

**Internal Forum.** Sometimes it is *suggested* to individuals or couples that they can resolve marital issues concerning a first marriage in the "internal forum." This means essentially in the confessional or in the privacy of their conscience. Someone who is divorced and remarried will be told that they do not have to seek a Decree of Nullity to validate the present marriage, rather being convinced in their own conscience that their first marriage was invalid they can return to the sacraments. **This is not, however, the case.** Marriage is not a private affair but a social institution, one safeguarded by the Church according to the will of Christ. **The Holy See has ruled out the internal forum solution as a valid way of resolving marital validity questions.** Such issues must be submitted to the Church's canonical processes (a marriage tribunal).

#### **Where to go for additional information.**

“Do I need an annulment?” by Jacqueline Rapp, JD, JCL, and Peter Vere, JCL, *Envoy Magazine*, Vol. 6.3. [www.envoymagazine.com](http://www.envoymagazine.com)

*Catechism of the Catholic Church, Second Edition*, #1621 ff.  
<http://www.vatican.va/archive/catechism/p2s2c3a7.htm#I>

*Gaudium et Spes*, Pastoral Constitution on the Church in the Modern World, Nos. 47-52.  
Revised Code of Canon Law, 1055-1057, 1134, 1141-1142.

[http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_cons\\_19651207\\_gaudium-et-spes\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html)

**Questions?** Anyone who is uncertain about his or her marital status, wants to return to the sacraments after divorce and re-marriage (not having first obtained an annulment) or desires

greater clarity concerning such issues should seek the advice of their diocese's Tribunal. The complexity of these issues requires individual attention, such as cannot be provided by a Forum such as this.

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#### **Pamphlet 180**

## **Annulment Decree of Nullity**

**Marriage Is Indissoluble.** The Church teaches, as does Jesus in Mt 19:9, that every Christian marriage is indissoluble except by the death of one of the spouses. No power on earth can dissolve a ratified and consummated union of two baptized Christians (one in which vows have been validly exchanged and which has been later consummated by intercourse).

A valid marriage requires the proper intention *at the time that the vows are exchanged*. The parties must intend to make a marriage, which by definition is a life-long communion open to new human life. These are called the unitive and procreative meanings of marriage. If either of the two meanings of marriage (an indissoluble union and procreation) are excluded by the will of *either* the man or the woman no marriage is made on the wedding day (canon 1096).

For example, someone who has no intention of being faithful cannot make a marriage since at the very time of exchanging vows he or she precludes the life-long fidelity that is intrinsic to marriage. This is often demonstrated right at the beginning, or shortly thereafter, by infidelity. Or, someone who intends to exclude the possibility of children does not validly marry. (Those who cannot have children due to age or infertility are *not* meant here, but only those who could bear children but intend to avoid this marital responsibility completely.)

It should be noted that if a valid marriage is made on the wedding day later infidelity or a contraceptive will would not invalidate it. It is only when the will of either party in making the marriage contradicts the Plan of God from the

beginning of marriage that it is invalid. The Church accepts every marriage as valid until proven otherwise, however (canon 1060).

**What a decree of Nullity Is.** An annulment, properly called a Decree of Nullity, is a finding by a Church tribunal that *on the day the vows were exchanged* at least some essential element for a valid marriage was lacking, such as, one of the parties did not intend lifelong fidelity to the other person or excluded children entirely. Another example would be that one of the parties was incapable of marriage (due to some constitutional weakness, such as mental illness or some psychological condition that prevented making the marital commitment - gross immaturity, homosexuality, etc.). Other common reasons for an annulment are:

- The existence of an impediment, such as a previous marriage or religious vows or a close relationship between the couple (a brother and sister or first cousins). Some of these can be dispensed.
- Psychological incapacity, at the time of the wedding, to assume the duties of marriage; for example, if one of the parties suffers from a serious mental illness that prevents him or her from taking up parental or spousal duties.
- The presence, at the time of the wedding, of an intention contrary to marriage or something essential to marriage; for example, one of the spouses refuses to have children, does not intend to remain faithful to the other spouse, or believes in the possibility of divorce.
- The presence of a future “condition” for marriage, such as one spouse demanding that the other spouse will achieve a certain level of income.

- Psychological immaturity that did not allow one of both parties to understand the true nature of marriage at the time of the wedding. An example would be a teenage couple who hardly knew each other, but who decide to marry because of pregnancy. They have not thought about how they will support each other in marriage, nor do they know each other well enough to make a lifelong commitment.

None of these conditions are assumed they must be proven. A Decree of Nullity does *not* dissolve the marriage, it cannot. It is a reasoned judgment that one never existed, and as such is capable of human error. If the tribunal is fastidious to Church law and theology and the couple and their witnesses are honest, the decision can be followed in good-faith, including a new marriage. If someone is abusing the process through deceit, however, it would be a very grave sin for that person. A person who innocently enters a second marriage would not be guilty of sin, but the person who abused the process to fraudulently obtain a decree in order to remarry would commit adultery by remarriage.

An "annulment" does *not* concern whether the marriage was a happy one, whether one of the spouses *later* became unfaithful, or *later* decided not to have children, but only their *intention* on the wedding day. If a marriage was made that *that day* it is a life-long bond, irrespective of what happened later in the marriage. To "annul" a marriage based on "failure to achieve communion" or some other factor not recognized by the Holy See (as has been done) is not a decree of nullity at all but a divorce. Such decisions are a source of grave scandal in the Church and are both canonically and morally invalid.

**The Tribunal Process.** The process of obtaining a Decree of Nullity entails submitting the facts of the marriage, with supporting witnesses, to the diocesan marriage tribunal. Either party can do this. Then after a evaluation of these facts a judgment on the validity of the marriage is made. A second court, usually a neighboring diocese, must verify the judgment and it must be approved by one's bishop. Whatever decision is made, it may be appealed to the Roman Rota (the Holy See's court for matrimonial cases).

Since this is a voluntary process most dioceses have a fee to cover administrative costs. If this fee is a hardship an individual should ask that it be waived.

**Is Divorce a Sin?** When the Pharisees asked Jesus if it was permissible for a man to divorce his wife, Jesus said: “Whoever divorces his wife and marries another, commits adultery against her; and if she divorces her husband and marries another, she commits adultery” (Mark 10:11-12). Because of this statement, many people think that divorce (separation) is a sin and grounds for automatic excommunication. In fact, divorced Catholics *who have not remarried* remain in good standing with the Church. They are not excommunicated. However, individuals who are divorced and remarried without a Decree of Nullity are not permitted to receive Holy Communion unless they agree to live as brother and sister.

**Marriage After a Decree.** If a Decree of Nullity is given the couple are free to marry, unless the condition that led to the invalidity (e.g. lack of intention, mental illness, incapacitating immaturity) still exists. Then the person who has that condition is still incapable of marriage, but the other person may marry.