

12 Myths about Marriage Annulments in the Catholic Church

1. A divorced person is automatically excommunicated from the Catholic Church.

The truth is that divorce itself does not affect or alter a person's status in the Catholic Church. Divorce is a function of the civil law or law of the state, and is determined by state courts. It affects only one's status under state law, and has no effect on one's status in the Church. It is a myth that a divorced person is "excommunicated," that is, not able to receive the sacraments of Jesus within the Church. A person who is divorced but not remarried may receive the sacraments. It is remarriage without an annulment, not divorce itself, that makes a Catholic ineligible to receive the sacraments.

2. An annulment (or declaration of invalidity) costs thousands of dollars.

The truth is that no Catholic Tribunal anywhere in the world asks for "thousands of dollars." Most Tribunals do request payment of some fee for the services of the Tribunal staff. The amount requested varies from one Tribunal to another. Usually the requested fee is only about one-half of the actual cost to the Tribunal for judging a case. It is a myth that the process costs thousands of dollars, and in fact no one is ever turned away from a Tribunal because of their inability to pay a requested fee.

3. Only Catholic marriages need to be submitted to a Tribunal.

The truth is that every marriage is considered a promise for life, a promise until death. It makes no difference whether that promise was made in a Catholic ceremony or not. It makes no difference whether the spouses were Catholic or not. No one, no matter what their religious affiliation or membership, is considered free to contract another marriage if they were married previously. Every prior marriage must be examined by the Church, and every prior marriage must be recognized as invalid according to canon law before a person is free to enter a new marriage. It is a myth that only Catholic marriages need to be submitted to a Tribunal.

4. If an annulment is granted, the children will be illegitimate.

The truth is that an ecclesiastical annulment is concerned only with the spouses, and not with the children. An annulment, or declaration of invalidity, has no effect at all on the legitimacy of children. It also has no effect on other arrangements concerning children, such as custody or support. These are all matters of civil or state law, and in the United States, the decision of a Catholic Church Tribunal has absolutely no effect under state law. Whether a child is legitimate or not depends on state law, not on the decision of a Tribunal. It is a myth that granting an annulment makes the children illegitimate.

5. It takes three to five years for a Tribunal to decide on an annulment.

The truth is that every annulment case is different. Some processes are longer than others. Some Tribunals have more of a backlog than others. In fact, very few cases today take more than about 18 months from submitting the first paperwork until the Tribunal's decision. Some types of cases can be decided very quickly. If a Tribunal's decision is appealed to a higher Tribunal, it is possible that the case may take many more months for a final decision by the appellate Tribunal. In almost every case, however, it is a myth that the typical Tribunal case takes three years or longer to decide.

6. Anyone who applies (and waits long enough) will get an annulment.

The truth is that Tribunals do give negative decisions. The burden of proving the grounds in a case rests on the petitioner, the spouse who applies for the annulment or declaration of invalidity. The Catholic Church presumes that every marriage is a valid union, and there must be sufficient basis in fact and in law to recognize that the marriage was invalid. The Tribunal will help the petitioner to understand what is needed to develop a case, but if there isn't proof that the marriage was invalid, the Tribunal will uphold the validity of the previous marriage, and give a negative decision. Sometimes, when there isn't sufficient proof, a petitioner will allow a case to stop before a decision is reached. It is a myth that everyone who applies gets an annulment.

7. If children were born in the marriage, an annulment can't be granted.

The truth is that an openness to children is a natural and essential part of marriage, but whether any children were actually born during the marriage has no bearing on the possibility of an annulment, or declaration of invalidity. If any children were born, it is very important that both parents are faithful to their natural and legal obligations to their children. It is a myth that an annulment can't be granted if children were born in the marriage.

8. The ex-spouse must agree to an annulment or it can't be granted.

The truth is that both spouses have equal rights in a Tribunal case concerning their marriage, but that doesn't mean that the respondent – the ex-spouse of the person who starts the Tribunal case – must agree to an annulment or give permission for the case to proceed. The truth is that the Tribunal will normally contact the respondent, but even if that ex-spouse is adamantly opposed to the idea of an annulment or refuses to participate, the case will go on. What is important is that the ex-spouse is provided an opportunity to participate, but the ex-spouse can't stop the case once it's started. It is a myth that both spouses to the marriage have to agree to an annulment.

9. An annulment is just "Catholic divorce."

The truth is that a divorce granted by a state or civil court is very different from an annulment granted by a Catholic Tribunal or court. A divorce is concerned only with the legal realities of a marriage; an annulment or declaration of invalidity is concerned with religious and spiritual realities as well as matters of Church law. A divorce focuses on the end of the marriage; an annulment looks at the very beginning, the moment the couple said, "I do." A divorce looks at marriage in state law; an annulment looks at marriage from the perspective of the Gospel and Catholic teaching. It is a myth that an annulment is just "divorce, Catholic style."

10. An annulment means that the marriage never took place.

The truth is that a Tribunal can't erase history, and doesn't want to. An annulment, or declaration of invalidity, by a Catholic Tribunal recognizes the legal, historical, emotional truth that the marriage did occur, but that the marriage – though real – was not valid in the way Jesus and the Church see marriage, or was not a sacrament of Jesus. To recognize that a marriage was invalid from a Christian perspective is very different from pretending that the marriage never took place. It is a myth that a Catholic annulment means that the marriage never happened.

11. The Tribunal is like a courtroom, with judges, witnesses, lawyers and cross-examinations.

The truth is that a Tribunal is a court of law, but it is very different from a civil or secular courtroom. There is never a crowded, emotional courtroom scene as in television or in the movies. Depending on the type of case, the spouses may have advocates or legal representatives, and there will be one to three judges, but most of the work is done in personal interviews and in writing. If a spouse or witness appears in person to give testimony, it is usually done in a private office or a conference room, and there is never "cross-examination" by the advocates. It is a myth that a Tribunal is like a TV courtroom.

12. The idea of an annulment is pure legalism in the Catholic Church.

The truth is that an annulment or declaration of invalidity is "packaged" in a legal framework, since that is the best way to protect the rights and interests of everyone involved, but it is far more than a legalistic process. People who go through the Tribunal process often find peace and insight into themselves and their failed marriages, no matter what the final decision of the Tribunal is. It is a myth that the only concern of the Church in an annulment is legalism. Instead, through the Tribunal, Jesus Christ and the Catholic Church invite you to find healing, forgiveness and joy, and grow toward a deeper awareness of God's grace in your life.

(Text by Msgr. William King, former Diocesan Judicial Vicar, 2005)

What Does the Church Say?

By Father Paul Clark

Special to The Witness

In light of the Holy Father's recent general audience, perhaps the following points and observations may be helpful in understanding what he said regarding divorced Catholics:

➤ A divorced Catholic who has not remarried (and who is not cohabiting) and who is in the state of grace, properly disposed, CAN AND SHOULD approach Holy Communion. Such persons are not excommunicated or under any penalty because they are divorced.

➤ A divorced Catholic who has legally or civilly remarried without a decree of nullity (annulment) from a church tribunal is not permitted to approach Holy Communion; however, they also are not excommunicated or under any penalty because of their divorce and remarriage.

➤ The Holy Father reminded divorced and civilly remarried Catholics that they can and should participate in the life of the Church to the extent in which they are able. They are not excommunicated. They should still attend Mass, hear the proclamation of the Word, enter into a life of prayer, join parish celebrations and minister to the poor and needy. They are still members of the Church and welcomed there.

➤ The Holy Father reminded the faithful that these Catholics are not to be shunned but embraced and loved. When he spoke of Christ the Good Shepherd, he especially reminded pastors, who are the shepherds of souls in their respective parishes, that they should have a special concern for these Catholics, and seek to assist them through the annulment process so that they may be brought back to full participation in the life of the Church

➤ Excommunication is "the" most severe penalty the Church can impose on a Catholic.

➤ It separates one from participation, advantage, favor, blessing or grace with the Church's spiritual treasury.

➤ Excommunication is lifted (depending on the nature of the grave act) through absolution and/or a decree from one competent to lift the censure.

➤ It is a medicinal penalty, whose purpose is to call the offender to conversion and repentance and restore them back to full "communion" with the Church.

➤ Excommunication is reserved for the most serious offenses. Some examples include:

➤ A person who uses physical force to harm the Pope

➤ A person who throws away the Eucharist or uses it for a sacrilegious purpose (i.e. Satanic worship)

➤ A bishop who ordains a priest to the episcopacy (as a bishop) without a papal mandate allowing him to do so

➤ A man who pretends to say Mass or hear confessions for others when he is not, in fact, a priest

➤ Finally, the Pope is speaking to the Church throughout the world. In some societies, divorce (which is a legal reality, not spiritual) may carry with it a huge stigma. In those places, that stigma spills over into the mentality of Catholics who may treat divorced and remarried Catholics (without an annulment) as if they incurred the gravest of penalties, that of excommunication, when indeed they have not.

(Father Clark is the Judicial Vicar for the Diocese of Harrisburg and pastor of St. Matthew Parish in Dauphin.)

Annulment Presentations Scheduled

The Tribunal of the Diocese of Harrisburg will offer presentations concerning divorce and annulments from the Catholic perspective in the coming months. These presentations will be helpful for divorced Catholics, divorced people who wish to marry Catholics, parish leaders involved in the RCIA process and those who have a vested interest because of family or friends.

• September 9, Cardinal Keeler Center, Harrisburg, 7 p.m.

• September 24, St. Joseph Parish, Hanover, 7 p.m.

• October 22, St. Philip Parish, Millersville, 7 p.m.

• November 11, Cardinal Keeler Center, Harrisburg, 7 p.m.

Presentations will include a question-and-answer session and an opportunity for private conversation with Tribunal staff and representatives. For more information, call 717-657-4804 or send an e-mail to tribunal@hbgdiocese.org.

Pope

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Prayer, listening to the word of God, attending Mass, educating their children in the faith, serving the poor and working for justice and peace should be part of their lives, he said.

Quoting his apostolic exhortation, "The Joy of the Gospel," Pope Francis told those gathered for the audience, "The Church is called to be the house of the Father, with doors always wide open ... Everyone can share in some way in the life of the church; everyone can be part of the community."