

General Synod

Removal of Divorce Impediment to Ordination

Paper from the Secretary General

Summary

Mark Bennet's motion argues for a change in how C4 faculties are processed and that a completely different system is needed, because the present system can be intrusive and distressing, and does not reflect the widespread acceptance of divorce and remarriage in wider society. The Church of England's processes reflect both its commitment to the doctrine of marriage as lifelong, and its commitment to grace and the possibility of second chances. Given the promises made by those being ordained, the present system seeks to maintain the right balance between distinctiveness and a commitment to lifelong, faithful, exclusive relationships, together with the need for grace and compassion.

Legislative background

1. Section 9 of the Clergy (Ordination and Miscellaneous Provisions) Measure 1964 originally created an absolute impediment (i.e. a bar) to the ordination of a person who had remarried and, the other party to that marriage being alive, had a former spouse still living; or who was married to a person who had been previously married and whose former spouse was still living. The Clergy (Ordination) Measure 1990 substituted a new section 9 in the 1964 Measure which retained the impediment in the case of such a person but introduced the possibility of the relevant archbishop granting a dispensation. As a result, paragraph 5 of Canon C 4 now provides for the relevant archbishop, on the application of the diocesan bishop concerned, to grant a faculty for the removal of the impediment in a particular case.
2. Paragraphs 4 and 5 of Canon C 4 are as follows:
 4. *Subject to paragraph 5 of this Canon no person shall be admitted into holy orders who has remarried and, the other party to that marriage being alive, has a former spouse still living; or who is married to a person who has been previously married and whose former spouse is still living.*
 5. *The archbishop of the province, on an application made to him by the bishop of a diocese on behalf of a person who by reason of paragraph 4 of this Canon could not otherwise be admitted into holy orders, may grant a faculty for the removal of the impediment imposed by that paragraph to the admission of that person into holy orders, and any request made to a bishop for an application to be made on his behalf under this paragraph shall be made and considered, and any application made by the bishop to the archbishop shall be made and determined, in accordance with directions given from time to time by the Archbishops of Canterbury and York acting jointly.*

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Theological principles

3. The current legislation is based on two separate but related theological principles; one is the nature of marriage, the other, the nature of ordained ministry.
4. Remarriage after divorce has been a contentious issue in the life of the church over a long period of time. The doctrine of marriage holds marriage to be exclusive and lifelong, and, until 1999, it was also said to be indissoluble. Whilst it is now considered possible for a marriage to be dissolved, it is nonetheless still a breach of the 'exclusive and lifelong' commitment, to consider remarriage after divorce, but it is allowed as a pastoral provision on the grounds of grace and compassion. This is not universally agreed in the CofE, and some parts of the Church still consider marriage to be indissoluble.
5. Debates around divorce and remarriage considered the Biblical material relating to marriage, the possibility of divorce built into the laws of the Old Testament, the significance of Jesus' stronger steer on marriage, yet the presence of the Matthean exception, where Jesus allows for divorce on the grounds of adultery.¹ The presence of exceptions in the Biblical record makes an absolutist position more difficult to maintain. The Matthean exception also raises questions on the definition of adultery (is it a physical act with a third party, emotional attachment to another person, lack of faithfulness in other areas of life, or even, from Jesus' teaching in the Sermon on the Mount, 'looking at another with lust').
6. The principle of grace is central to the possibility of a new start following the breakdown of a marriage. However it is also crucial to highlight that the new marriage is undertaken on a good faith basis of following through with the ideal from this time onwards. This is particularly relevant for the remarriage of those who are ordained: the pastoral accommodation or provision made is not one that redefines marriage, but one that holds up moving closer to the ideal, while accepting that failure has occurred, but that grace can open up a way for new life. Grace in this area was highlighted in *Marriage: A Teaching Document*. 'The scope of God's holiness is the scope of his mercy, and the more we are ready to open ourselves to the demand, the more we will know

¹ The *Pilling Report* refers to this: 'Jesus, however, implicitly promises a cure for the disease of the heart. Moses, he says, allowed divorce 'because of the hardness of your hearts' (Mark 10.5). But he is summoning people, not to the Deuteronomic legislation which had to take account of Israel's hard-heartedness, but to the original plan for creation: 'From the beginning of creation, 'male and female he made them' ... and so on (Mark 10.6-9). Interestingly, the passage continues by prohibiting divorce on the one hand and then welcoming children on the other. There is something powerful and important about that whole sequence. Jesus' kingdom-agenda envisages, not the abandonment or reframing of male –female marriage, but its firming up and re-establishment. Some will say, 'Well, but we now allow divorce.' Yes: originally this was on the basis of Matthew 5.32, 19.9 (permission in case of sexual immorality) and 1 Corinthians 7.15 (the unbelieving spouse who wants to separate). Both of these envisaged the possibility of remarriage (otherwise it isn't really a divorce).' (p. 163)

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of his generosity, forgiving us where we have failed and granting us success where we thought we were bound to fail.'

7. The House of Bishops' *Marriage: A Teaching Document* explored the question of remarriage in some detail:

In most cases we have to acknowledge that a real marriage, in every sense, begun with real hope and expectation, has come to grief. All Christians believe that marriage is 'indissoluble' in the sense that the promises are made unconditionally for life. 'For better for worse, for richer for poorer, in sickness and in health, to love and to cherish, till death us do part, according to God's holy ordinance': these well-known words, used for many centuries, are decisive for what it means to undertake marriage. Some strands of the Western Church have concluded from this that a divorce decree is ineffective and a subsequent marriage invalid in the eyes of God. The reformers of the Church of England did not believe that this was taught in Scripture, and they did not teach it in The Book of Common Prayer. In this respect they came closer to the understanding of the Eastern Church, which allows for the possibility of the 'death' of a marriage. Yet from the seventeenth century until the present century English Church law made no allowance for a second marriage in the lifetime of a previous partner; and some Anglican Christians have believed, and still do, that such a marriage is, strictly speaking, impossible. These convictions demand respect, though they are not those of the Church of England as a whole. And they emphasize one aspect of the truth which we all acknowledge: a broken marriage can never put us back where we were before; it leaves relational ties and obligations behind which do not disappear — to the children of the marriage, to the former partner, and to his or her parents, relatives and friends. The disaster of a broken marriage is not simply the result of chance or accident. Promises have been broken in attitudes the partners have taken and in ways they have treated each other. Marriage breakdown is the fruit of lovelessness and carelessness, but not only of the partners; others share the responsibility for it. Contemporary society imposes heavy pressures on marriage. (...)

Everything that contributes to the breakdown of a marriage offends against God's love. It harms the community as a whole, and quite specifically harms the partners and their children. But it is unwise, and may also be uncharitable, for those outside the marriage to attempt to say precisely where the fault lies in any case. Should domestic violence and abuse take place, the Church must condemn it frankly, and offer appropriate support to its victims. At deeper levels of responsibility for breakdown, however, the Church is not interested in assigning blame to one partner or the other but in helping people accept responsibility for what they have done. Partners to a broken marriage need to search themselves honestly, and to overcome the temptation of always blaming each other, the circumstances, and so on. At the heart of the gospel is a warning against self-justification; we need this warning especially when we are trying to cope with the sense of shame and humiliation which is almost inseparable from the experience of marriage breakdown. Does the

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Church believe that a further marriage is possible after divorce? In some circumstances to marry again after divorce may compound the wrong that one has done, e.g. when obligations to the partner or children of the first marriage are not being met; or when the marriage causes further hurt to the children of the previous one; or when an act of unfaithfulness which contributed to the breakdown is the basis of the new relationship. It may sometimes be a sign of emotional immaturity; and it may also be imprudent, emotionally and financially. In other circumstances, on the other hand, it may be responsible, prudent (e.g. in relation to the care of young children) and emotionally wise. There is no simple rule for discerning this, for each case is different. But the Church has learned to stress the importance of putting a clear distance between a new marriage and the old: a distance of time, of local setting, and of relationship. Time is needed to recover emotional stability and good judgement; a new setting is needed, where the former partner is not forced to endure the reopening of old wounds; and a new relationship is needed, avoiding suspicion that the new marriage consecrates an old infidelity. In this situation it is for the partners, whatever advice they take, to decide whether to marry. But it is not only for the partners, but for the Church itself, to decide whether the marriage ought to be witnessed and solemnized in an act of worship. The Church has a responsibility to safeguard the understanding of marriage as a lifelong vocation.’ (1999, p.5-8)

Discernment of vocations to ordained ministry

8. In terms of the life of clergy, two questions are of material importance. One is the promise to fashion one’s life and the life of one’s household according to the way of Christ. This means a commitment to the teaching of the Church (though this has to be much wider than marriage, personal relationships and sexuality). However, with all promises made at ordination, there is an element of ‘working towards’ as fallible human beings, and therefore the promise to do so is held in tension with the reality that every person, ordained or not, is in need to grace. It is currently possible for those who have made major mistakes in their previous lives to be ordained to ministry. The discernment process allows for grace, change and transformation in a person’s life. With regards to remarriage after divorce, paragraph 5 of Canon C 4 – which enables the archbishop to grant a faculty removing the impediment to ordination – is designed to help assess the level of repentance and change so that the new life that this person is living can truthfully be said to seek to be fashioned according to the ways of Christ.
9. An important strand of debates on the possibility of remarriage after divorce, including for those who are ordained or considering ordained ministry, is the question of those who might have been divorced against their will, or because of grave fault from their partner. There was acknowledgment that the causes of marital breakdown are complex and usually multifaceted, but that responsibility is not necessarily equally shared by both parties. As a result, discretion was built into the possibility of remarriage in church, so that circumstances could be taken into account, whether in making a local

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decision for a priest to marry a couple where one partner has a living former spouse, or for bishops making decisions about the ordination of deacons and priests.

10. With respect to ordination, all candidates are required to explore how their lives will model and reflect principles of godly living. The ordaining bishop must be satisfied that a candidate is “of virtuous conversation and good repute and such as to be a wholesome example and pattern to the flock of Christ” (paragraph 2 of Canon C 4). Where a priest has entered a new marriage following divorce, bishops are expected – in accordance with the archbishops’ directions issued under paragraph 5 of Canon C 4 – to explore in each case distance in time, relationship and place from the previous marriage, the absence of circumstances that might give rise to scandal, the fulfilment of all obligations to a former spouse and family and the stability of the current marriage. These explorations are about the assessment of character, and a consideration of what may give rise to problems in a public role.
11. This specifically shapes the spirit behind paragraphs 4 and 5 of Canon C 4: it is not simply, or even mostly, about being divorced or marrying a divorcee, but about a person’s role in a marriage break up, and an assessment of character, repentance and understanding of future challenges being part of the discernment process. Whilst this some assessment of this kind is an appropriate part of discernment, it is important to note that care is needed to avoid overly intrusive or inappropriate questioning, particularly for those who are survivors/victims of abusive previous relationships.

Conclusion

12. The question before the House and Synod is therefore whether the questions behind the establishment of paragraphs 4 and 5 of canon C 4 are still considered appropriate and legitimate:
 - Is there good warrant for an exploration of the past and of questions character in relation to previous marriages as part of the discernment process?
 - Could repentance and grace be considered enough, rather than seeking an assessment of previous circumstances (which is likely to be subjective, and not necessarily applied consistently, or sensitively)?
 - Is Canon C 4 the best way of doing this, or does its current application show drawbacks that outweigh the benefits? And if drawbacks are too significant, would new archbishops’ directions be sufficient to remedy this, or would a different approach altogether be required?

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