
The Catholic Church, Marriage and Annulment

"I understood that marriage is forever—for better or worse. Now the Church is seems to be granting annulments willy-nilly. Whatever happened to 'let no man put asunder'?"

This isn't just a question. It's a cry of anguish from many sincere Catholics who are puzzled, upset, at times angry, when they hear that someone who has been married five, 10, even 25 years, obtained a Church annulment and remarried with Catholic rites. How could a marriage go on for years and still be invalid, they want to know.

Yes, marriage is still permanent. The indissolubility of sacramental marriage remains a central Catholic teaching. Recent Popes have strongly reaffirmed the uncompromising doctrine that a consummated, sacramental marriage bond is lifelong and cannot be broken by civil or Church authority.

While carefully protecting Jesus' teaching of the sacredness of marriage, the Church also is obliged to provide justice for anyone whose marriage has failed when it can be shown with moral certainty that the marriage lacked from its onset some essential element for a true sacramental bond. Pope Paul VI noted that delayed justice is injustice, and streamlined the annulment procedure. During the 1970's and early 80's, special norms for the annulment procedure were in effect on a provisional basis. Many of these revisions have now been made part of the Code of Canon Law promulgated in 1983, acknowledging the continued necessity for a just procedure in marriage cases and the deep needs of those whose lives have been touched by divorce.

There are thousands of divorced Catholics in Australia. However one views this statistic, it represents a searing experience of personal tragedy for them and their families. Many of these people are wounded further by feeling cut off from the Church, and should they remarry, they are seemingly barred from the solace and strength of the sacraments. The annulment procedure is an attempt to bring justice and compassion to many divorced and separated Catholics whose marriage actually was one in appearance only.

"An annulment is divorce, Catholic style, right?"

This is a catchy, but incorrect, way of putting it. Misunderstanding is due partly to the word *annulment*. The precise term is "declaration of nullity." A declaration of nullity is a judgment by the Church that what seemed to be a marriage never was in fact a true marriage. An annulment is not a divorce for it does not dissolve an existing marriage. A declaration of nullity is granted when it can be shown that some essential or juridical defect made a particular marriage invalid from the beginning despite outward appearance, despite even the good faith of the partners or the establishment of a family. It should be underscored that an annulment

does not affect the legitimacy of the children of such a marriage.

Certain factors have brought about the considerable increase in Church annulments over the past decade. First and foremost, the Second Vatican Council fostered development in the theology of marriage by restoring the interpersonal relationship of the spouses as an essential component of marriage.

Secondly, advances in psychology have provided a deeper understanding of the complexity of both human decision-making and interpersonal relationships. Thus the Church has new insights for appraising a marriage. Marriage, after all, is the most important decision most people make, and marriage is the most intimate of adult relationships.

“Did the Second Vatican Council change the Church’s understanding of marriage?”

The Council changed the understanding of marriage only by deepening it. Those of us whose catechism days were before Vatican II learned that marriage is a contract whereby a man and a woman pledge themselves exclusively and perpetually to one another, bestowing the mutual right and duty of sexual intercourse. We learned that the primary purpose of marriage is the procreation and rearing of children, and that secondary aims included mutual affection and support of the spouses, as well as satisfaction of sexual desire. We also learned that any valid marriage between baptized persons, Catholic or Protestant, is a sacrament as well as a natural bond.

The Vatican Council in its *Pastoral Constitution on the Church in the Modern World* recast the standard definition of marriage which previously had been stated in terms of primary and secondary ends. The Council Fathers repeated that marriage is ordained for the begetting and education of children, “the supreme gift of marriage.” But the Fathers also noted that “[some] other purposes of matrimony are not of less account.” Marriage, they said, is a “*communion of life*, and maintains value and indissolubility, even when offspring are lacking...” (#50).

“Is the Stress on the Relationship Between the Spouses New?”

The Council Fathers thereby returned to the teaching of medieval theologians like St. Bonaventure and St. Thomas, who taught that the *relationship between the spouses* undergirds the traditional ends of marriage, namely, children, fidelity and permanence.

More fundamentally, the Council returned to the biblical theme of marriage as *covenant*, an interpersonal commitment based on trust, self-giving and sacrificing love. By this covenant the partners “render mutual help and service to each other through an intimate union of their persons and their actions” (#48).

A deeper theological understanding of marriage emerges from the Council’s brief but cogent overview. Marriage surely serves God’s command to increase and multiply, but this does not exhaust its essential qualities.

Church Law today reaffirms the personal relationship, the intimate partnership between the spouses, as a crucial, basic dimension of marriage. While conjugal union is expressed most specifically and intimately in sexual relations, it also extends to the couple’s total life together, to physical, emotional, intellectual and spiritual community. In short, marriage is a union of persons, not simply a union of bodies. The purpose of marriage is to give life, but equally, to share it.

Unfortunately, this focus on the interpersonal core of marriage had become blurred ever since the 1500’s by a legalist mentality in the Church which viewed marriage within the limited scope of sexual rights and duties. As long as a man and woman had pronounced their vows and had consummated the marriage physically, it was presumed valid, regardless of the quality of the interpersonal relationship. *The Council restored community of life between spouses as an essential element of marriage.*

“How can a Church court decide whether a marriage is valid or not? How can anyone undo the ‘I do’?”

This question hits the bull’s-eye. For marriage is effected by *consent*, freely and knowingly saying “yes” to all that marriage involves. Therefore, in considering a particular marriage, this “yes” is the key issue. Its validity may be considered in the context of two basic questions about consent.

First, when they said their vows, did both partners freely accept and clearly understand the lifelong commitment they were making? And *secondly*, at that time, did both partners have the personal capacity to carry out consent, to form a community of life with the chosen partner?

Quality of Consent. Let’s take that first question and look at the quality of marital consent, which is far more exacting than ordinary decisions. Consent to marry is the most weighty decision the person ever will make. Its effects endure beyond the here-and-now; it is a lifelong choice. Obviously an individual must know to what he or she is agreeing.

Consent must be free and discerning. External or internal pressure, which significantly reduces freedom or undermines critical judgment, could impair consent to such degree that commonsense requirements for such a binding decision as marriage are not fulfilled.

For centuries, theologians have recognized that strong emotion and external pressure could weaken free choice and diminish responsibility as far as sin was concerned. The Church has been more cautious in applying these principles to marital consent. Modern psychology’s study of decision-making shows more sharply how unconscious motives and situational

pressures can get in the way of freedom and judgment. Such findings greatly help Church tribunals assess the adequacy of marital consent.

The shotgun marriage is an outdated joke. Yet more subtle pressures may interfere with freedom and discernment just as effectively. Take, for example, the couple who have been intimate and now the woman is pregnant. She rightly refuses abortion. She does not want to give up the baby for adoption. The father feels trapped. He may have fine intentions, feeling honor-bound to do "the right thing." One or both may see marriage as the only way out. Is this decision a free, mature choice of a lifetime partner, or is it a pressured solution to a problem?

What about the consent of the teenager, overwhelmed by infatuation with the only person ever dated, in love more with love than the person he or she consents to marry? Or the youngster with no critical appraisal of the character of the intended partner, and with meager appreciation of the financial responsibilities of marriage or the burdens of parenthood? Add to the picture, perhaps, the desperate need to escape an unhappy home life, marred by alcoholism or quarrels.

How would we assess the widower, still grieving for his deceased wife? He has a demanding job and is anxious for his young children. So he hastily remarries. Is he giving prudent, thoughtful consent or enlisting a housekeeper and stepmother for his children?

What sort of consent is given by a person with lukewarm, nominal faith, who has absorbed the divorce mentality which pervades our culture, and the philosophy of casual sex which is daily TV fare?

There is no automatic answer about the quality of consent in these examples. Surely the average disinterested adult would question the wisdom of such marriages, and have qualms about the freedom or discretion of the immature or agonized person taking marriage vows. A thorough investigation by the tribunal of the premarital situation may support the conclusion that one or both of the partners could not freely and maturely choose to marry at that time.

Capacity to Carry Out Consent. Marriage essentially includes a community of conjugal life which is perpetual and exclusive. Therefore, both partners must have the maturity to establish and sustain a mutually supportive communal relationship with one another.

Saying "yes" without the capacity to carry it out is invalid, even though a person takes marriage vows in good faith and with the best intentions. St Thomas phrased the principle neatly: "No one can oblige himself to what he can neither give nor do."

Before we had a better understanding of human behavior, both the average person and the Church thought everyone had what it takes to make a marriage work except the most overtly disturbed individuals. Before Vatican II, the Church considered the marriage contract principally in terms of procreative rights and obligations. The wider issue of a mutually supportive

human relationship, while never totally ignored, was given second billing.

The right to a communal relationship does not mean that marriage must be idyllic. Any two people, even ordinary friends, have incompatibilities to work through. Few if any persons are so mature that they have no failings, foibles or hang-ups regarding self-worth, pride, aggression or sexuality. But the basically mature person tries to be honest with self, admit mistakes, be open to advice and to grace.

But in some persons, psychological problems are the consuming, motivating force of life. One's sense of alienation or inadequacy, self-depreciation, hostility, sexual problems, impulsiveness or selfishness can be pervasive and chronic. It is most unlikely that such a psychologically burdened individual can establish and maintain the close, empathetic, cherishing relationship with a spouse which provides for mutual growth and the proper rearing of children. In plain words, the person entering marriage does not have what it takes to develop the community life which is the substance of the marital pledge.

"What type of emotional problems could impair the consent?"

For some time, the Church has recognized that *psychoses*, the disintegrative mental illnesses such as schizophrenia and manic depression, could so impair mental and emotional stability that one's consent to marriage lacked the necessary discernment or capacity. More recently, using further psychological insights, the Church acknowledges that other dysfunctions of personality may render a particular marriage covenant impossible. It is difficult to make general statements because human psychology is so complex. But with that note of caution, it can be said that *homosexuality* and *alcoholism* often undermine the capacity for a permanent community of life and love.

Another group of emotional disturbances carry the label personality disorders. The personality disorders do not show the acute episodes or bizarre features of psychoses, or the disabling anxiety or symptoms of neuroses. However, they are marked by deeply ingrained maladaptive patterns of behavior, usually with roots in early life, and often evident by adolescence. Such persons may function well enough in certain areas of life. Fact is, they may be wizards in their work, excellent providers and efficient household managers, and adept in casual social encounters. But they are psychologically unable to meet one essential criterion of marriage, the close and intimate personal relationship of mutual support and affection.

The facts garnered from a personal history may reveal that an individual carried a tremendous resentment which sabotaged the marital relationship by constant and uncontrolled temper outbursts, by demanding and depreciating attacks on the spouse and children, and even by physical abuse.

Still others reach physical adulthood hampered by a sense of insecurity and a lack of trust so corrosive that they believe no one really could love or be true to them. They are hypersensitive and often show jealousy which sparks arguments even with chance acquaintances and rules out the loving relationship marriage is meant to be.

Some individuals compensate for inner insecurity by empire-building. Their total involvement in achieving success or status or a big bank account has a driven, compulsive quality that engulfs their lives. They tend to be workaholics who cram their schedules and over-commit themselves. By doing so, they escape the intimacy which threatens their overblown independence, and collect the payoff of feeling unappreciated. They may be rigid, niggardly and domineering; their unspoken motto often is "Do it my way." Fearful of dependency, they come on strong. Their underlying insecurity blocks the cooperation, compromise and communication essential for any deep interpersonal relationship.

There are also persons who are afflicted with a sense of worthlessness and self-hatred so intense that they are caught up in a constant search for affirmation and love. But they defeat their own quest by petulance over an endless series of perceived slights. Their impulsive grasp for reassurance can entangle them in extramarital affairs or dependency on drugs or alcohol. Not infrequently, the long-festered emotional or character problems become evident only under the stress and pressure that occur in marriage. The first marriage crisis uncovers the immaturity which had been signaled only by vague hints before this time. The birth of a child may reveal gross irresponsibility, unwillingness to sacrifice or pathological jealousy, which were not clearly displayed during the romantic courtship or exciting atmosphere of early marriage.

However, neither is it unusual that signals of later problems were quite evident before the marriage, but simply denied by the other party, or glossed over with the unwarranted hope that marriage would change the partner. (This seems especially true when heavy drinking is in evidence before the marriage.) Marriage to someone with a severe personality disorder is at best cohabitation, at worst a living hell. A relationship of constant discord, tension and debilitating stress is hardly a community of life and love.

The precise clinical labels of these disorders are not important here. This sampling simply suggests how certain types of people can make a particular marriage a morally impossible venture. Nor is it always so one-sided. Sociological studies do not support the old saying that unlikes attract. One immature person often manages to find an immature partner. What's unlike may be the type of immaturity. For example, the person who has an insatiable need for attention and affection seems to have a talent for marrying a person scared of closeness.

These personality descriptions sound harsh. Yet they are sketches of truly handicapped persons. In their early

years, often through no one's fault, they were shortchanged on the love and stability needed for self-esteem and security, and from which later mature independence and relationships develop. The failure of their marriages—and their lives—is often more due to weakness than evil intent.

The marriage tribunals of the Church do not seek to assign blame for marriage breakup. They seek only to understand a failed marriage, and determine whether either or both partners lacked proper consent or the ability to carry out consent.

"Isn't it a painful ordeal for persons seeking an annulment to dredge up the past?"

Many persons do remark how wrenching it was for them to recall and sort out painful memories. But they also find that it helped them to discover some meaning in the tragedy of a broken marriage. They appreciate their new insights about themselves and deepen their sense of values. This process can foster psychological and spiritual growth.

Some Catholics, clergy and laypeople, argue that a decision within one's own conscience is sufficient to be right before God. Yet most persons have a strong need for external confirmation. Marriage is a public event, a religious contract over and above a civil one. Consequently, many believers feel the need for an external, independent, religious judgment that their marriage was not valid. As one man expressed, "When you get a divorce, you think you'll feel not married. I didn't."

A woman, forced into divorce to protect the welfare of her children, obtained an annulment and remarked that now she felt peace because she had "at least a piece of paper in my hand to prove to myself once and for all that I did try, that a marriage existed on paper only, that I did not fail in my duties as a Catholic, that the Church does understand..."

But the greatest benefit of the pain for many who have established a happy and stable second marriage is their return to the sacraments, the sometimes tearfully joyful reception once more of the Lord in the Eucharist, and the renewal of religious practice as a family celebration.

An elderly priest, after taking part in an annulment hearing, put it simply and poignantly: "It's a great healing."

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