

MARRIAGE ANNULMENTS:

QUESTIONS & ANSWERS

Based on an article by Fr. David F. O'Connor, S.T.

There has been much misinformation circulated recently by the media about ecclesiastical marriage annulments. Much of it is based on misconceptions, misunderstanding and ignorance. The following is presented in response to some of the more commonly asked questions in the hope that it might help clarify perceptions.

What is marriage according to the Catholic Church?

What is an ecclesiastical annulment?

What are the effects of an ecclesiastical annulment?

Does it mean that "in the eyes of God, there was no marital relationship?"

Does it mean that the former marriage which has been annulled has been "obliterated" or "never existed"?

What makes a marriage invalid?

What is defective marital consent?

Are there other things that affect the validity of marriage consent?

Why does the Catholic Church have tribunals or courts?

How much does an annulment cost?

What constitutes the process of annulment?

How long does it take to process an annulment request?

Who may request an annulment?

What is the most difficult thing about the annulment process?

Do people who seek annulments feel forced into making-up stories or lying about their previous failed marriage?

What is the overall impact of the annulment process on the lives of people?

What is the reaction of tribunal personnel to criticism of the process and to the number of annulments being granted?

Whom should I contact to begin the Annulment process?

What is marriage according to the Catholic Church?

The official theology and canon law of the Catholic Church describe marriage as a matrimonial covenant between a man and a woman; a life-long union entered so as to establish an intimate partnership of life and love. It is ordered to the good of the spouses and must be open to the procreation and education of children. The essential properties of marriage are unity and indissolubility. Between the baptized, marriage becomes a sacrament. It is entered into through legitimately expressed personal consent by which a man and a woman, through an

irrevocable covenant, mutually give and accept each other in order to establish marriage. If one considers the practical implications involved in the above theological-canonical description, one can begin to understand more readily why a particular union might subsequently be declared invalid. Also, this description of the Church's understanding of what makes a union to be a marriage, applies to all marriages whatsoever, whether of Catholics or non-Catholics, whether Christian or non-Christian.

What is an ecclesiastical annulment?

It is an official declaration, usually given by a tribunal of the Catholic Church, that a marriage is invalid according to Canon Law. It means that something essential was canonically defective in that particular marriage.

What are the effects of an ecclesiastical annulment?

The principal effect is that the former marriage no longer has legal recognition or standing in the community of the Catholic Church and, generally, that the parties are now free to marry again if they so choose. In some cases, for pastoral reasons, a premarital evaluation and/or professional counseling is required for one or both parties before a subsequent marriage is sanctioned by the Church.

After an ecclesiastical annulment, the children born of the former marriage remain legitimate. Also, in the United States, there are no civil implications for the former husband, wife or children as a consequence of the Church annulment.

Does it mean that "there was no marital relationship?"

No. It means only that in the eyes of the Catholic Church, as a visible community of the faithful, it was a union that has been proven to be canonically invalid.

Does it mean that the former marriage which has been annulled has been "obliterated" or "never existed"?

No, of course not. Obviously, the couple was wed and lived together and possibly had children. They have a "history" from being together. It is presumed that both parties entered with good intentions. No one can deny that a relationship existed in some fashion, at least for a time, with its own joys and sorrows, its own hopes and disappointments. After a failed union, there will always exist memories, good and bad, as well as other emotional residue which may last for many years. No one can deny the fact of a relationship. In that sense, something of the former marriage may remain indefinitely. Certainly, this is especially true when the union produced children.

What makes a marriage invalid?

Marriages may be declared invalid because of the presence of one of the ecclesiastical impediments (e.g., below the minimum age, religious vows, blood relationship, previous marital bond, holy orders, legal relationship, etc.), or because of defective marital consent by one of the parties, or because a Catholic, without a dispensation, was not married in a Catholic wedding ceremony before a priest/deacon and two witnesses.

What is defective marital consent?

There are many things which could render marital consent invalid. If we recall that the spouses are committing themselves, without any reservation or condition, to a life-long, faithful relationship that is open to children, we can see why in a culture as our own how frequently this is an issue. Many people today in our "individualistic" culture have great difficulty in committing themselves to marriage, as the Catholic Church understands marriage to be.

Are there other things that affect the validity of marriage consent?

Yes. Marriage is for people who are capable of making an adult commitment. Not everyone may be capable of assuming the essential rights and obligations of marriage and family life. Everyone knows that children are not capable of marriage. We also know that those who are psychotic are not able to commit themselves. Certainly, other psychological factors may raise the issue of the capacity of an individual person for marriage. If someone cannot hold a job, or assume ordinary personal responsibilities, or can not communicate adequately on a personal adult level so as to share oneself with a spouse, then the capacity of that person for marriage becomes questionable. Moreover, the commitment must be made freely (without unjust outside pressure) and with proportionate and grave forethought brought to the consideration of the responsibilities being assumed in marriage. (Today, many people may enter unions with less consideration than they bring to purchasing an automobile.) In our culture, we are very much aware of how addiction to substances (alcohol and drugs) plays a role in disrupting married life. If one is already addicted at the time of consent, a doubt arises about the person's capacity to enter marriage. Also, such things as a "divorce mentality" and "hidden conditions" may come into play. If someone approaches marriage with the conviction that he or she can always "get out of it" if one chooses to do so, that may invalidate the marriage. Obviously, there are many other things that might affect consent: deception, fraud, grave error, force and fear, or conditional consent can affect the validity of marriage consent.

Why does the Catholic Church have tribunals?

The Catholic Church is unique among the very few large public institutions in society because it continues to take marriage very seriously. Fundamentally, it is committed as a Christian community to be faithful to the teachings of Jesus Christ concerning marriage and divorce, as stated in Holy Scripture. It is also committed to manifest the compassion of Jesus to those people whose marriages fail. So the Catholic Church and its ministers are committed to be both "prophetic" (to teach what Jesus taught) and to be "pastoral" (to minister to those whose marriages, unfortunately, have ended in a civil divorce). The church courts in most dioceses are established to respond to requests by those who have divorced to investigate whether or not their former marriage was valid, according to the Church's theological and canonical understanding of marriage. The clergy, religious and lay people who make up the personnel of tribunals look upon their professional work as a healing ministry; an expression of the Church's compassion and concern for those in failed marriages.

How much does an annulment cost?

There are many expenses involved in maintaining an active tribunal. There are the ordinary building and office costs (heat, air-conditioning, lighting, office equipment, telephones, computers, etc.). Then there are the salaries of the tribunal personnel. While each diocese assumes the basic burden of these expenses, the fees generated from the cases heard help defray a small percentage of these costs. The amount of the actual fee will differ from diocese to diocese for a variety of reasons. In the Diocese of Paterson, the Tribunal fee is currently \$600. Psychological evaluations are extra. It is intentionally kept low and, if necessary, adjustments can be made to lessen the financial burden for those who are not capable of paying even this small amount. It is important to remember that the ability to pay or not to pay does not affect the acceptance of a petition. No one is ever refused because they can not pay the full amount.

What constitutes the process of annulment?

The members of the court (the judges, auditors, advocates, defenders of the bond) respond to the formal requests of a petitioner to investigate a failed marriage which has ended in a divorce. The petition is made in writing. Copies of all pertinent documents (baptismal and marriage certificates, final divorce decree) are requested. The petitioner presents a lengthy narrative description (according to guidelines) of his/her background, the courtship, wedding, married life, the events leading to the final separation and divorce. The petitioner must also present the address and telephone number of the former spouse. The ecclesiastical court is obliged by canon law, to try to contact the former spouse (the respondent) by mail and offer him/her the opportunity to participate. If the respondent does not wish to participate or fails to respond at all, the annulment process continues on without their cooperation. The petitioner must (and the respondent may) present the names and addresses of witnesses who can help corroborate the account and allegations presented by the petitioner. Later, personal interviews with the principals involved (petitioner and respondent) are made by the court personnel, usually a judge or an auditor. These personal interviews are usually conducted on a "one-to-one" basis. There is never any confrontational situation between former spouses. The process aims to get at the truth, not to place blame. After all the documents, information and testimony have been gathered, the process moves to the evaluation of the Defender of the Bond, the briefs of the advocates, and the decision and sentence of the judge or judges. After the sentence of the Judge(s) in the Diocese of Paterson, the case is sent to the ecclesiastical court of the Diocese of Camden for review or on appeal. Only when that marriage court in Camden has confirmed an affirmative sentence is the annulment process complete. If the court in the Diocese of Camden decides otherwise, differently from the court in the Diocese of Paterson, the case may be sent to the Sacred Roman Rota, if the petitioner or the respondent so decide.

How long does it take to process an annulment request?

Each petition is accepted in the order of its appearance: first come, first served, whether rich or poor, whether well-known or not. The time element depends on the number of petitions being made at any given time. It also depends on the individual case, its complexity and the cooperation of the specific people (petitioner, respondent, witnesses) involved in that particular case. Therefore, some cases may be processed rather quickly and others may take much longer, possibly years. Also, as stated above, every marriage case that has been completed in the Diocese of Paterson must be reviewed by, or appealed to, another designated tribunal. For us, the review or the appeal court is that of the Diocese of Camden, New Jersey. We generally inform people to expect that it will take about eighteen months from the time their petition is accepted by the

Tribunal of the Diocese of Paterson to its completion by the Diocese of Camden. If one of the parties (petitioner or respondent) chooses to do so, an appeal may be made directly to the Sacred Roman Rota. It is expected that if one of the parties does this, the costs of that appeal will be that person's financial obligation. Generally, appeals to Rome take considerable more time than to the appeal tribunal in the United States.

Who may request an annulment?

Anyone, Catholic or non-Catholic, Christian or not, who has been married and civilly divorced may request a Catholic marriage tribunal to investigate their failed union. These requests are usually made by someone who wants to marry a Catholic, or who is now married a second time (other than a widower or widow) and now wishes to formally join the Roman Catholic Church. It is the presumption of the Catholic Church that if people have been married (no matter their religion) that they have been married validly. (The exception is a Roman Catholic who marries outside the Catholic Church without a dispensation.) It may be noted that a significant percentage of annulment petitions involve non-Catholics or non-Christians whose marriages may have been entered into civilly or in other than Catholic settings. Again, the Catholic Church presumes that these marriages were valid. People may submit their petition to the marriage court of the diocese in which they now reside; the diocese in which their former spouse now resides; or they may submit it to the diocese in which the marriage ceremony took place. Therefore, a petition may be sent to the Marriage Tribunal of the Diocese of Paterson, if the petitioner lives within the territory of the diocese, or if his/her former spouse lives within it, or if the marriage ceremony took place within the territory of the diocese.

What is the most difficult thing about the annulment process?

The one negative observation that the personnel in the Tribunal hear about the process is that the petitioner must spend some time reflecting upon his/her former marriage. This may demand recalling a painful and disappointing time in their past life that they would simply like to just forget about. They are expected to review the history of their relationship and present it in narrative form, according to the guidelines sent to them by the marriage court. Interestingly, the court personnel have often heard that completing the process has been a healing process for the petitioner. The petitioner often gets insights into himself/herself that would have been missed otherwise. It may well help them to make a new marriage a much happier one.

Do people who seek annulments feel forced into making-up stories or lying about their previous failed marriage?

The court wants only to get at the truth. It takes for granted that the parties are presenting their personal stories honestly, truthfully and completely. The experience of the marriage tribunal personnel is that this is what most people certainly do. Moreover, if there is distortion, lying or collusion, that does tend to become evident in the process. Such behavior will have an affect on the decision of the court.

What is the overall impact of the annulment process on the lives of people?

By far, most people who have sought ecclesiastical annulments, look upon the process they went through in a very positive fashion. The court personnel are conscious of having helped many people to have a fuller Catholic life. Also, where the annulment has had to be denied, frequently we find that the respondent feels that the Catholic Church has supported his/her conviction that they did have a valid marriage. The attitude of the personnel of the marriage court is that if the annulment can be given, that is, if the marriage can be judged invalid, we are pleased to give an affirmative decision. At the same time, if it can not be proven that the former marriage was invalid, we are bound by professional integrity to give a negative decision. In general, considering that the annulment process still affects a relatively small percentage of divorced and remarried Roman Catholics in the United States, we are pleased to bring some relief and service to the people who do approach the court.

What is the reaction of tribunal personnel to criticism of the process and to the number of annulments being granted?

When we consider the society and culture in which we live, the frequency of divorce, the attitudes, values, reservations, and conditions which people bring to a marriage today, especially, the difficulty many moderns have in making an unconditional and life-long commitment, as well as many other factors, it should not be surprising that so many annulments are granted in our country. We are also aware of circumstances that occasion an annulment where a respondent may consider him/herself as the innocent victim. For example, if a petitioner, who is now practicing sobriety, has a history of alcoholism which brought much misery to the former spouse and children, and an eventual divorce, it can appear to be unfair to the respondent when the annulment, based on the alcoholism, is granted. However, the court is looking for grounds for the annulment and, as stated before, it does not look to place blame on one or the other party. Nevertheless, in a case as this, humanly speaking, it certainly can appear to be unfair to the spouse who was the recipient of the alcoholic's abuse for so many years. However, by far, the thousands of people who have been through the annulment process report it as a positive experience which has freed them up to live a fuller Catholic life. Much of this is due to the fact that it is an ecclesiastical process in which people are respected, and where privacy and confidentiality are charitably maintained. (It is not a repeat of a civil divorce.) Moreover, when we have human judgments being made, we are bound to have imperfection and mistakes. Those of us ministering in the marriage tribunal try to serve the Church honestly and with professional integrity. We are pleased when we can be of help to people. At the same time, we are not unaware of our own defects or the limitations of the procedures.

Whom should I contact to begin the Annulment process?

See your parish priest to obtain the initial forms that you will need to complete. Or, if you wish, contact the Diocese of Paterson Tribunal at (973) 777-8818. We will be pleased to speak with you and answer any questions you may have.

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