

DIVORCE AND REMARRIAGE IN THE CONTEMPORARY SOCIETY: THE CATHOLIC CHURCH'S RESPONSE

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ABSTRACT

Divorce and remarriage is an increasing widespread phenomenon in contemporary society due to the liberalization of divorce and changing gender roles. No one can gainsay this fact because statistics show that the rate of divorce and remarriage is high in many developed countries where human freedom is politicized compared to other conservative countries where religious institutions play a strong role in society.¹ While divorce and remarriage is possible and legal in some societies, remarriage is not possible in some situations as not all authorities allow divorce. While the Catholic Church forbids divorce entirely, Protestantism on the other hand has more relaxed rules for divorce and remarriage.² In Judaism, there are several views on divorce and remarriage: Orthodox Jews allows remarriage incase of death of a spouse. Jewish scripture also obliges the brother of the deceased man to marry his wife if his brother does not have children, otherwise he can be exempted from this obligation. They are also permitted to get divorced if the husband gives his wife a divorce document, which is referred to as a 'get' - which states "you are hereby permitted to all men". In Islam, the Qur'an approves divorce but forbids a divorced couple to remarry each other again until the wife marries another man, consummates the marriage and receives divorce.³

In summary, this 'trend' poses a lot of question on the fundamental purpose of marriage and family life, and tends to downplay the sacramentality and role of marriage in family life and child formation. In this write-up I shall critically present the Catholic Church's position on this issue- divorce and remarriage, and why such views are upheld in relation to the effects that come from the choice of divorce and remarriage.

¹ "Figures published by the U.S Census Bureau In 2004 shows that the number of men who had married twice stood at 12 percent, while the same number for women was 13 percent. The data also shows that 58 percent of women and 54 percent of men had married only once." (<https://www.questia.com/library/psychology/relationships-and-the-family/marriage/remarriage> Accessed on 1/4/2016).

² "In 2002, the General Synod of the Church of England approved by an overwhelming majority the remarriage of divorcees." (<https://www.questia.com/library/psychology/relationships-and-the-family/marriage/remarriage>)

³ "Sura 2:228-232. The divorce is a three-month process, which requires a threefold pronouncement of the divorce." (<https://www.questia.com/library/psychology/relationships-and-the-family/marriage/remarriage>)

WHAT IS DIVORCE AND REMARRIAGE?

Divorce is a judicial declaration of a civil court which effects the legal dissolution of a marriage, causing the marital relationship to cease in a legal sense, and releases husband and wife from their civilly enforceable matrimonial rights and obligations.⁴ As a consequence of this, the court may enjoin rights and duties of child custody, spousal support, and property division even though the marital relationship is ended. Divorce should not be confused with annulment, which declares a marriage null and void for a good canonical reason. Remarriage, on the other hand is a marriage that takes place after a previous marital union has ended, either through divorce or widowhood. Divorce and remarriage presupposes a true marriage, however, as said earlier different societies take different position on these issues.

TYPES OF DIVORCE

- (1) **Contested divorce:** This divorce is when the two parties disagree and is not able to come to a compromise about the property, children, and support issues and as such would require the intervention of the court to decide how to split property and deal with the custody of their children.⁵
- (2) **At-fault divorce:** This is the “grounds” for divorce (popularly called “fault”) required as proof to terminate a marriage by one party that the other party had committed an act incompatible to the marriage. Fault-based divorces can be contested; evaluation of offenses may involve allegations of collusion of the parties (working together to get the divorce), or condonation (approving the offense), connivance (tricking someone into committing an offense), or provocation by the other party.
- (3) **Summary divorce:** A summary or simple divorce is used when spouses meet certain eligibility requirements and or can agree on key issues beforehand. It is more or less like a contract whereby they decide the duration of the marriage, whether or not to have children, prior allocation of child custody and of child-support direction and amount, property allocation and division etc.⁶
- (4) **No-fault divorce:** This divorce requires no allegation or proof of fault of either party. The barest of assertions suffice- the mere assertion that the marriage has broken down or allegation that the marriage has been irreparable by irreconcilable differences will satisfy the judicial officer. Courts will not inquire into facts. A “yes” is enough, even if the other party vehemently says “no”. The application for divorce can be made by either party or by both parties jointly.⁷

⁴ James A. Coriden in Michael Glazier (edt.) et al, The Modern Catholic Encyclopedia: (Minnesota: Liturgical press, 2004), p. 243.

⁵ Meyer, Cathy, “Issues Surrounding a Contested Divorce”: (About.com: Accessed on 1/4/2016)

⁶ Meyer, Cathy, “Issues Surrounding a Contested Divorce”, Op.Cit.

⁷ Meyer, Cathy, “Issues Surrounding a Contested Divorce”, Op.Cit.

- (5) **Uncontested divorce:** this divorce is when the two parties are able to come to an agreement (either with or without lawyers/mediators/collaborative counsel) about the property, children, and support issues. If this is not the case, then they may ask the court to decide how to split property and deal with the custody of their children. Collaborative divorce and mediated divorce are considered uncontested divorces.
- (6) **Collaborative divorce:** is a method for divorcing couples to come to agreement on divorce issues. In a collaborative divorce, the parties negotiate an agreed resolution based on their own needs and interests, but with complete information and full professional support.⁸
- (7) **Mediated divorce:** It is an alternative to traditional divorce litigation. In a divorce mediation session, a mediator facilitates the discussion between the two parties by assisting with communication and providing information and suggestions to help resolve differences. At the end of the mediation process, the separating parties have typically developed a tailored divorce agreement that can be submitted to the court.

CAUSES OF DIVORCE AND REMARRIAGE

In most cases people remarry after the death their spouse for the sake of companionship, security and economic assistance, or as a result of divorce. On the contrary, there are several reasons why people divorce. For instance people divorce as a result of infidelity (adultery and extramarital sex), domestic violence (emotion and physical abuse), midlife crisis, addictions (alcoholism and gambling), workaholism, and family strain.

EFFECTS OF DIVORCE AND REMARRIAGE

Even though divorce seems to be a solution for couples experiencing high conflicts, it affects spouses as well as the child/children both physically and psychologically. On the part of the spouses, financial support is many times lost when one goes through a divorce. The person may be obligated to obtain additional work to maintain financial stability. Emotionally, divorce can cause a person not to be able to trust or love again. It can also lead to a negative relationship between the parent and child; as such the relationship may suffer due to lack of attention towards the child as well as minimal parental supervision. On the part of the child, divorce has more dangerous consequences. For the young child, divorce shakes trust in dependency on parents who now behave in an extremely undependable way. Children of divorced parents are also more likely to experience conflict in their own marriages, and are more likely to experience divorce themselves. They are also more likely to be involved in short-term cohabiting relationships, which often dissolve before marriage.⁹ Poorly managed conflict between parents increases children's risk of behavior problems like unhappiness, less satisfaction with life, weaker sense of

⁸ Meyer, Cathy, "Issues Surrounding a Contested Divorce", Op.Cit.

⁹ P. R., Amato; Sobolewski, J. M., "The effects of divorce and marital discord on adult children's psychological well-being": ((PDF))(*American Sociological Review* **66** (6), 2001: 900–921. doi:10.2307/3088878)

personal control, depression, substance abuse and dependence, poor social skills, and poor academic performance.¹⁰

Like divorce, remarriage also has its positive and negative effects. On the positive side, remarriage helps widowed spouses to overcome loneliness, depression and insecurity which are predominant among widowed older adults. It also helps prevent them from promiscuity and indecency, and proffers another opportunity to embrace the benefits of marriage.¹¹ Just like marriage has shown to impart significant physical and mental health benefits on spouses, remarriage also seems to be protective in this regard even though it is not as strong as those for continuous marriage.¹² On the part of the child/children, remarriage is beneficial in some cases when the child is still very young and needs proper parental care, however, in some other instances it may be detrimental to their physical and psychological well being as they may be prone to wicked or abusive step parents who may not accept and love them and as such they may experience mental, emotional and interpersonal problems.

THE CATHOLIC CHURCH'S POSITION ON DIVORCE AND REMARRIAGE

The church insists not only that divorce is wrong, but also that marriage is indissoluble and permanent, and a lifelong covenant. Neither the parties nor the state have the power to sunder what God has joined. In line with tradition, the final report of the XIV general synod of bishops on the Vocation and Mission of the Family in the contemporary World consolidated the church's teaching on marriage- as a faithful and indissoluble union between a man and a woman, called to accept one another and to welcome life, and continues to abhor divorce for it goes contrary to the divine plan for marriage.¹³ In the church's view, all marriages have this essential character of permanence, both those which are "natural" (between non-baptized persons) and those which are sacramental (between baptized Christians).¹⁴ Because of this deeply held conviction- (that marriage is instituted by God for the propagation of the human race, for mutual support of the parties, and for purity of life¹⁵) - the church does not recognize that civil divorce terminates the marriage covenant, it only has civil effects, and as such the marriage bond endures and remarriage impossible despite civil divorce. The only exception is when the marriage has been

¹⁰ P. R., Amato; Sobolewski, J. M, Op.Cit.

¹¹ "Marriage also has a third purpose: It prevents those sins which the Apostle condemns (1 Cor. 7:2). Those who condemn marriage usually give free rein to all manner of impurity." (Rev. Francis Spirago, The Catechism Explained: (NewYork: Bezinger Brothers Inc., 1961), p. 379)

¹²Hughes, M. E.,&Waite, L. J., Marital Biography and Health at Mid-Life in Journal of Health and Social Behavior, ((PDF) (50(3), 344 -358., 2009. doi:10.1177/002214650905000307 PMID 19711810) Accessed on 1/4/2016.

¹³ "The faithfulness of God to the covenant, which cannot be revoked, is the basis for the indissolubility of marriage." (Final Report of XIV Ordinary General Synod (2015), n. 48.)

¹⁴ James A. Coriden in Michael Glazier (edt.) et all, The Modern Catholic Encyclopedia: (Minnesota: Liturgical press, 2004), p. 243.

¹⁵ Rev. Francis Spirago, The Catechism Explained: (New York: Bezinger Brothers Inc., 1961), p. 379.

annulled or dissolved by the authority of the church otherwise remarriage is possible in the church only after the death of one's spouse.

What does the church say of those who for practical necessity sue for a divorce: have they sinned by the act and should be barred from receiving the holy Eucharist? Although the church does not support divorce, she however does not regard as sinful the act of suing for divorce when the reasons are morally justifiable and of practical necessity.¹⁶ For instance, in cases of physical abuse of spouse or children, flagrant adultery, or failure of child support, etc the church says that it is possible for a married couple to separate provided there are sufficient grounds for separation.¹⁷ As such the church does not consider divorced persons to be excommunicated or unworthy of participation in the Eucharist. From what we have seen so far we know that divorce and remarriage can have dangerous effects on the spouse and the child/children, and that the church frowns at it (divorce), nevertheless, the church does not cease to reach out pastorally to divorced and separated persons. She invites them to be reconciled and to resume full sacramental participation, and welcomes them to verify their freedom to marry by requesting a clarification of status through the annulment process.

The final report of the XIV general synod of bishops to the Holy Father Pope Francis encourages pastors (priests and bishops), religious, etc, and all those who take care of the flock of God to enter into dialogue and accompany those with complex marriage situations. It advises that those who are baptized but divorced and civilly remarried should be carefully integrated into the church in a variety of possible ways, while avoiding any chance of scandal, so that they can be happy, feel belonging as living members in the Church able to live and grow in the Church and experience her as a mother, who welcomes them always, who takes care of them with affection and encourages them along the path of life and the Gospel.¹⁸ It also suggests that victims of failed marriages can be encouraged by engaging them in different ecclesial services to be chosen at the discretion of the pastor so as to discover which forms of exclusion currently practiced in the liturgical, pastoral, educational and institutional framework, can be surpassed or not. This integration also cuts across the care and Christian upbringing of their children.¹⁹

CONCLUSION

In conclusion, this paper was able to capture divorce and remarriage as the realities facing marriage in our contemporary society, its causes and effects both on the spouses, child, the family and the society at large. I was able to show that there are different takes to these issues: while it is possible and legal in some societies, it is not some other situations. In the final

¹⁶James A. Coriden in Michael Glazier (edt.) et all, The Modern Catholic Encyclopedia, Ibid., p. 244.

¹⁷ Code Of Canon Law (1983): Can. 1129, n.

¹⁸ Final Report on XIV Ordinary General Synod (2015), n. 84

¹⁹ Ibid., n. 84.

analysis, I strongly agree with the Catholic Church's position on the indissolubility and permanence of marriage (whether natural or sacramental) between non-baptized or baptized persons because any attempt to downplay the dignity and purpose of marriage destroys the family because the former is the springboard of the family institution, likewise, anything that destroys the family destroys the society because from the family children are brought forth and raised that constitute the populace of the society.

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