

# MARRIAGE COUNSELING AND CONCILIATION PROCEEDINGS IN FINLAND

by

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## I.

### IN GENERAL

In an inquiry as to what might be done to promote the stability of marriages, attention is directed toward the possibility of providing advice in matters concerning the relationship between the spouses and the education of the children. In Finland maternity and infancy counseling agencies are maintained by the municipalities, but marriage counseling agencies owe their existence to private initiative operating from case to case. There is no doubt that marriage counseling agencies may be of great help to the stability of marriages, not only insofar as they provide counsel during the existence of a marriage. Generally young people are poorly prepared for marriage; counseling services are, therefore, important for those, too, who are not yet, but are planning to be, married. Marriage counseling agencies should thus make available marriage preparation courses to all who wish to obtain such preparation; and they should then provide expert advice and guidance on questions arising during the course of married life or concerning the education of the children. In this connection there also arises the problem of the conciliation proceedings which is required in Finland in all cases in which a judicial separation is applied for by married people acting in mutual consent, (see Marriage Law of Finland, Sec. 84 a, as compared with Sec. 69, par. 1) (A decree of judicial separa-

tion, obtained by mutual agreement of the spouses, is the necessary preliminary for a decree of divorce, which, after the expiration of a certain minimum period of time, may be obtained as a matter of right by either party. Translator's observ.)

If one wishes to reduce the number of divorces he will find the marriage counseling agencies to be important because a great many divorces are caused by difficulties of mutual adjustment which might be avoided if the spouses would have been helped by timely, expert advice. The work of marriage counseling agencies is of a prophylactic character, aiming at rendering divorce superfluous; but also in those cases in which a divorce cannot be avoided they may help the parties by giving them expert legal advice and thus enabling them to settle those problems which will arise in connection with the divorce.

We have already indicated marriage counseling is not regulated in Finland by legislation. All these counseling agencies rather originated through private initiative. They have been established by the Church or the *Volksverband* (People's League). Legal provisions exist, however, in the Marriage Laws for those conciliation proceedings which have been mentioned above.

## II

### ECCLESIASTICAL MARRIAGE COUNSELING

Owing to the fact that 95% of the total Finish population of four million belong to the Lutheran-Protestant State Church, a firm foundation could be established in Finland for ecclesiastical marriage counseling. Only 2% of the population belong to other denominations and 3% do not belong to any religious community. In our country, the Church thus occupies a well defined, firm position, which is all the more significant as church membership is entirely voluntary. It is also significant that 95% of all marriages are concluded by religious ceremony, although exactly the same legal effects can be produced by a secular ceremony.

Voluntary marriage counseling activities were initiated in ecclesiastical circles shortly after the armistice of 1944 had been



concluded between Finland and the Soviet Union. The long duration of the war had been the cause of many cases of marital infidelity. In such cases the soldiers, when they returned from the front, naturally turned to the chaplain of their unit who had gone with them through all the hardships of the war and in whom they reposed confidence. When it became apparent that marriage counseling services constituted a necessity, special agencies were established for the purpose by former army chaplains first in Helsinki, the capital city, and then also in Tampere. From the very beginning these ministers were assisted by both physicians and lawyers. In 1953, the Church as such began to enter the field by establishing the position of a Secretary in Charge of Family Problems, who is to provide advice in the establishment of new marriage counseling agencies and to serve as the highest authority for all existing local agencies. He is also to provide assistance in recruiting personnel and in its training.

At present a total of seven marriage counseling agencies are maintained by the Church, viz. two in Helsinki and five in the other major cities. The agencies are financed by the local congregation and the question of whether or not a marriage counseling agency is to be established in a particular place depends entirely upon the local congregation. In general it is believed that the establishment of an agency staffed with a full-time counselor presupposes a population of about 45,000. The full-time counselor is ordinarily a minister, who is assisted by a part-time psychiatrist and a part-time lawyer. Physicians other than psychiatrists are not employed by the ecclesiastical counseling agencies because medical advice can be obtained from the physicians on the staff of the counseling agencies because medical advice can be obtained from the physicians on the staff of the counseling agencies of the Volksverband.

The Church aims at keeping its counseling agencies open at all times. Although these agencies are located in the major cities, they are available to the country people as well. In some cases people have come to the agencies from very far away. But in spite of this availability to the people of the whole region all the cost is born entirely by the local congregation. Among the clients middle



class people constitute the majority. The number of clients is considerable. In 1956, the agency in Helsinki was used by 663 clients, i.e. 159 more than in 1955. The agencies in Tampere and Lahti were used in 1956 by 140 clients each, that of Turku by 93 and that of Oulu by 152. Of the latter, which is located in the Northernmost city of Finland, only 51% of the clients were of the city of Oulu itself; 49% came from the west Oulu district. Some clients traveled over several hundreds of kilometers to reach the counseling agency. Every consultation requires a minimum of one hour, but very often many hours of consultation time are given to a client. Ordinarily, a client needs several consultations. In general separate consultations are had first with the husband and the wife; only later are they seen together. The agencies can thus deal with only a few clients per day and visits have usually to be arranged in advance.

For the services of the ecclesiastical agencies no fees are charged. Experience seems to indicate, however, that the requirement of a small charge would not seriously interfere with the availability of the services. It may, indeed, be preferable to demand a modest fee, which might increase the client's attentiveness as well as release him from the feeling of owing the agency a debt of gratitude. When the client of an ecclesiastical counseling agency asks how much he owes the agency for its services, he is usually told that they are already paid for through his payment of the church tax. Many clients have stated that they find that this kind of using the tax is really useful.

In the ecclesiastical marriage counseling agencies one endeavors to clarify the total situation of the parties and to help them adjust all their conflicts. In the beginning sexual trouble was believed to constitute the principal cause of marital dissension; later on it was found, however, that such troubles are more the result than the cause. In such cases the sexual difficulties disappear once the marital dissent has been cured. But in some cases, it must be conceded that sexual maladjustment is indeed the principal cause of the dissension. The reasons for which the counseling agencies were consulted in 1956 were the following :

	<i>Helsinki</i>	<i>Oulu</i>	<i>Turku</i>
	%	%	%
Infidelity	11.5	12.3	19.4
Liquor abuse	15.3	8.9	20.8
Disunity	21.6	22.8	27.8
Mental Disease	3.8	10.6	9.7
Sexual maladjustment	7.3	3.5	6.9
Abortion	1.3	11.4	1.4
Child problems	3.4	0.9	2.7
Other problems	13.6	8.8	—
Pre-marital counseling	7.3	2.7	4.1
Problems other than family matters	3.5	6.2	6.9
Cases not clarified	11.1		

## III

THE MARRIAGE COUNSELING AGENCIES OF THE  
"VOLKSVERBAND"

The second group of the marriage counseling agencies of Finland is constituted by those of the *Volksverband*. That organization was established in 1947. In the beginning it opened ten counseling agencies, but several have been closed since because of lack of demand. At present six counseling agencies are engaged in active work. They are all located in major cities. Each *Volksverband* agency is staffed with a physician and a nurse, who are working on a part-time basis. The agencies are open on only a few days of the week. They operate on a strictly medical basis. The majority of the clients wish to obtain advice on birth control; consultations are also requested, however, in cases of impotency or frigidity. Some clients are seeking information as to their fitness to be married and procreate children on account of their hereditary background. The emphasis placed in the work upon problems of a medical nature has resulted in some feeling on the part of the medical profession that the agencies are engaged in unnecessary competition with it. The physicians believe that the clients of the agencies might just as well be taken care of in regular medical advisory practice. The clients, too, have found that they can obtain from



physicians advice of exactly the same kind as that obtained at the agencies. For each visit the client has to pay the Volksverband a fee of 400 Finish marks. The organization still receives, however, a subsidy from the Finish government.

#### IV

#### CONCILIATION PROCEEDINGS UNDER SECTION 84a OF THE MARRIAGE LAW

A part of marriage counseling in the broader sense of the term is also constituted by those Conciliation Proceedings which are provided by Section 48a of the Marriage Law. The question of whether or not conciliation proceedings ought to be provided in marital courses has been discussed in Finland at several times. The 1924 Draft, which constituted the basis of the present Marriage Law contained provision on conciliation proceedings. An action between spouses was not to be permissible unless it had been preceded by conciliation proceedings. An exception was to be made only in criminal cases and in matters of nullity. In divorce cases the court was to investigate whether or not there existed grounds for conciliation proceedings and, if so, a date was to be set for such proceedings. The same rule was to apply for several situations of petition for judicial separation. (draft of the Commission on A New Marriage Law. Publication of the Commission 1/1924, Part V, Main Part, § 1).

In view, however, of the doubts expressed as to the need for, and the wisdom of, these provisions, and that they were also rejected by Law Committee of the Parliament, they were not adopted as part of the new law. As the main reason for its negative vote the Law Committee stated that the cases would be so numerous that it would not in all of them be possible to find a proper conciliator.

The discussion of the problem of conciliation proceedings was resumed on the occasion of the discussion of an amendment law to the Marriage Law. Provisions concerning conciliation proceedings were not inserted into the draft, however, until it was decided to do so by the Law Committee of the Parliament. By the Amend-



ment Act of 23 September 1948, there was thus inserted into the Marriage Law the new Section, numbered 84a, under which in certain cases a proceeding for judicial separation (and, consequently, for divorce) is not to be commenced unless it has been preceded by conciliation proceedings. This rule applies only to those petitions for judicial separation which are filed by both spouses acting in mutual agreement. Even in these cases an exception is made for those situations in which one party is outside of Finland. The conciliator may be a clergyman or a layman. In Lutheran-Protestant congregations the conciliator may be the pastor, in Greek-Orthodox congregations the elder, and in other religious groups or communities the chairman. Upon special request of either party to the marriage there may also be appointed some other person to act as conciliator by the judge of the district in which either party resides. While the clergyman is thus always qualified to act as conciliator, a layman must be specially asked for by a party and be appointed by the judge. In any case the conciliator must be a person who has completed his twenty-first year of age.

Under Sec. 84a of the Marriage Law both parties have to be personally present at the conciliation proceedings. The conciliator must try to induce the parties to decide to continue their community of marital life and he has to explain to them the legal consequences of a judicial separation. If he cannot induce the parties to continue their marital life the conciliator has to invite the parties to settle the terms of their separation.

The present provisions of the law are not regarded as being satisfactory in Finland. A Committee has thus been charged with the task of drafting a new set of provisions. At present conciliation proceedings are not required except in those cases in which a judicial separation is applied for by both parties to the marriage acting in mutual agreement. While the parties are not bound to agree to a reconciliation, the proceedings for judicial separation cannot be had until the reconciliation has been attempted. The Committee has entered upon a discussion of the question whether submission to reconciliation proceedings should not be required as a preliminary to all petitions for both judicial separation and divorce. In this respect special attention has been paid to those cases



in which a divorce is applied for upon the ground of factual marriage breakdown as evidenced by a judicial or de facto separation. The Committee has also been critical of those provisions under which no other person than the pastor or elder can act as ecclesiastical conciliator. Since the pastors are frequently overburdened with work, especially in the larger cities, they often find it difficult to act as conciliators. Besides, the skill required for successful conciliation depends upon the conciliator's personality and experience rather than his official position.

Another defect of the present law is found by the Commission in the rule which excludes the possibility of a non-clerical conciliator even as to parties not belonging to any congregation unless such a conciliator is specially applied for, and specially appointed by the judge. Such a case must therefore be brought before the judge twice, viz.-the first time when the appointment of the conciliator is to be applied for, and the second time in the separation proceedings proper. Since a petition to appoint a conciliator is hardly ever made until the parties have resolved upon a separation, such conciliation proceedings are likely to come too late to be successful.

The provisions of the Law requires the personal presence at the conciliation proceedings of both parties has been interpreted to mean that the proceedings are to be carried through in one single hearing during the whole course of which the personal presence of both parties is indispensable. Effective conciliation seems to require, however, that the conciliator talk to the parties repeatedly and on several occasions, and that he should see not only both parties together but also either party without the other.

## V

### FURTHER DEVELOPMENT OF CONCILIATION PROCEEDING AND MARRIAGE COUNSELING

The marriage counseling agencies, one is inclined to conclude, are, often in a position to provide effective help to people who are finding themselves in a situation of great need and who are unable to obtain help from any other quarters.



Conciliation proceedings, too, appear in many cases to contribute to the reestablishment of such marriages. It appears to be obvious that both these institutions require further development. In this connection one finds himself particularly faced with the question of whether or not conciliation proceedings should be established as an indispensable preliminary either in all cases or at least in all those in which a divorce is applied for upon the basis of marriage breakdown as evidenced by a judicial or a de facto separation. The elaboration of marriage counseling appears to require governmental support. The full-time employment of a counselor will otherwise be too expensive, especially in the rural regions. The responsibilities of the office would seem to demand that it be carried on as a full-time job. The necessary training and experience are unlikely to be found otherwise. If the services of the ecclesiastical agencies and the Volksverband were to be united with each other, and if these combined agencies were to be entrusted with the conciliation proceedings required under the marriage law, the task would be large enough to justify and require the services of full-time counselors even in the smaller localities.

Divorces will, however, not be completely prevented even by the existence of a well functioning marriage counseling and conciliation service. Efforts will have to be exerted in many other directions. The stability of marriages is deeply affected by the social conditions generally prevailing in a community. A highly important factor is constituted by a state of the law which contains wise provision not only on the termination of marriages but also on their conclusion as well as on the relations among the spouses and between them and their children during coverture as well as thereafter. Marriages of which it is clear at the outset that they must inevitably result in failure, ought to be prevented from being concluded. The rules on the relation among the spouses and between them and their children must be so that they will forge a closer community between the spouse and that they consider more maturely those difficulties which will result from the dissolution of a marriage.

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