

## ***Marriage and the Tribunal***

The Catholic Church believes that marriage is a lifetime exclusive partnership, between a man and a woman, in which they give and receive mutual help and love, and from their union bring forth and raise children.

When Catholics and Orthodox Christians marry according to the requirements of their Churches, and when people of other denominations marry anywhere according to the requirements of civil law, the Catholic Church presumes they marry validly. If husband and wife are both baptized, the Church also presumes their marriage is a Sacrament.

*In the tradition of the Catholic Church a valid marriage that is consummated and a Sacrament cannot be set aside by any human power.*

Because it is a lifetime commitment, the decision to marry is perhaps the most serious decision most people have to make about their personal lives. So much of the person is invested in this decision, so much is expected in terms of time, energy, emotion and resources, that when a couple marries, divorce is unthinkable.

Yet the unthinkable has happened to so many couples, and the reality of divorce is so full of stress and pain, that the Catholic Church seeks to reach out to divorced people in an effort to help heal the wounds while supporting the permanence of a sacramental union.

In its effort to assist the divorced, the Church considers whether the marriage, now broken, lacked one or more of the elements of a valid, sacramental, consummated marriage. If the evidence shows that it was not valid, the Church declares that the marriage never had the binding force that characterizes marriage. If it was not consummated or was never a Sacrament, the Church can dispense from the bond of marriage.

Ordinarily one seeks and obtains such decisions through the Office of the Tribunal. The Tribunal is a Church court set up in a diocese to assist the Bishop in giving timely judgment to individuals who request it. While empowered to consider other types of cases, the Tribunal most frequently deals with petitions for Church annulment or dispensation of broken marriages.

In studying and deciding these petitions, the Tribunal seeks only the spiritual good of the people involved. It makes no attempt to place blame for the breakup of the union. There are no civil effects to its decision. It does not make children illegitimate. It cannot question a child's paternity. It cannot influence a civil court to set or change terms of civil divorce, child custody and support or property settlement.

If a marriage is declared null or dispensed, both spouses then are free to marry someone in the Catholic Church. As a result of that freedom the Catholic spouse or spouses in a new union are enabled to participate fully in the life of their Church.

## Reasons and Grounds

Because there are many reasons why a marriage may lack one or more of its basic elements, it is not possible to list and explain them all here. Almost all of them, however, correspond to one or more of the following questions:

- Was the marriage ceremony legally acceptable to the Catholic Church?
- Were both spouses free to marry each other?
- Was each spouse adequately prepared to understand, accept and fulfill the rights and the obligations of marriage?
- Did each spouse intend to accept and fulfill what, in the Church's tradition, has been taught as the divine plan for marriage?
- Was the marriage physically consummated after the wedding?
- Were both spouses baptized Christians either before or during the marriage?

If someone can honestly answer NO to one or more of these questions as it applies to his or her marriage on the wedding day, then it is possible that some reason or ground exists for Church annulment or dispensation.

## Proof

Marriage is never totally a private affair. It is recognized by society. It has legal existence before the State and the Church. It is a matter of public record and for Catholics marriage in the Church is the celebration of a Sacrament in the presence of the Church's minister and the Christian community.

For that reason, Church law requires proof beyond simply the word of the person seeking the decision. Of course the Church will rely heavily upon the word of the spouses. It was their marriage, and no one knows the intimate details better than they.

The proof beyond the word of the spouses usually comes from the testimony of witnesses, that is, people who knew the spouses during their courtship and marriage and are willing to offer information to the Tribunal. Witnesses may be relatives, friends or acquaintances.

Marriage counselors, psychologists, doctors, and other professionals may also act as witnesses, but when they do so, they require a release signed by the person about whom they are giving information. Medical or military, government or judicial records can be admitted as evidence. Sometimes even the transcripts of a civil action, especially civil annulment, can offer proof not available anywhere else.

In certain instances testimony about the credibility of a spouse (character witness) is acceptable, but it almost never stands alone as proof.

## Request or Petition

Any spouse who wishes to do so may seek a Church annulment or dissolution of his own or her own marriage. A person may seek an *annulment* in the Tribunal of a Catholic diocese within whose boundaries the marriage took place, the Tribunal of the diocese in which the former spouse resides, the Tribunal where the person seeking the decision has a permanent address, or the Tribunal where most of the proof would be found. In some cases, the Tribunal where the former spouse lives has to give consent.

A *dispensation* of marriage that was not consummated or was not a Sacrament is usually sought through the Catholic diocese where the person seeking it lives.

In the Diocese of Trenton, a person submits this request or petition through a local parish priest or deacon or through one of the advocates approved for this work by the Diocesan Bishop. The Tribunal provides forms for this purpose. These forms are available directly from the Catholic clergy of the Diocese of Trenton. One should have the assistance of the local parish priest, deacon or advocate in completing the forms. The services of approved advocates may be obtained through one's parish, or the diocesan Office of Family Life/Respect Life.

In filling out the required form, which is called the *petition*, one should take care to answer all the items truthfully and as completely as possible. Extra sheets of paper can always be used and included in the petition.

For some petitions, a "personal history" is also needed. The priest, deacon or advocate assisting the petitioner can advise whether or not the personal history is required for that petition. The request should be typewritten, signed and dated by the petitioner and forwarded to the Tribunal together with the required documents and filing stipend of fifty dollars (\$50) payable to the Diocese of Trenton. The person who sends this material to the Tribunal should be sure to keep a copy of it.

With the petition, the *petitioner* (the person submitting the request) needs to include a baptismal record (or birth certificate if no baptismal record can be obtained), a record of the marriage in question, and a record of the civil divorce or civil annulment by which this marriage was legally ended.

If an advocate is involved, the petitioner must designate the advocate in a signed letter. Without a completed petition form, the required documents, and the petitioner's signature and date of the request, a petition cannot be accepted at the Tribunal and will be returned to the sender.

Within two weeks of its arrival at the Tribunal office, a complete petition will be assigned to a staff member, who will accept or reject the petition and notify the persons involved. A rejected petition can be appealed, or else corrected and submitted again to the Tribunal.

An accepted petition goes through several stages: determining the grounds on which it will be studied, obtaining the necessary testimonies and other proofs, and review by experts if the grounds involve the behavioral sciences.

The petitioner will ordinarily be interviewed at the Tribunal, and the priest, deacon or advocate who submits the case may be asked to help in gathering some of the proofs.

After everything requested has been received, the petitioner and the former spouse may be allowed separately to come to the Tribunal office to read those parts of the file which are not restricted, and to add information. When neither petitioner nor the former spouse have anything else to add, the case will be concluded and a decision given.

## **The Decision**

Depending on the nature and grounds of the petition, a decision will be made by the Tribunal, or by the Diocesan Bishop, or by the Pope through one of his offices in Rome. An *affirmative* decision means that the petition has been granted. A *negative* decision means that it has not. Both affirmative and negative decisions can be appealed.

If an appeal is required, no new marriage can take place until the appeal has been completed and two affirmative decisions have been given.

No one can promise or guarantee an affirmative decision before one is actually made. If a parish priest or deacon expresses the opinion that a person "has a case" or "should qualify" for an annulment or dissolution, that should be understood as an encouragement to petition or pursue a decision, but in no way is it a guarantee of favorable outcome.

When the Tribunal says that a petition is accepted, it means that there is a reason to consider the request, but an annulment or dispensation is granted only if the requirements of proof are met.

## **Time and Cost**

Church law requires that a petition be processed and completed within a year, and the Tribunal does everything possible to comply with that. Even so, no one can promise a date when the final decision will be given.

The decision in any case depends upon many factors which no one can be sure will fall into place by a given date. Chief among those factors are the difficulty of the case, the cooperation of the persons who are contacted, the weight of the proofs, the willingness of the petitioner to provide what is requested, the availability of trained persons in the Tribunal, and the number of petitions received and pending at the time.

*"Priests and deacons are forbidden to schedule a wedding date for any person who needs a declaration of nullity from a previous marriage until the declaration has actually been obtained." (Statute 316, Fourth Synod of Trenton) The fact that a wedding date has been set will not give any petition priority over others.*

Sometimes, as part of the annulment decree, the spouses are required to obtain further evaluation of their readiness for marriage or additional counseling or other assistance in order to prepare well for marriage.

Because of the expenses incurred in the study of a marriage, the Tribunal asks each petitioner to help defray a part of the costs. This stipend varies from \$50 to \$600, depending on the type of case. Usually \$225.00 is requested if a full, formal study is required.

At the time a petition is accepted, the petitioner will be asked to assume the fee, or request a reduction or waiver due to inability to pay. *The Tribunal will accept petitions and complete cases even if people are unable to offer anything beyond the filing stipend.*

### **Contacting the Former Spouse**

The Tribunal usually must notify the former spouse, who is called the *respondent*, or at least make the effort to notify. Church law and indeed basic justice require that the other party to a marriage have the opportunity to know about the petition and to defend the validity of the marriage. For that reason the Tribunal asks for the respondent's address, or the name and address of someone through whom the respondent can be reached by letter.

The Tribunal does not ask the spouses to have any contact with each other, and does not bring them together for any reason, but it must make the effort to extend to the respondent the right to be heard. The right to be heard in annulment cases includes: knowing the grounds on which the marriage is being challenged and the proofs of those grounds; having an opportunity to offer testimony about the marriage, either in agreement with or in opposition to the grounds and proofs; offering other proofs, naming witnesses who should be contacted; reviewing the case file in certain cases, and appealing the final decision.

The respondent may choose not to exercise this right to be heard, and that choice would not prevent the Tribunal from completing its study. However, if the respondent is denied the opportunity to be heard, he or she could challenge the final decision at any time in the future.

### **Notes on Annulments**

Each request is as unique as the persons who entered the marriage. While no one can be guaranteed an affirmative decision in advance, a person who thinks his or her marriage was defective from the beginning should be encouraged to request the study of that marriage. Many have already received justice through this process.

At times people express the fear of reopening old wounds and hurts by going through a Church process of nullity or dissolution. Yet the deeper self-understanding that can come from an honest and searching study of one's broken marriage can

heal these wounds and hurts much more profoundly, and provide part of the solid foundation for a lasting and successful marriage in the future.

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