

A BILL OF RIGHTS FOR SEPARATED AND DIVORCED CATHOLICS

All marriages begin in hope, a hope that the couple will love and cherish each other for the rest of their lives. However, it is the sad reality of our times that this hope is not always fulfilled. Marital breakdown is a fact of life, and few families are immune. This reality poses a question for the Church about the pastoral response to a situation that we cannot ignore. As a result of the Ordinary General Assembly of Bishops in October 2015 (known as the Synod on the Family), there was much media attention paid to the question of the status in the Church of the separated, divorced, and remarried. It became clear in these reports that there was a certain amount of confusion about what the Church actually teaches and what people have come to believe. While the Synod may have indicated there is a different attitude towards the special circumstances of the divorced and separated, it did not change the Church's fundamental doctrine on marriage and the sacraments. Nor did Pope Francis change the doctrine in his *Motu Proprio*¹ Apostolic Letter titled *Mitis Iudex Dominus Iesus*² which streamlined some Tribunal³ procedures. A clarification of the rights of separated and divorced Catholics is helpful for a better understanding of their place in the Church.

This resource provides some information about (a) official Church teaching in regards to the rights of separated and divorced Catholics and (b) practical information for Catholics about romantic activity and marriage.

1. Rights and duties in the Church are acquired through Baptism and may be exercised according to one's state in life unless legitimately restricted by lawful authority. (*Code of Canon Law*, #96)
2. Any baptized person who is not prohibited by law can and must be admitted to Holy Communion (*Code of Canon Law*, #912). Those who are separated and/or divorced are not excommunicated.⁴ Even those who are remarried civilly are not excommunicated, but they would be excluded from Communion since the Church does not recognize civil marriage.
3. Both parties to a marriage which has suffered divorce have the right to approach the Tribunal to ask for an annulment⁵ (*Code of Canon Law*, #1674). While there are fees involved with the Tribunal process, justice is not dependent upon a person's ability to pay, and in cases of hardship arrangements can be made. Tribunal fees do not cover the whole cost of maintaining the Tribunal; it is subsidized by the diocese.
4. All persons have the right to attend Mass even if they are prohibited from receiving Communion.

¹ Latin, meaning "of his own accord," it refers to an edict issued for the Church that was decided personally by the Pope (as opposed to on the advice of the Cardinals) for reasons that he deemed sufficient.

² Meaning "Gentle Judge Lord Jesus," it was issued on August 15, 2015.

³ The Tribunal is an ecclesiastical (Church) court made up of canon lawyers and other personnel appointed by the Bishop to administer justice, vindicate rights, and assist in the pastoral care of the people of the diocese. It is the judicial arm of the Bishop. A major function of a Tribunal is to investigate the validity or invalidity of marriages.

⁴ Excommunication is a medicinal and spiritual penalty, the purpose of which is to awaken the person's conscience to repentance. It is not a condemnation to hell. It is a response to someone having committed a severe offense, and it is the most severe penalty the Church can inflict. An excommunicated person is not allowed to receive the sacraments or participate in a number of other Church functions until such time as his or her sanction has been lifted.

⁵ An annulment is a declaration by a Church Tribunal that the marriage in question was never actually a *sacramental* marriage to begin with and hence from the Church's point of view it did not exist. It is not the breaking up a valid marriage; rather, it declares what the marriage has always been—null. It is *not* a "Catholic divorce," as some people have come to perceive it or call it.

The following information outlines the Church's general teaching on relationships and sexuality for *all* Catholics, whether it is their intention to enter into a relationship with another Catholic or a non-Catholic. For further information or clarification, it is recommended that you consult your pastor or spiritual advisor.

Dating

By dating, it is understood that a relationship is romantic, exclusive, or moving towards marriage. Dating is therefore limited to the single (never married), the widowed, and the divorced (with annulment). This type of relationship is not appropriate for the separated and divorced (without annulment) because they are still in marriages that haven't or haven't yet, been found not to be true marriages (i.e., those that are annulled). Of course, anyone may enjoy the company of others in a sociable, companionable way, but care must be taken to avoid the appearance of scandal if one is still married.

Sexuality and Chastity

The Catholic Church is clear that sexual (intimate/genital) relationships should occur only within a valid marriage. It would therefore be inappropriate for single, widowed, separated, and divorced Catholics (with or without annulment) to have a sexual relationship until they are validly and licitly married in the Church.

Marriage and Remarriage in the Church

Single (never married), widowed, and divorced Catholics (with annulment) are free to marry in the Church. Separated Catholics need a civil divorce decree as well as a decree of nullity (annulment) from the Church before remarriage. Divorced Catholics seeking an annulment in order to remarry in the Church would likewise need to present a civil divorce decree at the start of the annulment process. The preceding holds true for *any* Catholic wishing to remarry in the Church, even if he or she intends to marry a non-Catholic from a denomination that does not have these stipulations. It often happens that a Catholic who is free to marry in the Church wishes to marry a divorced non-Catholic. If the non-Catholic person was married in a valid way by a minister, rabbi, etc. according to the precepts of his or her denomination, then besides a civil divorce decree, the non-Catholic will need to undergo the Catholic annulment process before marrying in the Church.