

# Divorce and Remarriage in the Catholic Church



The discussion of divorce and remarriage among both Catholics and Non-Catholics can be a sensitive issue; there are many misunderstandings of Church teachings in this area. However, few Catholic families remain untouched by the pain and sadness of marital breakup, or the questions raised by the process used to investigate the validity of a previous marriage. For both Catholics and Non-Catholics who are interested in marrying in the Catholic Church, your past marriage(s) would need to be examined in order to allow a future marriage in the church. It is also written to help you understand the theology of the Catholic Church regarding marriage, and its process which determines whether a person is free to marry again.

## What is Marriage?

In order to understand what the Church means when it issues a *Declaration of Nullity* it is helpful to look first at the Church's understanding of marriage. Marriage is a covenant between a man and a woman which establishes a partnership for life. Marriage is a vocation which fosters the good of the spouses and naturally leads to the procreation and education of children. Marriage is a sacrament, as St. Paul taught in the New Testament (Eph. 5).

A number of elements must come together for the sacrament of marriage to occur. The first is the "*Canonical Form*" of marriage: a Catholic must ordinarily be married within a Catholic church and before a priest or deacon. The requirements for the *Canonical Form* of marriage applies only to Catholic parties, so we would recognize the marriage of two persons who are not Catholic, even if they did not marry in a church ceremony or religious service.

However, following the proper canonical form of marriage is not all that is necessary for a valid sacramental marriage to take place. The couple must also freely and knowingly choose to enter marriage as the Church understands marriage. This is "*Marital Consent*." A number of intentions must be made by the couple at the time of marriage in order for consent to be valid, that is, in order to establish the unbreakable bond between husband and wife that is a sacramental marriage. The couple must understand what marriage is and they must intend their marriage to be a lifelong partnership which is open to children. They must intend fidelity and the mutual good of one another. They must also have the physical and psychological ability to follow through on these intentions.

When all of the above factors are brought together, a sacramental, indissoluble union is established by God. If a Catholic spouse marries with the proper Canonical Form and with at least the semblance of the necessary intentions given through the marriage vows, we recognize the enduring marriage bond which cannot be dissolved, even if the civil government, through divorce, no longer recognizes that a marriage exists.

When Christians marry in this way, we believe that God has made the two persons one in the sacrament of marriage (cf. Mt. 19:5). Because Jesus taught the indissolubility of marriage—"therefore, let no one separate what God has joined" (Mt. 19:6)—we believe that it is impossible for any human power to break the God-made bond, or sacramental covenant, between husband and wife.

## So, What Exactly is a Declaration of Nullity?

If a Catholic spouse did not follow the Canonical Form of marriage, outlined above, then a relatively simple process can be followed in order to receive a Declaration of Nullity based on a *Lack of Canonical Form*. But if proper Canonical Form was observed, or if it was not required—for members of other faith traditions, for example—a second type of process examines *Marital Consent*, that is, the intentions and abilities of the spouses at the time of marriage. This process is called a *Formal Case*. It is possible to have two persons legally married, but never actually

joined together by God in a sacramental union. The Formal Case process is complex, detailed, and is lengthy—approximately 9 to 12 months, longer for a long-term marriage.

In either the Lack of Form Case or the Formal Case we must be very clear: the Decree of Nullity is not a “Catholic Divorce.” The Church does not have the power to divorce any persons who have been united by God. A Decree of Nullity states that the enduring bond of the sacrament of marriage was never present from the very beginning of the marriage. If this is decided by a church Tribunal, the spouses are free to marry again.

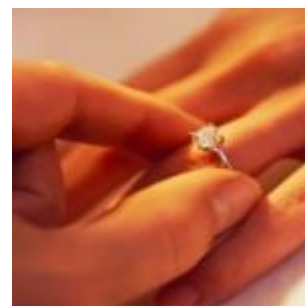
It must also be made clear that a Decree of Nullity in no way affects the legitimacy of children of such a previous marriage, and has no bearing on other natural and civil obligations such as child support or custody. A church Decree of Nullity does not imply that the marriage never existed, but only that it did not have the character of a sacrament. The Church does not seek to assign blame for the marriage breakup to any of the persons involved.

### **Does a Divorce affect a Catholics status in the Church?**

Please remember that a divorce alone would not affect, or hinder in any way, a Catholics participation in the Catholic Church. A divorced Catholic is free to receive the sacraments. However, ***if a Catholic is divorced and remarried without a Decree of Nullity (and your former spouse is still living) a problem does arise. Similarly, if the present spouse was previously married and has not received a Decree of Nullity from a Tribunal, there is a problem.*** In such circumstances, the Catholic party may not partake of the sacraments, including the reception of Holy Communion. We respect all marriages, even those which have ended in a civil divorce.

### **Is it ever possible to enter a second marriage?**

Every prior marriage must be examined, since each is presumed to be valid with a lasting and lifelong commitment. Until it is shown otherwise through the ministry of the Tribunal, no person is free to enter into another Catholic Church marriage without the appearance or occasion of serious sin. To enter into such a union with a Catholic would remove him or her from the sacramental life of the Church, including the reception of Holy Communion



If you or your current spouse are divorced, and remarried outside of the Catholic Church, please consider seeking the healing that an investigation for a Decree of Nullity can bring to you and which will enable you to return to a full participation in the sacramental life of the Church.

### **How Would I Begin the Decree of Nullity Process?**

You should first consult a priest or deacon in your parish who will be able to answer your questions and help determine what type of Tribunal case to begin. Once completed, the parish will then forward your paperwork to the Tribunal. The Tribunal then studies the marriage and decides if this sacramental bond was present in the marriage or not.

### **Some Practical Points**

After all the necessary information has been gathered, you will need to wait for a decision of the Tribunal. This wait can be frustrating, as it may take many months. Because of the number of marriage cases pending before the Tribunal and the detailed and careful process with which each one is handled, it is never possible to expedite any one’s request for a declaration of nullity, nor to promise a definite date of conclusion, nor even to promise a favorable decision. In light of this, the priest or deacon working with you is not able, nor permitted to set the date for any future wedding.

## **A Few Final Comments**

While this process can bring up painful memories from the past, we have experienced that most persons have found new strength, understanding, and healing by discussing their prior marriage with a person who represents the Church. It is the sincere intention of the Tribunal that this entire process be, for you and all involved, a time for healing and insight. All those involved in helping you through this process understand their work as a ministry.

We understand and appreciate the effort any person needs to put forth when seeking a Declaration of Nullity. The process could be seen as an obstacle to your being married within the Catholic Church with your intended spouse. However, it could also be seen as a means of personal and spiritual growth toward the happiness you were meant to enjoy with God. Please don't allow any questions or doubts to keep you from approaching the Tribunal about a former marriage. Talk over your concerns with a priest or any other knowledgeable Catholic with which you feel comfortable.

May God bless you as you seek communion with us in the Catholic faith. If you are divorced, may the Lord's mercy touch the memories of this painful time in your life through the Church. Should you decide to seek a Declaration of Nullity, may it be a source of healing for you.