

# Understanding Annulments

Here are some frequently asked questions about the annulment process of the Roman Catholic Church.

## **1. How does the Catholic Church define marriage?**

The Church teaches that marriage, within God's plan, is an intimate partnership of life and love. The Church expects a man and woman to commit themselves to each other for life. They are to be faithful to each other and open to children. Husbands and wives render mutual help and service to each other through an intimate union of their persons and of their lives. In short, marriage is a union of two persons, an interpersonal relationship which includes the sharing of the whole of their lives. This commitment of spouses presumes sufficient maturity, freedom, knowledge and psychological capacity.

## **2. What is an annulment (Decree of Invalidity)?**

The term "annulment" is a popular, but not totally accurate, word for what was once called a declaration of nullity, but is now called a Decree of Invalidity, which is an official declaration by the tribunal that what appeared to be a marriage was, in fact, not a true marriage as the Church understands it. A Decree of Invalidity does not deny that a relationship existed nor does it imply that the relationship was entered into with ill will or moral fault. Rather, after a careful and thorough study, the diocesan Matrimonial Tribunal issues a Decree of Invalidity when it is proven that some ingredient necessary for a true marriage (e.g., proper intention, sufficient psychological maturity, capacity, freedom and knowledge) was lacking when the consent was exchanged.

## **3. Is there a difference between a civil divorce and an ecclesiastical Decree of Invalidity?**

Yes, a civil divorce is a legal action whereby the division of property and custody of children having been settled, a civil dissolution is granted, and a husband and wife are declared free by the same civil authority to enter a new marriage with a different partner. Such a civil procedure does not question the validity of the initial consent in that marriage. By contrast, in the canonical process, if the gathered factual evidence examined in the light of Canon Law, shows that a particular marriage was not canonically valid; the Church's Tribunal declares it null and void. This is the ecclesiastical Decree of Invalidity (colloquially called an "annulment").

## **4. How does the Church view civil divorce?**

If civil divorce is the only possible way of ensuring certain legal rights, the care of children, or the protection of inheritance, it can be tolerated and does not constitute moral offense. (from Catechism of the Catholic Church #2383) However, from the Church's perspective, civil divorce does not provide freedom to remarry.

## **5. Who may apply for a Decree of Invalidity?**

Anyone, baptized or un-baptized, Catholic or non-Catholic, may petition for a Decree of Invalidity by the Catholic Church.

## **6. Are Catholic marriages the only ones which need to be examined before a new union can take place?**

An erroneous impression, very common among Catholics, is that the Church recognizes as valid only the marriages of Catholics. The reality is that the Catholic Church recognizes as valid not only the marriages celebrated in the Catholic Church between Catholics, but also those of baptized non-Catholics, as well as those of the non-baptized. Valid marriages between baptized people (Catholics or non-Catholics) are sacraments; those between non-baptized are not Sacraments, but are "natural bonds" because they are contracted according to the natural law, rather than by the sacramental bond that comes through Baptism. Therefore, if a Catholic wishes to marry a divorced, baptized non-Catholic, or a divorced, non-baptized person, a Decree of Invalidity would have to be issued by a Catholic Tribunal before any new union can take place in the Church.

**7. Is the Decree of Invalidity automatically given in every case?**

No. Just as every relationship is unique, so each application is judged individually on its own merits by using the same canonical procedure. Sometimes the evidence presented makes clear that the marital relationship eventually broke down due to a variety of factors but there is no reason to question the validity of the original consent or the capabilities of the spouses.

**8. How does the canon law view the children born of a marriage which is later declared to be null?**

A Decree of Invalidity does not effect in any manner the legitimacy of children, names, property, maintenance payments, inheritance rights or other matters dealt with in the civil courts. As a matter of fact, the law of the Church expressly states that “children conceived or born of a valid or putative (i.e. at first considered valid and later annulled) marriage are legitimate.” (Canon 1137)

**9. How do I begin my case?**

Your local parish will assist you with the preliminary paperwork required in starting a case. You will have to prepare a written marital history of no more than two pages. You will need to provide a copy of your state marriage license certificate, baptismal certificate and your state divorce decree stating you are now declared separated and single along with the judge’s signature and date of final separation.

**10. What are the parties’ rights?**

The petitioner has the right to request that his/her former marriage be studied by the Tribunal that has jurisdiction. The respondent has the right to know that this petition has been submitted. Both parties have the right to give a statement about the marriage, to read each other’s statement, to have an advocate, to name witnesses, to read the judge’s decision and to appeal the decision if he/she believes procedural rights have been denied or that the decision was in error.

**11. Is the procedure emotionally draining?**

Sometimes digging up the past and recalling painful experiences can be difficult. However, there is much to be gained by facing the reality of a failed relationship and admitting appropriate responsibility for it. The process affords the opportunity for increased insight into self, clarity about relational issues and necessary healing and closure. It also affords a deepening of one’s relationship with Church and God.

**12. How long does the whole process take?**

Each case is unique and processing time varies for each case. Such factors as the strength of the grounds, the involvement and insight of the petitioner and respondent, the cooperation of witnesses and quality of their testimony and the requirement for a review of every case by an appellate Court have a significant effect on the length of time each case takes. Generally at the present time, it takes between twelve and eighteen months to complete.

**13. What about confidentiality?**

Inspection of the acts only takes place prior to the appointment at the Tribunal office during those times provided by Church law. Parties are notified of their opportunity during the course of the investigation. Document or copies or notes may not be removed from the Tribunal.

**14. Is one free to remarry in the Church after receiving a decree of invalidity?**

If a marriage is declared invalid and the decision confirmed by the Court of Second Instance and there are no restrictions concerning remarriage, the usual procedure of preparing for marriage in the Catholic Church may be started by contacting the local parish. The respondent derives the same benefits as the petitioner from a decree of invalidity and is free to remarry in the Church once an affirmative decision has been rendered. If a marriage is declared invalid for causes that may still exist, a second marriage obviously cannot be permitted until it has been demonstrated that the cause which invalidated the first marriage has been removed. Therefore a professional evaluation and counseling may be required in such situations, along with pastoral counseling. Again such restriction can be on one or both parties.

**15. What if a Decree of Invalidity is not issued?**

A petition for invalidity can be rejected by the tribunal when there are no apparent grounds or legal basis according to Church Law, or when the grounds for invalidity cannot be substantiated because of inadequate witness testimony or documents. A rejected petition for nullity may be reintroduced at some future time, when additional information and testimony becomes available.

**16. Divorce without or with remarriage. What do I do?**

Divorce of itself does not prohibit a Catholic from receiving the sacraments or limit his/her involvement in the Church and Sacramental life. It is the remarriage without the Decree of Invalidity which may cause a person not to be able to receive the Eucharist. If a marriage case has been processed by the Church's Tribunal and Decree of Invalidity could not be given, the parties are encouraged to consult their pastor or pastoral minister for appropriate direction and guidance on how best to continue living their Catholic faith and fully participating in the Church.