

## Clarifying misconceptions about annulments

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Editor's note: This article is the second in a three-part series about the diocesan Office of Canonical and Tribunal Services, which handles a variety of tasks dealing with the laws of the church. Collectively, the Tribunal staff worked with the writers to present this information on the process of nullifying a marriage.

**By Harvey Bollich and Michele Chan Santos**

For 2,000 years and to this day, the Catholic Church has held fast to the belief that marriage is a sacrament between the baptized, and that once two people exchange consent to marry, their marriage is valid. According to church teaching, as long as a person is considered to be in a valid marriage, he or she cannot marry again.

Unfortunately, divorce has become very common in our time. Many marriages are not successful in spite of the good intentions of the spouses. This is true even when a family has been established and the couple's common life has lasted for many years.

The diocesan Office of the Canonical and Tribunal Services exists to help those who are [divorced](#) (and often remarried), and who now seek a clarification of their marital status in the church. For example, someone who was married, then divorced, and now is remarried, might want to have the current marriage convalidated in the Catholic Church. In order to do so, that person must receive a declaration of invalidity for the previous marriage. The procedure for a declaration of nullity of a marriage is called the annulment process.

Many people go through the annulment process every year. Many misconceptions — and much fear — often are associated with the process. The church attempts always to be as sensitive and understanding to the stress and pain which all this brings to people.

One major misconception is that the declaration of invalidity of a marriage makes the children from that union illegitimate. This is not true.

Another misconception is that a declaration that a marriage was invalid from its beginning affects matters governed by civil law. It does not. The invalidity, or nullity, has no effect on alimony, [child custody](#), visitation rights or division of property. It pertains only to the internal governance of marriage by the Catholic Church and to the conscience of the parties involved.

In addition, a declaration of nullity is not a "Catholic divorce." The declaration states only that a marriage was invalid from its very beginning according to the church's laws.

### **No Need for Anxiety**

People who are seeking a declaration of nullity should not be afraid. In fact, the proceedings can provide healing and a new beginning for people who have been divorced. The diocese offers Annulment Writing Workshops several times a year. The goals of the workshop are to lessen the tension of everyone attending, to offer a spiritually healing experience which alleviates the pain of the past, and to provide a safe environment where each person at the workshop will be able to [complete](#) the writing part of their annulment process.

One recent attendee said, "Everyone was so friendly and understanding, non-judgmental, and very supportive."

<http://www.austindiocese.org/offices-ministries/offices/canonical-and-tribunal-services-office/articles-and-archive/clarifying>

Upcoming Annulment Writing Workshops will be held at the diocesan Pastoral Center in Austin on May 11-12, July 27-28 and Nov. 2-3. Each one is from 7 to 9 p.m. on Friday and from 10 a.m. to 3 p.m. on Saturday. For more information, call Pat Thompson at (512) 261-8500 or (512) 970-7063.

### **Canon Law and Declaration of Nullity**

Because marriage is a natural institution in all cultures, the canon law of the Catholic Church assumes that all marriages — those between non-Catholic Christians, those between non-Christians, and those between Catholics — are valid (true) marriages until proven otherwise by a diocesan tribunal or by the Roman Rota tribunal.

The church believes that all marriages should exhibit the principles of unity (one man and one woman), fidelity (faithfulness to one's spouse), permanence (until the death of either spouse), and fecundity (openness to the procreation and education of children). The church also believes all who attempt to contract a marriage must do so with adequate knowledge of its nature and purpose, and have sufficient freedom and willingness to consent to it.

If a marriage fails, either spouse has the right to bring the case before a marriage tribunal to assess if one of the essential characteristics was missing, and to assess whether or not the marriage is invalid, that is, if it was not a true marriage in the fullness of God's intention. Although "annulment" is the popular word for this process, it is formally called "a declaration of nullity."

The person who submits an annulment petition to the Tribunal is called the Petitioner. This person, divorced by civil law, wishes to marry again or to be declared free of the marriage bond. If the Petitioner was married more than once, he or she must first submit the petition on the first marriage. The Petitioner also must consult with his or her pastor, deacon, or designated, trained layperson in his or her home parish, who then will serve as the Petitioner's advocate. The advocate's role is to assist the parties involved to come to an honest and fruitful determination of this process, which is judicial yet pastoral and spiritually healing.

### **The Respondent (the Ex-Spouse)**

The ex-spouse of the Petitioner also has canonical rights in the Catholic Church, whether or not he or she is Catholic or even Christian. This person, called the Respondent, must be notified by the tribunal that the annulment process has begun.

The annulment case still can proceed even when the Respondent cannot be located or refuses to cooperate. Information on their marriage is obtained not only from the Petitioner and the Respondent but also from witnesses who knew the couple prior to or at the time of their exchange of wedding vows. The annulment process focuses, in a non-adversarial manner, on the marital situation at the time the consent was given at the wedding ceremony. The process culminates in the tribunal's judgment (on behalf of the church) as to whether or not the couple's marriage bond was valid or invalid at the time of the exchange of vows.

### **The time involved**

An annulment case usually takes approximately eight to 12 months to complete at the first-instance level at the diocesan Tribunal, then an additional four to six months at the second-instance level at the Appellate Court in San Antonio. The Petitioner and his or her advocate greatly can assist in this process if the petition questionnaire is fully and accurately filled out, if all documents are provided, if complete information on the Respondent's address and background is provided, and if a sufficient number of witnesses with their names and addresses is listed.

In summary, in granting a declaration of nullity, the church is saying: (1) There indeed was a marriage which appeared valid (called a putative marriage). (2) But from its beginning, it lacked

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something essential or was blocked in some essential way. (3) So from the start, it could not be established as a valid marriage, that is, one which has all the qualities and power to bring about the effects which God intends for marriage as defined by natural, divine and church law.

The annulment process is meant to be primarily a spiritual process of healing and reconciliation. For further assistance, contact your local parish; or call the Tribunal at (512) 949-2400 and ask for the Tribunal. Also, for more information on the annulment process, access [www.austindiocese.org](http://www.austindiocese.org), click on the “Ministries” tab, then on the link to “Canonical and Tribunal Services.”

### **Ten facts about annulment**

1. An annulment does not cost thousands of dollars.
2. No one is rejected because of financial difficulties or inability to pay.
3. An annulment does not make children illegitimate.
4. The process can proceed even if an ex-spouse refuses to cooperate.
5. A parish priest does not have access to the information in one’s annulment-petition file, unless he is one’s advocate prior to the acceptance of the petition by the Tribunal.
6. The length of a marriage and the number of children a couple has are not factors.
7. There is no quota as to how many declarations of nullity can be issued; each case is processed individually.
8. Couples must obtain a civil divorce before the annulment process can begin.
9. The annulment process does not focus on the reasons why the marriage ended, but on the reasons why it was invalid from its beginning.
10. The annulment process is not adversarial; no confrontation occurs.

— Diocese of Austin, Office of Canonical and Tribunal Services