

INFORMATION ON ANNULMENTS

1. What is the difference between a declaration of nullity by the Church and a divorce granted by the civil courts?

When a couple marries in the Church, their marriage is recognized by the Church and, in Canada and most other countries, by the civil authority. The civil law does not permit a new marriage unless a divorce is obtained from the competent court of law. The Church will permit and recognize a new marriage only if one of its tribunal's grants a declaration of nullity. The reasons for granting a divorce and a Church annulment are different. The civil court will conclude that a marriage has broken down, and (in Canada) dissolve such a marriage for such reasons as mental or physical cruelty, adultery, and continuous separation for more than one (1) year. Christian marriage is brought into existence by the consent expressed by the parties, so the quality of that consent will be examined by the Tribunal. The focus will be on such questions as: Did each of the parties have sufficient maturity to understand and carry out the responsibilities of married life? Did each of them fully intend to accept these responsibilities? Did a mental illness or personality disorder, whether known of before the marriage began or only afterward, prevent one or the other party from living out married life? Although a marriage may be dissolved by a Church tribunal, the reasons for each would be different.

2. What are the grounds on which a declaration of nullity may be granted?

There are a number of grounds. It is best to discuss them in terms of what is required for a valid marriage. Christian marriage has four (4) essential characteristics. They are: (1)

It is permanent, enduring until the death of one of the parties. (2) It is open to having children, and to supporting and educating them. (3) It is a faithful and exclusive relationship. (4) It is a relationship of love and trust. A Tribunal would examine how both parties to a marriage responded to these four characteristics. Did each have sufficient freedom and maturity to properly judge whether they were ready for these responsibilities in a marriage with this particular person at the time the marriage began? Did one or the other intend to exclude one or more of these characteristics at the beginning of the marriage? Were the parties psychologically capable of living a marriage which would express to an adequate degree these four characteristics?

3. Can everyone whose marriage breaks down obtain a declaration of nullity?

No. Only those whose marriages break down for reasons for which a declaration of nullity could be granted. Studies have estimated that most Catholics whose marriages have broken down would be eligible.

4. Who may petition a Church Tribunal for a declaration of nullity?

Any Catholic who has separated or is divorced from his/her spouse may apply, provided that all possible means of reconciliation have been tried and failed. It sometimes occurs that a non-Catholic who is divorced now wishes to marry a Catholic. Because the Catholic Church upholds the validity of most marriages, it would be necessary for that person to have his/her earlier marriage examined by the Catholic Marriage Tribunal and to obtain a declaration of nullity so that he/she may now validly marry a Catholic.

5. How do I present a petition to a Tribunal?

You should contact one of the priests or pastoral ministers in your parish. He/she will ask you to fill out some forms, supply certain documents, and write a brief "case history", or summary of the problems of the marriage. You will also be asked to provide the names of at least three (3) persons (other than you and your former spouse) who would have some knowledge of the circumstances of your courtship and married life, and be willing to be interviewed by the Tribunal. The file will then be sent to the Marriage Tribunal where a decision will be made as to whether the petition should be accepted and further examination take place. If the priest or pastoral minister in your parish is unable to help you, contact the Marriage Tribunal at the Pastoral Centre, St. John's, NL, and Phone: 726-3660.

6. What is a Marriage Tribunal?

A Marriage Tribunal is set up, usually in each diocese, to receive petitions for declarations of nullity. It consists of priests, religious sisters, and often lay persons who carry out different functions in the process. It operates according to the Canon Law of the Church and in some ways functions like a court. Tribunals exist for pastoral reasons, and attempt to deal with people with as much sensitivity as possible. The concern is not to assess guilt, but to obtain a clear understanding of why a marriage failed.

7. What is the process and how long does it take?

A case must be taken through a number of steps which are of a technical nature. There are two (2) basic phases in the process. The first is the gathering of evidence, where persons are interviewed and any pertinent documents, letters, medical or psychiatric assessments are obtained. The second is the study and judgment of the case. After a judgment is given, the decision must be reviewed by an Appeal Tribunal. The Canadian Appeal Tribunal in Ottawa performs this role for all the tribunals in Canada. The process, as a whole, takes approximately one (1) year, depending on the availability of witnesses and the complexity of the case.

8. Is there a cost for the process?

Yes. Because of the expenses involved in maintaining a separate office, paying salaries to staff members and sometimes charges for psychiatric consultations, the cost per case ranges from \$1000 to \$1500. Nonetheless, a standard amount of \$900.00 per case is requested, normally from the petitioning party. For those in financial difficulties, this charge is reduced or waived entirely.

9. Will a declaration of nullity affect the status of any children born of the marriage?

No. There is no denial that the couple were married for a period of time during which the marriage was presumed valid. Children born of the marriage remain legitimate in the eyes of the Church and of the civil law.

This was prepared by:

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SOME GENERAL INFORMATION ON ANNULMENTS IN THE ROMAN CATHOLIC CHURCH

1. What is an annulment?

An annulment, or declaration of nullity, is a formal statement by a Church Tribunal that a particular marriage lacks one or more of the essential qualities required for validity. If a marriage breaks down, and one of the parties petitions the Church for a declaration of nullity, the Tribunal may conclude, after an examination of the circumstances that led to the marriage and any problems that followed, that the marriage is not a valid one. Every marriage that is validly celebrated in the first place is presumed valid until it is proven otherwise.

2. Why are annulments necessary?

The Catholic Church believes that Christian marriage is a sacrament instituted by Christ and intended by him to be a lifelong commitment. Sadly, many marriages today are breaking down. Those who separate or divorce for reasonable cause are not prevented from receiving the sacraments. Many of them, at some point in time, may wish to remarry. A declaration of nullity would permit them to celebrate a new marriage in the Church and to continue to participate fully in its sacramental life.