

MARRIAGE

The Catholic Church teaches that marriage between the baptized has been raised by Christ the Lord to the dignity of a sacrament. By doing so, He enhanced the dignity of an institution already made holy in God's creation. Marriage is an enduring and exclusive partnership in which husband and wife establish a loving and life-giving relationship. This natural sacred relationship becomes a Sacrament if both parties are baptized.

Because the institution of marriage is of divine creation, the Church's teachings concerning the dignity of marriage apply to all marriages, not just the marriages of Catholics.

For this reason the Catholic Church views civil divorce very seriously - a last resort to safeguard rights under civil law. The Church does not accept that divorce can dissolve the actual bond of a valid marriage. Church law, in fact, presumes that a marriage is valid once it is entered, a presumption which remains in force unless and until the contrary is proven.

Not every marriage, however, meets the standard established by Jesus Christ - a standard which requires certain intentions and capabilities on the part of both husband and wife. Without these intentions and capabilities a marriage does not have the kind of enduring bond which He taught is indissoluble (unbreakable). In other words, while a marriage relationship exists between the parties and has certain consequences, it might not necessarily have been the type of marriage bond, which could be broken only by the death of one of the parties.

THE NATURE OF AN ECCLESIASTICAL DECLARATION OF INVALIDITY

The purpose of the process is to determine whether or not an indissoluble marriage bond was established when the parties entered their marriage. It must be proven clearly and without doubt that this enduring bond was not established in order for a marriage to be declared invalid. This proof must focus on grounds of invalidity recognized by Church law and applying to the marriage in question from its very beginning. Examples of such grounds are immaturity or psychological factors which seriously impeded the freedom of the parties in entering the marriage. There are many other grounds as well. In all instances, they focus on the time the marriage was entered.

The invalidity process is conducted by the Tribunal. The Tribunal is the Ecclesiastical Court of the Diocese of Raleigh and functions under the guidelines established by the Code of Canon Law, the universal law of the Catholic Church.

A declaration of invalidity by the Church has no civil effect in the United States. It does not deny the reality of the relationship that existed. It merely concludes that at least one of those elements considered by the Church as essential for a lasting, indissoluble union was missing. It does not, therefore, affect rights in regard to such matters as property, inheritance, visitation of children and the like. It has no effect on the legitimacy or rights of any children born of the union, either in civil law or Church law. There is no attempt in the proceeding to cast doubt on the good faith of either party in entering the marriage, or to affix guilt or blame for the breakup of the union.

THE PETITIONER

To begin the process, a person may wish to speak with the local pastoral minister or may contact the Tribunal. To have a petition accepted for investigation, the Petitioner must:

1. indicate that there was present from the beginning of the marriage some basis on which it might have been invalid, and
2. show that there is some reasonable hope of being able to prove this contention.

At the time of this appointment, the following documents are to be brought:

1. a recently issued Certificate of Baptism if one or both of the parties Catholic;
2. Marriage License/Certificate (Marriage License is preferred); and
3. Civil Divorce Decree.

During this initial interview, the process is explained in greater detail and instructions, as well as a questionnaire and form for a detailed narrative to be completed, are given to the Petitioner. The Petitioner is to submit a list of prospective witnesses who can testify about the alleged ground of invalidity with the completed questionnaire and narrative.

Ordinarily, the Petitioner meets with Tribunal personnel only at the beginning of the case. Additional meetings may be necessary, depending on the circumstances of the case.

THE RESPONDENT

The Tribunal next contacts the former spouse (called the 'Respondent'), who, by law, has a right to be heard. A questionnaire is submitted to the Respondent to provide information regarding the alleged ground of invalidity. The Respondent has a right to be represented by an Advocate in the proceeding and is given an opportunity to appoint a member of the Tribunal staff to fill this role.

The importance of the Respondent's cooperation varies from case to case. In some instances it might well be impossible to prove the contention without such cooperation; in other cases it might be less important. The Respondent is given a set period of time to reply. An additional period can be requested if the one initially established is inconvenient. A Respondent is not permitted, however, to delay the case unreasonably. The Respondent's participation in the process, while highly desirable, is not always essential and, in the event of non-cooperation, the case can proceed, recognizing that the grounds alleged in the case must still be proven.

WITNESSES

It is the Petitioner's responsibility to ensure that the various witnesses cooperate. The Petitioner is expected to inform the witnesses of the situation, indicating that they will be contacted by the Tribunal, and requesting their prompt cooperation. Each witness is sent an affidavit based on the grounds in the case.

and a cover letter explaining how to proceed. Witnesses are encouraged to be as honest and complete as possible in their answers. The testimony is to be given under oath, and witnesses have the option of signing the completed affidavit either before a Pastoral Minister, or in the presence of a Notary Public.

A witness is offered the option of invoking confidentiality. However, the witness must stipulate the grave danger that might occur if the testimony were made known to the parties to the marriage. The Judge will then consider the request.

PROCESSING TIME

The length of time involved varies from case to case and depends on many factors, many of which are beyond the control of the Tribunal. At the time of the interview, the Petitioner will be informed of the average length of time required to process the case. It is also made clear that this is just an average and not a guarantee that the case will be completed in that time or that the final decision will be favorable.

Sometimes, due to the circumstances of a case, a Prohibition may be placed on one or both of the parties. A Prohibition restricts the party or parties from having a subsequent union recognized by the Church until such time as those circumstances which contributed to the invalidity of the first marriage (e.g., immaturity or alcoholism) are either no longer present or under control. In this way, those problems that were evident in

the first marriage may not be carried into the new one. Once a Prohibition is lifted, a new marriage may be entered. Therefore, a Prohibition should be seen as a safeguard both to help the party or parties come to recognize problems and to protect the integrity of the Sacrament of Marriage. It should not be seen as a penalty.

For these reasons, the parties should not make arrangements for a possible future marriage or convalidation until the entire process is completed, the final decision is confirmed, and any Prohibition is lifted. It is the policy of the Diocese of Raleigh that a wedding date not be set until the entire process is completed. If, however, a date has been set, no commitment will ever be given by the Tribunal to complete a case by a specific date.

The law of the Church requires that every decision of a local Tribunal affirming the invalidity of a marriage must be reviewed by a Court of Second Instance, which, for the Diocese of Raleigh, is the Metropolitan Tribunal of the Archdiocese of Atlanta. This requires additional time, which, depending on the kind of case involved, may be substantial. This is another reason why the Petitioner should make no plans for entering a new marriage until the process is finally completed. Upon completion, the Petitioner is notified and sent a copy of the final Decree. A similar communication is sent to every Respondent who has not indicated a contrary desire or waived the right of notification earlier in the process.

COSTS

The Tribunal is heavily subsidized by the Diocese of Raleigh through the generous contributions of the Catholic laity of the Diocese. The Petitioner is, however, asked to make a contribution to the Tribunal to help defray a portion of the costs incurred in the processing of the case.

This may be contributed either at one time or in installments according to the *Suggested Schedule of Contributions*. No one approaching the Tribunal for assistance is denied the opportunity to institute the process because of inability to contribute financially.

FOR INFORMATION

Call or write:

Tribunal-Diocese of Raleigh
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Raleigh, North Carolina 27606
Telephone: (919) 821-9700

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FREEDOM

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