 70,300 were Anglican, 13,100 Roman Catholic, 9,700 Methodist and 5,900 Baptist and URC. About 17% (19,200) involved divorcees, of which 6,900

9 I have the May 1999 draft of this service (GS1298F, General Synod, London 1999). The final version might be better.

10 *Marriage after Divorce*, p 8.

11 I quote from my own *Cohabitation and Marriage*, Marshall Pickering, London 1994, p 175.

12 I urged something of the kind in *Healing Love's Wounds*, Marshall Pickering, London 1995, p 187.

were Anglican (9.7% of all Church of England weddings), 890 were Roman Catholic (6.8%, presumably after church annulment), 5,900 were Methodist (60% of their total, picking up some people turned down by Anglican or Roman Catholic parishes, perhaps) and 3,200 were Baptist or URC (54%). For comparison, about 40% of all marriages involve a divorcee.[13]

The recent discussion document, on the advice of the Liturgical Commission, recommends that an Anglican service for a second marriage after divorce should not be different from a first marriage.[14] It quotes examples which sound censorious and defensive and rightly shies away from them. But the fact remains that such marriages are different. There is a history. (There may be hidden histories in other weddings, of broken cohabitation, which raise no problems in our theological theory, but many, perhaps, in the couple's emotions or their friends' thoughts.) Even if unspoken it will still colour people's perception of the church's involvement on the day. I suggest that it does need to be recognized liturgically as well as in the discussion and pastoral care which precedes the ceremony. Not to do so makes the church look naïve, careless, or conned, and fails to do justice to the teaching role of the liturgy for all present.[15] I would use in these circumstances a collect asking for forgiveness for what has been wrong in our pasts, healing of the hurts which scar our memories, correction for present failings and enrichment for the future. This is similar to the Common Worship prayer mentioned earlier, but I believe more explicit without being condemnatory. As for a preface, perhaps the answer is that *all* weddings should include a fuller reference to the way the grace of God within the gift of marriage can be a source of healing where past relationships have caused hurt. The place for explicit confession is not this public service, but in the preface, or in carefully weighed words in the address, something like this might be said:

> Many of you will know something of the stories that have brought *N & N* to this day. Like all our stories, they include joy and pain, given and received. On this their wedding day, we pray with them that past pain will be healed, past hurt forgiven, and that the new chapter now beginning will be written in joy and hope.

Wider social changes

The changes in marriage and divorce statistics are a reflection of many other changes in society. These have included the Married Women's Property Acts from 1872 and other moves which gave women more justice, and the possibility of more independence; the massive rise in divorces in 1945 with the experience of returning soldiers (from 7,500 a year in the late 1930s, in the wake of the Herbert Act of 1937, to 60,000 in 1947, dropping back to 27,000 in 1958, but rising again to 47,000 in 1966, just before the current legislation was enacted); a wider awareness of divorce, initially through films; changing patterns of social benefits, legal aid, mortgage and other tax reliefs; employment, especially among women; economic

13 These figures come from O.N.S., *Marriage... 1997*. Religious weddings included those at places of worship of other faiths.

14 *Marriage after Divorce*, pp 16-18.

15 See O. M. T. O'Donovan, *Liturgy and Ethics*, Grove, Nottingham 1993.

expectations and a financial system which allows credit more easily; a general mistrust of any institution which requires commitment. These and other factors make divorce and latterly cohabitation more acceptable. Not least among these changes has been the loss of any monopoly the church had in setting moral standards. More people will watch more often and register more subliminally a television advert which seems to encourage unfaithfulness to one's marriage than will hear the preface to the marriage service; and when they do hear the preface, they are less likely to take it as 'gospel'.

Along with this change of attitude, however, has come a realization that divorce can be harmful. Children going through a divorce do less well at school. The death rate among divorced men is significantly above average (a study in Sussex showed a suicide rate among divorced men twenty times that of married men).[16] Divorced (and single) women, often left literally holding the baby, are likely to be less well off than if they had remained married (and are less likely than their husbands to remarry). Second families will be less well off and further down the housing ladder than a sole family, since financial responsibilities for previous children have to be met. Practical considerations such as these were among the motivations for Lord Mackay's reforms of 1996, in which an explanation of such hidden consequences of divorce were to feature in an initial briefing and negotiation process prior to fuller proceedings. It is sad that these proposals have now been suspended, partly because potential divorcees did not want to know. In pilot schemes in Manchester and elsewhere, only about 30% of them were willing to consider attending such briefings. Was it a question of 'my mind is made up; don't confuse me with the facts', or fears that a conciliatory approach to managing divorce would turn out to be state-imposed reconciliation, or lead to a less advantageous settlement than if a lawyer argued for it?

It is sad, not least because a good divorce procedure is actually a fence around marriage. If walking away is not easy and the obligations accepted when a couple commit themselves to each other are enforceable, then marriage is protected, while intolerable or dangerous relationships can still be severed in a civilized way. One of the better reasons for the Divorce Reform Act 1969 was that too many marriages were ending in desertion, with no provision for children or property division. That Act has been tampered with over the past thirty years to allow, in effect, divorce on demand within less than six months, often on spurious grounds. Lord Mackay's reforms discourage ill-advised, light and wanton divorce, and encourage serious thought about the marriage before it is discarded. As such they are not anti-family and warrant Christian support. The political and fiscal costs of implementing them should be faced.

Against this background, it comes as a profound shock to a modern twenty-year-old that her wedding to a divorcee might not be allowed in her church. With all the other background noise she has not heard the church voicing its disquiet over divorce, despite church connections – or perhaps all she registered were

16 For this and other data, see J. Dominian et al., *Marital Breakdown.*

echoes of the 1984 synod decision that there might be circumstances when a second marriage in church could be permitted.

Is she right to be shocked? Should the church recognize the prevailing culture which accepts divorce and expects new sexual relationships after it? Is our present situation so wrong that the church should continue not to cooperate with secular expectation? Is our hesitancy based just on the fact that Jesus decried it, or are there reasons why we in our society can see it to be as wrong as he did in his? Breaking the commitment of marriage breaks not just rules, but lives. Jesus knew that, perhaps from his conversations with people such as the Samaritan woman (John 4). I would suggest too that he saw the larger injustice in a system which allowed casual divorce to the men of his society. Our own system produces injustices which affect both men and women, though in different ways. I believe that for his new 'kingdom' community to rule out virtually all divorce, and uniquely to teach that a man could commit adultery *against his wife*, was the most effective way of protesting against and preventing these personal hurts and social injustices. It may be that we have to look for other ways of achieving these aims, alongside an affirmation that divorce should be an exceptional relief, rather than the normal way of resolving a difference. Some of our difficulty is that the church is conscious of being a kingdom community while also acting as an agent for a secular society which does not understand if we decline to take its marriages. Whatever decision results from the discussions encouraged by *Marriage after Divorce*, should we not also look for an extensive publicity campaign to explain it and promote lifelong marriage?

Biblical studies

The two passages in Matthew's gospel (5:32 and 19:9) in which Jesus appears to allow an exception on the grounds of 'unchastity' to his condemnation of divorce were taken by the reformers at face value. Consequently, legislation in Protestant states from that time has allowed divorce. Cranmer was working on such a provision in England, not only for adultery, but also for desertion, deadly hostility and prolonged ill-treatment, when Edward VI's death interrupted reform here. (Do our qualms over remarriage as a church stem from that accident of history which, coupled with the squirearchy's desire in 1753 to lock up its daughters, left us with some of the most rigorous marriage law in the world and no church provision for annulment?) Desertion was seen as a ground for divorce, on the basis of the 'Pauline privilege' in 1 Corinthians 7:15, although there has been debate as to whether the phrase 'is not bound' implies freedom to remarry. The context at least shows that a generation after Jesus the church felt competent to adapt and apply his teaching. Within this tradition, Evangelicals have until recently been more ready to recognize divorce than those who tale a 'sacramental' view of marriage as indissoluble. Inherent in this approach, however, has been the need to see a marital offence before a divorce could be granted. This leads to the idea of a 'guilty' and an 'innocent' party. While lawyers do need something specific on which to base their decisions, there is, I suggest, something unforgiving – unChristian – and also unrealistic about this. In how many marriage break-ups is one party wholly innocent

of blame, and can 'innocent' parties be so self-righteously guiltless as to be unbearable?

This unforgiveness was written into English law when divorce came to be permitted through the courts in 1857. If the innocent victim of adultery failed to seek a divorce as soon as the offence became known, she was held to tolerate it, rather than to show the Christian virtues of forgiveness or reconciliation, and thus she forfeited the claim to relief. Although the Archbishop's Commission report of 1966, *Putting Asunder*, did try to move away from fault-finding,[17] and the subsequent 1969 Divorce Reform Act focused in theory on irretrievable breakdown, fault has still remained in people's minds. It remained, too, in legal practice and most current divorces are engineered quickly on the basis of an alleged fault, which leads to antagonism, bitterness, and a sense of injustice. Christian opposition to the Family Law Act 1996 focused on its clear departure from decisions based on fault. It is ironic that Lord Mackay's aim of fostering conciliation leading to amicable, rather than bitter, dissolution of an unsustainable marriage was thus frustrated, even though it was shaped by his Christian conscience.[18]

The advent of modern critical studies of the New Testament and a lower view of biblical authority have had their effect on this debate. The Matthean exception is now seen by some as a Matthean addition to Jesus' teaching, although it might be a legitimate inference from what Jesus would have intended. Jewish law expected a man to divorce an adulterous wife. Jesus allows this, but in contrast, does not require it. Others point out that permission to divorce does not imply permission to marry again – Luke 16:18 explicitly describes this as adultery, with no reference to any exception. Andrew Cornes argues that the only place where the grammar permits remarriage, Matthew 19:9, is in a context which denies the possibility.[19] G. J. Wenham and W. E. Heth, however, remind us that the context is not just textual but social, and Jewish divorce formulae must explicitly include freedom to marry again, so that a case can be made out that Jesus assumed that remarriage would follow divorce. They, however, enter into the long-standing debate as to what 'unchastity' (*porneia*) means, and favour a view that Jesus accepts what every Jew would expect: that a marriage must be dissolved if it was contracted within the forbidden degrees. Thus the 'exception' does not allow what we term divorce at all, but rather only annulment of an invalid union. Their conclusion is that Jesus did not allow remarriage after divorce.[20]

17 *Putting Asunder: Report of the Archbishop of Canterbury's Commission on Divorce Law Reform*, SPCK, London 1966.

18 Lord Mackay attempted to explain his ideas to Evangelicals before his Green Paper appeared, and to gain their reactions, as guest speaker at a conference in 1991. As a sad reflection of our grasp of legal and ethical issues, the first question in response to his address asked for his testimony. No-one returned to his subject.

19 A. Cornes, *Divorce and Remarriage*, Hodder, London 1993, pp 304ff. This is the only non-official publication cited in *Marriage after Divorce*, yet its conclusions are diametrically opposed to the bishops'! It contains good ideas about the support of unmarried divorcees.

20 W. E. Heth and G. J. Wenham, *Jesus and Divorce* (revised edition), Paternoster, Carlisle 1997. This is an excellent survey of the biblical material. A contrary view to that of Heth and Wenham, by D. Brewer, is forthcoming (www.tyndale.cam.ac.uk/Brewer).

Thus we find major evangelical studies swinging against divorce, and certainly against remarriage after it, at a time when a more liberal majority in the church is more tolerant of these things. A. E. Harvey, for instance, devotes more time to explaining why the language if indissolubility is mistaken, and then asking how the experience of death and resurrection might apply in divorce and remarriage, than to application of Jesus' direct words in Mark 10.[21]

My own approach to the biblical material is different. I believe that Jesus was teaching his followers not just *what* to think, but *how* to think ethically, so that they could then come to their own conscientious decisions. Whereas the Jewish lawyers were arguing over the niceties of procedure, and the precise meaning of words in Deuteronomy 24, he pushed them back to why God instituted marriage. In quoting Genesis 2, he is not trumping one text with a better one, but pointing to God's mind as seen in creation. They should not be disputing over what Moses 'commanded' (Matthew) or 'allowed' (Mark), but how to achieve the harmony implied by 'the two shall become one flesh'. Much of what he would say about marriage is therefore to be found in his general teaching about respect and relationships, not least in Matthew 18, where forgiveness and conciliation feature. Clearly, Jesus decried divorce, and by putting it on a par with adultery was saying in a very vivid way that no pious Jew, and no member of God's kingdom, should contemplate it.

But we should also ask *why* Jesus taught that. It is in such contrast to the norms of his culture that we should ask what, in addition to his reading of God's purpose in creation, prompted such strong opposition. I suggest it is his concern for the exploited in the community, which is seen not least in his respect for the women he met. For all their concern for transparent procedures in divorce, Jewish men used the system to treat women as disposable, even though this meant pushing them into destitution or a hasty second marriage to avoid it. This is difficult to prove (although R. Aqiba's serious interpretation of Deuteronomy 24:1 a century later, as allowing divorce if the husband simply found another woman more attractive, supports my case).[22] I am not suggesting that it was universal, but it was frequent enough to rouse Jesus' anger and prompt this teaching.

Marriage in church after divorce?

If this is so, should it be the principles rather than the letter of Jesus' teaching that we apply today? There will be cases where divorce is a legitimate relief from the oppression of one spouse by the other. Does the ease with which divorce can be obtained today itself facilitate the abuse of power by one spouse or the other, and lead to people being treated as disposable?

The legitimacy of divorce in limited circumstances does not automatically mean that the church should celebrate second marriages, or even bless them. (There is an inconsistency in offering a blessing just after the civil marriage. If it is unblessed because second marriage is wrong, no amount of 'blessings' will make it right. It

21 A. E. Harvey, *Promise or Pretence*, SCM, London 1994, chs 2, 3, 9.

22 H. Danby, *The Mishnah*, Oxford University Press 1933, p 321: *Gittin* (Deeds of Divorce) 9:10.

would be more logical to offer merely the legal core of a church wedding with no prayer. What should be on offer is a thanksgiving for civil first marriages long after the event, with promises renewed before God.) But if the church refuses second marriages to its loyal members, is it pushing some of them towards the poverty which often attends single parenthood?

It is often suggested that the remarriage of divorcees is an evangelistic opportunity, and an affirmation of the gospel principle of forgiveness. This positive argument is overplayed. What is more reasonable is a negative one. Christians who find themselves facing divorce will not seek support before or after the event if the 'official' line appears condemnatory, while from outside it will seem that the church prevents people sorting out their business honestly, and encourages mere cohabitation.

A growing number of Anglican clergy conduct second marriages, and in *Marriage in Church After Divorce*, the bishops are again drafting procedures to harmonize good practice across the church – procedures which will still allow for conscientious refusal to conduct such marriages and so will not lead to uniformity! They recommend discussion of each parish's practice in its PCC, which will call for sensitive handling: how many PCCs include sore divorcees, or people who have conscientiously avoided divorce at some cost?

There are no easy answers. Whatever church or state does will fail some of the principles Jesus taught, and simply to quote texts or apply a blanket rule will, I fear, fall into the error that Jesus was criticizing. To refuse remarriages on principle will be consistent, but perhaps salves our consciences without saving many first marriages. Yet to treat each case as it comes will lead to increasing laxity, as every situation becomes an exception to the rule.[23]

So what of the draft proposals on pages 52-61 of *Marriage in Church After Divorce*, on which the church is asked to come to some decision before March 2001? They are less bureaucratic than those which stalled in 1985, and put the onus on parish clergy, with support from their bishop, within a national framework which will – it is to be hoped – be consistent. That is to the good, so long as the promised forms do occupy less than the 17 pages of A4 on which the previous scheme foundered.

Parishes will have the right to refuse any second marriage, so arrangement needs to be made (similar to that used if a church building is out of commission) for a couple who live in a refusing parish, so that the scheme can offer national consistency. Some guidance is also needed about such weddings inherited by a refusing cleric from the previous incumbent.

The pastoral criteria (§3, pp 53ff) seem generally sound, although the implications of existing children, and financial implications in a new household need

23 Andrew Goddard (Wycliffe Hall Newsletter, Easter 2000) notes that even within *Marriage after Divorce*, 'neither... should have been... divorced more than once' (p 47) comes to be qualified with 'normally' in the draft code of practice (p 54)!

to be explored more than 3(c) implies. Similarly, it is not just time, but the degree of hurt and the extent to which it has been healed that affect the 'baggage' brought forward (3(d)). It is a debatable point how far we should expect 'signs of a developing Christian faith' (3(h)). We cannot ask explicitly for this at a first marriage. Will there be a danger of making 'rice Christians' of divorcees?

My own feeling is that civil registrars are better placed than clergy, even with a diocesan registrar's help, to assess the validity of British of foreign divorce papers. Legal preliminaries for all marriages after divorce should therefore be handled by them (§6.1). As it stands, the code of practice says nothing about qualification for a marriage by membership of the electoral roll (§6.4, 6.5, p 60).

In practical terms, there is probably now enough experience of good practice to make the scheme work. In moral terms, it is a moot point whether it should be introduced. If it is, will the spin people put on it be simply that 'divorce is OK'?

As synods consider the discussion document, I believe there are two levels of debate. First, for some, the issue still remains whether it is right to remarry even some divorcees in church. I believe that this should not be resolved by philosophical discussions about indissolubility. Nor should we see restraint from a second marriage as some ascetic ideal, a rejection of 'pleasure' or 'passion' as the ancient world and the early church did. We should look at how divorce affects people, and the question to answer is this: What was Jesus aiming to do for people by saying what he did about divorce and remarriage, and how can we achieve the same aim today?

Second, given that some people believe conscientiously that remarriages in church can be moral, is this the right kind of system by which to regulate them? Is it right to put the onus on parochial clergy? Are there improvements to be made? Perhaps to answer this we actually need to see the draft forms promised 'for a later date' (§4.4b, p 56). Was the Liturgical Commission right to advise no different or extra wording in services after divorce, and if not, how can appropriate wording best be included in a service? The procedure should not be so loaded as to depend on the supposed 'innocence' of the divorcee seeking remarriage, nor so complex as to restrict remarriage to the form-filling classes or hinder it altogether.

Whatever is decided, a well thought out and ongoing programme of local and national publicity needs to be prepared in advance, affirming lifelong marriage, promoting its value among cohabitants, and explaining the new practice. If, in the end, second marriages in church are made more difficult we shall need to reject charges of being unrealistic and out of touch; if they are made simpler, the charge will be one of moral laxity. Effort should also be put into positive preparation of couples for the future and helping clergy to offer that not just to divorcees but before all marriages, not least those preceded by cohabitation with the spouse-to-be or with other parties. I was disturbed to learn from our diocesan clergy training officer some years ago that he did not run courses on marriage preparation because there was such poor demand.

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