

Process to Determine Marital Status in the Catholic Church

The following reflections are based on Pope John Paul II's constant teaching about the dignity of the human person throughout his years as leader of the Catholic Church. In particular, these reflections are based on Pope John Paul II's letter on "Marriage and the Family" and the reflections on this letter by the Reverend Lawrence G. Wrenn in "When Is An Invalid Marriage Null", The Invalid Marriage, pp. 173-183. There is nothing in these reflections that in any way contradicts or is opposed to Catholic Church teaching on marriage. However, the use of the word "invalidity" instead of the word "annulment" is not yet a general Tribunal practice. This Tribunal feels that the word "annulment", a civil law term which has so many negative connotations, diminishes the dignity of the persons who choose to marry one another by implying that everything good that happened in their marriage to one another is officially "wiped out like it never happened". It is hoped that a careful reading of these reflections with an "open mind" will lead to that reconciliation with God, Church, and one another that is the motivating factor of this marital process.

Catholic Church law defines marriage in this way: "The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life, is by its nature ordered toward the good of the spouses and the procreation and education of offspring" (Canon 1055 §1). In light of this and the other Church canons on marriage, the essential rights and obligations of marriage are to be related to the four goods, namely the good of the spouses, the good of children, the good of fidelity, and the good of permanence. The Catechism of the Catholic Church quotes Pope John Paul II to sum up the goods and requirements of marriage:

Conjugal love involves a totality, in which all the elements of the person enter - appeal of the body and instinct, power of feeling and affectivity, aspiration of the spirit and of will. It aims at a deeply personal unity, a unity that, beyond union in one flesh, leads to forming one heart and soul; it demands *indissolubility* and *faithfulness* in definitive mutual giving; and it is open to *fertility*. In a word it is a question of the normal characteristics of all natural conjugal love, but with a new significance which not only purifies and strengthens them, but raises them to the extent of making them the expression of specifically Christian values (On the Family, #13)

The Catholic Church believes and teaches that these four goods are essential to all marriages, whether the parties are baptized or not, whether they practice a particular religious belief or not. This belief is in keeping with the insights of Vatican Council II on the dignity of the human person and the protection of that dignity in personal and societal relationships, whether civil or religious. Pope John Paul II promoted this dignity not only in his teaching but in the way he lived.

That is why the word "annulment" is an unfortunate word, as Bishop Doran has often remarked. It is "unfortunate" because it seems to rob marital partners of their dignity. It is not a word that is found anywhere in the Code of Canon Law, which is the source for the Church procedure regarding the status of a marriage. Somewhere along the line the Civil term annul was attached to what the Church does when it determines the status of a marriage. The civil term means "to make void", "to wipe out" from the beginning, whereas "divorce operates to terminate the marriage from that point forward and does not affect the former validity of the marriage" (Gifis, Law Dictionary, p.23).

No wonder the word "annulment" makes many people uncomfortable. After all, for most people their marriage was one of the most important events of their lives. Although the marriage may have been humiliating, devastating, destructive, depressing, painful and the most frustrating experience of their lives, it still was an important event, even though the parties divorced

Recognizing this importance and the dignity of the parties involved, the Church does not say that someone's marriage never existed. There was some semblance of a marriage, some type of relationship. Thus, when someone comes to the Church Court to ask for a ruling on the status of their marriage they are not asking whether or not they had a marriage, because the Catholic Church presumes that a marriage existed. What is at issue is whether the marriage that did exist is what the Catholic Church considers a **valid** marriage.

If we think of the word "invalid" in the English language, it means "disabled by illness or injury". When

a marital relationship is "not well" from the beginning and becomes destructive, the parties become "disabled" and severe problems arise. Similar to when a physical disease is present but undiagnosed until years later; so, by analogy, a marriage may appear healthy from the outside or even to the couple who is married but still have an underlying impairment present at the time of consent. The Church Court studies the marriage to look at the root causes of why this marriage failed to become a permanent bond until death, and then - but only if those root causes were present before and at the time of the wedding - declares the marriage invalid from the start.

This is never done until there is a civil divorce, because the Church always hopes for reconciliation between the parties. However, after the civil divorce, the process is done regardless of whether the customary fee has been paid or not.

The First Letter of St. Paul to the Corinthians already indicates that early in the history of the Church, procedures for dealing with invalid marriages were in place. There are two reasons why people are more conscious of this procedure today: 1) mass media, which bring almost instant communication to all areas of our country and 2) the "divorce mentality" which exists in our society, whereby people enter marriage thinking in the back of their mind that "if it doesn't work, I'll get out"; or they condition their commitment to permanence by saying "If he ever hits me I am out the door" or "If she is unfaithful, I will leave her".

When a marriage fails, either party can petition to have the Church examine their marriage, even if they are seen as the "guilty" party responsible for the breakup of the marriage. For, like her Savior, the Church cannot abandon sinners and those who fail to live rightly. We learn this from the way Jesus, as the Bible teaches us, went to those who were outcasts and sinners. The Church never gives up hope when we fail to live rightly.

Who is likely to need this Church process? The first thing to note is that no one is any longer excommunicated because of divorce. You can receive the sacraments so long as you are not courting, living with someone else, or have been remarried in any kind of legally recognized ceremony. Thus, it is usually only when a person wants to remarry in the Catholic Church that their freedom to marry has to be determined and this process is used. This process applies first of all to Catholics, then to anyone who is married to a Catholic or wants to marry a Catholic (Canon 1059). In general, the Church presumes that all marriages are valid (Canon 1060). This means first marriages between baptized or non-baptized Protestants, marriages between Jews, or even marriages between atheists. This is true no matter where these marriage took place or how they took place, for example, skydiving out of a plane over Las Vegas.

The purpose of this process is not to place blame, but to come to the truth of why the persons involved acted and behaved the way they did. Unfortunately, some people fight this process because they are still in the blaming stage and not ready to face the truth of what happened.

The process begins with a petition from a person asking the Church Court to examine the status of their marriage. The person writes a narrative that speaks of the background of both parties, their courtship, and the events of their marriage. When this has been sent to the Church Court a date is set and the person comes for an oral deposition, reaffirming and clarifying their narrative. Tentative grounds are then set and the other party is invited to respond in the same manner by written narrative, oral deposition, or both. Witnesses of both parties are then contacted to respond through an oral deposition or in writing.

Witness testimony is vital to this process. The requirement for this is based on the prescription of the Old Testament Scripture ["A judicial fact shall be established only on the testimony of two or three witnesses" (Deuteronomy 19:15)]; as well as on the New Testament Scripture ["Take with you one or two others in order that every word may be confirmed by the mouth of two or three witnesses"(Matthew 18:16)].

Church law has only one requirement for witnesses, namely, "they must tell the truth" (Canon 1548 §1). This means don't make things worse than they were or better than they were but tell what happened as best as you remember it. Don't filter your testimony, leaving out things you think might reflect badly on the person you are testifying for. In the words of the oath: "Tell the truth, the whole

truth, and nothing but the truth, so help you God".

Once the Witness testimony is gathered, if necessary an evaluation is made by a Court Expert skilled in the psychiatric sciences. Everything is then given to the Defender of the Bond, whose purpose is to set forth every reasonable argument from the gathered evidence that indicates this was a valid marriage. It is the task of the Judge to weigh and evaluate all of this gathered information and render a decision as to whether the marriage in question was valid or invalid.

No one is free to marry in the Catholic Church unless their marriage has been declared invalid by a Roman Catholic Church Court.

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