

Ten Questions About Annulment

by Joseph M. Champlin

Annulment is a thorny issue for many Catholics and widely misunderstood outside the Church. In this *Update*, we'll take a look at questions that commonly arise and how the Church addresses them. When it comes to how annulments are handled, it's important to keep in mind that practices may vary slightly from one diocese to the next, but the overall rules of the Church are the same. The doctrine of marriage is that of the universal Church. The Church's practices around marriage and annulment are aimed at protecting the sacrament of marriage, in order to help Catholics live a fully sacramental life.

The Catholic Church presumes that marriages are valid, binding spouses for life. When couples do separate and divorce, therefore, the Church examines in detail their marriage to determine if, right from the start, some essential element was missing in their relationship. If that fact has been established, it means the spouses did not have the kind of marital link that binds them together for life.

The Church then issues a declaration of nullity (an annulment) and both are free to marry again in the Catholic Church.

1 On what grounds does the Church declare nullity for some failed marriages?

In technical language, the most common reasons are insufficiency or inadequacy of judgment (also known as lack of due discretion, due to some factor such as young age, pressure to marry in haste, etc.), psychological incapacity, and absence of a proper intention to have children, be faithful, or remain together until death.

These grounds can manifest themselves in various ways. For example, a couple, discovering her pregnancy, decide to marry; only much later do they recognize the lack of wisdom in that decision. Or one spouse carries an addictive problem with alcohol or drugs into the marriage. Perhaps a person, unfaithful during courtship, continues the infidelity after marrying.

In cases like these, the Church judges may decide that something contrary to the nature of marriage or to a full, free human decision prevents this contract from being sound or binding.

I begin this formal annulment process at the parish level for about a dozen petitioners each year. My suggestion to them as they approach the multi-page, perhaps daunting questionnaire moves along these lines:

"As you reflect upon the marriage, ask yourself: Was there something missing right from the start, something radically wrong from day one? Before the wedding, were there warning signals, red flags which you may have dismissed simply as the cold-feet anxieties rather common for couples prior to a nuptial service? Did you suffer deep difficulties early in your marital life and worry about them, but, never having been married before, judged they were merely the expected burdensome part of marriage? Now, perhaps years later, you view them as symptomatic of a much more serious problem, a radical malfunctioning in your relationship."

2 Why must a divorced Catholic complete a complicated Church annulment process before remarrying?

Jesus himself had strong words about marriage. The Catholic Church believes it has a responsibility to follow the words of Christ, both in teaching and in practice. Jesus gave a quite blunt answer to those who raised the issue of marriage and divorce. In the Gospel of Mark (10:11-12) he declared: "Whoever divorces his wife and marries another commits adultery against her; and the woman who divorces her husband and marries another commits adultery."

In the Gospel of Luke (16:18), written after the Gospel of Mark, Jesus' declaration is almost identical: "Everyone who divorces his wife and marries another commits adultery. The man who marries a woman divorced from her husband likewise commits adultery."

During the exchange recorded by Mark, Christ referred to words from the Old Testament Book of Genesis: "At the beginning of creation God made them male and female: for this reason a man shall leave his father and mother and the two shall become as one. They are no longer two but one flesh. Therefore let no man separate what God has joined" (Mark 10:6-9). Most if not all Scripture scholars today maintain that these were Christ's original words.

The complicated process of annulment then is a response to the strength of this teaching. The Church presumes that marriages are binding and lifelong. The annulment process helps to determine if something essential was missing from

the couple's relationship from the beginning that prevented the sacramental union that the couple promised to each other.

3 How can you require an intended spouse who is not a Catholic to endure this annulment process?

In simplest terms, if a Catholic wishes to marry in the Church when there has been a previous marriage, then either one of the partners in the earlier union must have died or the Church must have issued a declaration of nullity, an annulment of that previous marriage. Why is this so?

The Catholic Church views all marriages with respect. It presumes that they are true or valid. Thus, it considers the marriages, for example, of two Protestant, Jewish or even nonbelieving persons to be binding in the eyes of God, unions covered by the words of Christ about divorce. Consequently, it requires a Church annulment process to establish that an essential ingredient in the relationship was missing from the start of the previous marriage.

Such a requirement often represents an unpleasant challenge to Protestant, Jewish or nonbelieving persons who wish to marry a Catholic after the civil termination of a previous marriage. They may have no difficulty with remarriage after divorce and even feel resentful about the prospects of a Roman Catholic formal annulment procedure.

Some Case Studies

7 Joe, a lifelong Catholic, had a miserable first marriage that ended in divorce. He now seeks to marry Joannah, who is Catholic too, but has never married. They are deeply in love and want a Catholic wedding. What if Joe's previous marriage was "outside the Church," say, by a justice of the peace?

The Church requires that a baptized Roman Catholic marry before one of its representatives, usually a priest or deacon, unless special permission was granted otherwise. When a Catholic does not observe this requirement and marries "out of the Church," and eventually divorces, the annulment process involves two steps.

The first is securing the Catholic's baptismal record, a copy of an official document indicating the location of the marriage and the person who performed the ceremony, and the divorce papers. The second is completing a relatively brief form that seeks the above information and asks a few additional questions about circumstances concerning the celebration of the marriage.

This form and the supporting documents showing who witnessed the wedding are sent to the bishop's office or, more specifically, his diocesan marriage tribunal. It ordinarily processes the application in a few days and returns the petitioner an annulment or declaration of nullity based on the "lack of canonical form." The individual is now free to pursue subsequent marriage within the Church.

8-9 What if Joe, for his first wedding years ago, had sought permission from the diocese to be married at his first wife's Protestant Church? Or what if Joe's first wedding had occurred in a Catholic church, before a priest or deacon?

In the first case, the situation of special permission generally occurs when one of the persons seeking to marry is not a Catholic and, for good reasons, wishes to wed in her or his own Church and by her or his own clergy person. During my 45 years in priestly ministry, I have participated in many of these arrangements.

Sometimes it meant standing next to the minister during the ceremony in his church; at other times, I stood by the side of a rabbi in a restaurant or hotel; at still others I even assisted as a judge conducted the service in a home. Occasionally I was not present at the ceremony, but only completed in advance the necessary paperwork.

In all of these circumstances, however, I met with the couple ahead of time, filled out the required documentation and petitioned the bishop for a dispensation from canonical form (marriage in the presence of a bishop, priest or deacon and two witnesses). This special permission allowed the Catholic to marry before a minister, rabbi or even a judge according to the desires of the other party in the marriage.

In these cases where the first marriage was either a Catholic wedding or a non-Catholic wedding with special permission to be married before someone other than an ordained Catholic minister, the annulment process is more involved.

The annulment process in these circumstances, termed a formal case, examines not so much *where* the marriage took place, but *what happened* in the marriage. The procedure takes longer (six months to a year, or more, depending upon the diocese) and is more complex than the "lack of form" annulment mentioned in question seven above. The Church in

these cases researches not merely the location of a wedding, but also the relationship between spouses before and during the marriage. That's a bit more complicated.

A fact sheet covering the basic details of the failed marriage begins the formal case procedure. However, the practice in the United States is that a person may start the process only after obtaining a legal divorce that terminated the marital relationship under civil law. The petitioning individual then works through an extensive printed inquiry that explores the childhood of both persons, their courtship, the early years of the marriage and what the petitioner considers the major cause for the marital breakup.

The petitioner will likewise need to secure certain official documents—proof of Baptism, if pertinent, a marriage record and the divorce papers—and provide names and addresses of the former spouse(s) as well as several witnesses who could share their observations and experiences of the courtship and marriage.

Once all the materials have been assembled, the diocesan tribunal examines the case, usually interviews the petitioner, often seeks the counsel of a psychologist or therapist, and makes a decision. The office then sends its initial judgment to a different tribunal for confirmation. The Syracuse Diocese, where I live and minister, for example, normally refers its cases to the Interdiocesan Tribunal of New York, an agency which covers all of New York state.

If both tribunals agree that there are sufficient grounds (see question 1) for an annulment, the diocesan tribunal communicates a declaration of nullity to the petitioner. Respondents who are interested and who have cooperated in the process are also notified about the declaration of nullity.

Sometimes cases receive a negative response, or petitions for an annulment are rejected. It is probably safe to say that a majority of formal cases in the United States receive positive judgments and the annulments are granted.

The Positive Results of Seeking a Declaration

10 What are the benefits of annulments?

The first benefit, of course, is that the petitioners may now celebrate a marriage in the Catholic Church or have an existing marriage “blessed” or recognized with the Church. There can, however, be a deeper and much more spiritual benefit.

Divorce is a kind of death experience, with the grieving that normally accompanies life's end. Thus a divorced person may know the typical grief feelings or conditions of denial, anger, bargaining, sadness and acceptance. But divorce in some ways is worse than death. It can involve rejection and self-doubts. The divorced person may ponder questions like, “Why me?” or “What did I do wrong?” or “How did I fail?” There also may be resentment toward the ex-spouse.

The thorough reflection, writing and discussion with trained Church ministers involved in the annulment process, while often revisiting painfully sensitive areas, can ultimately help heal wounds and bring about closure. The petitioner may view the overall past marriage in a new light, let go of hurts or doubts and move on to a new, more productive and more peaceful life.

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