

THE ANNULMENT PROCESS AND ITS EFFECTS

An annulment is an official declaration by the Catholic Church's external forum, the tribunal that a particular marriage *de facto* and *de jure* was lacking, from the very beginning, some essential element for a valid, permanent, sacramental union. The Catholic Church respects and presumes the validity of all marriages:

“Marriage enjoys the favor of the law; consequently, when a doubt exists, the validity of a marriage is to be upheld until the contrary is proven”. Canon 1060

This is true also of those marriages of non-Catholic and non-Christian people where the celebration of the marriage took place in other churches, temples, mosques, etc., as well as those purely civil ceremonies of marriage, such as that before a justice of the peace, judge or other civil magistrate.

A declaration of nullity is granted only when it can be shown, through the facts of a particular marital history and the substantiating testimony of witnesses, that some juridical defect rendered a particular marriage not valid, despite all outward appearances, despite even the good faith of the partners and despite the procreation of children subsequent to the wedding. (It should be noted here that an annulment in no way affects the legitimacy of children born of such a marriage. In fact, Canon 1137 specifically states that any children born of a marriage later declared null are legitimate.

Since marriage occurs by consent, freely given and with full knowledge (Canon 1057), the question often placed before a tribunal concerns this notion of consent under one of these headings (or in some cases, under all three):

1. Did both partners clearly understand the nature of marriage as a “community of life” and what such marriage would require of them?
2. Did both partners freely accept marriage as a life-long commitment?
3. Did both partners have the personal capacity to carry out that to which they consented, i.e., to form a community of life with the chosen partner?

Let us take a closer look at the quality of this marital consent that is, by nature of the vocation of marriage, far more exacting than the consent given in ordinary decisions.

Consent to marry is the most momentous decision a person can make because its effects endure beyond the here and now; it is a lifelong choice with far-reaching effects.

Consent must be free and discerning. External or internal pressure, which can significantly reduce freedom and undermine critical judgment, could impair consent to such a degree that essential requirements for such a binding decision as marriage are not fulfilled.

For centuries, theologians have recognized that strong emotion and external pressure could weaken free choice and diminish culpability as far as sin was concerned. While the church has been more cautious in applying these same principles to marital consent, it accepts the findings of modern psychology that show how unconscious motives and situational pressures can get in the way of freedom and judgment in decision making. Such findings

have greatly helped Church tribunals assess the adequacy of marital consent in particular cases.

Consider the following examples of subtle pressure that can interfere with freedom and discernment necessary for valid consent:

1. Take the couple who have been sexually active and now the woman is pregnant. She rightfully refuses abortion. She does not want to give up the baby for adoption. The man responsible for the pregnancy feels trapped. He may have fine intentions, feeling honor bound to do "the right thing." One or both may see marriage as the only way out. Is this decision a free, mature choice of a lifetime partner, or is it a pressured solution to a problem?
2. What about the consent of the teenager, overwhelmed by infatuation with the only person ever dated, in love more with love than the person he or she consents to marry? Or the youngster with no critical appraisal of the character of the intended partner and with meager appreciation of the financial responsibilities of marriage or the burdens of parenthood? Add to the picture, perhaps, the desperate need to escape an unhappy home life, marred by alcoholism or quarrels.
3. How would we assess the widower, still grieving for his deceased wife? He has a demanding job and is anxious for his young children. So he hastily marries. Is he giving prudent, thoughtful marital consent or enlisting a housekeeper and stepmother for his children?
4. What sort of marital consent is given by a person with lukewarm, nominal faith, who has absorbed the divorce mentality which pervades United States culture, and the philosophy of casual sex which is daily T.V. fare?

While there is no automatic answer about the quality of marital consent in each of these examples, the average person would question the wisdom of such marriage and have serious misgivings about the freedom or discretion of the immature or agonized person taking marriage vows under such circumstances. In each case, if the tribunal thoroughly investigated the premarital history, it might well conclude that one or both of the partners could not freely and maturely choose to marry at that time, so marital consent was invalid.

Marital consent should not only be free from undue pressures, but should also imply the capacity to carry out that to which the partners consent, namely a community of conjugal life that is perpetual and exclusive. Both partners must have the maturity to establish and sustain a mutually supportive communal relationship with one another.

Saying "yes" without the capacity to carry it out is invalid, even though a person takes marriage vows in good faith and with the best of intentions. St. Thomas Aquinas provided the basic principle that guides us here: "No one can oblige himself to what he can neither give nor do."

Prior to our more sophisticated understanding of human behavior, people presumed that everyone had what it takes to make a marriage work except, of course, the most overtly disturbed individuals. Before Vatican II, the Church considered the marriage contract principally in terms of procreative rights and obligations. The wider issue of a mutually

supportive human relationship with all that is involved in creating and sustaining such a relationship was, while not ignored, given inadequate attention.

Given the understanding of marriage as a community of life and love, and the deeper appreciation of what goes into a successful interpersonal relationship, the Church now recognizes that for some persons, psychological problems are the consuming, motivating force of life, and so prevent a person from having the capacity to establish and maintain the close, empathic, cherishing relationship with a spouse that marriage requires. In other words, such a person does not have what it takes to develop the community of life that is the substance of the marital pledge.

In the past, the Church recognized that psychoses – the disintegrative mental illnesses such as schizophrenia, and the pathological condition of manic depression – could so impair mental and emotional stability that one's consent to marriage lacked the necessary discernment or capacity. More recently, with the contributions made by the behavioral sciences, the Church acknowledges that other dysfunctions of personality may render a particular marriage covenant impossible. For example, a homosexual orientation may prevent a person from fulfilling the demands of heterosexual intimacy required in marriage. Psychological impairment caused by alcoholism often undermines the capacity of a permanent community of life and love. Another group of emotional disturbances carries the label "personality disorders." Although these do not include acute episodes or bizarre features of psychoses or the disabling anxiety or symptoms of neuroses, they are, nevertheless, marked by deeply ingrained maladaptive patterns of behavior, usually recognizable by adolescence or earlier, which continue throughout most of adult life. While such persons may function well enough in certain areas, they are often psychologically unable to meet one essential criterion of marriage, the close and intimate personal relationship of mutual support and affection.

In general, when a diagnosis is given of a personality disorder, recent jurisprudence in the Church shows these disorders can affect the validity of marriage in one or all of three ways:

1. By depriving a person of the due discretion necessary for true marital consent.
2. By depriving a person of the internal freedom required to give that consent.
3. By rendering a person incapable of fulfilling the essential obligations of marriage.

Most annulments granted today in the United States are based upon what is called a "psychological incapacity for marriage," which is often attributable to the presence of these personality disorders in one or both of the spouses at the time of the marriage. The precise clinical labels of these disorders are not important in the annulment process. What is important is the realization that such psychopathology can make a particular marriage a morally impossible venture. The tribunals of the Church do not seek to assign blame for the marital breakup, but rather they seek only to understand the causes for the failed marriage and determine whether either or both partners lacked proper marital consent or the ability to carry out that consent.