

Frequently Asked Questions

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1. Do I need an annulment?

A declaration of nullity is necessary if you have been married previously, divorced with your spouse (who is still living) and now wish to marry in the Church, enter a religious community, or seminary. This is true regardless of whether you are Catholic or non Catholic, married in the Church or outside of the Church.

2. What is an annulment anyway?

What is generally called an annulment is technically a declaration of nullity. A declaration of nullity does not 'do' anything. That is to say, a declaration of nullity does not create a new reality. Everyone who marries does so either validly or invalidly. If the

marriage was valid from the beginning, then it will continue to be valid forever and the parties to the marriage will be bound to the matrimonial obligations until the death of one of the spouses. If the marriage was invalid from the beginning, then it was never a true marriage and neither party is bound to the matrimonial obligations. And so, a declaration of nullity simply declares that what appeared to be a marriage on the outside was in reality invalid. The process for a declaration of nullity is completely powerless to free you from your matrimonial obligations if you entered your marriage validly. At most it can declare that you were never bound to those obligations in the first place.

3. What does invalidity mean?

Invalidity is a legal concept which applies to the manner in which an act was void as it was carried out. When a couple marries they consent to the marriage, and assume the matrimonial obligations. Invalidity can result from the manner of the consent, the object of the consent, the capacity to consent, and the capacity to assume the obligations of marriage. If a serious and legally defined defect can be found in one of these areas, then it is possible that the marriage was invalid.

4. I am not sure I ever truly loved my former spouse. Does this mean my consent was invalid?

No. We live in a culture which is infatuated with the romantic ideal of love. But often what is meant by 'love' is an emotional feeling. The high divorce rate in our culture attests to the fact that when two persons fall out of 'love' they simply part ways. However, the gospels show us a different type of love. The love which Christ displayed on the cross to all of humanity was not an emotional feeling. True love is a decision, a desire for the good of another regardless of the personal cost. Therefore, it is the rational decision of the parties to marry, not the level of emotional feeling which makes a marriage. The Church, nevertheless, hopes that all marriages will be filled with and enlivened by romantic love, as a flame which sustains the relationship, but a true marriage does not depend on romantic love.

Part of the reason why a marriage does not depend on romantic love is that a marriage is bigger and more encompassing than a mere relationship. A marriage includes the good of children, the good of society, and the good of the Christian community. There is far too much at risk by making marriage depend on the quality of a personal relationship. Therefore, it is possible, and even common, that the relationship will come to an end but the marriage endures.

5. I heard that the purpose of an annulment is to have healing from a broken relationship. Is that true?

No. The purpose of a declaration of nullity is to clarify your status within the Church. A secondary result of the clarification of your status could be healing from a broken relationship, but this is not the intended aim of the process. Some people claim that the

process is healing, but others do not. It is best that you not bring this expectation to the process.

This is not to say that the Church is not concerned with your personal healing. There are many resources available for spiritual and emotional healing from a broken relationship including confession, counseling, support groups, etc. Please check with your pastor for the availability of these resources.

6. How long does an annulment take?

There are different types of annulments, because there are different ways to prove that a marriage is invalid. The type of case required for your situation is dictated by your unique situation. Please call the Tribunal office to clarify which type of case you need.

In some instances it may be possible to prove that a marriage was invalid based on documentation alone. In such a case, the documents themselves prove that the marriage was invalid. These annulments can be processed fairly quickly—one or two months. Other cases cannot be proved by documents and must rely on a legal argument supported by witness testimony. These cases are much more involved and usually take around one year. However, there is no guarantee how long the process might take and it depends in part on the manner in which the evidence is presented.

7. Aren't annulments legalistic and old-fashioned? Haven't we moved passed this yet?

Christ teaches us many things in the gospels, but perhaps none as clearly as his stance on divorce and remarriage. Simply put, remarriage after divorce is not allowed by Christ. See Mt 5:31-32, Mt 19: 1-12, Mk 10: 1-12, Lk 16:18, I Cor 7: 10-11. The early Christian communities held fast to these words of Christ, and the Church fathers echoed them throughout the centuries. From the earliest times the Church had a policy of one attempted marriage and that's it, no second chances.

The process for a declaration of nullity has its roots in the New Testament. See I Cor 6: 1-6. Bishops in the early Church judged marriage cases themselves. The process for a declaration of nullity, as it is known today, developed in the middle ages from a combined study of Roman law and ancient Church teaching. Through this more formal process Christians had the means available to them to make a legal argument that their marriage was invalid. Therefore, the process for a declaration of nullity should be seen as an advancement in Church discipline which has opened up the possibility of entering a true marriage after a failed and invalid one.

The constant and ancient teaching of Christ and His Church is that marriage is a permanent and exclusive relationship. However, we live in a culture which has denied these basic realities. The Church today finds herself in a position where she has to either uphold authentic Christian teaching or cave under the cultural pressure of allowing

divorce. We can be assured that, through the grace of God, the Church will remain faithful, and continue to proclaim the permanence of marriage.

8. Isn't the Church supposed to be compassionate? Then why make me go through an annulment?

The greatest concern of the Church is the salvation of its members. But the Church is also bound to uphold the truth. Without truth there can be no compassion. Furthermore, the Church does not make a marriage valid or invalid, rather the parties to the marriage do. Therefore, by declaring the validity of a previous marriage, the Church exercises her ministry with compassion by keeping the faithful from entering into an adulterous relationship and jeopardizing their salvation. On the other hand, by declaring a marriage invalid, the Church exercises her ministry with compassion by affirming the truth and allowing the parties to enter into a true marriage. The Church also exercises her ministry with compassion by upholding and protecting the true dignity and indissolubility of marriage. By doing so the Church lives her vocation of being the light to the nations.

9. If I am divorced, can I receive communion?

The state of being divorced is not in itself sinful. As long as a divorced person is living a life in accordance with Church teaching, namely, the avoidance of sexual activity outside of the marriage bond, they may approach the sacraments. The problem arises when a divorced person has entered into a civil marriage or is living in a conjugal relationship. In such a situation, without a declaration of nullity, the Church assumes that the first marriage is valid and, therefore, the parties to the new marriage are living in an adulterous relationship. In this case, the person is not allowed to partake of the sacraments because they are living in a state of unrepentant mortal sin.

10. Doesn't an annulment make my children illegitimate?

No. There are no civil affects of a declaration of nullity in the United States of America. Neither are there any ecclesiastical affects on the status of the children.

11. I am not Catholic. Why do I need an annulment?

The Church affirms that marriage is a natural reality for all human beings. You do not have to be Catholic, or even Christian to enter into a valid marriage. If the parties to the marriage gave their consent, and if the marriage is recognized by the proper authorities, i.e., the civil government for non Catholics and the Church for Catholics, Orthodox, etc., then the marriage is assumed to be valid until proven otherwise.

12. Why does the Church charge for an annulment, shouldn't it be free?

The process for a declaration of nullity requires a tremendous amount of workforce hours. We estimate that the real cost to the Diocese of Colorado Springs for a declaration

of nullity is approximately \$1,500. By charging a fee we are asking the beneficiaries of the work to help pay for the service.

It is clearly wrong to charge for the sacraments, but a declaration is not a sacrament. No one needs a declaration of nullity. At most someone greatly desires a declaration of nullity so that they may be free to marry a certain person, or pursue a certain goal. However, every divorced person can live a holy life worthy of sainthood without receiving a declaration of nullity.

13. Why do I need witnesses?

For a declaration of nullity the Church requires that your statements and allegations be substantiated by witness testimony, unless documents themselves prove the invalidity of the marriage. A declaration of nullity justly makes clear that the persons involved are free to marry, and in the case of a valid marriage the Tribunal declares that they are bound to the matrimonial obligations. In doing so, the Church is actively protecting the public good of the indissolubility of marriage. Therefore, the presence of witnesses gives the Church the assurance that the Tribunal is acting in accordance with proven reality. Without witness corroboration a case will not be able to proceed.

14. When I got married I was immature. Is this grounds for an annulment?

The Church understands that most people who enter into marriage are immature to a certain degree. This normal level of immaturity does not make a marriage invalid. For immaturity to affect the validity of marriage it must be extreme; bordering on the pathological. Such an extreme level of immaturity is very rare.

15. We married because she was pregnant. Surely my marriage was not valid.

Persons who enter into marriage because of a pregnancy are still perfectly capable of giving valid consent. This is especially true when the decision to get married is a rationally well thought out decision. However, there are certain circumstances which could affect the validity of the consent. For example, the pregnancy could have brought with it other issues which affect the validity of consent.

16. My spouse abused me, cheated on me, and/or abandoned me. Why do I have to go through an annulment?

Unfortunately, sometimes two people enter into a valid marriage and then one of them decides to abuse the other or in some way tarnish the dignity of the marriage bond. These situations can be tremendously difficult and painful. And sometimes it is recommended that the couple separate, either temporarily or permanently. For persons in this situation, it can be helpful to remember Christ, in whom humanity and divinity were wed. Yet Christ remained faithful to humanity even when they nailed Him to a cross. That is to say, when someone abuses the sanctity of marriage the bond is not dissolved. Abuse,

infidelity, and abandonment could be signs of an invalid marriage, but it is not necessarily always the case.

17. As long as I do everything the Church asks of me I will be granted an annulment, right?

No. The Church can only declare the truth. If you are in a valid marriage, then the Church cannot dissolve the bond by declaring it to be invalid. Sometimes the evidence in a given case warrants a declaration of nullity, but other times it does not.

18. How do I know what my rights are in this process?

Your rights in the process for a declaration of nullity are contained in the Code of Canon Law, and the instruction “*Dignitas Connubii*.” The Tribunal office is happy to explain your rights, and we can assign you an advocate as well.

19. If I receive a negative decision, what are my options?

If the tribunal renders a negative decision, and you are convinced that the tribunal erred in their decision, you may want to consider a formal appeal. A formal appeal would send your case to another tribunal (the tribunal of second instance, or the Holy See) for their decision. If the tribunal of second instance decided to overturn the decision, then the case would have to go to Rome for a final decision.

Another option is to submit a new case under new grounds. This option has the advantage of being less time consuming and less expensive. However, there is never any guarantee of receiving an affirmative decision.

Finally, you may decide to accept the negative decision. Accepting a negative decision when you sincerely hoped for an affirmative decision takes a great deal of humility and self sacrifice. Nevertheless, the Christian life itself demands such virtues. A negative decision can be seen as a great opportunity to grow in holiness.

20. If I receive a negative decision, am I excommunicated?

No. Persons who receive a negative decision are able to fully participate in the life of the Church. A negative decision only means that the invalidity of the marriage was not proven, and therefore the parties are not free to marry.

21. If I receive a negative decision, but I am already remarried civilly, what am I supposed to do?

A situation in which a person has entered into a civil marriage after a divorce, and then receives a negative decision from a tribunal is a very difficult and unfortunate situation. Our Holy Father, the late John Paul II, addressed this situation in *Familiaris Consortio*:

Together with the Synod, I earnestly call upon pastors and the whole community of the faithful to help the divorced, and with solicitous care to make sure that they do not consider themselves as separated from the Church, for as baptized persons they can, and indeed must, share in her life. They should be encouraged to listen to the word of God, to attend the Sacrifice of the Mass, to persevere in prayer, to contribute to works of charity and to community efforts in favor of justice, to bring up their children in the Christian faith, to cultivate the spirit and practice of penance and thus implore, day by day, God's grace. Let the Church pray for them, encourage them and show herself a merciful mother, and thus sustain them in faith and hope.

However, the Church reaffirms her practice, which is based upon Sacred Scripture, of not admitting to Eucharistic Communion divorced persons who have remarried. They are unable to be admitted thereto from the fact that their state and condition of life objectively contradict that union of love between Christ and the Church which is signified and effected by the Eucharist. Besides this, there is another special pastoral reason: if these people were admitted to the Eucharist, the faithful would be led into error and confusion regarding the Church's teaching about the indissolubility of marriage.

Throughout the ages, faithful members of the Church have expressed their love and faithfulness to God through heroic actions. As an example of this we have the lives of the martyrs. It is to be hoped that a person facing a situation of an attempted second marriage would see the opportunity for heroic discipleship. Such discipleship would mean living a holy life of chastity by abstaining from sexual relationships in order to be able to receive the sacraments.