

Annulment - Frequently Asked Questions

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What is marriage?

According to the teaching of Christ and the Church, marriage is a covenant by which a man and a woman establish between themselves a partnership for the whole of life. By its nature, marriage is ordered toward the good of the spouses and the procreation and education of children. Christ the Lord has raised marriage between two baptized persons to the dignity of a sacrament. This partnership requires that the two truly become one, that they are faithful to one another, and that they maintain their irrevocable union until death.

The dignity and importance of marriage is recognized in all cultures throughout the world. The Church teaches that the well-being of the individual person and of both human and Christian society is closely bound up with the healthy state of conjugal and family life.

Marriage comes about by the consent of the parties, which is exchanged in a manner recognized by the state and the Church. Therefore, even though a priest or deacon serves as the official witness at a Catholic wedding, it is really the bride and groom who are the ministers of the sacrament. In this sense they really marry themselves when each one gives his or her consent and receives the consent of the other.

According to Church law, once a man and woman enter marriage by legitimately manifesting their consent, they are presumed by the law itself to be married. Consequently, the validity of a marriage is to be upheld until the contrary is proven.

What is an annulment?

The term annulment refers to an official declaration by the appropriate Tribunal of the Catholic Church that what appeared to be a marriage was, in fact, not a true marriage that is binding upon the parties for life. An annulment, or declaration of nullity as it is correctly named in Church law, does not deny that a relationship really existed. It would be silly to think (or for the Church to declare) that there was no wedding or that a marriage never existed. A declaration of nullity means that the relationship fell short of at least one of the essential elements for a binding sacramental union.

An annulment is not a Church divorce. A civil divorce decree breaks a marriage bond. In "no-fault" divorces, the parties get divorced by agreeing to revoke their consent. According to the teaching of Christ and the Church, once the parties legitimately and validly exchange their consent, they cannot revoke it later on at their own will. An annulment is a declaration from the Tribunal that the marriage was invalid from the moment of the wedding. The reasons for granting an annulment are reviewed next.

What are the reasons for granting an annulment?

A declaration of nullity can be issued for a number of reasons that are established by Church law.

1. The required form of marriage was somehow radically flawed in the celebration of the wedding. For Catholics, it is required that they be married in the presence of a duly authorized priest/deacon and two witnesses according to the rite of marriage.
2. There was some impediment to a valid marriage. For example, a person who was previously married (whose spouse is still living and there was no annulment of that marriage) is not free to marry. There are other impediments in Church law. In each case, the Tribunal will check for the existence of any such impediments at the time of the wedding.
3. The consent of either one or both of the parties was invalid because:
 - a person lacks the sufficient use of reason;
 - a person suffers from a grave lack of discretion of judgment concerning the essential rights and duties of marriage that are to be mutually given and accepted;
 - a person was ignorant about what marriage entails;
 - a person is in error about the person he or she is marrying;
 - a person is in error about a quality of the person he or she is marrying;
 - a person was deceived by fraud which was perpetrated to obtain consent;
 - a person is in error about the unity, indissolubility or sacramental dignity of marriage;
 - a person totally simulates consent, excluding marriage as the Church understands it by substituting his or her own idea of such a union;
 - a person partially simulates consent by excluding either the good of permanence, the good of fidelity, or the good of children;
 - a person marries with some condition;
 - a person is compelled to enter marriage due to some force or fear inflicted from outside

Who may apply for an annulment?

Anyone who has been previously married, whether baptized or non-baptized, Catholic or non-Catholic, may petition for a declaration of nullity. All previously married persons are eligible to apply because the Church presumes that every marriage, whether it involves Catholics or non-Catholics, is valid and binding once it has been entered into by a man and woman. Thus, even a non-Catholic who was previously married and now wishes to be married to a Catholic must petition for a declaration of nullity.

Before the Tribunal accepts a petition, a person must provide a certified copy of the decree that proves that a civil divorce has already been granted.

The one who applies for the declaration of nullity is referred to as the Petitioner. The other party to the marriage is referred to as the Respondent.

An annulment petition must be submitted to the Tribunal that has jurisdiction over the marriage in question.

What does the process entail?

The work of the Tribunal is governed by procedures determined in Church law. These procedures are intended to safeguard the integrity of marriage and to protect the rights of all parties involved. Here is a summary of the steps involved in a formal marriage nullity case.

1. The completed petition together with a written account of the history of the marital relationship and witness statements must be submitted to the Tribunal by the one who seeks a declaration of nullity. The petition must be accompanied by the following documents: a recent certificate of Baptism, a certified copy of the marriage license application and record of the marriage, and a certified copy of the civil divorce decree. An initial fee is to be submitted with the petition. The Petitioner will be asked for additional testimony later in the process.
2. Both the Petitioner and Respondent have the right to participate in the process and be heard. Both parties have the right to present any documents and to name witnesses to corroborate the facts of the case.
3. The Judges carefully study the documents and testimony that have been submitted. They also examine the written arguments of the Defender of the Bond, and the Advocates (if they have been presented). In some cases the Judges may consult with a psychological expert. If the Judges reach moral certitude that invalidity has been proven according to the law and jurisprudence of the Church, then the Judges issue a declaration of nullity in writing and this decision is shared with the parties. If the Judges fail to reach moral certitude, then the validity of the bond stands.
4. A Defender of the Bond reviews every case before a decision is rendered. The Defender is responsible for presenting the reasons that argue in favor of a valid marriage.
5. Both parties have the right to appeal the Judge's decision. Even if there is no appeal, the case must be reviewed by the Metropolitan Tribunal. A case is not considered to be final until the decision has been ratified or confirmed by the Appellate Court.
6. In some cases, the Tribunal will order that before either of the parties marries again, they must undergo a professional evaluation or special marriage preparation. This is to make sure that past problems will not be repeated again.

How long does it take?

The cooperation of the Petitioner, Respondent, and witnesses, and the quality of their testimony have an effect on the length of time it takes to investigate a case. The number of cases pending and the requirement that every case be reviewed by an Appellate Tribunal also impact the time each case takes to complete. The Tribunal is required by Church law to give a specified amount of time to various steps in the process.

No two cases are alike. According to Church law a case is supposed to be completed within 18 months. Many cases are completed in less than 12 months. Some may take longer. There is no way that any member of the Tribunal staff can predict when a given case will be finished.

It is important to note that Church law stipulates that no new marriage may be scheduled in any Catholic parish until the annulment process is complete.

Those who participate in the annulment process are asked to cooperate fully and please be patient.

Is there a fee?

The current fee for a formal annulment case in the Archdiocese of New York is \$1000.00. Fees for other types of cases may be only \$50.00. The annulment fees cover approximately 1/3 of the actual cost per case. The remainder of the Tribunal budget is subsidized by the people of the Diocese through the parish assessments and the annual stewardship campaign.

The Petitioner receives notice of the fee at the beginning of the case. The fee may be paid in installments. **It is important to know that the progress of one's case or the eventual decision of the Tribunal is never affected when someone is unable to pay the fee.**

Are there any civil effects from a Church annulment?

In the United States there are no civil effects from a declaration of nullity issued by the Tribunal. It does not affect in any manner the legitimacy or custody of children, property rights, inheritance rights, or names. These issues are under the jurisdiction of the civil courts. The main effect of a declaration of nullity is to determine whether a person is free to enter marriage again in the Church, and thus be admitted to full sacramental participation.

What about the legitimacy of children?

Children born of a marriage that might later be declared invalid are, of course, considered legitimate. Some people think that a declaration of nullity makes the children illegitimate because they think the declaration means the marriage never existed. Both of these views are incorrect. A declaration of nullity does not say that the marriage never existed.

A declaration of nullity has no effect on the status of children. They are regarded as having the same dignity as any person, since all are created in the image and likeness of God.

How does one begin?

A packet with instructions and the forms to be completed are available in every parish. It is a good idea to contact the parish priest, deacon, or pastoral minister who can assist initially.

Can I still receive the sacraments?

A civil divorce does not prohibit a Catholic from receiving the sacraments. However, a Catholic who remarries after divorce without a declaration of nullity (and a Catholic who is married to someone with a previous marriage that has not been declared null) is not to receive the sacraments. The Church encourages a Catholic in such circumstances to continue practicing the faith by remaining members of a parish and by regular attendance at Sunday liturgy and other parish functions. It should be noted that a Catholic who has divorced and remarried is not excommunicated.

Further guidance concerning the reception of the sacraments after divorce can be sought from a parish priest.