

MARRIAGE AND LICENSING OF CLERGY WHO HAVE BEEN DIVORCED

1. Brief

My brief is to examine and offer proposals on guidelines concerning:

- Marriage of clergy who have been divorced and whose spouse is alive.
- Licensing of clergy who have been divorced.
- Ordination of persons who have been married after divorce.

2. Terminology

- I have chosen to use the term "Marriage after divorce" rather than "Remarriage after divorce", as the latter should normally apply to the remarriage of a couple who have been divorced and who choose to re-establish their marriage.
- Throughout this document the term "marriage after divorce" presupposes that the person being married has a former spouse or spouses still living.

3. Sources

In the Anglican Church of Southern Africa we have a number of sources for our understanding and regulation of Marriage. Our sources include:

- The Scriptures. Historically, the church has given particular emphasis to Genesis 2:24, Mark 10:2-9, Matthew 19:1-9 and Ephesians 5:21-33.
- The *Book of Common Prayer* and subsequent Anglican Prayer Books. The section entitled "Marriage" in *An Anglican Prayer Book 1989 (APB)* governs our practice and is the main source for our theology of marriage.
- Canon 34 "Of Holy Matrimony" which contains canonical regulations for the administration of Marriage.
- *Guidelines to Canon 34* issued by the Bishops in September 1997 to enable the church's faithful administration of Canon 34, together with an *Alternative Introduction For the Remarriage of Divorced Persons*.

4. Theological Understanding of Marriage

The document *Towards a Theology and Pastoral Practice of Marriage* was drawn up by the Southern African Anglican Theological Commission in February 2001. It was presented to the church as a statement encapsulating our understanding of the theology and nature of marriage and our pastoral practice with regard to marriage, including marriage after divorce.

In this document the section on marriage after divorce begins with the premise that "Christians have always seen marriage as a lifelong and permanent relationship." It then outlines two ways of understanding Christian marriage:

- "For some Christians, the act of marrying creates a bond in the eyes of God which it is impossible to dissolve even by legal divorce. In this understanding, neither partner can be free to marry again in the lifetime of the other and the church should never countenance such a marriage, still less take part in solemnising it."
- "For other Christians the profound bond created at marriage remains a relational bond which is sustained by the ongoing choice and commitment of the partners. While that bond can never be severed frivolously or thoughtlessly, it remains possible for the relationship to be dissolved as a result of circumstances or the decision of one or both partners."

The document continues: "Out of this [second] understanding of marriage, the CPUSA [ACSA] has permitted marriages after divorce since 1976, but only after careful pastoral ministry. The church must not only care for the couple but ensure that solemnising a new marriage will not compromise the church's witness to the lifelong marriage as God's desire and intention." (For the sake of clarity, and should the Bishops wish to consider this more fully, the full text of this section of the document is contained in the Appendix.)

The Bishops may wish to revisit this. It may be open to the unfortunate interpretation that our willingness to allow people to marry after divorce (while a former spouse is still alive) is based on this second understanding of the theology and nature of marriage. The question is whether this adequately reflects the theology and nature of marriage which lies at the heart of *Christian Marriage* in *APB*.

My concern is based on the following. The preface to *Christian Marriage* in *APB* begins with the Affirmation at the head of Canon 34 that: "The Anglican Church of Southern Africa affirms that marriage by divine institution is a lifelong and exclusive union and partnership between one man and one woman." Anglicans do not have a formal and comprehensive confession of faith or statement of belief, such as the Westminster Confession. A dictum often quoted is, "If you want to know what Anglicans believe, observe them at worship." Our Prayer Books are therefore vital documents in which our doctrines are enshrined. So we turn to *APB 1989* as the source of our understanding of the theology of marriage. The Introduction to *The Marriage Service* speaks of man and woman becoming "one flesh" in marriage (Genesis 2:24); that husband and wife are "united in that love, as Christ is united with his Church" (Ephesians 5:21-33); and of the "union of husband and wife". The officiant asks whether, "forsaking all others", each will "be faithful to her / him as long as you both shall live?" The vows the couple makes are "until death us do part, according to God's holy law." The rings are a symbol of "unending love and faithfulness, to remind them of the vow and covenant that they have made this day." Marriage is "a sign of the spiritual unity between Christ and his Church."

This was the understanding of the nature and theology of marriage when our Province decided in 1976 (after investigating and debating the issue over many years and in previous Provincial Synods) to allow marriage after divorce during the lifetime of a former spouse. The historical Anglican theology of marriage had not changed when we decided to allow marriage after divorce. Nor was any change in the essential understanding of the nature and theology of marriage reflected in *APB* thirteen years after the decision was made.

The spontaneous love of God for sinners and God's willingness to forgive is the sole basis on which we have agreed to allow marriage after divorce, just as, after God's people have broken the Covenant he has made with us and we with him, God forgives us repeatedly and graciously restores the Covenant relationship. The failure of God's people to be faithful to the Covenant does not lead to any alteration of the Covenant! Failure to remain faithful to the vows of the marriage covenant (which is a covenant with both God and spouse), common as such failure has become, does not change the nature of this covenant. But God is a forgiving God. Where there is true repentance on our part and a desire to start afresh, we believe that we are restored to our baptismal innocence and that we can therefore start afresh. (See Ephesians 5:25b-27) Where it is established that there is no prospect of re-establishing the former relationship, permission may be given to enter into a new relationship. With the exception of the latter part of the Introduction to the Marriage Service in *APB*, the service remains exactly the same. A fresh commitment is made to be faithful in an exclusive union "until death us do part".

It is God's infinite love and forgiveness alone that allows us to make a fresh start. Unless this is clearly understood, the possibility exists that we seem to say one thing in our marriage liturgy and another in our practice of allowing marriage after divorce.

5. A Special Calling

While Canon 34 applies to clergy and laity alike, deacons, priests and bishops bear a particular responsibility as examples to the flock of Christ. They are entrusted with the task of teaching the sanctity and permanence of marriage, especially as they prepare couples for marriage and solemnise marriages. At Ordination, candidates are charged to model their lives on the holy Scriptures. By their word and example they are to make Christ and his redemptive work known to those among whom they minister. They are asked, "Will you strive to fashion your own life and that of your household, according to the way of Christ?" And they answer, "With God's help, I will." The priesthood is "a weighty responsibility which none would dare to undertake except for the call from God. To you whom he calls, he will always give his strength." The bishop has the additional responsibilities of guarding the faith and shepherding the clergy.

Within this high calling married clergy bear the responsibility of setting an example in their own marriages by upholding the sanctity of marriage. Inevitably some clergy marriages will fail, and the church has moved away from its earlier position of refusing to license or grant permission to officiate to clergy who have divorced and married again (Synod of Bishops April 1977, Minute 14.1). **However, given the high calling of the clergy, the church has wisely applied particular standards when administering Canon 34 in the case of clergy seeking to marry after divorce, clergy seeking a licence or permission to officiate, and candidates for ordination.**

6. The Current Regulations

6.1 Canon 34 in its entirety applies to clergy as to laity.

6.2 In 1997 the Synod of Bishops agreed:

6.2.1 **In the case of clergy who, having been divorced, are seeking permission to remarry in church** they should see at least three bishops, at least one of whom shall be from another diocese. The bishop dealing with the application will decide on the names of the other bishops to be seen. The onus is on the couple, however, to make arrangements to see the other bishops concerned and to bear any transport costs which may be involved. This ruling applies to all clergy, even those who have Permission to Officiate.

(Guidelines, Paragraph 9)

6.2.2 Providing that a bishop has been involved in working through the issues relating to a former marriage and subsequent divorce of one of his clergy, he may, from deep knowledge of the case, recommend that there should be no suspension of ministry at the time of remarriage. In such instance the process whereby the clergy person has to be seen by two independent bishops should apply simultaneously to the application for remarriage. In other words the bishop concerned and the assessors should meet with the clergy person **and his / her proposed new spouse** and, on the basis of the interviews, decide whether permission can be given both for remarriage in church and a continuation of ministry without suspension. (Guidelines, Paragraph 10)

6.2.3 In the case of a person divorced and remarried seeking ordination, the Diocesan Selection Committee (or similar body) shall advise the bishop concerning acceptance for ordination, normally before the beginning of training. The bishop shall make the final decision regarding acceptance. (Guidelines, Paragraph 11)

...7. Further Recommendations

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The following additional guidelines are recommended:

7.1 Preamble:

When a bishop has been involved in working through the issues relating to a former marriage and subsequent divorce of one of his or her clergy, it may have seemed to the bishop that it was unnecessary to complete the prescribed forms (Canon 34 Forms A to E or F) before granting dispensation to marry again or Letters of Closure. However, it is essential that the bishop cause these forms to be fully completed and sent on to the two additional bishops who will be interviewing the couple, and that copies be placed in the cleric's personal and confidential file for future reference. This will be for the protection of the cleric as well as the church. The first proposed additional regulation is therefore:

7.1.1 The bishop shall ensure that the prescribed forms are completed in every case where permission to marry after divorce or Letters of Closure are sought, and that these forms be made available to the additional interviewing bishops, and a copy placed in the cleric's personal and confidential file lodged with the diocese.

This would become Guideline 12.

7.2 Preamble:

Paragraph 8.1 of the 1997 guidelines reads: "Where possible, it may be helpful to check with the former partner of the divorcee/s to hear his/her side of the story." Spouses of clergy are normally deeply involved in the life of the church and may have been severely disillusioned or spiritually traumatised by the break-up of their marriage, and the church's decision to allow their former spouse to marry again or to be restored to ministry may cause additional disillusionment or trauma. It is essential that spouses are given an opportunity to tell their side of the story, that this is taken into consideration when a decision is made, and that they receive careful ministry before a decision is made.

7.2.1 When a bishop is considering an application from a divorced cleric to marry in terms of Canon 34.6, or seeking Letters of Closure in terms of Canon 34.5, or the granting of a licence or permission to officiate, the initiating bishop should at this stage, where possible, interview the former spouse to hear his or her side of the story, and ensure that this person receives pastoral counsel. The bishop may, especially where distance

is a factor, ask another bishop or a deputy to conduct the interview and give pastoral counsel on his or her behalf.

This would become Guideline 13.

7.3 Preamble:

When a person who is being considered for ordination has been divorced and has not married again, he or she should be advised to apply for Letters of Closure. The process should be administered by the parish priest in the usual way, application being made to the bishop. This should be done as early as possible in the applicant's journey towards ordination. It will aid the church and the applicant in the process of discernment, obviate possible stumbling blocks later (for example, should the person apply for permission to marry in terms of Canon 34, either before or after ordination), and the fact that this is on record will be for the protection of both the person concerned and of the church. This, *mutatis mutandis*, would equally apply when clergy who have divorced and have not married again are being considered for work in a new diocese.

7.3.1 When a person who has been divorced and has not married again is being considered for ordination, he or she should be advised to apply for Letters of Closure. This should happen as early as possible in the process of discernment. Copies of the prescribed forms should be placed in the ordinand's or cleric's personal and confidential file lodged with the diocese. The same would apply when a priest from another diocese seeks work in a diocese.

This would become Guideline 14.

7.3.2 When a cleric who has been suspended from ministry in one diocese applies to the bishop of another diocese for work, there should always be full consultation between the two bishops.

This would be Guideline 15.

7.4 Preamble

Paragraph 4 of the Guidelines to Canon 34 (which apply to both laity and clergy) reads: "No application for remarriage in church will normally be considered when there has been more than one divorce." The question has been raised as to whether the time has perhaps come to review this. While extra caution should always be exercised when there has been more than one divorce, it is more important to take into account the circumstances leading up to the divorce(s). Where an applicant has broken the marriage vows, possibly more than once; where the applicant has shown contempt for

the institution of marriage, or where the applicant has been guilty of abuse, there should be no question of allowing a further marriage or, in the case of a cleric, granting a licence or permission to officiate. My first proposal in this regard is that Guideline 4 should be amended as follows:

- 7.4.1 Particular caution should be exercised when one of the applicants has been divorced more than once. No application for marriage should be considered where there is evidence of contempt for the Institution of marriage or abusive behaviour.**

My second proposal is that the following new Guideline be added:

- 7.4.2 In the case of clergy who have been divorced applying for a licence or permission to officiate, or of those seeking ordination, particular attention should be given to Guideline 4 above.**

This would become Guideline 16, and the subsequent guidelines would then be renumbered.

8. Appendix

An extract from "Towards a Theology and Pastoral Practice of Marriage", drawn up by the Southern African Anglican Theological Commission in February 2001:

"Remarriage after Divorce

While Christians have always seen marriage as a lifelong and permanent relationship, there have been two ways of understanding this which affect the possibility of marrying again when a person has been divorced.

"For some Christians, the act of marrying creates a bond in the eyes of God which it is impossible to dissolve even by legal divorce. In this understanding, neither partner can be free to marry again in the lifetime of the other and the church should never countenance such a marriage, still less take part in solemnising it.

"For other Christians the profound bond created at marriage remains a *relational* bond which is sustained by the ongoing choice and commitment of the partners. While that bond can never be severed frivolously or thoughtlessly, it remains possible for the relationship to be dissolved as a result of circumstances or the decision of one or both partners. The church would always regard such a breakdown as deeply distressing or regrettable, but a new marriage for one of the partners in such circumstances should be allowed. Naturally, a new marriage in these circumstances could not be entertained frivolously or when one of the partners is carrying a burden of unresolved hostility from a previous marriage, but with serious care and attention by the parties and by the church. Pastoral and

moral attention needs to be given to the circumstances of the breakdown of the original marriages(s), whether the moral and financial obligations arising from that marriage (especially to the former spouse and the children of any previous union) are being fulfilled, and whether the parties have come to terms with themselves and with God before embarking on new commitments.

"Out of this understanding of marriage, the CPSA has permitted marriages after divorce since 1976, but only after careful pastoral ministry. The church must not only care for the couple but ensure that solemnising a *new marriage* will not compromise the church's witness to the lifelong marriage as God's desire and intention. For this reason there can never be haste, but always careful pastoral ministry, and there has to be permission given by the bishop or his appointee. This is to support the priest who might otherwise be pressed into acting in a way that contradicts the prevailing understanding of the church and does not provide adequate pastoral guidance to the couple concerning the previous relationship."

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