Lawyer and Pastoral Counselor: A Team for Divorce Counseling

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A congregant seeks divorce counseling from his minister, rabbi, or priest. He expects compassion, understanding, and support. He wants help, and at the same time he wants to be fully informed as to what he may realistically anticipate if a divorce is to be the end result of the counseling sessions. How can the clergyman inform his flock as they seek help in one of life's most traumatic difficulties? The answer: be informed and informative. This paper suggests what might be a check-off list of post-divorce problems. No divorced spouse will ever face all of them, but as each difficulty rears its ugly head following the divorce, the client will be grateful that the problem was anticipated and discussed in advance.¹ He will be better able to cope with it. Generally the lawyer has touched on some potential post-divorce problems, but not in great detail. Why raise problems when the difficulties may never arise or, if they do, they can be handled at some later time? Yet at the time of the divorce, there is a nagging feeling that although some problems may be solved, others are just beginning. Suppose: 1) the spouse paying child support or alimony fails to pay; 2) the spouse with custody disappears; 3) the other spouse hides or conceals property; 4) reasonable visitation becomes an unbearable hassle; 5) insurance is cancelled or forfeited; 6) either spouse remarries.

The list is endless. Lawyers should properly educate their clients concerning potential problems. When the area of concern does arise, the client is prepared.

The psychiatrist, psychologist, pastoral counselor, social worker, or marriage and family counselor is in a similar position. Often counseling has begun during marriage, possibly when the husband and wife have visited their minister. The support of a minister or pastoral counselor has helped the family reach a conclusion based on thought and profound consideration of all available options. When the divorce option is exercised, certain problems are solved and others that should be discussed during divorce counseling will be created. If the pastoral counselor has a continuing relationship with the client, the post-divorce problems are handled in due course. Few pastoral counselors know exactly when

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a client may decide to terminate their services, and therefore the pastoral counselor has an additional burden or obligation: to suggest early in the therapeutic process that even after the divorce has been granted, where there are children or joint property interests, the relationship should continue and certain areas of concern should be borne in mind by the divorcing spouse. To some extent, a timely, frank discussion will avoid future trauma. Also, the client and lawyer can relate to potential hazards and all three—lawyer, pastoral counselor, and client—can realistically view the change in status, sharing areas of concern in an interdisciplinary fashion, all in the client's best long-range interest, each operating in his own area of expertise, in a role acceptable to the discipline involved.

The legal document that considers all actual and potential changes in the relationship between two people in an evolving situation has not yet been created. Should a lawyer attempt to answer all the "what ifs," the documentary result would be so cumbersome as to defy practicality. Therefore, the document, a Divorce Decree, Property Settlement Agreement, and ancillary instruments, handles the necessary and typical, and the client should be made aware of the new status of the parties and the areas of post-divorce concerns. What are these areas? Although concerns will vary, many clients have suggested to me that the primary concern can be summed up in three words: "money, money, money." Of course this is an oversimplification. Nevertheless, money is primary, and a pastoral counselor serves his flock well if he understands the seriousness of the financial dilemmas faced by divorcing spouses.

The areas listed below should at least be explored so that both spouses facing a divorce are aware that the change of status will affect every phase of their lives, more than just the primary family unit in a monetary and nonmonetary way.

No-fault divorce

The "no-fault divorce" has become part of the jurisprudence of most states. No longer is it necessary to inflame the other party by creating a public record indicating that the spouse is an adulterer or has been guilty of "cruel, harsh, and tyrannical treatment." A pleading is sufficient if the words indicate that the marriage is unsupportable, the differences are substantial, and the parties irreconcilable.

This eliminates the need to offer proof of the other party's misconduct and even eliminates traditional defenses. Considerable time is saved by the Court because detailed evidence need not be offered as grounds for divorce and the Court can devote its time and energies to custody and financial problems.

This social and legal change is helpful in that it eliminates intemperate testimony from the record. At the same time, the parties are deprived of a time-honored safety valve, the opportunity to blow off steam. Thus the spouse who wants to tell the world about the other for the record and is inhibited from doing so is frustrated. In this area, lawyers and pastoral counselors can be most helpful, serving as the sounding board and allowing and encouraging the client