

Annulment of Marriage in the Diocese of Sacramento

THE TRIBUNAL

DIOCESE OF SACRAMENTO

INTRODUCTION – *What the Catholic Church Assumes Marriage to Be*

While the Church does not offer an exhaustive definition of marriage, it does provide us with a clear description of this unique and most critical of relationships. This description is drawn from the Second Vatican Council as reflected in the Code of Canon Law:

“The matrimonial covenant by which a man and a woman establish between themselves a partnership of the whole of life, is by nature ordered toward the good of the spouses and the procreation and education of children...”

Thus, a marriage is firstly a covenant, brought into being by the consent of both parties. This consent, once given by the spouses, creates the covenant *with* God, and is presumed, by the Church in law and in Her practice, to exist in every marriage until the contrary can be established before a church tribunal. This presumption is grounded in our understanding of how God communicates the Truth to us — from our Tradition and the Scripture.

DIVORCED – *What Do You Think It Means?*

Having separated, and then having concluded a legal process, the marriage in our society is presumed to have ended (died). For many, this “frees” them to consider forming a relationship with another which may be expressed maritally in the future. The Catholic Church is unable to participate in confirming this decision precisely because, to do so, would be to contradict the promises and prayers which were made in the prior marriage. We ask the divorced person to begin a spiritual and faithful reflection on the meaning of the prior marriage, with what intent and capacity was that marriage entered into, with the knowledge, and hopefully the experience, the Church is always present and supportive of such a reflection.

When someone forms a *moral certainty* that his or her prior marriage was not a covenant “joined by God,” which ought to be the fruit of prayer and a comprehensive reflection process, it is our hope this person will petition the Church for an annulment. This petition asks the Church “court” to evaluate if there is objective evidence to support the internal conviction formed, in other words, the Church is asked to confirm publically this conscience choice. This is done through an investigation of the “canonical” validity of a particular marriage (Catholic or non-Catholic). This is why we use the term “court,” where the subject at issue is the sacramentality of the marriage, considering whether or not there is information available to invalidate the divine obligations of the marriage entered into. To do so, the analysis follows certain rules and procedures, which ensures that all marriages enjoy the presumption of being holy, and permanent, unto the death of one of the spouses. This analysis of the conscience of the Christian may only begin after a civil divorce has been obtained, thus confirming the termination of the marriage relationship, and that “all matters of this earth” regarding the marriage have been resolved (i.e., custody of children, disposition of property, etc.).

ANNULMENT – *Sounds Harsh, But It Affirms Our Teaching From God*

The Tribunal of the Diocese of Sacramento is the office designated to reflect on whether a marriage was a sacrament of our Church, first investigating if the marriage falls within its competence, i.e. the marriage was celebrated in the diocese, or where one of the spouses now resides.

An “annulment” is a declaration by the Tribunal that a particular marriage was canonically invalid from its beginning (not a sacrament). Or, in other words, that there were conditions, intentions, and capacities, which support the assertion of one of the spouses that the presumption of the covenant in their marriage was not true. This declaration does not deny the intention for marriage, and the interpersonal relationship which existed; it has no impact on whether or not a legal marriage was contracted, for that is for the civil courts to determine. Nor does an ecclesiastical (Church) annulment imply that the marriage was entered into with any ill will or in any way addresses the moral fault of anyone. The same may be said for the divorce of marriage. Likewise, an annulment has no civil effects and does not make any children born of the relationship illegitimate. It is simply, and yet profoundly, a declaration that the marriage was not a sacrament, affirming that Jesus Christ was not sacramentally present in the celebration of the marriage. An annulment is an action of the Church (affirming by its law and practice) *the conscience* of one of the marital parties that he or she believes he or she is not bound by their prior marriage, and that they believe themselves to be free to celebrate the Sacrament of marriage.

INITIAL INTERVIEW AND PRELIMINARY PHASES – *The Petitioner*

Those who wish to initiate a petition for an annulment should call their local parish, or the Tribunal, to ask for a set of directions. At that time, you will be told what documents must be procured and what statements prepared. When you have collected all the required papers, an appointment will be arranged to help you identify some possible grounds for the annulment and to explain the rest of the procedure. In other words, what are the **objective** factors which may be known to support the interior assessment, the conscience, of the petitioner.

It is important for you to understand that the word of the parties alone is not adequate to establish that their marriage is not a sacrament. While the word of either or both parties is vital in an effort to respect the *conscience* of the Christian, an annulment is a public recognition of that conscience, through objective criteria. (Otherwise, there would be no Sacrament of Marriage, since we could not honor the words of the Gospel, “no one must separate what God has joined together.”)

Accordingly, the judgment of the petitioning party must be supported by evidence. For this reason, the petitioner will be asked to provide the names and addresses of witnesses (family members, friends) who will be willing to provide information as to what they know regarding the intentions, wills, and conduct of the two parties in the marriage.

The Church holds that certain conditions must be present at the time one contracts marriage; in other words, for the marriage to be considered canonically (by law) and ecclesiastically valid (in other words, for a sacrament to have been celebrated). In these preliminary steps, the Church is trying to identify any condition that may not have been present; and if not, what is the strength of the evidence to support the presumption that this marriage was not of God.

If grounds for the annulment are based in any way on psychological factors, the petitioner may be asked to have one interview with a psychologist or psychiatrist. The purpose is to examine what effects such underlying psychological factors may have had on the parties at the time of the wedding.

THE PETITION – *Asking the Church to Consider the Question*

From the above information, a determination will be made whether or not there appears to be a basis for a FORMAL HEARING. When there seems to be some basis for the hearing, and that there are grounds for an annulment, a PETITION will be drawn up in your name to be submitted to this Tribunal. The presentation of your petition is not a guarantee of an affirmative decision by the Tribunal. The outcome will depend on what develops during the FORMAL HEARING.

THE FORMAL HEARING – *An Objective, Impersonal, Deliberation*

The Tribunal is composed of: a Judge or Judges, a Defender of the Bond, a Notary (who records or transcribes testimony), an Advocate (for your former spouse). At a prescribed date and time, you may be asked to appear and give formal testimony. Your witnesses will have also been asked to submit in writing their statements, or invited to appear and testify. Every witness, as well as the parties, will be contacted by the Judge. Throughout this process CONFIDENTIALITY is protected.

While the process is done to learn in a public forum whether the internal conviction of one of the parties can be affirmed, the formal hearing is not public. There is no confrontation of the parties or witnesses as would be the case in American law. The process is meant to verify the conditions that existed at the time the marriage was contracted through a deliberative exchange of views and insights.

THE DECISION – *Does the Church Know What You Know?*

When all the available information has been gathered, the Judge(s), after studying the testimony and the briefs of the Advocate, and of the Defender of the Bond, will reach a decision. If a negative decision is reached, which means that the gathered evidence does not support a moral certainty what the conscience of the petitioner believes (that the Church cannot support the presumption that the marriage was not a sacrament). The parties will be informed of their right to appeal. If an affirmative decision is reached, which means the Church holds “with a moral certainty” that there was no bond “created by God,” the parties are also so informed. Church law requires that each case be reviewed by another Tribunal, to ensure that the laws of the Church were followed (ensuring that no undue, inappropriate, influence effected the decision). The decision is therefore referred to another Tribunal (in the case of the Diocese of Sacramento, the decision is reviewed by the Archdiocese of San Francisco) before a final decision is given.

LENGTH OF TIME – *Why So Long?*

The amount of time it takes to process a case depends upon many factors:

- The cooperation in writing the preliminary statement and the cooperation of the witnesses in submitting their statements.
- The cooperation of the former spouse, the respondent.
- The required court procedures needed to adjudicate the case, including the appearances of parties and witnesses.
- The number of cases pending on the Tribunal calendar.

The provision of the Church's law that requires all formal cases to be reviewed by a forum of three judges after an affirmative decision has been reached. It is impossible to give an exact time, but past experience indicates that an entire procedure lasts between eighteen months and two years depending upon the nature of the case. Many cases because of the above- mentioned factors, cannot be resolved even in this time. Under no circumstance should a Church wedding be planned until a favorable decision is rendered.

EXPENSES – *Why Does It Cost At All?*

More than half of the cost incurred in processing an annulment is borne by the Diocese of Sacramento. Those seeking an annulment are asked to contribute towards these expenses. The actual amount always depends on the type of case. At this time, a fee of \$450 is requested for a FORMAL HEARING, a portion (\$100) is received when a PETITION is submitted and the balance is paid in a manner determined by the Tribunal and the petitioner.

Inability on the part of the Petitioner to pay the entire fee, or even a portion of the fee, has absolutely no bearing on the final decision. If the petitioner cannot pay, a letter from the priest, deacon, or pastoral minister will normally suffice to have the Tribunal to reduce or cancel the amount of costs. A person is never turned away from this Tribunal because of lack of money.