

The Danish Lutheran Church and Registered Partnership

Summary of the discussions and conclusions of the work by the committee appointed to carry out analysis and work on the views of the Danish Lutheran Church and Registered Partnership.

The initiative for this came from the meeting of the Danish bishops in April 2010, and subsequently the Minister for Church Affairs, Birthe Rønn Hornbæk, agreed to it and gave her mandate for the commission at the end of April 2010.

The committee consisted of 12 members:

Bishop Peter Skov-Jacobsen, Copenhagen, chairman

Jens Christian Christensen, Hellerup

Erling Christensen, Farum

Bishop Kresten Drejergaard, Odense

Christian Mejdahl, Oudrup, Løgstør

Lisbeth Kjær Müller, Frederiksberg

Susanne Møller, Vejleby, Rødby

Claus Thomas Nielsen, Stauning

Prof. Kirsten Busch Nielsen, Farum

Bishop Karsten Nissen

Associate Professor Inge Lise Pedersen, Frederiksberg

Benedicte H. Præstholt, Beder

The committee had six meetings and one working weekend from April to September 2010.

What follows is an English summary of the discussions.

Committee concerning the Danish Lutheran Church and Registered Partnership

(Extract)

I. Summary of the Committee's Considerations and Recommendations

The committee concerning the Danish Evangelical Lutheran Church (hereafter called the Danish Lutheran Church) and registered partnership has been mandated to consider 3 questions that can briefly be formulated as follows:

- Should marriage continue to be entered into through a ceremony in the Danish church, or should matrimonial cohabitation be contracted through the civil authorities, followed by the possibility of a spiritual blessing in a church?
- Under which forms should a registered partnership be contracted through a church ceremony, and if so which ritual is to be used?
- How to safeguarded that pastors for reasons of conscience have the freedom to refuse to be involved in giving their services to marrying two people of the same sex in church.

This chapter contains a summary of the considerations and recommendations of the committee as regards the three questions.

(The considerations and recommendations are described in detail in the following chapters.)

The committee recommends furthermore that a hearing be held concerning this report and that the committee be involved in the interpretation of the answers from the hearing of the report.

II. i Should marriage continue to be contracted in the Danish Lutheran Church?

The committee has been asked to consider the following questions:

Should the contraction of marriage continue to be performed in the Danish Lutheran Church, or is all matrimonial cohabitation to be contracted through the civil authorities, after which there is the possibility of being given a spiritual blessing, and which ritual is to be used for such a spiritual act?

Chapter 3 begins with an overview of how marriages have been contracted in Denmark since the Reformation and the current law on marriage.

The committee then notes that there are no decisive theological arguments as to why the legal part of the ceremony should take place in church. Nor are there any decisive theological arguments that invalidate why the legal part of the ceremony can take place in church.

The committee is therefore of the opinion that the question as to why the contraction of marriage should continue to be a church ceremony must be considered on the basis of tradition and the current attitudes to it among the people.

The committee also notes that there is a centuries-old tradition for legally valid marriage being contracted in church. The committee further notes that although there has been free choice between a church and a civil marriage ceremony for almost 100 years, a large segment of the population still choose a spiritual ceremony rather than a civil ceremony. Nor does there appear to be a clearly expressed wish among the members of the Danish Lutheran Church for an abolition of the church ceremony and its legal validity.

On this background a majority of the committee (Peter Skov-Jacobsen, Inge Lise Pedersen, Erling Christensen, Lisbet Müller, Kirsten Busch Nielsen, Benedicte Præstholt, Karsten Nissen, Susanne Møller, Christian Mejdahl, and Claus Thomas Nielsen) recommend that the current order be retained with the free choice between a civil or a church ceremony.

Two of the committee members (Kresten Drejergaard and Jens Ole Christensen) recommend for somewhat different reasons that the legal part of the ceremony be moved out of the church to be performed by the civil authorities. The spiritual act will then be a blessing of the civil contraction.

Kresten Drejergaard is of the opinion that an obligatory civil registration of cohabitation ought to be introduced, and that this should apply to marriage as well as partnership. This will help to clarify the difference between the legal foundation of the cohabitation and the cohabitation itself, which can be interpreted in a theological way. It is not the foundation that is spiritual, but the life that is lived in the relationship that can be seen to be holy and sacrosanct. Therefore it is not relevant for the church to be involved in the foundation. But it is extremely relevant for a spiritual act, i.e. in a framework of a ritual to be concerned with the life of which the legal order is the formal frame.

Kresten Drejergaard also recommends a consideration of a possible simplification of the civil establishment of cohabitation.

Jens Ole Christensen recommends that the legal part of the contraction of marriage be moved out of the church and be performed by the local authorities, as it will set the church free to concentrate on its task: preaching the Gospel. However, he also adds that this does not solve any problems as regards the attitude of the church to registered partnership. This question is of a far deeper character and touches on the church's understanding of its own message. He further finds that such an order is only meaningful if it becomes valid not only for the Danish Lutheran Church but also for other religious communities.

II.ii Under which forms are partnerships to be contracted in the Danish Lutheran Church?

The committee has been asked to consider the following question:

Under which forms can registered partnership also be entered into in the Danish Lutheran Church so that two people of the same sex have the same possibility as a married couple to enter cohabitation according to a church ritual – and in that case which ritual is to be used?

The committee has decided to divide its considerations and recommendations in two. The considerations are to be found in another chapter, which also has a survey of the current legal positions and statistical information about registered partnership. The question of which ritual and the considerations on this are dealt with in a later chapter, and a summary of this is found in section II.iii.

What follows is a summary of the statements made and published by the bishops in 1997 and 2005 concerning the Danish Lutheran Church's attitude to registered partnership, and also a report which 8 church organisations issued in 1997 and which dismissed homosexual cohabitation with theological arguments.

In 1997 the bishops pointed out that the church legislation allows a pastor the possibility to fulfil a wish for a 'commemoration of an entering into a registered partnership in a service-like celebration'. In 2005 six of the bishops in Denmark and the bishop of Greenland went one step further and sent out 'consultative guidelines for a spiritual blessing of a couple who have entered into a registered partnership.'

In another chapter there is a description of a bill and three recommendations for parliamentary resolution concerning the possibility of registered partnership being entered into at a church ceremony. The recommendations proposed by various parties have all been debated in the Danish Parliament in 2010.

II.ii.i Considerations Concerning Marriage and Partnership

The committee then gives an account of the views on the importance of marriage and also partnerships which are the basis for the considerations and recommendations as to whether registered partnership is to be entered into in the Danish Lutheran Church.

The committee states that both in the past and in the present the prevalent attitude in the Christian churches, including the Danish Lutheran Church, is that marriage is to be seen as an arrangement for human cohabitation with its roots in the will of God, which is seen to be expressed in the biblical creation stories and which in different ways is described in the New Testament.

Throughout history and especially in more recent centuries both family life and married life have undergone major changes. Today in both the Danish Lutheran Church and other Christian churches there are different views of how theological arguments and family as well as social changes should be balanced against one another when a modern religious understanding of marriage, sexuality and family life is to be interpreted.

However, the committee finds that the various interpretations are based on a common, basic view of marriage between a husband and wife as a God-ordained arrangement for human life together in love and faithfulness.

The committee also understands that in the last century important changes have taken place in attitudes to homosexuality and the cohabitation of homosexuals. The committee is of the view that today the popular understanding of cohabitation between two persons of the same sex is on the whole positive and that this is also true among the members of the Danish Lutheran Church and its pastors.

However, the committee is also aware that in the Danish Church – and also among the committee members – there are differing views on this.

The majority view is that there may be deep disagreements about this within the church, but that the church community does not suffer under it.

One member believes that homosexual practice is incompatible with the teaching of the church. He believes therefore that a disagreement on this issue must be given more weight than the majority allow.

.....

Eleven members of the committee believe that marriage and partnership must be seen as two *different* things, each with its basis and history, and that it will be an expression of a peculiar abstract view of humankind if a so-called gender neutral arrangement for marriage is the aim.

The eleven members find therefore that the church marriage for a man and a woman and the accompanying ritual must be preserved in the form and with the content it has today.

One of the eleven members adds that it is a matter of course that homosexual cohabitation in the Danish society is everywhere treated equally with other ways of cohabitation. The disagreement in the church is for most people not over the view on homosexual cohabitation, but on what a marriage constitutes.

He finds it important in this connection to add that marriage in almost all historical theology and in almost all present-day Christian churches is not seen as a historical and relative entity, but as an institution created by God before the fall of man. If this view of marriage is made relative, it breaks not only with the collective Christian tradition but also with all present-day Christian churches. And it contributes to undermining the view of man and woman which our open, free, tolerant Christian societies are built on. In the name of equality and tolerance we help to cut down the tree of which equality and tolerance are the fruits.

Another member has the view that objectively marriage and partnership are one and the same thing. The only factual difference between the two words is the difference that comes from sexual orientation.

II.ii.ii Church Blessing of Partnerships?

A majority of nine of the committee members finds that a church blessing of a partnership according to an authorised ritual should be able to take place.

These nine members believe that the Danish Lutheran Church can and should pay attention to the popular acceptance of cohabitation between two persons of the same sex and to the fact that there are registered partners who want to be prayed for and receive God's blessing on their life together at a church ceremony.

An authorised ritual and thus an officially recognised church ceremony will mean that civilly registered matrimony and partnership are given equal rights, as the registered partners are given a legal right to have the ceremony performed in their parish church and that a certificate of the ceremony will be issued subsequently.

One of the nine members wants the legal part of the marriage and the partnership to take place before the civil authorities. He believes that there should afterwards be a possibility to have a church blessing on the partnership just as it is already possible to have a church blessing on a marriage entered into before the civil authorities.

Three members with different backgrounds cannot accept that a ritual for a church blessing of partnerships registered civilly should be authorised.

Two members cannot accept the suggestion for a blessing of partnerships in the church but wish to keep the order that the bishops accepted in 1997 and which is shared by a broad segment of church-going people in Denmark. This order states that entering a civilly registered partnership may be marked by a ceremony in the church.

One member stresses that this will protect the principle of free choice and will be in agreement with the fact that every pastor in the Danish Lutheran Church has the freedom to hold special services and other services – similar to the ceremonies for many different persons and groups, also for all possible alternative ways of cohabiting. A special ritual for homosexuals who want to live together in a lifelong monogamous relationship will on the other hand be discriminatory against other sexual minorities, including homosexuals with other wishes for cohabitation. These can then demand that they should also be able to marry in church. Such a ritual starts a discrimination which we do not have today.

One other member wants neither the 1997 order nor the guidelines from the bishops issued in 2005 to bless couples who have entered into a registered partnership. He points out that there is no difference as regards content or theology whether a blessing of a partnership can take place in church or whether the legal part of the entry into the partnership can take place in church as well.

II.ii.iii Contracting Partnership in the Church?

Six of the committee members suggest that a way is found to make it possible for two persons of the same sex who want to enter into a legally binding life partnership to do so at a church ceremony. Such a new order ought to be established parallel to the marriage ritual, which must be left unaltered.

The six members are of the belief that two people of the same sex who freely decide to live with one another in love and faithfulness in a relationship that covers their whole existence should be allowed to do so trusting that God adds his will to theirs so that their life together can be an instrument for the will and the honour of God.

The six members see the request for God's blessing as the central point in any marriage ritual and see no theological hindrance as to why the legal act should not take place in church. They believe that if such couples want a church ceremony where prayers are said and God's blessing given for their life together, the church is duty-bound to meet that request, just as it must proclaim the word of God.

The six members thus find it patent that a ritual should be drawn up authorizing a registration of partnerships at a church ceremony.

The other six members find – for different reasons – that it would be wrong to open up for such an entry into a partnership at a church ceremony.

Four of these members find that in view of the prevailing attitude to marriage and the position of marriage in the popular tradition it would be wrong to open up for entry into a partnership through the church.

This minority also points to the fact that within the Danish Lutheran Church, over and above the fundamental, theologically-based resistance to people living together in a registered partnership, there is a strong opposition to the thought that a couple of the same sex should have the possibility to enter into partnership through a church ceremony.

One of these members wants the legal part of both the entry into marriage as well as the entry into partnership to take place at a civil ceremony.

Another member of the minority group finds that although what has been suggested on the surface distinguishes between the two kinds of marriage, it will in reality mean that the Christian understanding of marriage to date, and the introduction of a gender-neutral marriage theology and marriage practice, will in essence be dissolved. The entry into partnership through a church ceremony will appear relative and even subversive of the view of marriage so far.

He finds that all forms of equal cohabitation have the same legitimacy and must be equally acceptable. This does not mean that the understanding of what a marriage is must be changed. Such a ritual will only be to introduce false talk in the church and between the two persons who want a church ceremony.

.....

II.iii Rituals for Blessings and Entry into Partnerships

The Danish parliament legislates for the Danish Church. However, parliament has shown considerable caution on taking a stand on what is often seen to be church affairs as such, including liturgical issues such as rituals and orders of service. Since 1849 it has been left to the government, i.e. the Minister for Church Affairs to oversee regulation of internal church affairs insofar as it has been necessary to regulate them.

Regulation happens through royal decrees or resolutions, issued after a recommendation from the Minister of Church Affairs and on his or her responsibility. The competence of the Minister for Church Affairs to issue decrees in these areas is exercised on the basis of recommendations from committees or commissions or on advice from recommendations from the bishops.

Where there are authorised rituals, these must be used in church ceremonies. If a new ritual for a church ceremony is authorised, as happened in many areas in 1992, it is still allowed to use an earlier authorised ritual.

The rituals of the Danish Lutheran Church are found in the Book of Rituals, published by Det Kgl. Vajsenhus in collaboration with the bishops. The Book of Rituals also contains a number of guidelines for orders which

have the form of a ritual, but which it is not an obligation to use. There are, for instance, guidelines for funerals, where only the ritual for the graveside ceremony is authorised.

On this background the committee understands that the rituals for church blessing of a partnership and for entering partnerships in church can be worded in such a way that only one part of the ritual is authorised, whereas the other part are consultative. This will mean that there is freedom to arrange and agree on the course of the church ceremony.

II.iii.i Ritual for the Blessing of a Partnership

A majority of nine members of the committee finds that a church blessing of a partnership should be possible according to an authorised ritual.

As a consequence of this the nine members suggest a ritual of which only one section is to be authorised according to their suggestion. The authorised section is the one to be used at the church ceremony.

The other sections of the ritual are to be guidelines containing various possibilities which can be partly or wholly omitted.

The suggestion follows a basic structure which was used in the marriage ritual until 1992. It was also used in the first Danish ritual for a church blessing of a marriage entered civilly, which was authorised in 1938.

The suggested order of the act of blessing is: Prelude – Hymn – Introductory Collect – Speech – Declaration – Exchange of Vows (may be omitted) – Intercessory Prayer – The Lord's Prayer – Hymn – Reading – Final Collect – Blessing – Hymn – Postlude.

The nine members suggest that the ritual can be authorised as far as the Declaration, The Lord's Prayer and the Blessing.

The nine members recommend that a small working group of liturgically knowledgeable members is set up to work out some prayers and further suggestions for readings from the Bible. As such suggestions are not to be authorised, it will be up to each individual pastor to freely use other prayers and readings.

Three members of the committee do not want the possibility for a church blessing of partnership according to an authorised ritual, and can thus not accept the suggestion for a ritual.

One member wants neither the 1997 order nor the version issued by the bishops in 2005 covering the guidelines for church blessings of couples who have entered into a registered partnership.

II.iii.ii Ritual for Entry into a Partnership.

Six members of the committee suggest that it should be possible to enter into a partnership through a church ceremony.

Following from this the six members suggest a ritual where only one section is to be authorised. The authorised section must then be used in church services. The remainder of the ritual should consist of guidelines containing various possibilities and which can be partly or wholly omitted.

The suggestion for the ritual follows the basic structure of Danish marriage rituals from Martin Luther's ritual of 1529 until the marriage ritual authorised in 1992, which has a different structure.

The suggested order of the marriage ceremony is as follows: Prelude – Hymn - Introductory Collect – Address – Exchange of Vows and Pronouncement – Intercessory Prayer – The Lord's Prayer – Hymn – Reading – Final Collect – Blessing – Hymn – Postlude.

The six members suggest that the ritual only needs to be authorised as to the Exchange of Vows and Pronouncement, the Lord's Prayer and the Blessing. The remaining sections ought to be guidelines.

The six members recommend that a small working group be set up to work out suggestions for prayers and appropriate Bible readings. These suggestions are not to be authorised and every pastor is free to use other prayers and readings.

.....

The other six committee members do not want the possibility of entering into a partnership through a church ceremony and thus cannot accept that a ritual be established for this.

II.ii.iii The Position of Rituals in the Book of Rituals

In the public debate on a possible introduction of a ritual to be used at blessings or entry into partnership in church a number of people have expressed their strong opposition to such a ritual being found in the Book of Rituals which is on the altar of every church.

The opposition is based on the fact that there is a deep-seated disagreement as to whether such a ritual would be in agreement with the Bible and the Christian understanding of marriage. There is no similar disagreement about the other rituals found today in the Book of Rituals.

The committee has therefore discussed whether, in connection with rituals for a church blessing of partnerships and for entry into partnership, it can and should be clearly mentioned that there is a fundamental disagreement in the church, even over the existence of such rituals.

The committee has thus discussed whether rituals for blessing and/or entry into partnership are to be printed in an addition to the Book of Rituals only, or whether they can be included in the Book of Rituals with a special indication, along with other authorised rituals and the various guidelines already in the Book of Rituals.

The committee believes that in the Danish Lutheran Church there must be room for disagreement also on the existence of rituals for blessings and entry into partnerships respectively.

A unanimous committee therefore agrees that this disagreement should take note of this disagreement and include the following passage in the preamble for such a ritual in the Book of Rituals – wherever it may be placed:

“Pastors who for reasons of conscience do not wish to use this ritual because they find it incompatible with the Christian understanding of marriage, are exempt from doing so.”

Ten members prefer that the rituals be included in the Book of Rituals with this preamble.

Two members consider it important that the rituals are not included in the Book of Rituals, but are found only in a special appendix, and that there they should also start with the above-mentioned preamble.

One member finds that a place in the Book of Rituals would be a completely unnecessary provocation of opponents to the ritual.

II.iv Civil Rights/Rights to say No.

The committee have been asked to address the following question:

How to safeguard that pastors who for reasons of conscience cannot assist in the entry of a registered partnership in church have the freedom to refuse to do so.

Members of the Danish Lutheran Church have the right to be given a church service, including having the church ceremonies performed by the pastor or pastors in the congregation they belong to. This normally means the parish where they live. Members also have the right to use the church in their parish for a church ceremony with the involvement of a pastor in the Danish Lutheran Church who may not be employed at the church in question.

Pastors in the Danish Lutheran Church have the right to refuse the remarriage of divorced people. This right was given in the Danish Marriage Act of 1922. In the present Danish Marriage Act, adopted in 1969 with effect from January 1st 1970, it was decided that the Minister for Church Affairs determined the rules as to which pastors in the Danish Lutheran Church can marry people and in which cases they have a duty to do so. These rules the Minister for Church Affairs has determined in § 2, section 5 in the regulation concerning marriage in the Danish Lutheran Church. These are as follows:

“Section 5. A pastor only has the duty to marry people if both parties belong to the Danish Lutheran Church and one of them is a member of his/her congregation. The pastor may however refuse to marry a divorcee. If s/he for religious reasons cannot or ought not to perform a marriage, s/he has to submit the case to the bishop. S/he will then decide whether the pastor in question should be exempt from performing the marriage.”

In the government regulation § 5, section 2, paragraph 2 it has been determined that “A pastor only has the obligation to give a church blessing in cases where s/he would have had the obligation to marry the couple.’

When a pastor in accordance with these provisions refuses or is exempt from performing a marriage or a church blessing, it must be performed by another pastor.

II.iii.i Exemption for Pastors

The committee notes that the theological view that the new marriage of divorcees is inconsistent with the Bible and the Creed has been considered legitimate in the Danish Church since 1922 insofar as the legislation has given pastors the right to refuse to marry divorcees.

According to the view of the committee it must therefore also be legitimate for pastors in the Danish Lutheran Church to hold the view that homosexual cohabitation is not in agreement with the Bible and the Creed.

Therefore the committee members are agreed that priests who have this theological view must have the right safeguarded not to carry out an entry into partnership at a church ceremony, and that pastors furthermore must be allowed to refuse to carry out a blessing of a partnership.

The committee recommends that a provision for exemption is determined by law and not through an order. This will, in the view of the committee, be a clear demonstration of the fact the legislators accept the theologically-based rejection of homosexual cohabitation as a legitimate position within the confession of the Danish Lutheran Church.

The committee suggests that the provision of exemption be inserted in 'Chapter 3 on the right of members to church services' in the Act on Membership of the Danish Lutheran Church, Church Service and Parish Membership, and they have worked out a suggestion as to how the right to exemption can be formulated.

II.iii.ii Possible Exemption of Other Employees in the Church

The committee has considered whether similar to the freedom of the pastors other employees in the church – sacristans, organists, vergers and others –are to have the right to refuse to be involved in church ceremonies such as church blessings of partnerships and entry into partnerships.

A majority of the committee is of the view that no special right for church employees ought to be introduced allowing them to refuse to be involved in the church ceremonies of entry into partnership, church blessings of a partnership or marriage of divorcees.

The majority acknowledges that the church employees' involvement in the church ceremonies is important in order to ensure that the church ceremonies are conducted with due decorum. The majority stresses that in contrast to the pastors church employees do not have a theological or dogmatic responsibility as regards their performance of church ceremonies.

One member recommends that through legislation or government order church employees be given a legal right to refuse to take part in a church blessing or entry into a registered partnership. The right must be formulated so that it is as close as possible to the rights that health workers and nursing staff at various

levels have in accordance with the Health Act § 102 to be exempt from being involved in abortion or reduction of number of foetuses.

The reason for this proposal is that the church will find itself in an extraordinary situation by introducing marriage or blessing of a registered partnership which sections of the church find invalid. Some church employees will share this view.

II.iii.iii Possible Alternative Ecclesiastical Supervision

A pastor is subject to supervision by the bishop of the diocese where the incumbency belongs, irrespective of whether there is agreement between the theological views of the pastor and the bishop.

The introduction of the possibility of entering a partnership at a church ceremony may intensify the contrast between the views of the bishop and some pastors.

The committee has therefore discussed whether the possibility can and should be created for alternative supervision than that of the local bishop.

The majority in the committee stresses that the episcopate must have the responsibility for the supervision of all pastors and congregations in the diocese. This means that the bishop has an obligation for all pastors and congregations, irrespective of possible theological differences of opinion.

The majority in the committee therefore wishes to stress that all pastors and congregations are subject to the local bishop's supervision.

One member notes that the situation that arises with the possible introduction of a ritual may create the need for an alternative supervision and a broader representation at the meetings of the bishops.

He suggests as a solution to this that one or more positions of vice-bishops be created. The task of the vice-bishop would be partly to ordain and carry out supervision of pastors and congregations who do not find themselves represented by the current bishops and partly to represent the views of these groups at the bishops' meetings.

One member finds that the growing differentiation in understanding of the Gospel may make it relevant to consider the future organisation of church supervision.