

tribunal procedures

Questions and Answers about
Marriage Cases in the Catholic Church
and the Diocese of Grand Rapids

DIOCESE OF GRAND RAPIDS
TRIBUNAL
360 DIVISION AVENUE S.
GRAND RAPIDS, MICHIGAN 49503-4539
PHONE (616) 459-4509
FAX (616) 459-7488
e-mail gtribunal@dioceseofgrandrapids.org

WHAT IS A MARRIAGE?

The Catholic Church understands marriage to be a permanent and exclusive covenant partnership between a man and a woman for the giving and receiving of love and for the procreation and upbringing of children. If both parties have been baptized, a true marriage is at the same time a sacrament, a grace-filled sign of God's enduring love for his people.

Most recently, the Church has made clear its traditional teaching on marriage in the Pastoral Constitution on the Church in the Modern World (#48), issued by the Second Vatican Council in 1965:

The intimate partnership of married life and love has been established by the Creator and qualified by his laws. It is rooted in the conjugal covenant of irrevocable personal consent. Hence, by that human act whereby spouses mutually bestow and accept each other, a relationship arises which by divine will and, in the eyes of society too, is a lasting one. For the good of the spouses and their offspring as well as of society, the existence of this sacred bond no longer depends on human decisions alone.

For God himself is the author of matrimony, endowed as it is with various benefits and purposes. All of these have a very decisive bearing on the continuation of the human race, on the personal development and eternal destiny of the individual family itself and of human society as a whole. By their very nature, the institution of matrimony itself and conjugal love are ordained for the procreation and education of children and find in them their ultimate crown.

Thus a man and a woman, who by the marriage covenant of conjugal love have no longer two, but one flesh" (Matthew 19:6), render mutual help and service to each other through an intimate union of their persons and of their actions. Through this union they experience the meaning of their oneness and attain to it with growing perfection day by day. As a mutual gift of two persons,

this intimate union, as well as the good of the children, imposes total fidelity on the spouses and argues for an unbreakable oneness between them.

According to Church teaching, a genuine marriage between two baptized persons is permanently binding and cannot be dissolved. This is the law of God according to the evidence found in the Old Testament, the Gospels, the writings of St. Paul, and almost two thousand years of Christian tradition.

WHAT DOES THE CATHOLIC CHURCH THINK ABOUT DIVORCE?

Divorce is unique among life experiences. Nothing can adequately prepare a person for it. It is the result of a series of incidents which eventually erode a relationship between a husband and a wife. The ending of any marriage that has endured long enough for the two partners to invest portions of their lives, emotions, and dreams is a traumatic experience. The Catholic Church accepts as normative Christ's prohibition of divorce (Matthew 19:3-9). The Church addresses this issue through its ministry, bearing in mind the needs of the divorced person while supporting the permanence of a sacramental union.

HOW THEN IS A DECLARATION OF NULLITY OF MARRIAGE POSSIBLE?

The Church also teaches that a marriage can be considered genuine only when it is founded on the kind of relationship that corresponds to God's plan for marriage. Over the course of the centuries, the Church has learned that certain intentions and capabilities must be brought to this relationship by the parties involved, in order that their union might indeed be a foundation for a true marriage. Without these intentions and capabilities, there can be no true marriage. In such a situation, there is no permanent bond, regardless of external appearances or subsequent events. The parties who were involved in a union of this sort cannot be considered permanently bound to such

a relationship, and they have a right to have their free status recognized in an official way. The purpose of a marriage case before a Catholic Church tribunal is to determine whether the parties are bound to the prior marriage by investigating whether the bond of marriage as the Church understands it ever came into being.

WHAT IS THE PURPOSE OF THE TRIBUNAL?

Church law (known as *canon law* from the statutes or canons of which it is composed) calls for the existence of a tribunal in every diocese in the world. Every governing body has an executive, a legislative, and a judicial branch. The tribunal is the judicial branch of the local church government. In Grand Rapids, the tribunal is under the direction of the Bishop of Grand Rapids and is supervised by his delegate, the judicial vicar. Through a specially trained and experienced staff, assistance is offered to people who formally request that the Church study a marriage to determine whether or not the parties are bound.

ARE THERE ANY CIVIL EFFECTS TO A CHURCH DECLARATION OF NULLITY?

Not in the United States. A church declaration of nullity *does not in any manner affect the legitimacy of children, property rights, inheritance rights, visitation rights, names, etc.* It is a declaration from the Catholic Church that a particular union, presumably begun in good faith and thought of by all as a marriage, was in fact an invalid union *as the Church defines marriage*. There is no attempt in the process to impute guilt or punish individuals. On the contrary, the

purpose of the tribunal procedure is to serve the conscience and spirit of the petitioning party and to reconcile people to full sacramental participation in the family of the Church.

HOW DOES THE TRIBUNAL ARRIVE AT A DECISION ABOUT THE NULLITY OF A MARRIAGE?

The tribunal applies the gospel teachings of Jesus Christ and the canon law of the Catholic Church to the situation in question. The ministry of the tribunal is concerned with the dignity of marriage and the good of the individual parties. The tribunal works toward this end by carefully protecting the rights of the parties as well as the rights of the Church, which understands itself to be charged by Jesus Christ as the guardian of the sacrament of marriage.

HOW DOES ONE SUBMIT A PETITION FOR A DECLARATION OF NULLITY?

Contact your parish priest, who will arrange a meeting with you to complete a tribunal application form. He will provide you with a set of detailed questions which will help you to write a history of your marriage. Your parish priest is usually named to act as your *advocate* or representative before the tribunal, however, the Tribunal may propose one of its procurator/Advocates to assist you. You should submit recent copies of the baptism records of you and your former spouse, your civil marriage license, divorce decree, and any other pertinent documents.

WHAT HAPPENS THEN?

The tribunal makes an initial evaluation of each petition to determine whether there are grounds of nullity in canon law that might apply to the marriage in question, and whether it can be proved with moral certitude that such conditions actually existed at the time of marriage. If there are no canonical grounds or there is no reasonable hope that the alleged grounds can be proven, the petition is returned. If there appear to be some grounds and reasonable hope for proof, the process continues with the gathering of information from various sources.

WHAT ABOUT THE FORMER SPOUSE?

The former spouse (known before the tribunal as the *respondent*) will be contacted by the tribunal and offered the opportunity to reply to the petition as well as to introduce further witnesses. The universal law of the Catholic Church requires this. The rights of the respondent are recognized and protected in canon law as a matter of justice. It is important, therefore, for the tribunal to have a current and complete address of the respondent. If that is truly not available, the last known address and the address of an immediate family member may suffice. Please note that the tribunal will contact the former spouse. You may do this also, if you wish, but it is not required. The former spouse is allowed a specified time in which to reply.

ARE WITNESSES REQUIRED?

Yes, witnesses are required by canon law to assist the tribunal in arriving at a better understanding of you, your former spouse, the marriage, and its problems. Marriage is, in the Church's eyes, a public commitment and not merely a private relationship. It has profound effects on the family, the society, and the Church. *It is important that you provide the current names and addresses of parents, brothers, and sisters of both you and your former spouse, the best man and maid of honor at the wedding, and any other relatives, friends, and neighbors who might be able to give some insight into the marriage relationship.* These witnesses will generally

be contacted by mail by the tribunal. You may, if you wish, contact them to advise them that they will be hearing from the tribunal and to urge them to respond as honestly and completely as possible. Under no circumstances should you enter into any further discussion of the case with them at this time.

WHAT ABOUT SPECIAL WITNESSES?

Sometimes pastors, doctors, psychologists, or counselors have been consulted before or during a marriage in order to assist an individual or a couple. If so, you are welcome to submit complete names and addresses of such professionals as witnesses. You will have to sign a release-of-information form provided by the tribunal so that these professional persons may contact us confidentially with information that may be of great value in the study of a marriage situation.

WHO REVIEWS THIS INFORMATION?

Your own statements, the testimony of your witnesses, and the expert observations of professionals are all treated with the greatest confidence. No one has access to this material except the immediate members of the tribunal staff, who are bound to confidentiality. When all the material has been gathered, the petitioner and the respondent both have certain rights, strictly governed by canon law, to know what the other party has said, as well as the content of any testimony that has not been specifically exempted from disclosure.

This may be handled through the advocates appointed for each party to represent their interests. If there are any hesitations or any questions about this matter, please contact the tribunal immediately.

WHAT IS THE NEXT STEP?

If it appears at any time that there will be insufficient evidence to complete the case, the petition may be formally rejected. An explanation will be given to your parish priest along with appropriate references for proper pastoral guidance and direction. If the petition is formally accepted, the judicial vicar will name the officials who will deal with your case: the *defender of the bond*, who argues the validity of the marriage and helps to guarantee the rights of all parties concerned; the *notary*, who certifies the validity of all documents and testimony; and the *judge*, who writes the formal opinion on your particular case. In more complex and difficult cases, three judges are named.

DO THE PARTIES HAVE TO APPEAR IN PERSON AT THE TRIBUNAL?

Ordinarily, no. If a personal interview seems necessary in order to clarify some points, you will be notified. Such matters are generally handled through your parish priest or your appointed Procurator/Advocate to assist you."

WHEN IS A DECISION MADE?

The judge renders a decision after all interested persons have been heard and all information gathered, and after the advocates and the defender of the bond have offered their views. The law provides for an automatic review of the decision at the appellate level. If either party or the defender of the bond is not in agreement with the decision, a formal appeal can be made. Both mandatory reviews and formal appeals from the Diocese of Grand Rapids are handled through the metropolitan tribunal in Detroit.

WHEN DO MARRIAGE CASES GO TO ROME?

The Roman *Rota* is the highest judicial authority in the Catholic Church, second only to the Bishop of Rome. Cases which are still in dispute after they have gone through the appellate level are sent to the Rota. Certain other cases involving the lack of physical consummation of a marriage or the dissolution of a marriage between a baptized and an unbaptized person are sent to other offices in Rome for processing, but such cases are quite rare.

IS REMARRIAGE ALLOWED IN THE CATHOLIC CHURCH?

Parish priests are not permitted to set a date for a new marriage in the Church until a decision of nullity has actually been granted by the tribunal. If such a decision is granted and there are no restrictions on the party wishing to enter a new marriage, the usual procedure of preparing for marriage in the Catholic Church may then be started with the parish priest. For serious reasons, a restriction may sometimes be placed on one or both parties by the tribunal. This means that only the bishop can give permission for a new marriage to take place, once it has been demonstrated to his satisfaction that the reason for the restriction (for example, gross immaturity, alcohol or drug abuse, deviant behavior, etc.) has been addressed and remedied through counseling or therapy. Permission to marry again in the Catholic Church can in no way be guaranteed before completion of the entire tribunal process. No plans for future marriages should be made before that time. *The tribunal cannot be responsible for arbitrary promises or guarantees made by any priest, religious, or lay person.*

HOW LONG DOES THE ENTIRE PROCESS TAKE?

No two cases are the same, so the length of time varies. The tribunal handles each case as efficiently as possible. Normally, an uncontested case may take one year to complete.

IS THERE A FEE FOR TRIBUNAL SERVICES?

No! The tribunal is subsidized by the people of the diocese, most of whom never require its services. In cases where other expenses may be incurred (for example, a search for documents ~r a psychological evaluation), the petitioner may be responsible for the additional fees.

ARE THERE OTHER TYPES OF CASES?

Yes. The most common are called *documentary* cases, because they are solved almost entirely by proofs from official documents. The simplest is the *lack of form* case, which deals with a Catholic party who, for whatever reasons, was married outside the Catholic Church without Church permission.

Another documentary case is that of *ligamen*, or *prior bond*. This refers to a situation involving a respondent who had been validly married before, and whose marriage had not been ended by the death of the spouse before a subsequent union which has now also broken down. There are other similar cases involving invalidating impediments to marriage.

WHAT IS A "PAULINE PRIVILEGE"?

The Pauline Privilege is a dissolution of a non-sacramental marriage by the local bishop. In order to apply the privilege, it is necessary to show proof of the lack of baptism of both parties throughout the entire duration of the marriage, and the sincere desire of the petitioner to be baptized.

WHAT IS A "PRIVILEGE OF THE FAITH" CASE?

The privilege of the faith is a special petition made to the Bishop of Rome requesting that a non-sacramental marriage be dissolved in favor of the faith. A non-sacramental marriage is one in which at least one of the parties was not baptized either before the wedding or during the entire common life of the marriage. "In favor of the faith" means that the petitioner seriously wishes to become a Catholic~ or that the petitioner does not wish to convert, but desires to marry a Catholic who wishes to continue to live his or her baptismal commitment; or that a Catholic who is in a previous but non-sacramental marriage now wishes to enter into a sacramental marriage.

IF YOU HAVE ANY FURTHER QUESTIONS, YOU ARE WELCOME TO CONTACT THIS OFFICE.