

CATECHETICAL ISSUES RELATED TO ANNULMENTS

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Catechists who prepare adults for entrance into the Church need a good understanding of annulments (technically: “declarations of matrimonial nullity”) for at least two reasons. First, virtually all adults seeking to enter the Church have heard of annulments, but most of them labor under one or more serious misperceptions about the process and its purposes. In particular, because of the great increase in the number of annulments being declared by tribunals, questions might be raised about the Church’s commitment to permanent marriage. It is important, therefore, to correct any misunderstandings about annulments before they result in confusion about Catholic teaching on sacramental marriage.

Second, many adults considering conversion to the Catholic Faith are already divorced and remarried outside the Church. Among Catholics, such status, although it no longer results in their excommunication, is considered objectively gravely sinful and prevents their participation in the Eucharist. Similarly, it would be self-defeating to welcome converts into the Church, only to then immediately tell them that, because they are remarried after a civil divorce, they cannot take Communion in the Church they just entered. Thus the matrimonial status of divorced and remarried candidates must be assessed before their entering the Church.

In this article we will look at some of the more common issues encountered by catechists regarding annulments. Keeping in mind that most adults seeking to enter full communion with the Church are already validly baptized, we will focus on questions related to marriage cases of the baptized. Even so, however, we must still limit this discussion to those marriage cases which are not complicated by unusual factors such as non-consummation of the marriage or presumed death of a spouse.

What is an Annulment?

The most common misperception among potential converts regarding annulments is that a declaration of matrimonial nullity is simply a Catholic divorce. Obviously, and without denying certain similarities which do exist between divorce and annulments, catechists need to draw clearly the crucial differences between the two. Briefly, a divorce, at least as far as civil law is concerned, ends a marriage which was in existence. In contrast, an annulment declares that what appeared to be a marriage was, from an ecclesiastical point of view, never a marriage in the first place.

The Catholic Church, relying on the teachings of Christ, holds that the marriages of the baptized last until death (Canon 1056). The Church, therefore, unlike the state, does not regard the existence of a divorce as sufficient to allow a divorced person to marry again during the lifetime of the first spouse. In order to enter what can be recognized by the Church as marriage, a divorced person must demonstrate the invalidity of the earlier

marriage. The process whereby the possible invalidity of the earlier marriage is examined is the annulment process. Annulment cases can only be heard by ecclesiastical authorities, usually a diocesan tribunal, and are conducted in accord with Church law (Canon 1671).

Broadly speaking, every annulment case comes down to three (or six, if you prefer) questions (Canon 1057): did each of the parties have what canon law considers to be capacity for marriage at the time of the wedding?; did each of the parties express consent to marriage as the Church proclaims it?; and finally, did each of the parties observe whatever level of form might have been required for marriage at the time? – although in non-Catholic weddings, this requirement is usually very easily satisfied and hence rarely serves as a basis for nullity.

Now, canon law presumes that both parties had capacity for marriage at the time of the wedding and it presumes that both parties expressed consent to true marriage (Canons 1058, 1060, & 1101). But, if it can be proven that either or both parties lacked capacity for marriage or that either or both parties did not consent to marriage as the Church teaches it, the such a marriage can be declared ecclesiastically null.

Sometimes a divorced person can demonstrate that the failed marriage was also null by ecclesiastical standards; sometimes not. The mere fact, however, that there has been a sharp rise in the number of broken marriages which have been declared canonically null does not mean that annulments can be obtained simply by doing the paperwork correctly. Each marriage nullity case is heard separately and on its own merits, and the number of rejected annulment petitions is undoubtedly higher than most people believe.

The Catechist's Role

Catechists should try to make clear that annulments are regarded by the Church as exercises in justice, not charity. In other words, annulments are declared when, and only when, the parties meet the objective canonical requirements for nullity.

Annulments are not given out because tribunal judges feel sorry for certain people (even if such people are clearly sympathetic characters), nor are annulment petitions rejected because tribunal officials suspect (even if accurately) bad-will on the part of one or both parties. Admittedly, most of the parties involved in annulment cases are pleased when nullity petitions are approved because it will make possible (for both parties) a marriage in the Church. But the fact that most people want their nullity petitions approved does not mean that approval of the petition is the correct result. The tribunal process has not necessarily failed when an annulment petition is denied; the process has not succeeded just because a nullity petition is approved. Annulments are declared when requirements of canon law are met. They are declined when the requirements of canon law are not met.

Converts, Marriage and Annulments

It is not unusual for potential converts to the Faith, upon learning that their marriage history might impede their entrance into the Catholic Church, to wonder why the Church is even interested in their earlier marriage(s) in the first place. They might feel that they are unfairly being held to standards that did not apply to them at earlier times in their lives. A couple of observations are in order here.

On the one hand, for example, the requirements of canonical form (what Catholics refer to as “getting married in the Church” according to Canon 1108) are not applied to Protestants. While the violation of canonical form can (and, some 15,000 times a year, does) result in the nullity of the marriages of Catholics, Protestants need not comply with Catholic laws on canonical form and in that regard they are not being held to that Catholic standard for marriage. Of course, because they are not bound by canonical form, Protestants cannot use the fact that they were married, say, in front of a civil magistrate, as proof of the invalidity of their marriage.

On the other hand, some aspects of canon law on marriage are applied to Protestants. To take an obvious example, biological brothers and sisters are canonically incapable of marrying each other, regardless of their religious affiliation (Canon 1090). Such attempts at marriage would be invalid under canon law for Catholics and Protestants alike. Notice, however, that what is at issue in a case like this is not simply a matter of canon law, but one of Divine Law, to which the Church believes all baptized persons are bound. Indeed, when looked at carefully, nearly all of the “Catholic” marriage requirements which are applied to Protestants will be seen to be based on natural or Divine Law.

There are, nevertheless, some significant areas in which Catholic teaching on marriage is applied to Protestants, despite the interdenominational differences which exist on certain points. Let us look at just one, namely, intentions regarding permanence in marriage.

All major Protestant denominations discourage divorce, some of them quite strongly. But none of them currently takes the position of the Catholic magisterium on divorce, to wit, that marriage is impossible during the lifetime of one’s former spouse. Now, prescindng from whether our cradle Catholics have been adequately educated on this point, it is an accepted part of canonical jurisprudence that anyone who deliberately excludes the intention of remaining in a lifelong marriage attempts marriage invalidly. Therefore, it is possible that the marriage of a Protestant which has ended in divorce can also be declared canonically null based on the fact that the Protestant rejected what the Catholic Church considers to be a true marriage. How?” By it being proved that at the time of the wedding the Protestant, quite understandably perhaps, rejected a major facet of the Church’s teaching on marriage (Canons 1056 & 1101). Obviously, great care is taken in hearing nullity cases on these or similar grounds and, as noted above, canon law presumes that all persons consenting to marriage consent to marriage as the Church understands and proclaims it. But such presumptions can be, and sometimes are, overturned in particular cases, resulting in a declaration of matrimonial nullity.

As most catechists know, many people seeking admission to the Church were first attracted to the Church by the strong stand she has taken in defense of innocent human life, her opposition to divorce, and her advocacy of marriage and family life values. I hope the above observations will help catechists allay the fears of some that, through her practice of annulments, the Church is wavering in her proclamation of “marriage until death do us part.” At the same time, however, catechists should feel confident in guiding to the proper ecclesiastical offices those candidates for conversion who are in irregular unions, knowing that the opportunity to have an accurate canonical determination of their true matrimonial status is available.

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[Http://www.catholic.net/rcc/Periodicals/Faith/1998-05-06/annulments.html](http://www.catholic.net/rcc/Periodicals/Faith/1998-05-06/annulments.html)