

TRIBUNAL - FREQUENTLY ASKED QUESTIONS

WHAT IS AN ANNULMENT?

It is a shortened way of saying DECREE OF NULLITY. This decree, made at the conclusion of a careful examination, states that an essential element or property of marriage in God's plan did not exist from the beginning.

WHO MAKES THIS PRONOUNCEMENT?

The Marriage Tribunal. The Tribunal is the panel of inquiry of the local bishop supervised by a Judicial Vicar. The general procedures for the Tribunal are based upon the gospel teachings of Jesus Christ and Church teaching on marriage as specified in the 1983 Code of Canon Law, and other sources of Church Law. These norms promote/protect the rights of the individuals as well as the rights of the Church as guardian of the Sacraments.

WHO ARE THE OFFICIALS OF THE TRIBUNAL?

The officials who serve as Judges and Defenders of the Bond must have training in Church law and generally are priests. The Judicial Vicar (Chief Judge) appoints the particular Judge for each case or three judges in the more complex and difficult cases. Other staff members at the Tribunal are advocates (who interview and prepare petitions), notaries (skilled secretaries), and other professionals (those skilled in counseling, psychiatry or psychology who are employed by the Tribunal).

WHAT IS THE DIFFERENCE BETWEEN A DIVORCE AND AN ANNULMENT?

A civil divorce is concerned with the end of a marriage while a decree of nullity concerns the beginning. Simply because a separation or divorce has taken place does not mean a decree of nullity can be granted. Civil law grants divorce (dissolving the rights, claims and civil obligations between a husband and wife) because they cannot or will not continue together. A decree of nullity does not dissolve a marriage. It declares that a specific union, thought to be a marriage by all appearances, did not include, from the beginning, the proper intentions and/or capacities for a valid and sacramental marriage in God's plan.

WHY ARE ANNULMENTS NECESSARY?

Any person previously married, and seeking a marriage in the Catholic Church, must present a petition to the Marriage Tribunal in order to verify his/her freedom to enter a valid or sacramental marriage. Neither civil divorce nor the remarriage of the other spouse gives an individual freedom to marry in God's plan. The purpose of the Tribunal's procedures is to give official judgment concerning the validity or invalidity of a particular marriage in accord with the essential elements necessary for marriage in God's plan.

DON'T CHILDREN BECOME ILLEGITIMATE BY ANNULMENTS?

No! Decrees of nullity do not determine legitimacy, inheritance or property rights, names or other domestic issues. Church law states that children are and remain legitimate when born to unions begun in good faith and thought to be a marriage at the time.

DO I NEED AN ANNULMENT IF I AM ALREADY LEGALLY DIVORCED?

Yes. A legal divorce must exist before the marriage Tribunal may begin its examination. Once the divorce has been declared by the civil courts, either party to the marriage may petition for an ecclesiastical declaration of nullity (annulment). Any previous marriage, whether before a civil official or a clergyman, is subject to this examination for validity before any vows can be taken in the Catholic Church. The civil documents for marriage and divorce and a recent copy of the Catholic's baptismal certificate are required for the examination.

WHAT IF I REMARRY WITHOUT AN ANNULMENT/ MARRY SOMEONE PREVIOUSLY MARRIED WITHOUT AN ANNULMENT?

First, no priest can witness or be present at this type of marriage (since the previous marriage is presumed valid); second, the Catholic suspends his/her privilege of receiving the sacraments until an official determination is made; third, the civil union is considered to be irregular or "outside the Church". Despite the loss of these privileges the Catholic is not excommunicated because of this union and remains obliged to practice his/her Catholic faith.

WHAT ARE THE STEPS IN PETITIONING AN ANNULMENT?

The official process begins with a narrative of the courtship and marriage and a profile of the personalities of the parties to the marriage. Tribunal guidelines direct the composition of the narrative. Within 30 days of the receipt of the narrative the Tribunal gives notice whether the petition can be accepted. If accepted the official process of examination begins.

WHAT ABOUT THE FORMER SPOUSE?

Once the narrative is accepted, the Tribunal notifies the former spouse in writing. Known as the respondent, the former spouse has a right to know about the process, give testimony and introduce witnesses. In some cases it is extremely difficult to give an Affirmative Decision without the cooperation of the former spouse. While locating a former spouse may pose problems, all reasonable efforts must be made. The former spouse is allowed ample time to reply.

WHAT ABOUT WITNESSES?

Marriage is never totally private. Church law requires contact with witnesses to assist the Tribunal in a deeper understanding of the union. The Tribunal contacts the knowledgeable witnesses directly. Testimony, especially about the courtship and

beginning of the marriage, is gathered by way of questionnaires.

WHAT HAPPENS AFTER THE TESTIMONY IS ASSEMBLED?

After the available evidence has been gathered, the Defender of the Bond must argue for the validity of marriage, the rights of the persons and the rights of the Church. The assigned Judge gives formal hearing to the case in which the facts, circumstances and evidence are carefully evaluated according to Scripture, Church teaching and Church law.

WHAT FURTHER ACTION MAY OCCUR AFTER THE TRIBUNAL'S DECISION?

When a disagreement is lodged against the Tribunal's decision, Church law allows for an appeal by either the petitioner, the respondent or the defender of the bond. For the Archdiocese of Omaha the appeal tribunal is the diocesan Tribunal of Second Instance which convenes in St. Louis, Missouri. Final appeal is to the Sacred Roman Rota in Rome.

WHEN CAN A PETITION BE MADE AND HOW LONG IS THE PROCESS?

The Tribunal procedure requires approximately 12 – 18 months from the acceptance of the narrative until the final decision. Justice demands that cases be handled in the order that petitions are received. While Church law allows the parties to have access to the testimony in the case, the Tribunal determines the conditions for this access; otherwise, strict confidentiality is observed.

WHAT HAPPENS AFTER AN ANNULMENT IS OBTAINED?

A Decree of Nullity is distinct from all other procedures regarding marriages. After an Affirmative Decision an individual may begin the usual procedure for marital preparation in the Catholic Church with the local parish priest, provided there are no other restrictions. Some Decrees of Nullity have restrictions (known as a *vetitum* or a *monitum*) on future attempts for marriage. For some individuals this may mean an indefinite postponement of marriage in the Catholic Church. For others it may require an individual to undergo additional or specialized counseling to protect against any obstacle to a future valid marriage.

WHAT COSTS ARE INVOLVED WITH ANNULMENTS?

The Archdiocese of Omaha eliminated the fees for all marriage cases (effective 9/9/15).

WHAT IS THE BASIS FOR A DECISION RESULTING IN AN ANNULMENT?

An individual is presumed to know marriage is a permanent union of exclusive fidelity having something to do with raising children. If an individual does not intend fidelity, permanence or excludes the right to children but says the vows, he/she acts invalidly. Serious mental illness or defects in emotional stability owing to serious psychological causes may also render an individual incapable of entering into marriage. Signs or symptoms of such disorders are not obvious many times to the average person. In

these cases the Marriage Tribunal often calls upon experts, employed by the Tribunal, as part of the examination process.

Ever mindful of the Scriptures and the treasure of the Church's continuous teaching regarding marriage in God's plan, the Marriage Tribunal provides an important ministry within the life of the Church. Through conscientious examination the Tribunal renders an official determination of the validity of marriage in particular petitions and the freedom to marry according to God's plan.