

## Chapter Twelve

### Divorce

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## 12. DIVORCE

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### GENERAL PRINCIPLES

#### DIVORCE ABHORRED AND DISCOURAGED

God doth verily love union and concord, and abhorreth separation and divorce.

Bahá'u'lláh, *Kitáb-i-Aqdas*, p. 44

At all times hath union and association been well-pleasing in the sight of God, and separation and dissension abhorred. Hold fast unto that which God loveth and is His command unto you. He, verily, is the All-Knowing and the All-Seeing, and He is the All-Wise Ordainer.

Bahá'u'lláh, in *The Compilation of Compilations, Vol. I*, no. 526

Now the friends in America must live and conduct themselves in this way. They must strictly refrain from divorce unless something ariseth which compelleth 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 then be patient and wait one complete year. If during this year, harmony is not re-established between them, then their divorce may be realized. It should not happen that upon the occurrence of a slight friction or displeasure between husband and wife, the husband would think of union with some other woman, or, God forbid, the wife also think of another husband. This is contrary to the standard of heavenly value and true chastity. The friends of God must so live and conduct themselves, and evince such excellence of character and conduct, as to make others astonished. The love between husband and wife must not be purely physical, nay, rather, it must be spiritual and heavenly. These two souls should be considered as one soul. How difficult it would be to divide a single soul! Nay, great would be the difficulty!

...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 becomes the cause of divorce, that one will unquestionably fall into great difficulties, will become the victim of formidable calamities and experience deep remorse.

Abdu'l-Bahá, in *The Compilation of Compilations, Vol. II*, no. 2308

Regarding the Bahá'í teachings on divorce. While the latter has been made permissible by Bahá'u'lláh yet He has strongly discouraged its practice, for if not checked and seriously controlled it leads gradually to the disruption of family life and to the disintegration of society.

Letter from Shoghi Effendi, dated November 16, 1936, to an individual believer, in *The Compilation of Compilations, Vol. I*, no. 534

There is no doubt about it that the believers in America, probably unconsciously influenced by the extremely lax morals prevalent and the flippant attitude towards divorce which seems to be increasingly prevailing, do not take divorce seriously enough and do not seem to grasp the fact that although Bahá'u'lláh has permitted it, He has only permitted it as a last resort and strongly condemns it.

Letter written on behalf of Shoghi Effendi, dated December 19, 1947, to an individual believer, in *Lights of Guidance*, no. 1309

**B**ahá'u'lláh, as you have mentioned, abhors divorce, and therefore the Bahá'ís should do their utmost to preserve their marriage which is a divinely ordained institution. But, as divorce is not prohibited in the Faith, and as it is a personal matter, the Universal House of Justice does not wish to interfere in such cases.

Letter written on behalf of the Universal House of Justice, dated October 4, 1978, quoted in a letter from the Universal House of Justice, dated May 17, 1988, to a National Spiritual Assembly

**B**ahá'í Law permits divorce but, as both Bahá'u'lláh and 'Abdu'l-Bahá have made very clear, divorce is abhorred. Thus, from the point of view of the individual believer he should do all he can to refrain from divorce. Bahá'ís should be profoundly aware of the sanctity of marriage and should strive to make their marriages an eternal bond of unity and harmony. This requires effort and sacrifice and wisdom and self-abnegation. A Bahá'í should consider the possibility of divorce only if the situation is intolerable and he or she has a strong aversion to being married to the other partner... .

Written on behalf of the Universal House of Justice, November 3, 1982 quoted in a letter dated May 17, 1988 to the National Spiritual Assembly of the Bahá'ís of the United States

**See also:**

Strengthening Marriage and Family Life, Ch. 11

## Deepening the Believers

**T**he Spiritual Assembly should always be concerned that the believers in its community are being deepened in their understanding of the Bahá'í concept of marriage, especially the young people, so that the very thought of divorce will be abhorrent to them.

Written on behalf of the Universal House of Justice, November 3, 1982 to an individual believer

Assemblies can assist in strengthening Bahá'í marriages by organising special programmes such as deepening programmes, workshops on preparation for marriage for youth and single adults, and marriage enrichment programmes for all married couples. Most importantly Ruhi Book 12 on marriage and family life should always be recommended.

The believers should be encouraged, in such deepening etc., to consult with their Assembly about any serious marriage problem before it reaches the point where one or both of the couple wants a divorce.

## TERMS DESCRIBING SITUATION THAT CAN LEAD TO DIVORCE

### Antipathy

**I**rreconcilable antipathy arising between the parties to a marriage is not merely a lack of love for one's spouse but an antipathy which cannot be resolved. It is for the Spiritual Assembly to decide whether this condition exists before it sets the date for the beginning of the year of waiting, and this it may do on the application of one of the parties. It is not affected by the other party's not wishing to apply for a divorce.

Letter written on behalf of the Universal House of Justice, dated July 12, 1979, in *The Compilation of Compilations, Vol. II*, no. 2338

**I**n the strict legal sense there are no "grounds" for a Bahá'í divorce. No question of misbehaviour of either party is involved and the only condition under which a Bahá'í divorce may be considered is the irreconcilable antipathy of the parties. Thus it is not sufficient that one or both of the parties has asked that the date for the beginning of the year of waiting be fixed; the Assembly must find the condition of irreconcilable antipathy to exist before the date can be fixed.

Letter from the Universal House of Justice, dated May 24, 1972, to a National Spiritual Assembly

## Aversion

Concerning the definition of the term “aversion” in relation to Bahá’í divorce law, the Universal House of Justice points out that there are no specific “grounds” for Bahá’í divorce such as there are in some codes of civil law. Bahá’í law permits divorce but, as both Bahá’u’lláh and ‘Abdu’l-Bahá have made very clear, divorce is abhorred. Thus, from the point of view of the individual believer he should do all he can to refrain from divorce. Bahá’ís should be profoundly aware of the sanctity of marriage and should strive to make their marriages an eternal bond of unity and harmony. This requires effort and sacrifice and wisdom and self-abnegation. A Bahá’í should consider the possibility of divorce only if the situation is intolerable and he or she has a strong aversion to being married to the other partner. This is the standard held up to the individual. It is not a law, but an exhortation. It is a goal to which we should strive.

Letter written on behalf of the Universal House of Justice, dated November 3, 1982, to an individual believer, in *Lights of Guidance*, no. 1303

## Year of Waiting Is Not Granted, Yet Couple Cannot Be Reconciled

It may happen that although the Assembly has decided that irreconcilable antipathy does not exist, i.e. that the couple’s marital problems are not serious enough to warrant starting a year of waiting, the couple is still adamant about wanting to do so.

The National Spiritual Assembly some time ago wrote to the Universal House of Justice regarding situations of this nature. The concern was that a couple who is denied a year of waiting would ultimately seek a civil divorce anyway. In its letter, the National Assembly wrote in the next-to-last paragraph:

What we are now concerned with is what happens if a couple, who is denied a Year of Waiting, obtains a legal separation and a divorce, and then comes to the Assembly with a *fait accompli* and requests a Year of Waiting and subsequently a Bahá’í divorce. Are their administrative rights in question? What recourse does the Assembly have when couples appear to ignore its advice and decision and proceed with the civil separation and divorce?

The Department of the Secretariat, writing on behalf of the Universal House of Justice, responded as follows:

We are instructed to say that irreconcilable antipathy means that the Assembly, despite its best efforts, is unable to reconcile the couple. Based on this, the questions raised in the penultimate paragraph of your letter probably will not arise. However, if a couple obtains a civil divorce before the Bahá’í divorce is granted, administrative sanctions should not be invoked unless one of the parties remarries before the Bahá’í divorce is granted. In such case, the recalcitrant party would not be able to have a Bahá’í ceremony since in Bahá’í law he would still be regarded as married.

Written on behalf of the Universal House of Justice, April 8, 1982 to the National Spiritual Assembly of the Bahá’ís of New Zealand

## Other Terms Used

It can be seen, therefore, that “aversion” is not a specific legal term that needs to be defined. Indeed a number of other terms are used in describing the situation that can lead to divorce in Bahá’í law, such as “antipathy,” “resentment,” “estrangement,” “impossibility of establishing harmony,” and “irreconcilability.” The texts, however, point out that divorce is strongly condemned, should be viewed as “a last resort” when “rare and urgent circumstances” exist, and that the partner who is the “cause of divorce” will “unquestionably” become the “victim of formidable calamities.”

Letter written on behalf of the Universal House of Justice, dated November 3, 1982, to an individual believer, in *Lights of Guidance*, no. 1305

# REQUIREMENTS FOR BAHÁ'Í DIVORCE

## REQUEST FOR BAHÁ'Í DIVORCE

However, it is necessary that Bahá'ís who intend to divorce be aware that they must consult with their Local or National Assembly, that basically a year of waiting must ensue before divorce can be effected, and that the Assembly has certain responsibilities toward the couple concerned about which they will be informed through consultation with the Assembly.

Letter from the Universal House of Justice, dated April 16, 1967, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1317

The procedure, briefly, is that when a Spiritual Assembly receives an application for divorce its first duty is to try to reconcile the couple. When it determines that this is not possible, it should then set the date of the beginning of the year of waiting.

Letter written on behalf of the Universal House of Justice, dated September 11, 1986, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1320

**See also:**

Responsibility of Local Assembly, Ch. 12

## YEAR OF WAITING

During the year the couple have the responsibility of attempting to reconcile their difference, and the Assembly has the duty to help them and encourage them.

Letter from the Universal House of Justice, dated November 3, 1982, to an individual believer, in *Lights of Guidance*, no. 1304

**See also:**

Requirements for Bahá'í Divorce — Conditions under which Year of Waiting Not Required, Ch. 12

## Purpose of Year of Waiting

It is understood that two Bahá'ís who reach the point of strain where they feel a divorce is necessary need time to cool down and reflect, which is, of course, the purpose of the year of waiting.

Letter written on behalf of the Universal House of Justice, dated August 3, 1981, to a National Spiritual Assembly

Standards for the year of waiting and Bahá'í divorce have been established by Bahá'u'lláh. The purpose of the year is to preserve the dignity of the individual and, through the exercise of wisdom and tolerance, to minimize the suffering, the heartbreak and the ill-feeling of all those involved. The year of waiting is not the divorce, but an opportunity created by the explicit laws of the *Kitáb-i-Aqdas* for efforts to save the marriage. These efforts must be conscientiously made by the couple in conjunction with whatever loving support and understanding the Spiritual Assembly can give. The year of waiting offers the parties time to solve their problems, reconcile their differences and, if properly used, re-establish a wholesome relationship.

The year of waiting is a time for examination of the true basis of the marriage, for determining the cause of and practical solutions for the frictions between the couple, or it may be a time of waiting and restoration of personal dignity and integrity before divorce.

During this year, the Assembly should make efforts, if opportunity permits, at assisting the couple to reconcile their differences.

## Use of Terms “Year of Waiting” and “Year of Patience”

In reply to your letter of...requesting clarification about the use of the phrases “year of waiting” and “year of patience,” the Universal House of Justice has instructed us to say that while it is preferable to use “year of waiting,” either phrase can be used.

Letter written on behalf of the Universal House of Justice, dated February 9, 1982, to a National Spiritual Assembly

## Required Whether or not Partner is Bahá'í

With regard to the question of Bahá'í divorce, the year of separation is necessary even though the non-Bahá'í partner to the marriage is the one instituting the divorce proceedings ...

Letter written on behalf of the Universal House of Justice, dated January 28, 1966, to a National Spiritual Assembly, in *Local Spiritual Assembly Handbook*, 3rd ed., Bahá'í Publishing Australia, p. 309

## Required Whether or not Bahá'í when Married

As regards Bahá'í divorce as mentioned in your letter of June 12th: Bahá'ís (whether one party or both are believers) should follow the Bahá'í law of divorce, i.e., one year of waiting, and not neglect this divinely given law. Whether they were Bahá'ís when married or not has nothing to do with it.

Letter written on behalf of Shoghi Effendi, dated June 12, 1952, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1314

## Required Where De Facto Relationship Recognised by Institutions

[R]egarding a de facto relationship between two believers which was later recognised as a marriage in the eyes of Bahá'í law, the couple in question is required to observe the year of waiting before they can be granted a divorce.

Written on behalf of the Universal House of Justice, August 6, 1992 to the National Spiritual Assembly of the Bahá'ís of New Zealand

## Required in Cases of Proven Unfaithfulness

There is a Tablet from 'Abdu'l-Bahá which states that the year of waiting is waived in the case of an unfaithful wife. This aspect of the Bahá'í law of divorce, however, will need elucidation and supplementary legislation by the Universal House of Justice. Therefore, at the present time, in divorce cases such as the one you cited, the husband must still observe the year of waiting, which involves payment of the wife's expenses during this period.

Letter from the Universal House of Justice, dated June 17, 1987, to a National Spiritual Assembly

The provisions of the Tablet of 'Abdu'l-Bahá regarding exemption from the year of waiting because of infidelity applies to both husband and wife. In a letter written on behalf of the Universal House of Justice to an individual believer dated 28 April 1974, which is also included in the newly released compilation on the subject of women the following is stated:

It is apparent from the Guardian's writings that where Bahá'u'lláh has expressed a law as between a man and a woman it applies, *mutatis mutandis*, between a woman and a man unless the context should make this impossible.

This aspect of the Bahá'í law of divorce, however, will need elucidation and supplementary legislation by the House of Justice. Therefore, at the present time, the year of waiting must be observed when adultery on the part of either party is proven.

Letter from the Universal House of Justice, dated February 11, 1986, to a National Spiritual Assembly

## Either Party May Apply without Consent of the Other

We must point out that immediately an application is received by a Bahá'í Institution for setting the date of a year of waiting prior to divorce, it is the duty of that Institution to examine the application completely and impartially and do its utmost to effect a reconciliation between the parties. Either party may apply for the year of waiting without the consent of the other.

Letter written on behalf of the Universal House of Justice, dated November 23, 1970, to a National Spiritual Assembly

## Physical Separation Required to Begin

The Bahá'í law requires that the parties separate for one full year before the divorce may be realised. This contemplates complete physical separation in the sense that they should not reside in the same dwelling.  
Letter from the Universal House of Justice, dated April 23, 1964, to a National Spiritual Assembly

The couple must realize that the year of patience cannot begin to run unless and until they are living apart, and it is for them to decide between them which will leave the home.  
Letter from the Universal House of Justice, dated December 2, 1965, to a National Spiritual Assembly

## CONDITIONS UNDER WHICH YEAR OF WAITING NOT REQUIRED

### Ignorance of Law

In cases in which your Assembly has decided that the believer was ignorant of the law requiring him to have a Bahá'í divorce before marrying another, and a civil divorce has already been obtained, your Assembly may in its discretion excuse him and he would be regarded as in the same status as one who obtained a divorce before becoming a Bahá'í.  
Letter from the Universal House of Justice, dated March 14, 1976, to a National Spiritual Assembly

### Divorce Began before Enrollment as Bahá'í

You ask about the contact who wishes to declare her faith, having already initiated legal steps to divorce her husband. As this case is already in process before her declaration she does not have to observe Bahá'í divorce law.  
Letter from the Universal House of Justice, dated May 21, 1968, to a National Spiritual Assembly, in *Local Spiritual Assembly Handbook*, 3rd ed., Bahá'í Publishing Australia, p. 315

### Bahá'í without Administrative Rights

A Bahá'í who has lost his administrative rights is administratively expelled from the community and therefore is not subject to the jurisdiction of the Spiritual Assembly in the matter of laws of personal status, such as divorce, unless, of course, he is involved in such a matter through having a Bahá'í spouse in good standing from whom the divorce is taking place. His observance of such laws is a matter of conscience and he would not be subject to further sanctions for non-observance of Bahá'í laws during the period he is without voting rights.

In the case you instance, therefore, where the Bahá'í without voting rights is being divorced from his non-Bahá'í wife, the Assembly should not take jurisdiction of the matter. He is free to obtain a civil divorce and whether or not he observes a year of waiting is a matter for his own conscience.  
Letter written on behalf of the Universal House of Justice, dated April 6, 1982, to an individual believer, in *Lights of Guidance*, no. 207

In the case where a Bahá'í in good standing is married to a Bahá'í who has lost his or her administrative rights, the spouse in good standing would be obliged to observe the year of waiting, except in the event that the spouse deprived of administrative rights remarried during the year of waiting.

#### **See also:**

Actions that Void Year of Waiting — Marriage to New Partner during Year of Waiting, Ch. 12

### Improperly Contracted Marriage or Legal Annulment

When reinstatement [of administrative rights] calls for a divorce or annulment of an improperly contracted marriage, no year of waiting is necessary because Bahá'í divorce is not involved. The purpose of the year of waiting is to attempt the saving of a marital relationship which was originally accepted as valid in the eyes of Bahá'ís, and is now in jeopardy.

Letter from the Universal House of Justice, dated January 27, 1969, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1332

**See also:**

Violation of Bahá'í Marriage Law — Correcting a Known Violation, Ch. 11

## **DIVORCE IN MARRIAGES VALID UNDER BAHÁ'Í LAW BUT NOT CIVIL LAW**

As noted in the marriage chapter, there may be cases in which a marriage is considered valid under Bahá'í law but not under civil law. Should a couple involved in such a marriage seek divorce, a year of waiting would still be required. If a civil divorce is not possible because the marriage itself was not civilly recognized, the Bahá'í divorce may be granted without a civil divorce upon completion of the year of waiting, provided there has been no reconciliation.

## **RESPONSIBILITY OF LOCAL ASSEMBLY**

When an application for divorce is made to a Spiritual Assembly its first thought and action should be to reconcile the couple and to ensure that they know the Bahá'í teachings on the matter. God willing, the Assembly will be successful and no year of waiting need be started.

Letter written on behalf of the Universal House of Justice, dated November 3, 1982, to an individual believer, in *Lights of Guidance*, no. 1304

**See also:**

Strengthening Marriage and Family Life, Ch. 11

## **OBLIGED TO CONSIDER APPLICATION FOR YEAR OF WAITING**

An Assembly is obliged to consider an application for a year of waiting from either party to a marriage, whether the other party wants the divorce or not.

Letter written on behalf of the Universal House of Justice, dated July 28, 1985, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1327

## **SHOULD NOT INTERVENE WITHOUT COMPELLING REASONS**

There should be no intervention into the marital affairs of individuals in a Bahá'í community unless and until the parties themselves bring a problem to the Assembly. Prior to that it is not the business of the Assembly to counsel the parties.

Letter from the Universal House of Justice, dated March 22, 1968, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1329

The Universal House of Justice later explained that the above passage from its March 22, 1968, letter:

[A]ppplies when neither party has brought any problem to the Assembly. In such circumstances, unless there are reasons which would compel the Assembly to intervene, for example, where there is behavior prejudicial to the vital interests of the Faith, certainly no effort should be made on the part of the Assembly to pry into the marital affairs of any couple until the parties, or one of the parties, themselves refer to the Assembly.

Letter written on behalf of the Universal House of Justice, dated May 17, 1988, to a National Spiritual Assembly

**See also:**

Consultation — Consultation With Others — Confidentiality and the Civil Law, Ch. 4  
Behaviours Subject to Administrative Sanctions — Criminal Offenses, Ch. 10

## INITIAL MEETING WHEN PARTY(IES) SEEK YEAR OF WAITING

When a couple or a partner of a marriage approaches an Assembly or its representative(s) with the intention of starting a year of waiting, the Bahá'í teachings on divorce should be reviewed with the party(ies) and the understanding made clear that a year of waiting is a formal process for Bahá'ís who intend to divorce and not just a request for marital assistance.

The Local Spiritual Assembly has the weighty responsibility to preserve Bahá'í marriages wherever possible, recognising that divorce is “discouraged, deprecated and against the good pleasure of God”, should be regarded as “a last resort to be avoided if humanly possible”, and should be granted “only when every effort to prevent it has proved to be vain and ineffective.”

The misbehaviour of either party and considerations such as a lack of “physical attraction or sexual compatibility and harmony” do not constitute acceptable reasons for divorce, according to the Teachings.

Since the Local Spiritual Assembly has the responsibility to determine whether irreconcilable antipathy exists and the duty to try to reconcile the couple, it is important that it meet with both parties, separately and together, if possible. The Assembly may wish to delegate this task to a representative(s).

It is important to carefully assess each individual situation and to gather all the facts before taking any action.

If one of the parties is not a Bahá'í, the Assembly may extend an invitation for the person to meet with the Assembly or its representatives, but should not pursue the issue if he or she seems to have no desire to meet with the Assembly.

### **See also:**

Representatives, Task Forces and Other Appointees, Ch. 3

Consultation with Others, Ch. 4

Consultation with Others — Confidentiality and the Civil Law, Ch. 4

Responsibility of Local Assembly — Duty to Investigate and Try to Reconcile Couple — May Suggest Temporary Separation, Ch. 12

## Meet Separately with Each Party

To facilitate screening, regardless of whether abuse is suspected, the Assembly or its representative(s) should arrange initially to meet with the parties separately, as each party will probably be more forthcoming in the absence of the other.

## Screen for Domestic Abuse

Due to the high rates of domestic violence existing in society, the Assembly or its representative(s) should routinely, without making assumptions, screen each case for signs of abuse, as the presence of abuse will change the way interviews with the parties involved are conducted and will affect other recommendations or decisions the Assembly may have to make.

Should the Assembly or its representative(s) suspect or determine that abuse is a factor in a divorce case, they should immediately refer to the section below, “In Case of Suspected Child Abuse or Domestic Violence” under “Granting the Bahá'í Divorce”.

### **See also:**

Legal Matters Involving Incorporation and Insurance, Ch. 3

Behaviours Subject to Administrative Sanctions — Criminal Offenses, Ch. 10

Granting the Bahá'í Divorce — In Case of Suspected Child Abuse or Domestic Violence, Ch. 12

“Guidance on Violence and Abuse”, in Resource Files for this chapter

“Statement on Violence in Marriage”, in Resource Files for this chapter

## Confidentiality of Utmost Importance

It is of utmost importance that all information divulged during the interview be maintained in the strictest confidence, even from each partner. Failure to do so could have serious consequences for the parties and families involved, the Assembly and the community.

**See also:**

Consultation with Others, Ch. 4

**AFTER INITIAL MEETING**

After the initial meeting, the Assembly or its representative(s) may meet with the couple periodically, either separately or together, depending on the outcome of the initial screening and the level of cooperation and needs of the parties. The Assembly may also consider whether the couple would benefit from seeing a marriage counsellor. If this is thought to be advisable, it is vital that the counsellor be one whose views of marriage are consistent with the Bahá'í teachings. Many counsellors, psychologists and psychiatrists hold views and advocate practices which are at odds with the Bahá'í teachings and which can lead to the further disintegration of the marital bond.

Assemblies with large communities might consider appointing a mature and deepened believer who is professionally trained to counsel married couples, or they may wish to have a member of the Assembly take courses on marriage counselling.

The National Spiritual Assembly advises that it is best if the Local Spiritual Assembly did not attempt to become involved in the function of marriage counsellor. Spiritual Assemblies have neither the expertise nor skills required.

However, what Assemblies are especially suited to do is offer the Bahá'í spiritual principles, attitudes and values concerning marriage and divorce.

The Local Spiritual Assembly's role is to do whatever it can to assist the parties to reconcile their differences in order to save the marriage. Establishing a Year of Waiting should not be an automatic action simply because it has been requested, in the sense that efforts to have the couple consider other alternatives should usually be explored first. The Assembly may establish a Year of Waiting without knowing the reasons for the separation if the couple does not wish to discuss them, although it would certainly be preferable for the couple to be frank with their Assembly and to put full trust in its ability to guide them. After the year is established, the Assembly will wish to consult on a regular basis with the couple to do all it can to assist in their reconciliation.

**DUTY TO INVESTIGATE AND TRY TO RECONCILE COUPLE**

Bahá'ís who apply for divorce should be so counselled and left in no doubt that it is the duty of the Spiritual Assembly concerned, according to the emphatic command of our scriptures, to do everything possible to bring about a reconciliation.

Letter from the Universal House of Justice, dated August 3, 1981, to a National Spiritual Assembly

Mr. ...'s assumption that the date ... when he appeared before the Local Spiritual Assembly of ... is the effective date of the beginning of the year of patience is incorrect. As we said in our letter ... the beginning of the year of patience should not be set without first investigating the matter and making an effort at reconciliation.

Letter from the Universal House of Justice, dated December 23, 1966, to a National Spiritual Assembly

It is the Assembly's responsibility to conduct its own investigation and come to a decision. Assemblies are, of course, discouraged from probing unnecessarily into details of personal lives and the examination of a divorce problem should not go beyond what is necessary to ascertain whether or not such antipathy does, indeed, exist.

Letter written on behalf of the Universal House of Justice, dated May 30, 1983, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1319

The Local Assembly has the duty to try to reconcile the couple, even if the feelings and attitudes of either of the parties appear to make reconciliation impossible. It is important that the Assembly or its representative(s) try to meet with each party to explore the possibility of reconciliation. In cases of domestic violence, the Assembly should exercise extreme caution and meeting with both parties together may not be possible or advisable. If one of the parties is not a Bahá'í, the Assembly may extend an invitation for the person to meet with the Assembly or its representative(s), but should not pursue the issue if he or she seems to have no desire to meet.

**See also:**

General Principles — Terms Describing Situation that Can Lead to Divorce, Ch. 12

Granting the Bahá'í Divorce — In Case of Suspected Child Abuse or Domestic Violence, Ch. 12

“Guidance on Violence and Abuse”, in Resource Files for this chapter

“Statement on Violence in Marriage”, in Resource Files for this chapter

**May Suggest Counselling**

Neither you nor your husband should hesitate to continue consulting professional marriage counsellors, individually and together if possible, and also to take advantage of the supportive counselling which can come from wise and mature friends. Non-Bahá'í counselling can be useful but it is usually necessary to temper it with Bahá'í insight.

Letter written on behalf of the Universal House of Justice, dated July 17, 1979, to an individual believer, in *The Compilation of Compilations, Vol. II*, no. 2339

The House of Justice advises you to continue the strenuous efforts you are making to overcome the difficulties in your marriage. It is pleased to note that you and your husband have turned to the Local Spiritual Assembly for guidance and have sought help from a Bahá'í who is a marriage counsellor. Such endeavours, when combined with a strong and determined effort, improve greatly the prospects that your marriage can be maintained. However, it must also be borne in mind that the fact that Bahá'u'lláh has permitted divorce is, no doubt, an indication that in certain circumstances it is unavoidable. If your earnest efforts to maintain your marriage do not yield the desired result, you should not be distraught.

Letter written on behalf of the Universal House of Justice, dated April 28, 1989, to an individual believer, in *The Compilation of Compilations, Vol. II*, no. 2345

The Assembly may also consider whether the couple would benefit from seeing a marriage counsellor. In addition, individual counselling may also be of great value, as problems in marriages often involve underlying issues of the individual parties that have little or nothing to do with the marital relationship. Even if only one party is amenable to counselling, changes engendered by successful counselling for one party may improve the marital relationship.

The Assembly should refrain from making referrals to specific counsellors or therapists. While it may be desirable to have a counsellor who is a Bahá'í, there is no way for the Assembly to determine the quality of service that he or she may provide to a particular individual or couple.

Although the Assembly may suggest that the couple would benefit from counselling, it cannot require that the couple obtain such assistance, if they choose not to do so.

**Guidelines for Assemblies on Marriage Counselling**

Marriage counselling requires the skills of a 'couple' counsellor with specific skills in dealing with relationships, communication, mediation and, if separation is to occur, a knowledge of family law. Within the Bahá'í community the skill base is not generally available, and even if this was developed, location and distance would make this a difficult resource to use. (However, if using a Bahá'í counsellor is important for some exceptional reason, please approach the National Spiritual Assembly.)

The National Spiritual Assembly suggests the use of qualified counsellors in the wider community, such as those listed by the New Zealand Government at <https://www.govt.nz/browse/family-and-whanau/separating-or-getting-divorced/relationship-counselling/>

Relationship counsellors are generally delighted to work with a couple who sincerely want to put their marriage back together. Even couples who have no intention of separating but wish to improve their marriage may benefit from counselling.

Distinct from relationship counselling, the role of an Assembly or an Assembly-appointed resource and support person/small committee is best focused on assisting a couple to deepen in the Writings on the subject, and the like. Bahá'í bodies can best contribute a spiritual perspective and emotional support for believers undergoing the trauma of relationship breakdown, rather than trying to resolve the intimate psychological details of the relationship, which would require expert knowledge and skill. Individual members of the Assembly should protect its reputation for impartiality. They should take care not to be seen as taking sides between the parties, therefore it may be unwise for members to let themselves

become confidants or go-betweens. It is important to maintain boundaries around the couple's troubles so that fallout does not damage the unity of the Bahá'í community, generate backbiting, or foist feelings of shame on either party. An especially grievous outcome to be avoided is that a party feels isolated from the community, and from the Faith, because of a weight of blame falling on them. The parties themselves should be encouraged to limit disclosure of the details of their troubles to only a limited circle of necessary helpers, such as a counsellor or one very close and trustworthy confidante. It does not serve their wellbeing nor their ability to effectively address their problems if they draw in sundry bystanders as this tends to amplify conflicts.

Assemblies should develop a process for assisting couples with marriage difficulties. They need to focus on '**process**' rather than '**content**'.

Useful process:

1. Requesting believers to attend at least five sessions of counselling.
2. For the Assembly to brief the couple on the aim of that counselling which should be based on the Writings related to the preservation of Bahá'í marriage.
3. For the Assembly to put that in writing so that the couple can take it to the counsellor.
4. For the Assembly and the couple to set up before the start of counselling a plan for evaluation of the progress made. It is most important that the couple go to the counsellor with a clear brief and set of expectations which can be articulated to the counsellor. Ideally this should of course be based on the Bahá'í approach to marriage and express constructive intent about resolution of problems and reconciliation.
5. Assemblies may need to appoint a deepened resource/support person/small committee in this field. This person/committee will have some knowledge of local counsellors and resources and be in a position to support couples with information about the relevant Writings. This person/committee would be familiar with the contents of this chapter (12) and its resource documents.
6. The Assembly should discourage the couple or the individual from recounting too much 'content' about the problem to the Assembly or within the community. Maintenance of dignity is very important; the problem need only be explained sufficiently for the Assembly to make the appropriate recommendation for help.
7. Assemblies need to bear in mind that some individuals will resist direction and would prefer to make choices, and that others need a step-by-step procedure to follow. It is necessary for Assemblies to couch their advice in a manner that will be most readily and usefully accepted by the couple. Assemblies in larger communities may wish to consult about what options they suggest and work out a procedure for those who need that form of assistance.
8. Debriefing for the Assembly after such consultation is vital as marriage problems can be emotionally draining to deal with. Confidentiality is of the highest priority and the confidence of believers in the Assembly's dealings with such matters will depend on how strictly this point is observed. It is important that the members of the Assembly share their feelings with each other before leaving the meeting, rather than breach confidentiality outside that setting.
9. If separation occurs and a Year of Waiting is requested, the Assembly should consult about how they will make a decision to grant the Year of Waiting. This is an important responsibility.
10. Lawyers are not a necessary part of separation procedure; the law does not require a written separation agreement initially, but see point (11) regarding division of property. At the outset, Assemblies should only encourage the seeking of legal advice when an urgent situation exists, for instance:
  - a child about to be removed from New Zealand
  - violence and abuse (check appropriate Guidelines)
  - children uplifted from their normal setting by one parent without the consent of the other in a way that might cause emotional or physical harm

11. In relation to matrimonial property, legal assistance might be needed on an urgent basis to prevent dissipation of assets. A separation agreement may be useful for couples who choose to delay property division (for some years) or provide for an unequal division, and also those who have complex business or property arrangements.
12. Civil litigation between Bahá'ís is to be avoided, but on the other hand a fair and just resolution of disputes regarding division of assets is also necessary. Therefore, the Assembly needs to offer guidance where it appears that one individual in a marriage is severely disadvantaged by the actions of a partner who is dishonest or unscrupulous in the dealing with the division of property.

The Family Court can often make a mediator available to a couple by using the Counselling Request Form. The appropriate Family Court official might also be able to make suggestions about lawyers skilled in Family Court work who are also trained mediators. Bahá'ís with matrimonial disputes should explore the range of alternative dispute resolutions available to them and avoid court process, if at all possible. The Assembly needs to be very cautious about recommending the seeking of legal advice—this is a very costly and often unpleasantly adversarial process. It may, however, be the only means of resolving a problem, if one partner refuses the guidance of the Assembly or for some reason there is danger and urgency.

Some other sources of information in regard to dispute resolution and counselling:

- The Ministry of Social Development maintains a Family Services Directory at <https://www.familyservices.govt.nz/directory/>. The search facility on this site can be used to find counsellors, for example, using the search term “marriage counsellor”.
- The Ministry of Justice website provides a range of information on this page: <https://www.justice.govt.nz/family/relationship-break-up/>
- Family Dispute Resolution is a service that assists in working out agreements between separated parents on care of their children. See the Ministry of Justice web page: <https://www.justice.govt.nz/family/care-of-children/resolving-parentings-disagreements/mediation-to-work-out-parenting-disagreements/>

**See also:**

“Information for Couples Seeking Help” — Resource Files for this chapter

“For Counsellors of Couples” — Resource Files for this chapter

Change Evolutionary and Inevitable — Couple or Either Party May Seek Assistance for Marital Difficulties, Ch. 11

## May Suggest Seeking Medical Advice

Marriage problems are often very involved and subtle, and we Bahá'ís, being enlightened and progressive people, should not hesitate, if it seems necessary or desirable, to turn to science for help in such matters. If you and your husband talked over your problems — together or separately — with a good physician you might find that you can cure your own husband, or at least try to do so. It is a great pity that two believers, united in this glorious Cause, and blessed with a family, should not be able to live together really harmoniously, and he feels you should take constructive action and not allow the situation to get worse. When the shadow of separation hangs over a husband and wife they should leave no stone unturned in their effort to avert its becoming a reality. He urges both to devote more of your time to teaching the Cause and to pray together that Bahá'u'lláh may give you a real and lasting love for each other.

Letter written on behalf of Shoghi Effendi, dated July 5, 1949, to an individual believer, in *The Compilation of Compilations, Vol. II*, no. 2329

## May Suggest Temporary Separation

Rather than setting the date of the year of waiting immediately, it may be wise to give the parties a chance to reflect on the Assembly's guidance. In some cases, depending on the circumstances, a temporary period of separation may be more appropriate than the initiation of the year of waiting. The Assembly may suggest a one to two month period of separation, after which, if there is no reconciliation and either or both parties still wish to divorce, it may backdate the year of waiting to the date this trial separation occurred.

## Establishing Year of Waiting Should Not Be Automatic

Establishing a year of waiting should not be an automatic action simply because it has been requested, in the sense that efforts to have the couple consider other alternatives should usually be explored first.

The Assembly may establish a year of waiting without knowing the reasons for the separation if the parties do not wish to discuss them, although it would be preferable for them to be forthcoming with the Assembly.

## SETTING DATE FOR BEGINNING OF YEAR OF WAITING

After meeting with the party(ies) involved, the Assembly or its representative(s) may conclude that there is no alternative but to set the date for a year of waiting. If such is the conclusion of the Assembly's representative(s), they should make the appropriate recommendation to the Assembly along with whatever documentation they have to support it.

The date of the beginning of the year of waiting cannot be prior to the date the most recent physical separation occurred with the intent of divorce (sometimes couples undergo several separations before finally settling on a decision). Physical separation in this case includes cessation of sexual relations, so a couple may have ceased cohabiting but continued to have sexual relations, and the year cannot begin until this activity ceases. Once the beginning of the year of waiting has been established, the Assembly should confirm this date in writing with both parties.

If no reconciliation is possible, and actual repugnance is found to exist between the parties, then the Assembly may record a date which is the beginning of the year of waiting.

Letter from the Universal House of Justice, dated May 24, 1972, to a National Spiritual Assembly

It is for the Local Spiritual Assembly, or the National Spiritual Assembly, as the case may be, to fix the date for the beginning of the year of patience which, in any event, cannot be earlier than the date when the parties last separated with the intention of divorce. Thus the date of the beginning of the year of patience normally commences when one of the parties notifies the Assembly that they have separated with the intention of divorce. However, the Assembly may establish the beginning of the year of patience on a prior date provided it is satisfied such prior date reflects the actual date of separation and there is a good reason for so doing.

Letter from the Universal House of Justice, dated August 26, 1965, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1322

When it determines that this [reconciliation] is not possible, it should then set the date of the beginning of the year of waiting. That could be the date on which the Assembly reaches the decision, unless the couple are still living together, in which case it must be postponed until they separate.

Letter from the Universal House of Justice, dated September 11, 1986, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1320

However, if the Assembly finds that it is unable to persuade the party concerned to withdraw the application for divorce, it must conclude that, from its point of view, there appears to be an irreconcilable antipathy, and it has no alternative to setting the date for the beginning of the year of waiting. During the year the couple have the responsibility of attempting to reconcile their differences, and the Assembly has the duty to help them and encourage them. But if the year of waiting comes to an end without reconciliation the Bahá'í divorce must be granted as at the date of the granting of the civil divorce if this has not already taken place.

Letter written on behalf of the Universal House of Justice, dated November 3, 1982, to an individual believer, in *Lights of Guidance*, no. 1304

### See also:

"Sample letter for Assemblies when granting a Year of Patience", Resource Document for this chapter

## Back-dating Year of Waiting

The Spiritual Assembly may, if it is satisfied that there is sufficient reason for doing so, establish the date for the beginning of the year of waiting retroactively. Whether established retroactively or not the date set for the beginning of the year of waiting cannot be prior to the last date when the couple actually separated for the purpose of obtaining a divorce.

Letter from the Universal House of Justice, dated September 26, 1972, to a National Spiritual Assembly

While there are circumstances in which the date of waiting may be fixed retroactively, the situation you describe of the husband leaving for the purpose of finding work cannot be accepted as one of them.

Written on behalf of the Universal House of Justice, May 30, 1983, *Lights of Guidance*, p. 395

## Cannot Shorten Period of Waiting

It is not possible to shorten the period of waiting as this is a provision of the *Kitáb-i-Aqdas*.

Letter from the Universal House of Justice, dated July 18, 1976, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1326

If one party marries a new partner during the year then the year of waiting is automatically terminated. However, a Bahá'í may not remarry during the year of waiting without jeopardizing his or her administrative rights.

### **See also:**

Actions that Void Year of Waiting, Ch. 12

## ROLE OF ASSEMBLY DURING YEAR OF WAITING

It is necessary that Bahá'ís who intend to divorce be aware that they must consult with their Local or National Assembly, that basically a year of waiting must ensue before divorce can be effected, and that the Assembly has certain responsibilities toward the couple concerned about which they will be informed through consultation with the Assembly.

Letter from the Universal House of Justice, dated April 16, 1967, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1317

When a Spiritual Assembly receives an application for Bahá'í divorce its first duty is to try to reconcile the couple. If this is not possible, and the couple separates, further efforts at reconciliation should be made during the ensuing year.

Letter written on behalf of the Universal House of Justice, dated May 30, 1983, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1319

In the opening paragraphs of your letter you speak of your Committee adjudicating upon divorce settlements, and the House of Justice feels that the use of the word “adjudicate” may lie at the root of some of the problems that the committee is facing. In a country...where divorce is subject to the civil law, the function of the Assembly (or its committee) in dealing with a divorce case is not primarily a matter of adjudication. Its first duty is to try to reconcile the couple. If it finds that it is unable to do this, it then sets the beginning of the year of waiting and continues, as circumstances permit and wisdom dictates, throughout the running of the year, its attempts at reconciliation.

One of the duties of the committee is to see that the requirements of Bahá'í Law governing the year of waiting are not violated — that is to say, that the two parties live apart and that proper provisions are made for the financial support of the wife and children. As you will see from the enclosures, this is a matter that needs to be considered for each case on its own merits. If the matter can be amicably arranged between the parties, well and good. If not, the basic principle of Bahá'í Law is that the husband is responsible for the support of his wife and children so long as they are married; that is until the granting of the divorce. In a particular case, however, it may have been the wife who was the bread-winner of the family or both the husband and wife may have been earning income. The Assembly should not ignore such specific situations and change them merely because a year of waiting is running. The application of these principles should not be in the form of an adjudication which the Assembly will require the couple to

accept, but as a basis for an arrangement which the couple will amicably agree to and present to the Court for endorsement. If the Assembly is unable to get the couple to agree, it should leave the matter to the civil court.

Letter written on behalf of the Universal House of Justice, dated February 24, 1983, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1323

Even when the Assembly finds it necessary to establish a year of waiting, it will wish to consult periodically with the parties to do all it can to encourage and assist in their reconciliation or at least promote a harmonious outcome for their divorce. It should bear in mind that Bahá'í institutions can draw on resources of spiritual guidance not available to the civil divorce system and that whatever the Assembly can do to assist the parties to come to a firm agreement on matters of property distribution, child custody and support prior to engaging civil action is likely to mitigate potentially divisive effects of the civil divorce process.

The Assembly may wish to remind the parties to bear in mind, if they select lawyers to settle their affairs, that there are lawyers who hold views and advocate practices that are at odds with the Bahá'í teachings and others whose views are more in keeping and who will make a greater effort to seek resolution for the common good rather than the advantage of one party over the other. Finding lawyers or legal aid assistance with views more in keeping with the spirit of Bahá'í teachings may greatly assist in the general outcome and help protect any children involved, as well as the Bahá'í community, from the traumatic effects of a more adversarial approach.

Should either or both parties prove uncooperative, the Assembly should not allow the matter to consume an undue amount of its time. In such cases, the parties should be advised to resolve matters through the civil courts.

**See also:**

Representatives, Task Forces and Other Appointees, Ch. 3

## JURISDICTION

Jurisdiction to decide on matters of personal status rests with the Assembly in whose area the individual believer currently resides. Thus the Local Spiritual Assembly of the place where Mr. ... now resides, ... has jurisdiction to entertain an application for a Bahá'í divorce and to fix the date for the beginning of the year of waiting.

Letter from the Universal House of Justice, dated May 14, 1978, to a National Spiritual Assembly

## Applications from Believers Living Outside Assembly's Jurisdiction

Bahá'ís who do not live under the jurisdiction of a Local Spiritual Assembly are free to seek the assistance of any neighbouring Assembly. Once the year of waiting has begun, however, jurisdiction for the year of waiting should be retained by the Assembly that established it.

## Isolated Believers and Members of Groups

Bahá'ís living outside the area of jurisdiction of a Local Spiritual Assembly may directly contact the National Spiritual Assembly for assistance.

## Relocation of Parties

Normally a couple requesting a Year of Patience will consult the Local Spiritual Assembly in the area where they are usually resident.

It is preferable that the parties stay close enough to each other during the Year of Waiting to create greater opportunities for consultation and to increase the possibility of reconciliation.

However, it may happen that one or both of the parties moves to new localities and consults with the Local Spiritual Assemblies in their respective areas.

As a general rule, the Local Spiritual Assembly in the locality where the couple was normally living prior to the separation would investigate the facts and decide whether a Year of Waiting should be granted. Wherever possible, that Local Spiritual Assembly should meet with both parties. As soon as the

investigating Assembly discovers that one party is living in another locality, it should inform the Assembly of that locality, or the National Spiritual Assembly, if there is no Local Spiritual Assembly. The principle is that no one Assembly should take any action in relation to the Year of Waiting without consulting the other.

The two Assemblies must establish a point of unity. They must first agree which of them will carry out the investigations. Only one Assembly can grant a Year of Waiting. Normally, this would be done by the investigating Assembly. If it is not possible for the investigating Assembly to meet both parties (for instance, where great distances are involved) the two Assemblies may consult and agree to have each Assembly meet with the relevant party who resides in their locality.

Since separate meetings are clearly less desirable when investigating a matter of this nature, the two Assemblies must take particular care to keep each other fully informed and to support each other's actions in relation to the parties. The Assemblies must make every effort to maintain a unified approach to the couple concerned.

If one Assembly takes action without consulting the other, any Year of Waiting it may grant will not be recognized as valid.

If the Assemblies are unable to agree on the granting of a Year of Waiting, or if there are any other difficulties with this procedure, then the whole case should be referred to the National Spiritual Assembly, along with copies of all relevant correspondence and details of background information.

### **Preferable to Maintain Reasonable Proximity to Each Other During Year**

If both parties relocate but remain close to the original Assembly, that Assembly would retain jurisdiction. It is preferable that the parties stay close enough to each other during the year of waiting to create greater opportunities for consultation and to increase the possibility of reconciliation. If both should relocate out of the area, the Assembly should contact the National Spiritual Assembly which will reassign jurisdiction for the year of waiting to another Local Assembly in proximity to one of the parties.

### **Travelling Teaching During Year of Waiting**

Local Spiritual Assemblies should not sponsor or encourage travelling teaching by believers during their Year of Waiting. There are two reasons for this:

1. To allow the couple in the Year of Waiting to work on the marriage.
2. In cases of immorality or misconduct, the individual concerned may not be in the right spiritual mood, nor have the stability or strength to undertake travelling teaching.

If one of the parties wishes to make a short travelling teaching journey, the Assembly could consider making an exception to this policy provided it has ensured (such as by consulting with the other party) that the journey will not in any way jeopardise the processes being put in place to effect a reconciliation.

### **Transfer of Jurisdiction**

From time to time, a case arises where, for compelling reasons, it may be deemed advisable for an individual to take a specific problem to a Local Spiritual Assembly other than his or her own. In such instances, the National Spiritual Assembly has permitted jurisdiction to be transferred on the condition that the believer has his or her Local Assembly's permission to go to another Assembly and the other Assembly is willing to take on the case.

Sometimes a believer may have a valid reason for not wishing to disclose to his or her own Assembly why a transfer of jurisdiction is being requested. If the Assembly refuses to transfer jurisdiction for the case, the believer may appeal to the National Spiritual Assembly. In that event, both the believer and the Assembly refusing transfer will be expected to explain their reasons to the National Assembly, which will then determine if a jurisdiction change should be permitted.

### **Checklist for Assemblies in Dealing with Year of Waiting and Divorce**

1. Do not interfere until one or both parties in a marriage bring marital problems to the Assembly, unless there are compelling reasons (see this chapter, above: Responsibility of Local Assembly — Should Not Intervene Without Compelling Reasons).

2. Once brought to the Assembly, it must investigate the facts by meeting with both parties if possible, together and/or separately.
3. Emphasize to the couple the sanctity of marriage and the importance of preserving it. The personality clashes are not the actual issue in a Bahá'í marriage, the real issue is the development of a true sense of unity with its roots in spiritual values. This is the real issue then and the consultation should reflect it.

**See also:**

The Institution of Marriage –Ch. 11

4. At this stage the welfare of the children and the negative effect of divorce on children should also be discussed.

**See also:**

“Non-Bahá'í Studies Concerning the Effects of Divorce”, Resource Document for this chapter

5. Attempt to reconcile the couple's differences. Some of the advice the Assembly may give a couple would be to pray and deepen together on the purpose of a Bahá'í marriage, to say prayers for their marriage, to seek a competent marriage counsellor whose views reflect those of the Bahá'í teachings on marriage, and to set specific goals for improving their marriage.

**Note:**

It may be helpful for the couple to be given a copy of the Resource Document for this chapter, “For Counsellors of Couples”.

6. After consulting with the couple and having gathered the facts, suspend the decision about the Year of Waiting until the next meeting to give everyone the chance to think things over.
7. If the couple cannot be reconciled and have separated, then set a date for the beginning of the Year of Waiting from when physical separation actually occurred; that is, the establishment of separate residences not separate bedrooms in the same living quarters.
8. Meet with the couple on a regular basis during the year and do all it can to assist their reconciliation.
9. Attempt to bring the couple to an amicable arrangement about such matters as their financial affairs and custody and support of any children.

Note: A marriage or family counsellor can also help to sort out financial affairs, custody and support of children.

10. If the Assembly is unable to bring the couple to an agreement then it must be left to the Family Court. Any agreement worked out with the assistance of the Assembly may be shared by the couple with the court appointed counsellor or lawyer, if appropriate to do so.
11. If the couple cannot be reconciled, the Bahá'í divorce is granted after both the Year of Waiting has been completed and the civil divorce has been finalised.

The points in this checklist are more fully explained elsewhere in this chapter.

## RESPONSIBILITIES OF PARTIES

### OBLIGATION TO CONSULT WITH AN ASSEMBLY

[I]t is necessary that Bahá'ís who intend to divorce be aware that they must consult with their Local or National Assembly, that basically a year of waiting must ensue before divorce can be effected, and that the Assembly has certain responsibilities toward the couple concerned about which they will be informed through consultation with the Assembly.

The Universal House of Justice, April 16, 1967 to the National Spiritual Assembly of the Bahá'ís of the United States

The role of the couple when applying for a Year of Waiting or seeking a divorce is to:

- Approach the Spiritual Assembly with the attitude of willingness to accept the advice of the Spiritual Assembly.
- Clarify their present situation.
- Evaluate and enforce their understanding of Bahá'í marriage.
- Obey the counsels of the Spiritual Assembly.

## Essential to Support Assembly and Avoid Criticising it

Among the functions assigned to a Local Spiritual Assembly are the administration of Bahá'í Law and the protection of the Faith. In exercising these functions an Assembly is required at times to issue instructions or directives which are binding on the believers, and which necessitate their obedience. Innumerable passages in the Writings of the Faith emphasize the need to obey the Assemblies and to whole-heartedly support their decisions.

At other times, the Assembly exercises a counselling role toward the members of its community, guiding them to more fully conform their lives to the exalted precepts of the Cause of Bahá'u'lláh, and assisting them in the resolution of disputes and the preservation of unity. In such instances, the Assembly offers advice, which is not binding on the believers; should they choose not to follow this counsel, they cannot properly be regarded as being disobedient to the Spiritual Assembly.

In matters involving marital discord, the role of the Assembly is generally that of spiritual counselling, and its guidance to the individuals involved constitutes advice. However, there may be instances where the Assembly would feel it necessary to issue direction in its handling of a marriage problem, for example when Bahá'í law is being contravened by flagrant backbiting, use of physical violence, etc.

It is essential that the believers refrain from voicing criticism of the Local Assemblies, or from taking any action which would weaken their authority or the confidence of the believers in these institutions. There are established procedures by which a believer who is dissatisfied with an Assembly's decision can ask for reconsideration of a matter, or can appeal it to the National Spiritual Assembly.

Written on behalf of the Universal House of Justice, May 22, 1989 to a Local Spiritual Assembly

## SHOULD ACTIVELY SEEK RECONCILIATION

It is for you, and for Mr. .... as well, to ponder carefully over the spiritual implications which any act of divorce on either part would involve, and strengthened by the power of faith and confident in the blessing which strict adherence to the principles and laws of Bahá'u'lláh is bound to confer upon every one of His faithful followers, to make a fresh resolve to solve your common difficulties and to restore the harmony, peace and happiness of your family life.

Letter written on behalf of Shoghi Effendi, dated September 11, 1938, to an individual believer, in *The Compilation of Compilations, Vol. II*, no. 2314

During the year the couple have the responsibility of attempting to reconcile their difference.

Letter from the Universal House of Justice, dated November 3, 1982, to an individual believer, in *Lights of Guidance*, no. 1304

It is always the hope that, during the year of patience, affection between the couple will recur and that divorce will not be necessary.

Letter written on behalf of the Universal House of Justice, dated February 15, 1973, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1318

## CONSIDER EFFECT OF DIVORCE ON CHILDREN, FAMILY, AND COMMUNITY

Regarding the Bahá'í teachings on divorce. While the latter has been made permissible by Bahá'u'lláh yet he has strongly discouraged its practice, for if not checked and seriously controlled it leads gradually to the disruption of family life and to the disintegration of society.

Letter written on behalf of Shoghi Effendi, dated November 16, 1936, to an individual believer, in *The Compilation of Compilations, Vol. I*, no. 534

He was very sorry to hear that you and your husband are still so unhappy together. It is always a source of sorrow in life when married people cannot get on well together, but the Guardian feels that you and your husband, in contemplating divorce, should think of the future of your children and how this major step on your part will influence their lives and happiness.

Letter written on behalf of Shoghi Effendi, November 16, 1945, to an individual believer, in *The Compilation of Compilations, Vol. I*, no. 541

The presence of children, as a factor in divorce, cannot be ignored, for surely it places an even greater weight of moral responsibility on the man and wife in considering such a step. Divorce under such circumstances no longer just concerns them and their desires and feelings but also concerns the children's entire future and their own attitude towards marriage.

Letter written on behalf of Shoghi Effendi, dated December 19, 1947, to an individual believer, in *The Compilation of Compilations, Vol. II*, no. 2327

He feels that you should by all means make every effort to hold your marriage together, especially for the sake of your children, who, like all children of divorced parents, cannot but suffer from conflicting loyalties, for they are deprived of the blessing of a father and mother in one home, to look after their interests and love them jointly.

Now that you realize that your husband is ill, you should be able to reconcile yourself to the difficulties you have faced with him emotionally, and not take an unforgiving attitude, however much you may suffer.

We know that Bahá'u'lláh has very strongly frowned upon divorce; and it is really incumbent upon the Bahá'ís to make almost a superhuman effort not to allow a Bahá'í marriage to be dissolved.

Letter written on behalf of Shoghi Effendi, dated March 6, 1953, to an individual believer, in *The Compilation of Compilations, Vol. II*, no. 2331

### See also:

Strengthening Marriage and Family Life, Ch. 11

## CONTINUE FINANCIAL SUPPORT DURING YEAR OF WAITING

The House of Justice views it as a basic principle of Bahá'í law that the husband is responsible for the support of his wife and children as long as they are married, i.e., until the granting of a divorce. There may be particular circumstances in which the wife is the bread-winner of the family, or both husband and wife are earning income; such situations should not be ignored, or changed merely because the couple is in a year of waiting.

Letter written on behalf of the Universal House of Justice, dated February 24, 1983, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1323

Bahá'u'lláh requires the husband to maintain the wife during the year of patience.

The Universal House of Justice, November 23, 1970, Handbook For Local Spiritual Assemblies in Australia, p. 61

The House of Justice wrote to another National Assembly on 5 April 1970 as follows:

The only provision of Bahá'í law regarding the support of the wife is that which makes the husband responsible for her support during the year of waiting. This does not mean, however, that further support is prohibited; all such matters will require legislation in the future. At the present time it is the

responsibility of the Assembly to arrange an amicable and just financial settlement between the couple, and any such arrangement must, obviously, take into consideration the financial situation of both parties and their relative responsibilities.

While it is obvious that the Assembly should encourage the husband to honour his Bahá'í responsibilities in paying the required support money, matters of support may be covered by the civil courts when a civil divorce is applied for and, in such a case, the wife would, of course, be able to invoke whatever civil remedy is available.

Letter from the Universal House of Justice, dated February 6, 1978, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1337

**See also:**

Responsibility of Local Assembly — Role of Assembly during Year of Waiting, Ch. 12

Relation of Civil Divorce to Bahá'í Divorce — Divorce Agreement, Child Support and Custody, Ch. 12

## ONE PARTY CANNOT PETITION TO TERMINATE YEAR OF WAITING

One party to a divorce, acting alone, cannot petition for a termination of the year of waiting.

Letter from the Universal House of Justice, dated May 1, 1967, to a National Spiritual Assembly

**See also:**

Responsibility of Local Assembly — Setting Date for Beginning of Year of Waiting — Cannot Shorten Period of Waiting, Ch. 12

## DATING DURING YEAR OF WAITING CONTRARY TO SPIRIT OF THE TEACHINGS

[D]ating in the spirit of courtship is outside the bounds of Bahá'í propriety, even where the interpersonal relationship of the couple is not blatant or flagrant, casting reflections upon the strict morality required of Bahá'ís. The Bahá'í should be advised to break off the acquaintanceship should it appear to progress beyond friendship...

Letter written on behalf of the Universal House of Justice, dated December 6, 1981, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1328

It is always the hope that, during the year of patience, affection between the couple will recur and that divorce will not be necessary. Therefore, although normal social relationships between each of the partners and members of both sexes are permissible, it is quite contrary to the spirit of the teachings for either party to be courting a new partner during the year of waiting. This should be made clear to the couple if necessary and they should be exhorted to conduct themselves as Bahá'ís. However, this is not an area in which the Assembly should resort to sanctions if either or both of the pair disregard this principle. Naturally, if one of the parties conducts himself or herself in a way that is blatantly or flagrantly immoral the matter should be handled as any other similar case would be.

Letter from the Universal House of Justice, dated February 15, 1973, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1318

## REFRAIN FROM DATING WHILE DIVORCE PENDING

Concerning the permissibility of dating once the year of waiting is completed, but before the civil divorce has been granted, the Universal House of Justice has written:

It is important to note that while more than one calendar year may have elapsed since the year of waiting was established by the Local Spiritual Assembly, it is contrary to Bahá'í principles for the Bahá'í law to be implemented in a way that would contravene the provisions of the civil law; thus, the granting of a Bahá'í divorce is held in suspense following the end of the year of waiting until a civil divorce is obtained. In answer to your specific question, it would not be in keeping with the spirit of Bahá'í law for either of the parties to be dating, in the sense of courtship, while the divorce is still pending.

Letter written on behalf of the Universal House of Justice, dated November 9, 1995, to an individual believer.

Regardless of whether the end of the year of waiting or the civil divorce occurs first, Bahá'í parties are expected to observe behaviour appropriate to a year of waiting until the Bahá'í divorce is granted, since that cannot take place until both the civil divorce is final and the year of waiting has concluded.

## Not Appropriate to Look for New Marriage Partner

The year of waiting is not the time for either of the parties to be looking for a new marriage partner. Their efforts should be directed to the preservation of the existing marriage.

Letter from the Universal House of Justice, dated July 12, 1979, to an individual believer

## Should Not Announce New Marriage Plans

It is not within the spirit of Bahá'í law for one to become involved in the announcement of new marriage plans while he or she is still legally married to another. There is no objection to urging the friends not to go so far as to seek consent of parents before the divorce becomes final in all respects.

Letter from the Universal House of Justice, dated January 17, 1971, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1334

The above guidance also applies in cases where the year of waiting has been completed but the civil divorce has yet to be granted. Since the parties are still legally married, they are expected to behave accordingly.

## Believers Not Free to Remarry before Bahá'í Divorce Is Granted

Even though a Bahá'í has obtained a civil divorce, under Bahá'í law he cannot be regarded as divorced unless he has also obtained a Bahá'í divorce, therefore he is not free to marry. Should he attempt to marry and in the process violate the Bahá'í law governing marriage, he is, of course, subject to sanction.

Letter written on behalf of the Universal House of Justice, dated February 13, 1975, in *Assembly Resource Compilation*, National Spiritual Assembly of the Bahá'ís of Canada, p. DIV-21

The believer will be subject to sanctions if he should marry a third party within the year of patience, not only because it is a violation of the year of patience itself, but also because even though a civil divorce has been granted, the Bahá'í divorce cannot be granted until the end of the year of patience. For this reason no marriage is possible during the running of the year of patience unless the parties to the divorce remarry each other in a civil ceremony.

Letter from the Universal House of Justice, dated March 29, 1966, to a National Spiritual Assembly, in *Lights of Guidance*, no. 182

In cases in which your Assembly has decided that the believer was ignorant of the law requiring him to have a Bahá'í divorce before marrying another, and a civil divorce has already been obtained, your Assembly may in its discretion excuse him and he would be regarded as in the same status as one who obtained a divorce before becoming a Bahá'í.

Letter written on behalf of the Universal House of Justice, dated March 14, 1976, to a National Spiritual Assembly

### **See also:**

Actions that Void Year of Waiting — Marriage to New Partner during Year of Waiting, Ch. 12

## RECONCILIATION

Sexual relations or cohabitation between the spousal parties at any time during the year of waiting is viewed as reconciliation even when either or both parties have no intention of reconciling. If this occurs, a new year of waiting must be initiated.

### **See also:**

Actions that Void Year of Waiting, Ch. 13

## BEFORE BOTH CIVIL DIVORCE AND END OF YEAR OF WAITING

If, as a result of efforts at reconciliation, a normal marital relationship is resumed between the parties to a divorce, the whole process of divorce is considered to be abandoned. In case the parties later desire to divorce they must apply again for Bahá'í divorce and the year of waiting must be commenced anew.

Letter from the Universal House of Justice, dated January 5, 1967, to a National Spiritual Assembly

## BEFORE CIVIL DIVORCE BUT AFTER END OF YEAR OF WAITING

As far as Bahá'í law is concerned, divorce is automatically granted at the end of the year of waiting if reconciliation has not taken place, but since in the United States Bahá'í divorce cannot become effective until the civil divorce is granted, should the couple be reconciled during the period between the end of the year of waiting and the time when the civil divorce would become effective, there would be no need for the parties to remarry according to Bahá'í law.

Letter written on behalf of the Universal House of Justice, dated May 1, 1967, to a National Spiritual Assembly

### **See also:**

Responsibilities of Parties — Refrain from Dating While Divorce Pending, Ch. 12

According to Bahá'í law, if a couple, having completed a year of waiting but before being granted a civil divorce, should reconcile, cohabit, or resume sexual relations, the Bahá'í divorce process is terminated, regardless of whether or not the couple has formally applied for legal separation. If the parties, or either of them, thereafter desire a divorce, the year of waiting must be commenced anew.

A couple is recognized as married under Bahá'í law until they are granted a civil divorce, even if the year of waiting has been completed.

Written on behalf of the Universal House of Justice to the National Spiritual Assembly of the Bahá'ís of New Zealand, October 20, 1992

## AFTER CIVIL DIVORCE BUT BEFORE END OF YEAR OF WAITING

In this case, although the parties are not divorced under Bahá'í law, they are viewed as divorced under civil law. If they reconcile following the civil divorce, before the expiration of the year of waiting and the granting of the Bahá'í divorce, they must have a civil marriage ceremony within a reasonable period of time to legalise their union under civil law, or their administrative rights may be placed in jeopardy.

## AFTER BOTH CIVIL DIVORCE AND END OF YEAR OF WAITING

Since the Bahá'í divorce becomes final on the date of either the civil divorce or the end of the year of waiting, whichever occurs last, couples who reconcile following both must remarry and meet all requirements of both Bahá'í and civil law as though they had never been married.

### **See also:**

Ch. 11, Marriage and Family Life

## ACTIONS THAT VOID YEAR OF WAITING

### SEXUAL RELATIONS BETWEEN SPOUSES

If intercourse between husband and wife takes place during the year of waiting, a new year must be set by the Spiritual Assembly.

Letter from the Universal House of Justice, dated February 12, 1980, to a National Spiritual Assembly

## SHARING A COMMON RESIDENCE

Regarding the question of voiding the year of waiting should a couple share a common residence for one or two nights when the residence belongs to a third party, the House of Justice does not wish to make a ruling on such a general basis. In the case you mention involving temporary residence in the home of the parents of one of the parties who are in a year of waiting, the House of Justice suggests you try to verify whether or not the purpose of the year of waiting has been preserved and if satisfied this is so, make your decision accordingly.

Letter written on behalf of the Universal House of Justice, dated August 2, 1981, to a National Spiritual Assembly

The parties to a divorce must live apart in separate residence during the year of waiting. Any cohabitation of the parties stops the running of the year of waiting. If thereafter a divorce is desired a new date for the beginning of a new year of waiting must be set by the Assembly.

Letter from the Universal House of Justice, dated June 20, 1977, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1325

**See also:**

Requirements for Bahá'í Divorce — Year of Waiting — Physical Separation Required to Begin, Ch. 12

## MARRIAGE TO NEW PARTNER DURING YEAR OF WAITING

When one of the parties to a Bahá'í marriage loses his/her administrative rights by remarrying during the year of waiting, which is in violation of the Bahá'í law of marriage, the other party is released from the need to complete the year of waiting.

Letter written on behalf of the Universal House of Justice, dated May 28, 1989, to a National Spiritual Assembly

We have your letter ... asking about the termination of the year of waiting in the event of the remarriage of the non-Bahá'í partner following a civil divorce. The need to observe the year of waiting is terminated by the marriage of the non-Bahá'í partner in such cases.

Letter from the Universal House of Justice, dated September 20, 1973, to a National Spiritual Assembly

**See also:**

Violation of Bahá'í Marriage Law, Ch. 11

Refrain from Dating While Divorce Pending, Ch. 12

## VIOLATIONS THAT DO NOT VOID YEAR OF WAITING

Violations of Bahá'í moral laws and standards during the year of waiting, other than violation of the marriage law, do not void the year of waiting. Such violations as child abuse, domestic violence, infidelity in the marriage, and sexual relations with others than the spouse during the year of waiting do not relieve either party of the need to observe the year of waiting and should be handled by the Assembly as separate issues.

**See also:**

Behaviours Subject to Administrative Sanctions, Ch. 10

Responsibility of Local Assembly — Initial Meeting when Party(ies) Seek Year of Waiting — Screen for Domestic Abuse, Ch. 12

“Guidance on Violence and Abuse”, in Resource Files for this chapter

“Statement on Violence in Marriage”, in Resource Files for this chapter

## RELATION OF CIVIL DIVORCE TO BAHÁ'Í DIVORCE

### GIVING LEGAL SANCTION TO DIVORCE

It should be pointed out that civil suit for divorce and Bahá'í divorce are two entirely different matters. ...course to the civil authority is only for the purpose of giving legal sanction to the divorce.

Letter written on behalf of the Universal House of Justice, dated July 18, 1973

### INITIATION OF CIVIL DIVORCE DURING YEAR OF WAITING

It is permissible, when necessary, to initiate civil divorce proceedings before the ending of the year of waiting. Obviously it is much more in the spirit of Bahá'í law for a believer to approach the Spiritual Assembly before initiating any civil proceedings, but if he does the reverse this is not a sanctionable offense.

Letter written on behalf of the Universal House of Justice, dated September 20, 1973, to a National Spiritual Assembly

There is no Bahá'í law requiring the removal of voting rights for obtaining a civil divorce before the end of the year of waiting. It is, of course, preferred that civil divorce action not be instituted or completed before the end of the year unless there are special circumstances justifying such action.

Letter written on behalf of the Universal House of Justice, dated August 20, 1974, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1331

In answer to your third question regarding the initiation of civil proceedings during the year of patience, there is no objection to either party doing this so that the waiting period required by Bahá'í Law runs concurrently with that required by civil law. As indicated in the enclosed correspondence, however, the Bahá'í divorce does not become effective until the period of waiting has been terminated.

Letter written on behalf of the Universal House of Justice, dated August 6, 1969, to a National Spiritual Assembly

[I]t is more within the spirit of Bahá'í Law for Bahá'ís to postpone the initiation of civil proceedings, (if the law of the country requires a civil divorce) until the end of the year of waiting. However, if such postponement gives rise to inequity or to a legal prejudice against the possibility of a civil divorce, it is of course, permissible for the civil proceedings to be initiated during the year of waiting.

Letter written on behalf of the Universal House of Justice, dated June 20, 1977, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1325

### If Non-Bahá'í Partner Obtains Civil Divorce

If, as in the case cited, a civil divorce is granted to a non-Bahá'í partner before the end of the year of patience, a Bahá'í divorce cannot be granted until the end of that year. It has been known for a couple to obtain a civil divorce in this way and then become reconciled before the ending of the year, when they then had a civil marriage; from the Bahá'í point of view they had never been divorced.

Letter from the Universal House of Justice, dated January 23, 1966, to a National Spiritual Assembly

## DIVORCE AGREEMENT, CHILD SUPPORT AND CUSTODY

### Civil Law Retains Exclusive Legal Jurisdiction over Divorce and Related Matters

Bahá'í institutions in New Zealand have no legal authority in divorce matters. The state has retained exclusive jurisdiction over divorce and related matters, such as child custody and support and property and financial settlements.

**See also:**

Responsibility of Local Assembly — Jurisdiction, Ch. 12

## Function of Assembly Is Advisory in Regard to Divorce Agreements

In general ... a Bahá'í couple ... who are obtaining a divorce must, in addition to the Bahá'í divorce, obtain a civil divorce, and the civil divorce decree will usually cover all such matters as division of property, provision of support and custody of children. The function of the Spiritual Assembly in such ancillary aspects of the divorce is thus advisory rather than judicatory. In order to prevent, if possible, dispute between Bahá'ís in front of the law courts, the Assembly should attempt to bring the couple to an amicable arrangement about all such questions, which can then be submitted to the court for its endorsement. If the efforts of the Assembly are of no avail, then the matter must be left to the civil court to decide.

Letter written on behalf of the Universal House of Justice, dated January 13, 1983, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1335

An Assembly's role in divorce matters is purely advisory. If one or both of the parties vow to obey the Assembly's advice and then fail to do so, sanctions cannot be imposed.

If a Local Spiritual Assembly consults with one or both of the parties to a divorce on matters pertaining to the divorce settlement, the Assembly should be certain to point out that (1) its role is advisory, (2) ideally the Assembly's advice would be written up in a legally binding form under a solicitor's guidance, and (3) if either party finds the Assembly's advice unsatisfactory, they should seek resolution through civil courts.

Information on the legal processes for establishing child custody and child support arrangements, and division of relationship property, may be found on the website of the Ministry of Justice. See:

- Information on care of children: <https://www.justice.govt.nz/family/care-of-children/>
- Information on division of relationship property: <https://www.justice.govt.nz/family/separation-divorce/divide-relationship-property/>

New Zealand law provides flexibility for parties to reach agreement between themselves on these matters, if possible, and also provides for seeking intervention by the Family Court, if necessary. Among the Family Court's services are Family Dispute Mediation, Consent Orders to enforce a parenting plan, and Protection Orders. The assistance of solicitors should be sought if required in order to ensure that written agreements are properly drawn up, or in the event that any other complex legal issues arise. Bahá'ís in the process of separation and divorce are encouraged to cooperate on resolving issues fairly in order not to become caught up in litigiousness that may be emotionally and financially damaging.

## Custody of Children

Concerning the custody of children, we have recently written to an individual on this subject on behalf of the Universal House of Justice and we attach a copy of an excerpt of that letter for your information. It would be better if the parents could agree on the custody of the children, but if they cannot do so they should submit the matter to their Spiritual Assembly and abide by its decision, but of course they cannot be required to do so. If they choose to rely upon the procedure provided by the civil court in such cases, the Assembly should raise no objection to the friends testifying or filing affidavits in such cases.

Written on behalf of the Universal House of Justice, September 27, 1982

Your letter of 3 September asking about the granting of custody for children in the case of breakdown of a marriage, resulting in separation or divorce, has been received by the Universal House of Justice, and we are directed to convey the following comments.

In such matters the necessary arrangements are determined with the help and advice of Spiritual Assemblies who should carefully consider each case and issue the necessary advice to the couple. In arriving at their decisions they should take into consideration the following guidelines:

- 2.1 It is preferable that the couple amicably agree on the custody of the children and submit their agreement to the Assembly for endorsement. Normally in the case of very young children custody is given to the mother unless there are compelling reasons which make this inadvisable.
- 2.2 The father is under the obligation of providing the necessary funds for the support of the children.

2.3 Regardless of which parent is given custody, the children should be so educated that they may develop a proper Bahá'í attitude towards, and due regard for, both parents. Fair and practical arrangements should be made to protect the rights of the parent not having custody to associate with the children and spend time with them.

2.4 Usually custody arrangements continue until the child comes of age unless, of course, new circumstances transpire during this period which call for a review of the arrangements.

Universal House of Justice, dated January 5, 1983, "Considerations Affecting Custody of Children and Provision of Financial Support in Cases Not Adjudicated in Civil Law", a summary, in *Lights of Guidance*, no. 1336

## Financial Support

Parties to a civil divorce action are free to raise the question of alimony in the civil action in any way they like. However, it is preferable for the parties to settle their financial affairs privately prior to the civil action.

Letter from the Universal House of Justice, dated April 26, 1967, to a National Spiritual Assembly

While it is obvious that the Assembly should encourage the husband to honor his Bahá'í responsibilities in paying the required support money, matters of support may be covered by the civil courts when a civil divorce is applied for and, in such a case, the wife would, of course, be able to invoke whatever civil remedy is available.

Letter from the Universal House of Justice, dated February 6, 1978, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1337

In the case of ... and ... you state that there is unlikely to be a civil judgment covering the question of financial support of the wife by the husband following the divorce. The House of Justice states that there is no general requirement in Bahá'í law for a husband to continue to support his former wife beyond the ending of the year of waiting and the granting of the divorce. Therefore, in the absence of a ruling by the civil court or of an agreement between the couple registered with the Spiritual Assembly, there is nothing further for your Assembly to do in this case.

Letter written on behalf of the Universal House of Justice, dated January 13, 1983, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1335

[It] is the responsibility of the Assembly to assist the divorced couple to arrive at an amicable settlement of their financial affairs and arrangement for the custody and support of the children rather than let these matters be a subject of litigation in the civil courts. If the Assembly is unable to bring the couple to an agreement on such matters then their only recourse is to the civil court.

Written on behalf of the Universal House of Justice, June 20, 1977

Sometimes a couple or one of the parties asks the Local Spiritual Assembly to give advice on child custody and support or the financial settlement. Ideally the Assembly would help the parties reach an agreement before the case is taken to court.

The Assembly should take into consideration the degree to which the parties are able to cooperate with each other and their willingness to accept the Assembly's advice. Many Assemblies spend time consulting on such questions only to find that one or both of the parties are unwilling to accept its advice. When this happens, precious time is wasted and the energies of the Assembly are drained.

If a Local Assembly consults with one or both of the parties to a divorce on matters pertaining to the divorce settlement, the Assembly should be certain to point out that (1) its role is advisory, (2) ideally the Assembly's advice would be written into the civil divorce decree, and (3) if either party finds the Assembly's advice unsatisfactory, they should seek resolution through civil courts.

Since an Assembly's role in divorce matters is purely advisory, if one or both of the parties agree to obey the Assembly's advice and then fail to do so, sanctions cannot be imposed.

If, after the couple comes to an agreement with the aid of the Assembly, either party seeks a result in court different from that which was agreed upon, the Assembly should withdraw from the case entirely and inform the parties. It is unfortunate when this occurs, but until Bahá'í institutions evolve to the point where they have binding authority over domestic relations, Assemblies are limited in their ability to assist.

## **PARTIES OBLIGED TO OBEY DECISIONS OF THE COURT**

Whatever the court decides, however, regarding provisions for support of the children, it is binding upon both parties, and, as Bahá'ís they will obey the decree of the civil court regardless of where they may be domiciled in the future.

Letter from the Universal House of Justice, dated March 30, 1967, to a National Spiritual Assembly

## **ASSEMBLY SHOULD ENCOURAGE PARTIES TO FULFILL CIVIL DIVORCE DECREE**

### **If Either Party Is Lax about Obligations, Assembly Should Press for Fulfillment**

Once the divorce decree with its related provisions has been handed down by the court, it is the obligation of both parties, as good Bahá'ís, to obey it and, if either is lax in so doing, the Assembly should advise him or her about his or her duties and press for their fulfillment.

Letter from the Universal House of Justice, dated January 13, 1983, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1335

### **Wronged Party Free to Apply for Civil Enforcement**

The wronged party, however, should at the same time be left free to apply to the civil authorities for the enforcement of the decision. Unfortunately such enforcement is notoriously difficult, especially when the parties subsequently reside in different countries. It is here that the action of the Spiritual Assembly, reinforcing the decision of the civil courts, can often be of help. Except in circumstances of unusual gravity or cases where the responsible party fails to obey a court decision to provide support for the children an Assembly should not contemplate imposing sanctions for lack of compliance in these matters. Actual enforcement should normally be left to the action of the civil courts.

Letter from the Universal House of Justice, dated January 13, 1983, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1335

## **ASSEMBLY SHOULD NOT BE INVOLVED IN MATTERS PENDING IN CIVIL COURTS**

Since custody of the children is already before the civil courts we feel you should not become involved in it.

Letter from the Universal House of Justice, dated July 13, 1971, to a National Spiritual Assembly

## **GRANTING THE BAHÁ'Í DIVORCE**

You should make it clear that a Bahá'í Divorce cannot be granted prior to the granting of a final divorce decree in the civil action nor before the expiration of the year of patience.

Letter from the Universal House of Justice, dated June 5, 1966, to a National Spiritual Assembly

It is the responsibility of the Assembly to register the end of the Year of Patience and advise the couple of it. If the Assembly determines that the couple has not been able to be reconciled and that the year of patience has truly been completed, then they may grant the Bahá'í divorce.

Letter from the Universal House of Justice, dated January 23, 1966

## OBTAINING PROOF THAT CIVIL DIVORCE HAS BEEN FINALISED

Before the Bahá'í divorce is granted, the couple should provide proof to the Assembly that the civil divorce has been finalized, i.e. that a decree absolute has been granted. Either a copy of the civil divorce decree or a letter from a solicitor which includes the date of the final divorce is acceptable.

## NO AUTHORITY TO WITHHOLD BAHÁ'Í DIVORCE ONCE REQUIREMENTS MET

During the ensuing year," the Universal House of Justice has explained, "it is highly desirable that further efforts at reconciliation should be made, but if no reconciliation is attained, the divorce may be realized. The Assembly has no authority to withhold the divorce on the ground that one party has made no real effort toward reconciliation."

Letter from the Universal House of Justice, dated May 24, 1972, to a National Spiritual Assembly

## NOT WITHIN DISCRETION OF PARTIES TO EXTEND YEAR OF WAITING

It is not within the discretion of the parties to a Bahá'í divorce to extend the year of waiting and ask for the Bahá'í divorce "at whatever time they feel so inclined." If there has been no reconciliation of the parties in the meantime, the Bahá'í divorce becomes final at the end of the year of waiting unless the granting of the civil divorce is delayed beyond that time.

Letter from the Universal House of Justice, dated July 12, 1979, to a National Spiritual Assembly, in *Lights of Guidance*, no. 1329

On rare occasions, it may happen that the couple does not pursue a civil divorce following the end of the year of waiting. In this case, the Assembly should report the end of the year of waiting to the National Assembly with an explanation and should advise the couple that they will be obliged to observe behaviour appropriate to a year of waiting until they obtain a civil divorce or reconcile.

## NOT IN SPIRIT OF FAITH TO INTERFERE WITH CIVIL DIVORCE

When a year of waiting ends without reestablishment of the marriage relationship, it is not in the spirit of the Faith for one party to delay or interfere with the civil divorce which thereafter must occur in order to legalise the Bahá'í divorce.

Letter from the Universal House of Justice, dated August 1, 1978, to a National Spiritual Assembly

## DATE ON WHICH BAHÁ'Í DIVORCE SHOULD BE GRANTED

The date of Bahá'í divorce recognised by the Local Spiritual Assembly should be either:

- The date of the finalisation of the civil divorce (if the year of waiting was completed first) or
- The date of the completion of the year of waiting (if the civil divorce was previously finalised)

The above are the only possible dates for the Bahá'í divorce to become effective. The date of divorce has nothing to do with the date that the Assembly receives proof of the civil divorce or the date the Assembly records the divorce in its minutes, etc.

The dates of the Bahá'í divorce and the civil divorce are recorded in the Assembly Minutes.

## REPORTING YEAR OF WAITING AND BAHÁ'Í DIVORCE TO NATIONAL ASSEMBLY

The Local Assembly should report specific events involving a year of waiting or a divorce to the National Assembly. As parties often move following divorces, sometimes changing Assembly jurisdiction, it is important for the National Assembly's repository of marriage and divorce records to be up to date.

For each event, the Assembly should report:

- the nature of the event

- the full names of both parties
- old and new addresses, if known
- the Bahá'í identification number of each party, if applicable

The Assembly should send a separate report for each occasion that it has:

- Set the date for the beginning of a year of waiting, including occasions when a new year has been set. This report must include the beginning date of the year of waiting.
- Voided a year of waiting for any reason. In this case, it is not necessary to provide a date.
- Granted a Bahá'í divorce. This report should confirm the date on which the year of waiting was completed and must include the date the civil divorce was finalised, as well as the date of the Bahá'í divorce, which coincides with the later of the two dates. It is not necessary to include a copy of the proof of civil divorce.
- Been unable to grant a Bahá'í divorce because the civil divorce is delayed beyond a reasonable time. In other words, once the parties have completed a year of waiting and have been separated long enough to obtain a civil divorce, a civil divorce is expected to be effected soon after. If an unreasonable delay has occurred, e.g. a few months, the Assembly should report the date of the end of the year of waiting with an explanation.

The above reports should not list events involving more than one couple. It is a matter of confidentiality to keep personal records of different couples separated. To simplify reporting for the Assembly, copies of letters or emails sent by the Assembly to the individuals involved advising them of the Assembly's decision may be sent to the National Spiritual Assembly in place of a report, provided that they contain the information specified above. No further commentary is required from the Local Assembly unless some unusual circumstances are involved about which it feels the National Assembly should be aware or should have on record.

All reports as well as related correspondence you would like included should be sent to the National Office, email [nationaloffice@bahai.org.nz](mailto:nationaloffice@bahai.org.nz).

**See also:**

Consultation — Consultation with Others — Confidentiality, Ch. 4  
 Communications — Correspondence — Outgoing, Ch. 4

## ANNULMENT

Regarding the annulment of marriage: There is no provision in the *Aqdas* regarding this matter. The House of Justice will have to legislate on it in the future. Any cases that arise at present should be decided in a way that will not conflict with the civil laws concerning marriage and annulment of marriage.

Letter written on behalf of Shoghi Effendi, dated March 28, 1943, to a National Spiritual Assembly

We have not yet dealt with the subject of annulment of Bahá'í marriage and therefore do not wish to give any rulings at this time. Under Bahá'í law it may be possible under certain circumstances to have a Bahá'í divorce without compelling the parties to observe the year of waiting, or to annul a Bahá'í marriage.

However, we have not as yet defined the circumstances, therefore in the case you mention we leave it to the discretion of your Assembly to handle the matter as you deem advisable.

Letter from the Universal House of Justice, dated December 23, 1969, to a National Spiritual Assembly

Should either party, following the recital of the specifically revealed verse and the payment of the dowry, take a dislike to the other, before the marriage is consummated, the period of waiting is not necessary prior to divorce. The taking back of the dowry, however, is not permitted.

A Synopsis and Codification of the *Kitáb-i-Aqdas*, p. 41

If it is established that since the marriage ceremony irreconcilable aversion has developed and there has been no consummation of the marriage, the year of waiting, according to the statement on page 41 of the *Synopsis and Codification of the Laws and Ordinances of the Kitáb-i-Aqdas*, is not required.

Written on behalf of the Universal House of Justice, May 22, 1987

## Civil Annulment

If the marriage of a Bahá'í is legally annulled, please refer the matter for the National Spiritual Assembly's consideration. It may well be that the National Assembly honours the civil annulment granted by the civil courts and does not require the parties to complete the year of waiting or to be granted a Bahá'í divorce. The Local Spiritual Assembly should provide all relevant information to assist the National Assembly.

## IN CASE OF SUSPECTED CHILD ABUSE OR DOMESTIC VIOLENCE

It is difficult to imagine a more reprehensible perversion of human conduct than the sexual abuse of children, which finds its most debased form in incest. At a time in the fortunes of humanity when, in the words of the Guardian, 'The perversion of human nature, the degradation of human conduct, the corruption and dissolution of human institutions, reveal themselves . . . in their worst and most revolting aspects,' and when 'the voice of human conscience is stilled,' when 'the sense of decency and shame is obscured,' the Bahá'í institutions must be uncompromising and vigilant in their commitment to the protection of the children entrusted to their care, and must not allow either threats or appeals to expediency to divert them from their duty. A parent who is aware that the marriage partner is subjecting a child to such sexual abuse should not remain silent, but must take all necessary measures, with the assistance of the Spiritual Assembly or civil authorities if necessary, to bring about an immediate cessation of such grossly immoral behaviour, and to promote healing and therapy.

Written on behalf of the Universal House of Justice to an individual believer, January 24, 1993

In the case of child abuse or neglect the matter of protection of the child is paramount. Also, there could be legal ramifications which might require the intervention of the civil authorities. Any such cases should be referred to the National Spiritual Assembly for its advice, but at the same time should there be grave fears for the safety of the child do not delay in contacting the New Zealand Police and Oranga Tamariki.

In cases of suspected domestic violence, i.e. spouse abuse (physical and/or mental) the Assembly should consult with the couple. Should it determine that a believer's behaviour is contrary to the Bahá'í standards of conduct, it may consult with the person and offer appropriate advice.

### **See also:**

- "Guidance on Violence and Abuse", in Resource Files for this chapter
- "Statement on Violence in Marriage", in Resource Files for this chapter

## GUIDELINES FOR ASSEMBLIES ON VIOLENCE WITHIN MARRIAGE

### What is it?

Domestic violence generally takes place behind closed doors within the family home. The abuse may be physical and involve bullying, bashing, beating or sexual. More specifically it may include slapping, shoving, punching, hair pulling, and sex where there is force and fear (marital rape). It can result in serious injury involving broken bones, hospitalisation and even death. The abuse may be verbal or psychological; such abuse is also a form of violence. Threats to kill (the woman, children and pets), destruction of property, name calling, and withholding financial support, are all destructive of a woman's self-esteem and dignity and cause fear.

Men's violence to women is frequent in New Zealand. There are, based on current statistics, few instances of women assaulting men, and as the predominant perpetrators of violent acts are men, these guidelines are written from the perspective that females are the victims. This should not be interpreted as meaning that the National Spiritual Assembly is any less concerned about violence perpetrated by women.

To try to quantify and measure the injury inflicted by violence is unhelpful. We must respond to the fear. Fear can erode not only the basis of the marriage, but the ability of spouses to communicate at all. The Local Spiritual Assembly needs to recognise that in this situation any reconciliation is difficult, as the fear generated destroys trust. Male violence to women occurs across all ages and groups, income levels,

nationalities, religions and races. Bahá'í and civil law takes precedence over any ethnic or culturally based traditions which allow abuse of women. This violence gets worse if no action is taken against it. It affects victims physically, emotionally, spiritually and psychologically. It leads to the destruction of the family unit and the degradation of society.

This violence against another human being may be the result of the aggressor thinking they have superior rights over their spouse or child, and that they are entitled to use physical force to gain power and control.

## Why is Assault on a Marriage Partner Wrong?

Assaults are contrary to the Bahá'í principles of mutual respect and equality that should govern relations between husband and wife. Sometimes the violent person sees himself or herself as someone with a problem and may have tried to solve this problem in other ways but failed. Violence is now being used as a last resort. This is contrary to the fundamental Bahá'í principle that conflicts should be resolved through consultation, not violence:

[T]he stress laid in the statements of Bahá'u'lláh and 'Abdu'l-Bahá on love and harmony as the hallmark of marriage, and in view of 'Abdu'l-Bahá's exhortation that each member of the family must uphold the rights of the others, makes it clear that violence in the family is contrary to the spirit of the Faith and a practice to be condemned.

It is clear that no husband should subject his wife to abuse of any kind, whether emotional, mental or physical. Such a reprehensible action would be the very antithesis of the relationship of mutual respect and equality enjoined by the Bahá'í writings—a relationship governed by the principles of consultation and devoid of the use of any form of abuse, including force, to compel obedience to one's will.

Letter written on behalf of the Universal House of Justice, April 12, 1990, to the National Spiritual Assembly of Australia

[T]here are times when the husband and the wife should defer to the wishes of the other. Exactly under what circumstances such deference should take place, is a matter for each couple to determine."

Letter written on behalf of the Universal House of Justice, May 16, 1982, to an individual believer

The National Spiritual Assembly will not hesitate to act appropriately in imposing administrative sanctions in response to instances of violence within the Bahá'í community in New Zealand.

## What is the Law Concerning Violence in New Zealand?

### District Court:

Violence within the home and between marriage partners is a crime. It should be treated by the police and courts as if it was violence between strangers.

Police arrest policy is:

- to take direct action
- to consider arrest where there is a complaint
- to try to gather sufficient evidence to prosecute where the victim is reluctant to make a complaint
- to make referral to appropriate support agencies.

Arrest will result in a District Court appearance. Between arrest and conviction, the Judge may order the couple to live apart. This will be a "non-association" condition of bail and might be against the wishes of both husband and wife. On conviction, a first time offender will generally be directed to attend an Anger Management Programme/Stopping Violence Programme. For the second appearance of a violent offender, imprisonment is likely.

"Male assaults female" is the charge usually made by police in this context.

Some Police Districts operate a diversion scheme for first offenders, giving men the opportunity to attend an Anger Management programme without a court appearance.

## Family Court:

Family Court protection orders can be useful. A Non-Violence Order may be appropriate when a couple remain together. A Non-Molestation Order assumes separation.

The Family Court process is confidential and provides opportunities for various kinds of counselling which are free.

It is necessary to see a lawyer to arrange applications for Protection Orders. Breach of orders results in police action. They can give protection where a woman is reluctant to lay a formal complaint.

The District and Family Court processes are totally separate. The Local Spiritual Assembly should understand that in some instances both procedures might be appropriate.

The Assembly, in advising a woman, needs to assess her risk of further assault, her support networks, the protection that the Assembly can give her and the willingness of the husband to comply with directions—from the police, the Family Court, or the Assembly. Sometimes an assault can be dealt with by the Assembly because support, compliance and protection are available, and sometimes relatively minor assaults are best dealt with by the Police because of the history of the marriage, lack of protection resources and support, and a husband who is unwilling to accept responsibility for changing his behaviour.

The Assembly should recognise that a woman may complain at the time of violence but later withdraw her complaint or deny the assault. The subsequent retraction DOES NOT mean she is unreliable but such behaviour is part of a well-documented victim syndrome.

## Should an alleged Victim or Abuser Take the Problem to Their Assembly?

Yes. Bahá'ís are encouraged to turn to their Local Spiritual Assembly for solutions to their problems. Individuals may take a problem to their local Assembly even if other parties to the problem do not wish to involve the Assembly:

When a Bahá'í wife finds herself in such a situation [of domestic violence] and feels it cannot be resolved through consultation with her husband, she could well turn to the Local Spiritual Assembly for advice and guidance.

Letter written on behalf of the Universal House of Justice, April 12, 1990 to the National Assembly of Australia

Often victims of violence do not take their problems to the Assembly. They may be ashamed to do so as it will indicate that they have been violated as a human being; that they are a failure as a Bahá'í; that they are being disloyal; they feel it might bring shame to their families; they are frightened that if they do, the violence will be even more severe; or they may feel that the Assembly is not competent in dealing with their problem. There may be other reasons.

If individuals feel that they cannot tell their Local Assembly, they should go to the National Spiritual Assembly. Such a situation may arise if, for example, one of the parties to the conflict is serving on the Local Spiritual Assembly.

The Universal House of Justice also notes that a person in this situation 'might . . . find it highly advantageous to seek the assistance of competent professional counsellors'.

Letter written on behalf of the Universal House of Justice, April 12, 1990 to the National Spiritual Assembly of Australia

## How May the Local Spiritual Assembly Encourage Individuals to Turn to the Assembly for Help?

The Local Spiritual Assembly should educate the believers in the value of turning to the Assembly for assistance with their serious problems. At the same time, Assembly members must be aware of the importance of maintaining complete confidentiality at all times:

Regarding the question of confidentiality, the believers should be educated to a deeper understanding of the value of their turning to their institutions for assistance with such problems, confident that by this

means justice will prevail. Together with that, it is essential that the members of the Assemblies be fully aware of the obligation imposed upon them to avoid any leakage of information from the Assembly meeting to other believers who have no legitimate reason to be so informed.

Letter written on behalf of the Universal House of Justice, April 12, 1990

This section should be read in conjunction with that relating to the Assemblies' responsibilities to report violence.

## **Can a Local Spiritual Assembly Intervene in a Violence Conflict Against the Will of the Parties Involved?**

Yes. An Assembly can intervene in a matter that affects the protection of individual Bahá'ís.

In matters which effect the Cause the Assembly should, if it deems it necessary, intervene even if both sides do not want it to, because the whole purpose of the Assemblies is to protect the Faith, the Communities, and the individual Bahá'í as well.

Shoghi Effendi, *Principles of Bahá'í Administration*, p. 58

Women often lack in self-esteem and as the result of abuse, become reluctant to seek help, feel ashamed, guilty and embarrassed. They are frequently very grateful when someone else takes a strong initiative to protect them—they can't then be blamed by their partner. It is important that the Assembly actively put safety and the physical protection of individual women and children ahead of the inevitable desire to present a positive portrayal of Bahá'í marriage.

If, however, the Assembly has a strong feeling that abuse is occurring (but has no allegation or evidence of injury) and there are obvious outward signs evidencing a strong likelihood of violence or other serious difficulty in the marriage—such as physical bruising regularly observed, ongoing behaviour at events such as Feasts which is indicative of estrangement or hostility, or other manifestations of disunity, tension and unpleasantness which are clearly affecting the community—then, after careful consultation, the Assembly could consider intervention in terms of the recommended actions under the heading below, "What Immediate Action Could an Assembly Take to Assist a Victim or Perpetrator of Violence?"

## **Should the Local Spiritual Assembly Advise a Couple in a Violent Situation to Separate?**

At present the prevailing method in New Zealand is to advise the couple to live apart and to seek treatment from professional counselling services.

There is no obligation on a wife, who is being subjected to beating by her husband to continue living with him; she has the freedom to leave him and to live in a separate domicile if she feels it necessary to do so. The passage to which you refer is taken from a Tablet of 'Abdu'l-Bahá addressed to an individual who had written to him about the specific circumstances in which she found herself; the nature of these conditions is unknown, and there is no justification in taking His admonitions to her to be generally applicable to those situations in which a wife finds herself subjected to physical violence from her husband.

Letter written on behalf of the Universal House of Justice, April 12, 1990 to the National Assembly of Australia

If the couple is counselled to live together and to try to reconcile their differences, there can be no guarantee that the violence will not recur. If it does the Assembly could appear, inadvertently, to be condoning the violence. If the couple live apart, the Assembly can then provide an independent forum within which the couple can come together and try to resolve their differences. Living apart does not necessarily mean the beginning of a Year of Patience, or that a permanent separation is envisaged.

It is imperative that action be taken and the couple undergoes counselling. If no intervention takes place the "cycle of violence" may very well repeat itself. This may be obscured by remorse and guilt; or a feeling of helplessness and self-blame on the victim's part, followed by apparent good relations between the couple which they confirm. Left untreated, it is highly likely that violence will surface again.

In most circumstances a useful plan would be for the husband to attend a Men’s Non-Violence programme; and the wife to attend a Women’s Safety Programme. A register of Family Violence Safety and Non-Violence Providers is available from the Ministry of Justice website on this page:

<https://www.justice.govt.nz/about/lawyers-and-service-providers/service-providers/family-violence-service-providers/>

The couple counselling should take place after the individual counselling. Two directories of counselling services are:

- New Zealand Government Website: <https://www.govt.nz/browse/family-and-whanau/separating-or-getting-divorced/relationship-counselling/>
- New Zealand Association of Counsellors: <https://www.nzac.org.nz/>

The Citizens Advice Bureau website provides the following pages:

- “Where do I find a good counsellor?” at: <https://www.cab.org.nz/article/KB00001514>
- “Is there any way we can get free relationship counselling?” at <https://www.cab.org.nz/article/KB00000714>

Where couples remain living together or are both anxious for couples counselling, the Assembly should exercise extreme caution in undertaking the direct responsibility for counselling the couple, given the importance of this being carried out by appropriately trained and licensed professionals. Women with a history of being abused tend to concede too easily to their husband’s wishes. Pressures may be very subtle. Consult the above listed information sources for the best professional counselling in your locality for couple counselling in the context of male violence.

If a couple decide to remain together despite advice from the Assembly to the contrary, it is important that the Assembly consult carefully with the wife without the husband’s presence. They should ascertain that it is the wish of the wife and accept that decision. The wife should be empowered to live apart, but having made a decision to stay in the relationship the Assembly should continue to give the couple their fullest support to make changes.

Assemblies have a duty to protect children, and living apart may be necessary “for the sake of the children”. The Assembly must encourage parents to consider the safety of their children first. Children who witness abuse learn that violence is a means of gaining power and control. They are not only at risk of repeating such patterns in their own relationships but are frequently hampered in their development by the emotional trauma that accompanies such an upbringing.

## What Immediate Action Could an Assembly Take to Assist a Victim or Perpetrator of Violence?

### Recommended action for Local Spiritual Assemblies:

1. If help is sought by a victim
  - a. Believe them unless there is a reason to think they are fabricating the allegation.
  - b. Telephone the police if necessary. Advise the victim that she has rights and should consult the appropriate experts.
  - c. Arrange for medical, welfare and refuge services, assist them to seek advice about Domestic Protection orders (from a solicitor, or the Family Court).
  - d. Provide an immediate Local Spiritual Assembly contact person; a female preferably.
  - e. In consultation with the alleged victim (complainant), establish a support network and community which will offer information, protection and safety.
2. If help is sought by an abuser
  - a. Advise the alleged perpetrator that his or her act is an offense under Bahá’í and New Zealand law. The consequences, if the behaviour continues, should be explained. Do not give information as to the whereabouts of the wife or children if they have sought refuge.

- b. Provide an immediate Local Spiritual Assembly contact person.
  - c. Arrange for counselling and a support network for him. Attendance at an anger management/stopping violence programme should be encouraged.
  - d. Some major cities do have “Women and Anger” groups available for women who need to address issues of anger.
  - e. Suggest that the alleged abuser consider giving his spouse and family “time out” by leaving the family home for a period.
3. Much of the counselling available in the wider community for both victims and their abusers is of a group nature. Many individuals feel, for one reason or another, that they should have private counselling and this is obviously an acceptable approach. However, it should also be realised that research has shown that the group process, in providing challenge and support, can be an effective process for most men and women. Groups tend to be educative in their approach and while honesty and disclosure of further abuse is expected, they are not “confessional” in nature.

### **What Should a Local Spiritual Assembly Bear in Mind When Assisting a Couple in a Violence Situation?**

Some situations can lead to an explosion of violence, e.g.

- a. Individual pressures: low self-esteem, inability to control anger, inability to express one’s feelings, alcohol.
- b. Relationship pressures: sexist attitudes, jealousy, unrealistic marital expectations, nagging, poor communication.
- c. Economic pressure: unemployment and financial stress.
- d. Cultural pressures: the view of one sex by the other within the context of specific cultures.
- e. Family pressures: children and their behaviour, in-laws, wider family demands.

These situations should not be deemed as “excuses” for abuse. While couples should attempt to address these issues both as a couple and individually, the overriding spiritual principle in dealing with abuse is equality in a marriage. The individual who is abusive must bear full responsibility for their conduct and attempt to change. The issue is one of power and control; care is needed to avoid transforming “his” abuse into “the” or “her” problem.

### **Guidelines for Assemblies:**

1. Violence is never acceptable, and there is no justification for it. Both men and women in our society minimise and normalise a lot of violent behaviour.
2. It is vital that the Assembly should not be influenced by the personalities or public perception of the individuals and their standing in the community. They must be objective in their assessment of the problem and encourage the couple to consult the appropriate experts.
3. The Local Spiritual Assembly should be optimistic about the resolution of the problem due to the all-encompassing Bahá’í belief in the potential within each individual for the transformation of human character. Many problems can be traced back to lack of spirituality in the lives of believers, and recognition of this enables the Assembly to be enthusiastic about positive strategies for change. Primary responsibility for change, however, is that of the violent person.
4. While it is the function of the Assembly to administer justice, it is also a function to be a loving shepherd to both parties. The Assembly should be extremely cautious and avoid any action that may be seen as colluding with the abuser.
5. It should be understood that women who have lived in considerable stress resulting from violence, will often exhibit unstable or even bizarre behaviour. The Assembly should see this as a quite usual response to violent behaviour and not an excuse for it. The Assembly must avoid isolating the victim because of her behaviour.

6. The Assembly should concentrate on and respond to her fear. Injuries and the individual's response to them may differ but the fear is real and disabling. This distinction between fear and injury is important. There is a danger that the Assembly might assess an injury as "minor" or the abuse as "only" verbal and overlook the very serious damage to the marriage relationship caused by "fear".

## How Should the Assembly Advise the Couple?

Any consultation with the Assembly should include these elements:

### A. Education in the non-violent resolution of conflict (consultation):

Couples should attempt to solve domestic conflicts through practising Bahá'í consultation. Deepening could be offered to the whole community on the art of consultation.

Bahá'u'lláh also stressed the importance of consultation. We should not think this worthwhile method of seeking solutions is confined to the administrative institutions of the Cause.

Family consultation employing full and frank discussion, animated by awareness of the need for moderation and balance, can be the panacea for domestic conflict. Wives should not accept to dominate their husbands, nor husbands their wives.

Letter written on behalf of the Universal House of Justice, August 1, 1978 to an individual believer

### B. Spiritualisation of the individual and the couple:

The Bahá'í Writings repeatedly emphasise the development of a spiritual relationship:

O ye two believers in God! The Lord, peerless is He, hath made woman and man to abide with each other in the closest companionship, and to be even as a single soul. They are two helpmates, two intimate friends, who should be concerned about the welfare of each other.

If they live thus, they will pass through this world with perfect contentment, bliss, and peace of heart, and become the object of divine grace and favour in the kingdom of heaven. But if they do other than this, they will live out their lives in great bitterness, longing at every moment for death, and will be shamefaced in the heavenly realm.

Strive then, to abide, heart and soul, with each other as two doves in the nest, for this is to be blessed in both worlds.

Abdu'l-Bahá , *Selections from the Writings of 'Abdu'l-Bahá*, page 122

## Where Can the Assembly Turn For Further Help?

A number of government and private services can assist Assemblies. The following organisations or places can be contacted:

Family Court—ask to speak to the Counselling Coordinator

Lawyers

Community Legal Centres

Women's Refuges

Women's Health Centres

Community Health Centres

Ministry of Social Development (MSD)

Police Departments

Medical Practitioners

## Marriage and Family Counselling Services

### Citizens Advice Bureaux

Where referral is made, progress should be monitored. If the couple do not continue with the counselling which has been arranged, the Assembly should request further consultations with them in order to assist. A timetable of monitoring and consultation should be planned. The Assembly must be aware that intervention is necessary and that the problem will recur if nothing is done.

## Responsibility for Reporting Abuse to the Authorities

### Child Abuse

From “Safeguarding the Interests of Young People: Training for the Protection of Children and Youth” (revised 2020):

If a complaint or information concerning alleged child abuse comes to the attention of any member of the Bahá'í community or any individual working or volunteering with children under the age of 18 at an activity or event under the aegis of a Bahá'í institution or agency, and the individual has reasonable grounds to suspect that a child has been abused or is at risk of abuse, the individual should report it to the civil authority or police as soon as possible. In a letter dated 5 October 1992 written on its behalf to an individual believer, the Universal House of Justice has stated: “If a Bahá'í has intimate knowledge of the abuse of a child, either within or outside the Bahá'í community, she has a moral and possibly a legal obligation to report the matter to civil authorities.”

For further information about reporting concerns or a disclosure, please refer to the appropriate sections in the training course mentioned above.

We should follow the lead given on the Ministry of Health website which states (2020) that although in New Zealand it is not mandatory to report child abuse, best practice for health workers “recommends staff who identify or suspect child abuse report their concerns to a statutory agency, the police or Oranga Tamariki – Ministry for Children service (formerly Child Youth and Family).” This is in accordance with the paramountcy principle for child care: “[the] welfare and best interests of the child or young person shall be the first and paramount consideration.” (section 6 of the Oranga Tamariki Act 1989, Children’s and Young People’s Wellbeing Act 1989).

### Adult Violence or Abuse

With certain exceptions<sup>1</sup>, there is no general legal duty in New Zealand for individuals or institutions to report known or suspected cases of abuse or neglect. However, Bahá'í institutions have a core duty in terms of Bahá'í principle to protect the wellbeing of others, and as part of this there will be occasions when we need to approach the authorities for their intervention.

Once a matter is reported to a government agency such as the Police or Oranga Tamariki, responsibility for conducting an investigation and taking further action will rest with the respective agency. However, in parallel to this, the Local Assembly should continue to perform its spiritual and social support role to the extent this does not interfere in civil processes. In some cases, collaboration with government agencies may be welcomed by them.

If the problem has come to light in the context of a Bahá'í occasion or the work of a Bahá'í institution, the reporting to the authorities should usually be done through an official channel such as the Local Spiritual Assembly Secretary or the Auxiliary Board member for protection, who may suggest further fact-finding before contacting the authorities. However, in cases of emergency where imminent risks to life and limb (or property) exist, clearly help should be sought immediately without waiting for an administrative decision. This does not preclude a phone call to the aforementioned institutions.

In the case of spousal abuse (in which most often the victim is female), the Assembly should nearly always in the first instance empower the victim to take action herself—for example, encourage her to contact the Police. This may involve gentle, kind and supportive help over some time.

<sup>1</sup> Regarding the exceptions, those who can be held liable for not taking action include, loosely described, members of the same household as a vulnerable person who are aware of mistreatment occurring. The Police also have a legal duty to step in to prevent assault and battery.

In addressing instances of known or suspected abuse, Assemblies should act strictly according to principle, without fear or favour. Dangerous behaviour should not be covered up for reasons of so-called unity, as in this context unity is guaranteed by justice rather than mercy. The reputation of the Bahá'í community is best upheld through adherence to justice. "Cover-ups" are entirely counterproductive. Likewise, clearly, the status of the alleged perpetrator or their personal connections with members of the Assembly should not be allowed to influence the Assembly's course of action.

## **If a Believer Disobeys the Spiritual Assembly in its Decision Concerning Domestic Violence, Can That Person be Deprived of His Voting Rights?**

If the husband is also a Bahá'í, the Local Spiritual Assembly can bring to his attention the need to avoid abusive behaviour and can, if necessary, take firmer measures to compel him to conform to the admonitions of the teachings.

Letter written on behalf of the Universal House of Justice, April 12, 1990 to a National Spiritual Assembly

The general principles applicable to administering violations of Bahá'í law also apply in cases of violence. The believer should be counselled, admonished and warned. If all attempts at assisting the believer to rectify his conduct fail, the Assembly may recommend deprivation of voting rights to the National Spiritual Assembly.

## **What Should an Individual Bahá'í do if Told in Confidence of a Violence Problem?**

As a general rule, if an individual has been given information after promising to keep it confidential, it is not permissible to break that promise. However, physical violence is a crime and if an individual can act to prevent injury, then they should do so. Accordingly, there may be circumstances in which the individual should report a matter to the civil authorities, i.e. the Police or Oranga Tamariki. The intention in this instance is to prevent a probable dangerous and imminent act, rather than report a historical one.

Professionals who work in this type of field try to avoid receiving information in confidence. Violence is perpetuated by silence, so, if possible, avoid secrets in an individual-to-individual setting. What the individual should do is encourage the person to take the problem to their Local Spiritual Assembly.

## **What About Violence Between Other Family Members?**

Violence towards children by both mothers and fathers, violence between children, violence from children towards parents, and the abuse of the elderly, are all problems within our society. These guidelines have been written specifically to address the problem of violence within a marriage as there are specific and unique dynamics to violence in that context. It was felt that to write the guidelines in a fashion that accommodated family violence might dilute the import of what is said. The National Spiritual Assembly is not any less concerned about other forms of "Family Violence". The Assembly can be assured that the basic principles and interventions suggested must also apply and pamphlets and literature containing vital resources for "Family" violence are also available from the Family Court, Citizens Advice Bureaux or Age Concern.

## **SEXUAL ABUSE**

With the steady increase in the number and diversity of the followers of Bahá'u'lláh in this country, the institutions must be aware that many believers will be afflicted by the same difficulties as those affecting the generality of the community.

Many people entering the Faith bring with them the attitudes and practices of the world at large including those that perpetuate abusive behaviour. These include men with a history of abusive relationships with women and children. Similarly, there are a number of women in the Faith who are the survivors of sexual abuse and who have experienced discomfort and unease about their own welfare and that of their children. While both men and women can be abusers, statistics show that the majority of cases involve situations where men are the perpetrators of abuse and women and children are the victims. Although this paper refers mainly to men as abusers and women and children as victims, it should be remembered that the reverse situation may apply.

Prayer and meditation can be of great assistance for both perpetrators and survivors of sexual abuse, but they may not be sufficient by themselves. The Bahá'í institutions should adopt and implement appropriate preventative measures and should encourage those affected by abusive behaviours to seek expert advice.

## What is sexual abuse?

According to the dictionary “to abuse” means “to use wrongly, to violate...” Broadly speaking, sexual abuse is any inappropriate and/or unwanted sexual contact. It may range, on the most severe end of the scale, from rape or sexual violation, through to unwanted hugging, kissing, or overly familiar touching at its least severe. In sexual abuse there is an element of force or compulsion, an abuse of power, a forcing of sexual attention onto someone else. Sexual abuse may occur in a single episode or be repeated over a period of many years. There may be a single victim, or many, male or female.

This abuse is in its most reprehensible and criminal form when the perpetrator is an adult and the victim a child. (In New Zealand law, in this context, a child is under the age of 16.)

## Who are the perpetrators of sexual abuse?

Although there is some accuracy in the stereotypical picture of sexual abusers as solitary individuals, inadequate in their ability to form personal relationships with peers, research shows that many abusers are in seemingly well-functioning heterosexual relationships. Some sexual offenders have affinities for children and highly developed abilities to relate to them and to gain the trust of both them and their parents.

## What are some of the effects of sexual abuse?

The effects of sexual abuse extend beyond the pain and suffering of the victims to extended family members and others with whom the victim may be in contact (such as neighbours, classmates and friends). Because the behaviours learned in the family environment become ‘normal’ for the child, abusive relationships may affect future generations. There is a considerable body of research indicating that a victim may experience difficulties later in life in selecting or relating to a suitable partner, in protecting her own children and educating them to form safe and healthy relationships. It is therefore incorrect to assume that only new believers will be affected by the attitudes and behaviours generated by abusive situations.

## What is the law in New Zealand concerning sexual abuse?

Sexual abuse is a crime and is increasingly dealt with by criminal penalties including lengthy terms of imprisonment. Repeat offenders can be sentenced to Preventive Detention, which involves imprisonment for an indefinite period. While the criminal law provides sanctions for all kinds of unwelcome touching, some distinction should be made between criminal sexual abuse and behaviour which may simply be experienced as intrusive or sexual harassment.

Sometimes victims of sexual abuse offer no resistance to an abuser or appear to comply with the abuse. If the victim is a child or if compliance was gained by fear, force, coercion or dishonesty, then the lack of resistance or the apparent compliance is no excuse for the abuser. It is still a crime, for which the abuser must take responsibility.

## Should problems relating to sexual abuse be taken to the Assembly?

Yes. Bahá'ís are encouraged to turn to their Local Spiritual Assembly for solutions to their problems and individuals may take a problem to their Local Assembly even if other parties to the problem do not wish to involve the Assembly.

### **See also:**

Consultation –Ch. 4

Interpersonal Relations — Solving Personal Problems- Ch. 15

Regarding consultation: Any person can refer a matter to the Assembly for consultation whether the other person wishes to or not. In matters which affect the Cause the Assembly should, if it deems it necessary,

intervene even if both sides do not want it to, because the whole purpose of the Assemblies is to protect the Faith, the Communities, and the individual Bahá'í as well.

Letter written on behalf of Shoghi Effendi: *Principles of Bahá'í Administration*, p. 57

Any situation in which sexual abuse is brought to notice brings with it a great deal of trauma for the victims or survivors and for the parents and family. This has a number of implications.

- Alleged victims may be traumatized many times over by having to re-tell their accounts of abuse. This is inappropriate. To avoid this difficulty the Assembly may appoint a subcommittee to meet with the persons involved in order to ascertain the facts. At a later stage the full Assembly can consult about the situation.
- Similarly, alleged victims know what has happened to them. It is a re-traumatizing experience to be asked if they are sure, or whether they are imagining it.
- Alleged victims should not be subjected to repeated questioning about their story. This could convey the impression that the complaint has not been believed.
- Through embarrassment, disbelief, uncertainty, traditional attitudes and misguided notions of protection of institutions, sexual abuse (and other forms of abuse) is often met by silence and inaction. This fosters an environment where abuse can continue and never be confronted. This is in effect collusion with the abuser.

## Guidelines for the Assembly

Bahá'í institutions need to take particular care to investigate the facts fully. This means that while there must be support for the victims, this should not be given at the expense of the alleged perpetrator. In other words, the institutions must always bear in mind the possibility that the charges may ultimately be unjustified. The institutions are responsible for the spiritual health of both parties. There must be a careful balancing of the rights of all those involved in a way that does not blame the victims or expose them to further abuse. Similarly, care must be taken to ensure the safety of others in the community who may be affected. This is especially important in the case of child victims. The spiritual welfare of the alleged perpetrator must also be considered.

1. Respect the victims and validate their feelings. Victims need to hear that it was not their fault that they were assaulted. Be careful not to convey the impression that the victim's story is unbelievable. Assure the victim of your loving support and prayers and that the Assembly will take immediate action to investigate the situation fully.
2. Empower victims by providing options and allowing them to make their own decisions. If, for example, a woman decides to leave her offender husband, taking the children with her, not only should her decision be respected, but she should be given practical help in doing so.
3. Be non-judgmental in allowing victims to explore spiritual and healing issues. They may be given guidelines but should also be given the freedom to explore their options in their own way. The National Spiritual Assembly has available a small selection of quotes from the Writings and the Universal House of Justice which may be useful, particularly for adults coping with sexual abuse from earlier in their lives.
4. Refer and assist victims in obtaining appropriate services. Identify in your community, support agencies that are experienced in providing services to sexual assault victims. Keeping in mind that sexual abuse is a criminal offence, be prepared to refer to Police and/or to Oranga Tamariki – Ministry for Children (formerly Children and Young Persons Services or CYPS). Police and/or Oranga Tamariki might obtain diagnostic or evidential interviews to establish abuse. They will then decide if the matter should be taken to court.
5. Know your limits. Do not counsel victims beyond your skill level. There is a difference between providing support and providing therapy. Remember that asking the victim to recount their experiences may be intrusive and re-traumatizing.
6. Debrief. Each member of your Assembly will have an individual response to the experiences shared by the victim. Assembly meetings should allow for some sharing of feelings so that members will not feel unduly burdened. Members of the Assembly should be vigilant to ensure that no one permits themselves to debrief outside the protection of the institution. Maintaining confidentiality is of the utmost importance not only for the individuals concerned but also for the credibility of the institution.

[A] great effort should be made to create in the community an atmosphere in which a believer... feels free to turn to the institutions of the Faith for advice and guidance; this requires the eradication of the censorious attitude which such believers sometimes experience when they disclose their condition to others, and also enhancement of the sense of confidentiality with which Assemblies should handle personal problems brought to them by members of their community.

Letter from the Universal House of Justice to an individual dated 27 June 1994

[T]he institutions must strive to avoid the stifling atmosphere of secrecy; on the other hand, every believer must know that he can confide a personal problem to an institution of the Faith, with the assurance that the knowledge of the matter will remain confidential.

*Developing Distinctive Bahá'í Communities*, p. 4:13

Should confidential matters regarding personal problems be freely shared with others, upon application, the confidence of the believers in the Assembly and its members will obviously be destroyed.”

*Developing Distinctive Bahá'í Communities*, p. 4:12

Assemblies should consider consulting with experts experienced in dealing with sexual abuse to obtain assistance and support.

7. Allow forgiveness to develop as appropriate in the fullness of time. To forgive may be a healing experience for all concerned; however, pressure to forgive may well be a further abuse.

The House of Justice understands the difficulty the members of your family feel in bringing themselves to forgive an individual who has so heinously abused the trust bestowed on him as a father. To forgive him will not be easy, and this is not something to which either you or the members of your family can force yourselves. Nevertheless, you should know that forgiveness is the standard which individual Bahá'ís are called upon to attain. It is an essential part of the spiritual growth of a person who has been wronged. To nurse a grievance or hatred against another soul is spiritually poisonous to the soul which nurses it, but to strive to see another person as a child of God and, however heinous his deeds, to attempt to overlook his sins for the sake of God, removes bitterness from the soul and both ennobles and strengthens it.

From a letter written on behalf of the Universal House of Justice, June 30, 1988 to an individual believer

8. The Assembly must always promote the spiritual health and welfare of all parties. The individuals concerned should be assured of the prayers and support of the institution.

9. The minutes of confidential consultations should be kept in the same way as those of any personal consultation. The National Spiritual Assembly should be kept informed of progress in dealing with issues of sexual abuse.

**See also:**

Consultation — Consultation with Others — Confidentiality, Ch. 4

Communications — Minutes, Ch. 4

Communications — Confidentiality, Ch. 4

## When sexual abuse is suspected but not confirmed

Because sexual abuse is usually shrouded in secrecy, it is frequently difficult to identify. There are also a number of impediments which make abuse survivors reluctant to bring abuse to notice. These include guilt (the erroneous but common belief that they were somehow responsible for the abuse, or should have been able to stop it), fear, shame and reluctance to be re-traumatized.

It may well be that certain suspect behaviours are brought to the Assembly's attention, such as an adult taking inappropriate interest in children, taking them off on their own and/or improper touching.

Often enough, there are no clear-cut indications of abuse, but rather behaviours that arouse unease. If several individuals report unease, it may be advisable that a record of such behaviours be kept until a clearer picture is obtained. Confronting an alleged perpetrator of abuse is obviously a matter to be handled sensitively and this should be done only after due consultation and perhaps with the assistance of some person who has expertise in dealing with abuse issues.

In all cases it should be remembered that the safety of children is paramount, so that suspicions should not be allowed to lie fallow, and that when abuse is established the Assembly should feel justified in addressing their concern directly to the individual involved.

## What options are available to the Assembly when abuse is established?

The first task is to ensure that victims are safe from further abuse and that appropriate support and therapy is made available to them. Sexual abuse victims are eligible for counselling, the cost of which will be paid by the Accident Compensation Corporation (ACC). Application for this needs to be made through a General Practitioner. Assemblies should familiarise themselves with local ACC-registered counselling resources. Agencies such as HELP Foundation and Rape Crisis are available in the main centres.

Mothers of victims are frequently in particular need of support as they often feel inadequate and that they have failed to protect their child. The Assembly should be aware of the necessity to give them support and encouragement in continuing their parenting role.

In relation to the perpetrators of abuse, remember that sexual abuse is a criminal offence and Assemblies must not be seen to be sheltering offenders from the legal consequences of their actions. Given, however, that only a small proportion of sexual abuse cases are successfully prosecuted, there will be instances where criminal charges have not been proved, but action still needs to be taken. It is important, therefore, for Assemblies to be aware of programmes within the community for working with offenders. Group programmes are usually much more effective in modifying the behaviour of offenders than individual therapy.

Offenders frequently rationalise, minimise, distort or deny their behaviour, so that firmness and resolve are required both to initiate them into a programme and to support them in maintaining their therapy.

There are usually programmes available in main centres. These programmes require a commitment of between one and two years, and a prerequisite for acceptance onto the programme is an admission of guilt. It would be appropriate for Assemblies to contract with the programme providers so that in the event of the person concerned failing to attend, further sanctions such as the removal of voting rights may be considered.

If the family member decides not to involve the police, and no other agency takes that action, then a Local Assembly must be very aware of its protection responsibility. If the abuse is severe in nature and likely to recur, Assemblies should seek National Assembly guidance about the possibility of contacting the police, as New Zealand law does not require mandatory reporting of child abuse. However, the protection of children is paramount.

Assemblies should also read the Assembly Guidelines available in relation to ‘Violence within Marriage’, as many of the principles contained therein are also relevant.

### **See also:**

“Safeguarding the Interests of Young People”, the manual for the National Spiritual Assembly’s child protection course

“Safeguarding the Interests of Young People Policy”, contained in the above manual

Behaviours Subject to Administrative Sanctions — Criminal Offences — Assembly Must Be Careful to Conform to Civil Law, Ch. 10

Resource document, “Guidance from the Universal House of Justice on Violence and Sexual Abuse of Women and Children.”, Ch. 12

Resource document, “National Spiritual Assembly’s Statement on Violence within Marriage.”, Ch. 12

Consultation — Consultation with Others — Confidentiality — Confidentiality and the Civil Law, Ch. 4