

DIVORCE

“The friends (Bahá’ís) must strictly refrain from divorce unless something arises which compels them to separate because of their aversion for each other, in that case, with the knowledge of the Spiritual Assembly, they may decide to separate. They must be patient and wait one complete year. If during this year harmony is not re-established between them, then their divorce may be realised... The foundation of the Kingdom of God is based upon harmony and love, oneness, relationship and union not upon differences, especially between husband and wife. If one of these two become the cause of divorce, that one will unquestionably fall into great difficulties, will become the victim of formidable calamities and experience deep remorse.” (Tablet to the Bahá’ís of America, quoted in “Bahá’u’lláh and the New Era”, “Lights of Guidance”, 1306)

PROCEDURE

All the preliminary work, including attempting reconciliation, and, failing this, recording the beginning of the Year of Waiting (in certain circumstances this can be granted retroactively), is carried out by a local Spiritual Assembly. If there is no Assembly in the district of residence, the NSA will assign one. During the Year of Waiting the local Assembly is responsible for offering guidance and counsel in the hope of effecting a reconciliation. Should this not be possible, the Assembly should encourage the couple to seek appropriate legal guidance to ensure that a just financial arrangement is made between them, taking into consideration their financial situation, needs of their children, etc.,

When the local Spiritual Assembly believes that all the requirements for a Bahá’í divorce have been met, a Minute is recorded and a report confirming the outcome of the actions taken should be sent to the National Spiritual Assembly. The Bahá’í divorce cannot come into effect until a civil divorce has been completed.

If marital problems occur, the couple should start by consulting with their own local Spiritual Assembly, or if they are in a group, the local Assembly nearest to them. If there is any difficulty finding an appropriate local Spiritual Assembly to assist, the couple should immediately contact the National Assembly for guidance.

DUTY OF LOCAL SPIRITUAL ASSEMBLY TO CONSULT BOTH PARTIES

The duty of the local Spiritual Assembly is to consult with both partners and to attempt reconciliation. In their attempts to help the couple, the local Assembly should use all the resources available to them, Bahá’í and non-Bahá’í, eg Marriage Guidance Counselling for relationship problems, Social Services for financial problems, medical advice for sexual problems etc.

WHERE RECONCILIATION IS IMPOSSIBLE

If the couple are adamant in wanting a divorce, they must separate by living in separate dwellings and refraining from sexual intercourse. The local Assembly must elicit the date when separation occurred. The local Assembly should also encourage the partners to reach a fair financial agreement for the Year of Waiting and, if children are involved, to ensure their well-being.

Please note: The details of these arrangements should be worked out by the couple in consultation with their legal advisors. While it is the responsibility of the Spiritual Assembly to try to ensure that a just financial settlement is made, the details should be left to the couple in consultation with their legal advisors and the Assembly should not become involved in matters which are beyond its competency. If there is any doubt in this matter, guidance should be sought from the National Spiritual Assembly.

Either party is free to refer the matter to the Courts in which case the Assembly will encourage the couple to uphold the Court’s decision.

DOMESTIC VIOLENCE

In cases where domestic violence has occurred, please refer to our separate Guidance Note.

YEAR OF WAITING

The Bahá'í Year of Waiting is a physical separation of the couple, and a time for examination of the true basis of the marriage, and for determining the cause of, and practical solutions to, the frictions between the couple.

During the Year of Waiting, the local Spiritual Assembly should continue to attempt reconciliation. The local Assembly must remember to handle these consultations with absolute confidentiality, sympathy, understanding and impartiality.

During the Year of Waiting, the relatives and friends should also assist in reconciling the couple, and the local Assembly should bring this to the attention of those who may be tempted to take sides in the marital dispute or otherwise encourage a divorce.

“Concerning the social relationships of partners to a divorce with members of the opposite sex, the Year of Waiting is not a time during which either party should seek a new partner since it is hoped that a reconciliation can be affected.” (Universal House of Justice, 5 January 1967)

CIVIL DIVORCE

“It is not forbidden to Bahá'ís to commence civil proceedings during the Year of Waiting – indeed, in some cases it is necessary for the civil proceedings to be started earlier if one or other of the parties is not to forfeit certain rights under the civil law.

“If a couple actually obtains the granting of a civil divorce before the end of the Year of Waiting, they will still not be divorced in the eyes of Bahá'í law until the year is ended. Thus, if in the meantime they become reconciled, they would need merely a civil marriage to restore the situation, because in Bahá'í law they would still be married.” (Universal House of Justice, 7 February 1978)

“There is nothing to prevent the civil period of waiting from running concurrently with the Year of Waiting provided for in the Kitab-i-Aqdas. However, in order to abide by the spirit of Bahá'í law, a Bahá'í should not sue for civil divorce so early that it will be made final before the end of the Year of Waiting, unless circumstances require such a course of action.” (Universal House of Justice, 23 June 1974)

BAHÁ'Í DIVORCE FINAL WITH GRANTING CIVIL DIVORCE

In the United Kingdom, the Bahá'í divorce is recognised when the civil divorce is completed. Even when the Year of Waiting has been completed, the couple remains married in the eyes of Bahá'í law until the civil divorce is complete. Couples are not informed of the end of the Year of Waiting.

The local Spiritual Assembly's duty with a couple contemplating a civil divorce is to encourage the couple to arrange a peaceful divorce with just and reasonable settlements regarding children and finance.

DECREE ABSOLUTE

When the civil divorce is completed, a copy of the Decree Absolute should be sent to the local Spiritual Assembly, which will then recognise the Bahá'í divorce if the Year of Waiting has already been completed. The local Spiritual Assembly should notify the National Assembly of the date the Bahá'í divorce was finalised.

Only after the Bahá'í divorce is granted can remarriage occur.

BAHÁ'ÍS WHO DO NOT COMPLY WITH THE LAWS

Bahá'ís who do not comply with the laws relating to divorce may lose their voting rights.

NO CERTIFICATE OF BAHÁ'Í DIVORCE

The Universal House of Justice has instructed the National Assembly not to issue certificates of Bahá'í divorce.