

MATRIMONY

The Second Vatican Council teaches us that marriage is rooted in the conjugal covenant of irrevocable personal consent...it is a reflection of the living covenant uniting Christ and Church. In the communion of life and love that defines marriage, a couple may give themselves to each other in a unique manner that preserves their individuality, while becoming one in heart and mind as well as "one flesh."

The Code of Canon Law presents us a legal description of marriage in canon 1055: "The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life, is by its nature ordered toward the good of the spouses and the procreation and education of offspring; this covenant between baptized people has been raised by Christ the Lord to the dignity of a sacrament.

The couples themselves create the marriage bond which is brought about through the legitimate manifestation of consent to each other. The marriage covenant is ordered toward both the good of the spouses and also the procreation and education of children. Furthermore, both spouses have equal rights in a marriage.

The Right to Marry

In the Catholic Church all people who are not prohibited by law can contract marriage. Marriages in which one person at least is Catholic are regulated by Church law.

The following marriages are recognized by the Catholic Church:

- A. Any marriage between two Catholics, both of whom are free of impediments, who give their consent for marriage before a duly authorized priest or deacon and two witnesses.
- B. Any marriage between two non-Catholics, both of whom are free of impediments (including the bond of prior marriage), who give their consent for marriage before a non-Catholic minister, civil magistrate or official, or, in those states where common-law marriage is recognized, by cohabitation with marital intent.
- C. Any marriage between a Catholic and a non-Catholic, both of whom are free of impediments, who give their consent, with the required dispensation (mixed marriage or disparity of cult), before a priest or deacon and two witnesses, or before a non-Catholic minister or civil magistrate with a dispensation from canonical form. This marriage would either be sacramental or natural, depending on the baptism or non -baptism of the other party.

Marriage Preparation of Couples

The preparation for the celebration of marriage is a special time for all concerned and presents a unique opportunity of evangelization for couples. Pastoral concern is focused on helping them to grow in the awareness of who they are and what they are being called to when they enter a marriage covenant.

In the actual process of preparation for marriage, the following components are to be found:

- A. The foundation of the pre-marriage process is in a dedicated , faith-filled and well -informed pastoral team; e.g., priest, deacon, religious and/or lay pastoral ministers.
- B. The pre-marriage preparation should be experienced by both parties, preferably together. In the event that one cannot be present due to great distance, each person should, in his/her own locale, experience a pre-marriage program.
- C. A minimum of six months preparation period is normally required to provide adequate preparation, allowing time for self-reflection on themselves as a couple, reflecting in the covenant and sacrament of marriage, and the option of changing their minds. (Pastoral discretion should be applied judiciously in waiving or reducing the requirement; e.g. for elderly couples.)
- D. All marriage preparation should be completed 60 to 90 days before the scheduled wedding date to provide time for an assessment of the couple's readiness to assume the responsibilities of marriage.
- E. Formal preparation for marriage consists of:
 - 1. A pre-marriage assessment questionnaire (e.g., Premarital Inventory {PMI}, Focus, etc.)
 - 2. A pre-marriage program in the parish or vicariate. (e.g., Pre-Cana Sponsor Couple or Host Couple, Evenings for the Engaged, Engaged Encounter.)

The pre-marriage programs should consist of the following categories which are considered essential for a couple's preparation for their vocation of marriage:

- 1. Religious Formation: the couple's prayer and spirituality and understanding of Church teachings.
- 2. Covenant and sacrament marriage: the covenant of each person with the other and with God, theology of grace, and vocation of marriage.
- 3. Lifestyles: attitudes, values, and expectations.
- 4. Marital readiness: personal adjustment, maturity, and a sense of responsibility.
- 5. Communication skills: attitudes and values, including individual psychological needs.
- 6. Sex and sexuality: biological aspects, cultural attitudes, values, and expectations.
- 7. Natural family planning: an awareness presentation to assist couples to integrate the physical, spiritual, and relational aspects of family planning.
- 8. Parenting: parent/child attitudes and relationship.
- 9. Finances: budget skills and money management.

10. Wedding liturgy: accepted forms of the celebration.
- F. In these times many baptized Catholics, because of marriage break-up and/or the laxity of parental guidance in faith, are found to be inexperienced in faith or have not completed the sacraments of initiation. The preparation of marriage is a time when many people are receptive to instruction in the faith, and parishes should take this opportunity to provide at least basic instruction in the sacraments when it is lacking.

Individuals who have been baptized Catholic but have never made their First Communion should be provided the proper preparation at which the other party should be present, so that they may both share the experience of a growth in faith awareness. Additionally, those baptized Catholics who have not been confirmed should be encouraged to enter an adult confirmation program at a convenient time.

Special Circumstances

At times couples, who for some reason need special care when being prepared for the covenant of marriage, will come seeking to be married in the Catholic Church. This may sometimes mean that no wedding date can be set until the circumstances are resolved. In such situations, pastoral compassion and care should be taken by the marriage team members when dealing with the couple.

Cohabiting Couples

In the case of a couple already living together, even more care must be taken than already prescribed. It must be discerned that the couple is truly ready for the deeper and life - long commitment of marriage and that a sense of covenant community to one another and the larger communities is present in both people. Each case must be carefully examined and considered on its own merits (or limitations), with great care taken by the marriage team members (cf. section on Wedding Liturgy).

Convalidation

When a Catholic has been married outside the proper form and then decides to validate that same marriage in the Catholic Church, he/she and the spouse should meet with a parish priest or a member of the marriage team. Again, each couple needs to be considered on an individual basis since there may be outside pressures or other dubious motives bearing upon the couple's decision to convalidate. Special care is needed when the civil marriage has not lasted long enough to appear healthy and stable.

For couples seeking a convalidation, especially of a recent union, a marriage encounter, marriage enrichment weekend program, or a suitable pre-marital program followed by individual discernment by a sponsor or host couple are strongly recommended.

Previous Marriage(s) to Previous Spouse

In the case of a Catholic married in the Catholic Church, a decree of nullity must be obtained and placed in the pre-nuptial file. If the person has not received a declaration of nullity, then the nullity processes should be initiated. However, no wedding date may be set until a decree of nullity has been obtained.

In the case of a Catholic or a non-Catholic whose spouse has died, a death certificate must be provided and must be included in the pre-nuptial file.

In the case of a Catholic previously married to someone else by a judge or by a non-Catholic minister in another church (without prior Catholic dispensation), a decree of lack of form must be obtained from the tribunal.

In the case of all non-Catholics (baptized or not) previously married to a non-Catholic, a formal decree of nullity must be obtained in the Catholic Church and no wedding date may be set until an affirmative decision of nullity has been obtained.

In the case of a non-Catholic (baptized or not) married to a Catholic before a judge or minister in another church (without prior dispensation), a declaration of lack of form must be sought from the tribunal office if he/she now wishes to marry a Catholic in the Catholic Church.

In the case of a person or persons with multiple prior marriages, these cases should be directed to the judicial vicar of the diocese since they may be canonically complicated.

N.B. If a declaration of nullity has been obtained for previous marriages, it is still necessary to be sure that any restrictions, prohibitions, or warnings are investigated and the requirements fulfilled before the party or parties can actually marry in the Church.

Teen-age Marriages

Cases in which either person is younger than 18 years of age; Although a couple may prepare for marriage at this time (six months prior to becoming 18), no marriage may be celebrated if one or both of the people is not yet 18 years of age.

Cases in which either person is younger than 21 years of age; Each couple should receive a full and careful evaluation in their initial interview, and in all areas of the process. A review of their reasons to marry and personal and family histories should be made. Some form of pre-marriage assessment questionnaire must be given and its results discussed by the marriage team member(s) and the couple.

Pregnancy

Pregnancy alone is not reason enough to enter into marriage. Special care must be taken that both people discern their personal histories, the history of their relationship, and what drew them together, as well as the length of time in which they have had a chance to truly know themselves and their partner.

It has been found that if marriage is forced because of pregnancy, the chance of a stable and long-lasting relationship is small. When a long engagement or previous plans to marry had already been considered, there is less likelihood that the marriage is being entered for the wrong reasons or to save public image.

Other Marriage Procedures

Sanatio in Radice

Radical sanation is a form of convalidation wherein the initial exchange of marital consent was invalid. In spite of this a human commitment of the spouses to one another still exists whereby they do not consider themselves to be simply living together. Although this union is canonically invalid, it is usually recognized in civil law. Radical sanation occurs when one or both parties to the invalid marriage are opposed to having their marriage validated by the renewal of consent. It does not involve an exchange of consent. It is an action taken by the bishop. This action has been delegated by the bishop to the tribunal. The act of sanation makes the original consent valid. Thus, the marriage itself is considered valid from the moment of initial consent. When a radical sanation is granted, the marriage covenant is considered in law to have existed from the very beginning, and the effects of marriage are retroactive to the moment of initial consent.

1. Requirements for Sanatio in Radice:
 - a. A letter from petitioner to the bishop.
 - b. A recommendation of priest-advisor arranging sanatio.
 - c. At least, the MA for Catholic party and assurance of "freedom to marry" for both.
 - d. Reasonable belief that the marriage is stable and will last.
 - e. Radical sanation cannot be granted if a previous bond or continuing diriment impediment of divine law continue to exist. Other diriment impediments of ecclesiastical law are dispensed with the sanation.

Brother-Sister Relationship

A brother-sister relationship concerns a couple who have entered into an invalid marriage which cannot be validated. The couple is of such an age or condition that they are able to totally abstain from sexual intercourse. They may be allowed to receive the sacraments on the basis that they both agree to live chaste lives. Usually an attempt must be made to obtain a decree of nullity and the brother-sister relationship should be used only as a last resort.

This is handled in the internal forum unless there is danger of scandal. This relationship is available for the elderly and sick in large parishes or in hospital situations. However, since we have many small parishes where everyone is known and all invalid marriages are easily recognized, there

may be danger of scandal. Thus, the diocese has initiated a manner for parties who cannot have their marriages validated because of a previous marriage (s) which cannot be annulled but who are willing to fulfill the requirements of a brother-sister relationship. A letter is sent to the bishop stating that the couple will live continent lives, and due to serious hardships, separation is impossible. In the letter the couple must give the bishop permission to reveal their brother-sister relationship if it proves necessary because of scandal.

Internal Forum Solution

This is a conscious decision whereby the couple themselves recognize their previous marriage(s) to be invalid even though it (they) cannot be proven in the external forum and believe that they are now truly married to each other seek and so seek to receive the sacraments. Their situation cannot be publicly known nor can it be a cause of scandal in the community.

The internal forum solution is to be used only when the tribunal has advised that there is no possibility of proving nullity in the external forum. With the advance in jurisprudence this is less frequently used.

Necessary Procedure to be Followed and Document to be Obtained

1. MA and MB forms are to be filled out before a pastoral minister. Parents are best witnesses for MB forms and should be sought especially where there might be parental opposition; otherwise, the witnesses should have known the party since the age of 16. Ordinarily, there should be two (2) MB forms for each party entering a marriage.
2. Banns of marriage should be announced in the parish of both bride and groom.
3. If both parties are Catholic but are living in different parishes, the marriage may take place in the parish of the bride or the groom without preference. (It is a matter of professional courtesy to inform the other pastor that a marriage is going to take place in your parish. If banns are published in both parishes, you may consider this as sufficient notification.)
4. If the marriage of two Catholics is going to take place outside of the parishes of bride or groom, permission from the pastor of either the bride or groom needs to be obtained.
5. The certificate of participation in an approved marriage preparation program should be obtained.
6. For baptized persons, a copy of their baptismal certificate is required. Catholics are to present a copy of their baptismal certificate re-issued within six months and which lists "all notation" (sacrament received; e.g., confirmation etc.).

N.B. Baptismal certificates and other official documents from foreign countries may be difficult to obtain. Pastoral understanding should be taken that the marriage is not unnecessarily delayed because of this. Testimony from witnesses may have to suffice if such documents cannot be obtained.

7. The promise of the Catholic party in a mixed marriage:

It is the pastoral minister's responsibility to instruct the Catholic of his/her responsibilities with regard to the Catholic baptism and education of children and to acquaint the other party of the promise of the Catholic.

Only the Catholic party need make an explicit declaration (orally or in writing) regarding the baptism and education of the children in the Catholic faith, to be made in the presence of the pastoral minister using the formula that is found on the paper requesting dispensation from banns, mixed religion, disparity of cult.

Although no formal statement of the non-Catholic is required, the priest is to certify over his own signature that the declaration has been made by the Catholic and the non-Catholic is aware of it.

The promise of the Catholic is presumed to be made sincerely. If the Catholic party absolutely refuses to cooperate in the matter, no dispensation can be granted.

8. The pastoral team minister may wish to include a confidential personal letter concerning his/her opinions, reservations and beliefs about the marriage to take place.
9. If the marriage is a second marriage for either or both people, the death certificate(s) of the first spouse(s) or the documents which re-establish the right to marry (Decree of Nullity, or Lack of Forum) are to be included in the pre-marital file of the couple.
10. If the couple was civilly married, a copy of the civil record of marriage should be included for the convalidation.
11. If a prior marriage received a dissolution or Declaration of Nullity, the proper information should be inserted in the pre-nuptial file.
12. Delegation must be given for a visiting priest or deacon to witness a marriage, even if he already has faculties in this diocese.

Dispensation:

Marriage team member(s) are to seek a dispensation from the tribunal office in the specific cases found in canons 1083-1094 and 1124-1127. Any dispensations should be sought at the beginning of the marriage preparations rather than at the last minute.

If the marriage involves at least one Catholic and is taking place in a non-Catholic Church with both the Catholic priest/deacon and a non-Catholic minister participating but the Catholic priest officiating for the marriage vows, an ecumenical permission should be obtained.

Civil Law Requirements in the State of New Mexico

Marriages which take place in the Catholic Church in the state of New Mexico must fulfill the requirements of the civil laws of the state of New Mexico. At present there are two requirements:

1. Marriage license: A civil marriage license is effective for an indefinite period of time. One should never witness a marriage in which a civil marriage license has not been obtained. To witness a marriage which is not authorized by the civil authorities opens one to the possibility of civil prosecution or suit.
2. Two witnesses are required to testify to the marriage.

Common-law marriage is not recognized in law by the state of New Mexico.

N.B. Regarding a civil marriage that took place in Mexico which is now convalidated in the United States: The civil law marriage is also recognized in the United States but the convalidation in the United States may create difficulties later in life when the application for social security is made. It is recommended that you advise couples to go to the local county court house and have their Mexican marriage recorded or to keep a copy of their civil Mexican marriage license in the pre-nuptial files so that recourse may be made to either of these places at a later date.

The Wedding Liturgy

By its very nature, the Eucharistic Liturgy is the best setting for the sacrament of matrimony. This is especially true when both people are Catholic and the majority of their friends are able to share in the prayer of the Church and the Lord's Supper.

On the other hand, when one person is not Catholic and is uncomfortable or unfamiliar with Catholic prayer, or when families may be ill-at-ease praying the Mass, or when few friends or relatives would understand the Mass, couples often decide it is best to celebrate the wedding outside the Eucharistic Liturgy.

Whatever the couple decides, it should always be a ceremony which reflects in a special way the couple's own relationship and their hopes for their marriage.

Because marriage remains a community event and not simply one for the spouses and their families, the parish church remains the place for marriage. Weddings are not private or family affairs only, but celebrations of the whole Church. Nuptial Masses are not to be celebrated on Sundays and Holy Days of Obligation. Marriages during the Lenten Season should be discouraged as much as possible.

Simplicity of symbol and regard for cultural symbols should be carefully discerned by the couple's pastoral team member. Decorations in the Church should reflect the dignity of the ceremony. Flowers, candles, banners, and other decorations should not hinder movement in the sanctuary nor obstruct the view of the wedding ceremony, the preaching of the Word of God, or the altar. Thus, a floral arch over the bride and groom should be discouraged.

Wedding music, carefully selected and in good taste, must be consistent with the meaning of the sacrament. Popular tunes describing a narrow view of married love and saying little or nothing about Christ's love for his people are not to be used. Popular tunes in good taste, unless they describe or advocate positions contrary to Christian belief or practice, may be used before the wedding liturgy begins. Music and musicians must be approved by the priest in sufficient time for adjustments to be made if necessary.

Often photographers create a disturbance which diminishes the solemnity of the celebration. For these reasons, it is best to discuss a plan in which photographs and videos may be taken without causing such a distraction. Qualified photographers are permitted to take pictures during the ceremony provided they are not a distraction or cause interruptions. They should be exhorted to take a minimum number of pictures during the ceremony, and, as time permits, to take pictures after the ceremony.

Convalidations, marriages after annulments, and marriages for those who are already cohabiting should not be celebrated in the manner of the traditional first wedding.

* * * * *

June 1993
ADDENDUM

1. The Proper Place for Weddings

Canon 1115 says that marriages should be in the parish where one or both spouses reside. Any Catholic who resides within the parish boundaries must be regarded as a parishioner. A pastor may not refuse the sacraments to anyone who is properly disposed simply because that person is not registered. Registration, like the parish census, is a fine pastoral procedure; lack of it is not an impediment. If they are to be married at all, it is their right that it be in the parish to which one of them belongs.

Two qualifications, however: (1) Non-registration may perhaps raise a doubt that one is a practicing Catholic and justify a more careful enquiry about readiness for marriage. (2) If one is actually registered as a member of another parish, that person may perhaps have lost claim on the prior parish.

If, as often happens, a couple wishes to be married elsewhere; e.g., where the bride's family live, c. 1115 does require the consent of the pastor of one of them and of the pastor of the place of the wedding. It is pastorally wise to be generous in granting this consent: refusal will rarely if ever have good consequences. See #3 below.

2. The Officiating Cleric

Authority to officiate validly is territorial, belonging to the bishop of the diocese and the pastor of

the parish within whose boundaries the ceremony takes place or to a cleric delegated by one of them (c. 1109). A pastor or his delegate needs no *delegation* to officiate in his own church, even if both spouses are from elsewhere, but in that case he ought, for liceity, to have consent of the pastor of one of them as noted above. An exception occurs if one of the spouses belongs to a non-territorial jurisdiction such as the military; in this case the clergy of that jurisdiction would also be competent (c. 1110).

3. Responsibility for Pastoral Care

In any case, responsibility for the pre-nuptial enquiry and the preparation of the couple falls on their own pastor(s), not on the officiating cleric or the pastor where the wedding is celebrated. These latter should receive and rely on assurance from the former that the proper enquiries and preparations have been made, unless they have explicitly accepted such responsibility; it is they, however, who must see to proper *recording* of the marriage after it has taken place.

Documentation

This sacrament is to be recorded in the parochial marriage registry. Notification of the reception of this sacrament must be made to the parish of baptism.