

Questions Concerning Marriage, Divorce & Nullity

1. What is the Catholic Church's understanding of marriage?

Marriage is a covenant by which a man and woman establish between themselves a partnership of the whole of life, which of its very nature is ordered to the well being of the spouses and to the procreation and upbringing of children.

2. What is a *decree of nullity*?

A *decree of nullity*, commonly referred to as an annulment, is a judgment made by a Tribunal of the Catholic Church, which on the basis of proofs in the form of documents and testimonies, a given relationship was not a binding marriage in the way the Catholic Church understands marriage to have been established by Almighty God. Here, it has been proven either that *one of the essential elements of marriage or the necessary personal capacity for competent consent was lacking at the time the parties wed*. Therefore, a relationship which may have looked like a marriage according to civil or social standards is deemed not to have been a binding marriage in the way marriage was ordained by God.

3. What is the difference between divorce and a *decree of nullity* from the Catholic Church?

Divorce indicates that the *lived experience* of a couple's partnership has been damaged beyond repair. Divorce puts an end to the binding contractual relationship which exists between spouses relative to civil law. From the Church's point of view, divorce merely indicates that the *lived experience* of a couple's partnership has been severed. Divorce has no capacity to alter the binding nature of the marital contract or covenant a couple creates by their exchanged consent! A *decree of nullity* issued by a Tribunal of the Catholic Church is a judgment based on proof that, because of some personal incapacity or because of the exclusion of some essential element of marriage, a valid and binding marital bond, as ordained by Almighty God, was never created between the parties.

4. If the Church teaches that marriage is forever, how can a *decree of nullity* be granted?

The Catholic Church believes that a valid and consummated marital bond between two persons cannot be severed by any entity, civil or religious. However, there are circumstances in which what may have *appeared to have been* a marriage was, in fact, never a binding covenant, either because of personal incapacity for consent or because one of the essential elements of marriage was excluded when the parties gave their consent.

5. Can I seek a *decree of nullity* if I've been married a long time or have children?

Yes. A Tribunal investigation examines the capacity of the parties for sufficient and proportionate marital consent at the time the consent was given. Neither the length of the marriage nor whether or not children were born are determining factors in accepting a case to examine.

6. Does a *decree of nullity* make children illegitimate?

NO! The law of the Catholic Church never denies the factual or historical existence of the parents' relationship, nor does it deny that it may have been a binding marriage by civil or social standards. Hence, the Catholic Church's law deems that any children born of a relationship which *was presumed by at least one of the parents to be a valid and binding marriage at the time* are to be considered legitimate. This remains true even if at a later time the marital bond is proven to have been invalid and null.

7. Can a divorced Catholic receive the Sacraments?

YES! Divorce only indicates that the lived experience of a couple's partnership has ended. *As long as a divorced person has not initiated any subsequent marital or similar relationship with another partner*

and as long as he or she is, according to one's conscience, in the state of grace, there is nothing preventing him or her from sacramental participation.

8. Can a divorced person remarry in the Catholic Church?

A divorced person is considered free to exchange marital consent with a new spouse once a decree is issued that the person's prior marriage has been proven null. In some cases, a restriction known as a *vetitum* may be imposed requiring one or both parties to obtain counseling for specific personal issues that need to be addressed.

9. Can I still be a part of the Church if I am remarried without a *decree of nullity*?

The choice to remarry without having received a *decree of nullity* concerning one's prior marital bond sets a person apart from the Church with regard to full sacramental participation. One cannot receive Holy Communion when one's lifestyle is not *in communion* with the teachings of the Catholic faith. Still, there is grace to be gained through participation in Sunday worship, particularly in the nourishment that comes from God's Word, the homily, the Church's devotional piety, community fellowship, and other aspects of Catholic life.

10. Why would a non-Catholic need a *decree of nullity* from the Catholic Church?

The Catholic Church recognizes all marriages between non-Catholics to be valid and binding as long as they meet civil requirements about the way consent is to be exchanged. A divorced non-Catholic, in order to seek marriage with a Catholic in the Catholic Church, must be considered free to marry. This requires that the whole of his or her life and marital history be brought into harmony with the teaching of the Catholic faith to which the Catholic intended spouse adheres. Hence, if the non-Catholic has previously been married, any prior marital bond must be proven null before he or she can be considered free to marry anew.

11. Does my former spouse need to be contacted? What if he/she will not cooperate or cannot be found? For this investigation, your former spouse is considered to be the **Respondent**. The law of the Catholic Church requires that the rights of both spouses be protected. This demands that every legitimate effort be made to contact your former spouse and allow his/her participation in the Tribunal process. The most recent contact information for the Respondent must be provided to the Tribunal. As the Tribunal makes the contact, there is no need for the parties to have direct contact with each other. If a Respondent truly cannot be found or chooses not to participate, the Tribunal process continues.

12. Are witnesses necessary during a formal investigation?

Yes. The law of the Catholic Church requires that all allegations of marital nullity be backed up by the testimony of witnesses who had knowledge of the parties prior to and at the time of their wedding. These witnesses can include family and friends, as well as counselors.

13. Does applying for a *decree of nullity* assure me of getting one?

No. Every marriage is presumed to be valid and binding *until proven otherwise*. The process of proving nullity is not an effort to assess blame for marital breakdown, but to understand its root causes and to determine whether it resulted from an incapacity for competent consent or any other impediment to marriage. If the testimony provided during an investigation is inconclusive or insufficiently probative, a *decree of nullity* cannot be issued.

14. How do I begin?

It is best to begin with your parish Priest or a Priest you are comfortable with, who will assist you in formulating your initial application and will submit the case to the Tribunal on your behalf.