

What is marriage and what is an annulment? The Catholic Church teaches that marriage is an enduring and exclusive partnership between a man and a woman, for the giving and receiving of love and the procreation and education of children. In unions where both parties are baptized, marriage is also a sacrament.

Because the institution of marriage is of divine creation, the Church's teachings concerning the dignity of marriage apply to all marriages, not merely those of Catholics. Therefore, although not every marriage is a sacrament, every marriage—or, at least, every marriage in which both parties are marrying for the first time—is presumed to be valid. This presumption is the case for every marriage, regardless of whether the parties to it are Catholic. However, in some cases, this presumption may be wrong, and the marriage in question may be declared invalid. This declaration by the Catholic Church is what is commonly known as an annulment.

An annulment may be granted only if evidence demonstrates that there was a fatal flaw from the start of the union. Over the centuries, the Catholic Church has learned that certain intentions and capacities must be present on the part of the bride and groom from the very day of their wedding. Without these intentions and capacities, there is no marriage. In this situation, regardless of external appearances or subsequent events, such a union may be formally declared invalid by the Church. The purpose of the annulment process is to determine whether such a declaration is possible and on what grounds.

What are some of the possible grounds for an annulment? One requirement for a marriage to be valid is that it be entered into freely by both parties and not, for example, motivated primarily by the desire to escape an unhappy home or to legitimate a child conceived out of wedlock.

In addition, both parties must understand and undertake from the start of the union to bind themselves to the essential elements of marriage, namely fidelity, permanence and openness to the

birth of children, as well as committing themselves to a partnership of the whole of life.

Finally, both parties must have had the necessary maturity, mental stability, discretion and prudence at the time of their wedding to choose a good marriage partner and to be one for the remainder of their common life.

Does an annulment have any effect in civil law? A declaration of invalidity by the Church has no effect in civil law in the United States. Therefore, it does not deny the reality that a marriage, valid in the eyes of the State, existed.

An annulment is not an attempt to cast doubt on the good faith of either party in entering the marriage or to affix guilt or blame for the eventual collapse of the union. It is also not a favor or privilege but merely a declaration of the truth about the marriage by a trained judge or judges, based upon the facts and testimony offered in the case.

Children born into a union which is later declared invalid are and remain legitimate in the eyes of the Church. However, simply having children in a marriage—or living together for a long period of time—do not in and of themselves serve to prove that the marriage is valid in the eyes of the Church.

Who needs an annulment? Any person (regardless of baptismal status) who seeks to marry in the Catholic Church but has been previously wed must have a decision from the Tribunal as to every prior union. This most often takes the form of an annulment, but the proper process for each case is sometimes difficult to determine until the case is presented to the Tribunal. At that time, if a more abbreviated process is possible, the person seeking to be free to wed in the Church will be informed.

In addition, if a person wishes to be baptized or received into the Catholic Church and is in an invalid marriage (e.g., a second marriage contracted during the life of the first spouse), an annulment or similar ecclesiastical process is necessary before baptism or reception.

Finally, some people who are petitioning for an annulment are motivated only by a desire to seek peace. Those who seek to heal the wound of a failed marriage often find comfort by submitting themselves to the intensive type of personal reflection that the process demands.

It is necessary that a final civil divorce or civil annulment be granted before the Church's investigation into the union in question may begin.

How does one begin the annulment process? For the Boston Tribunal to consider your case, one or more of the following must be true:

- you were married in the territory of the Archdiocese of Boston;
- your former spouse resides in the territory of the Archdiocese of Boston and you reside in the United States;
- you reside in the territory of the Archdiocese of Boston and your former spouse resides in the United States;
- the majority of your witnesses reside in the territory of the Archdiocese of Boston, and you can provide a reliable residential address for your former spouse.

If this Tribunal is not competent to consider your case, we will direct you to the proper Tribunal. However, if you determine that the Boston Tribunal can assist you, you must submit a completed copy of the Request for Tribunal Study form (which is available from all parishes in the Archdiocese of Boston), along with a copy of your final divorce decree. If you were divorced in the Commonwealth of Massachusetts, this document is called a Certificate of Divorce Absolute; in all jurisdictions, a copy of the final divorce decree may be obtained from the civil court which granted the divorce. If the union in question did not occur in a Catholic Church, you will also need to submit a copy of your marriage certificate.

Who is the Petitioner and who is the Respondent? The Petitioner is the person seeking to have a union declared invalid and initiating a formal process with the Tribunal.

The Respondent is the other party to the union in question; he or she may be in favor of the annulment, opposed to it or somewhat ambivalent. The Respondent is contacted at the start of the Church's investigation into the union, so that he or she may participate as actively in the process as desired. Therefore, as the Petitioner, even if you have had no contact with the Respondent for a long time, you will normally need to make a concerted effort to locate a current address for the Respondent and provide it to the Tribunal.

There is no time during the annulment process when the Petitioner and the Respondent need to have direct contact.

Who are the witnesses? All statements made by the Petitioner need to be corroborated to be considered as proof in the case. Often this corroboration can come in the testimony of the Respondent but, at other times, the Respondent does not fully participate or offers a different account of events.

The experience of the Tribunal has also shown that witnesses may have unique insight into the union in question, beyond that of the Petitioner and Respondent themselves.

Ordinarily, three or four witnesses should be presented by the Petitioner, after ensuring their willingness to testify. Ideally, these should be people who knew the Petitioner and the Respondent well, both prior to and during the union being studied.

Witnesses will usually be family members and close friends, who are encouraged to be as honest and complete as possible in answering the questions put to them by the Tribunal. It is also hoped that witnesses will respond in a timely fashion, as failure to do so may prolong the Tribunal process.

Additional witnesses may also be named by the Petitioner and/or the Respondent, particularly from mental health professionals who treated one or both parties for problems that led to or were indicative of marital maladjustment.

In addition, other evidence may be offered by the Petitioner and/or the Respondent, including a copy of any prenuptial agreement, police reports and hospital records documenting incidents of domestic violence, etc.

Finally, in some cases, the Tribunal will seek out the opinion of a psychological expert witness, who will prepare a report for the Tribunal after a meeting with the Petitioner.

How confidential is the material received by the Tribunal? When it appears all the information available has been gathered by the Tribunal, the Petitioner and Respondent will each be given an opportunity to view the testimony gathered. Exceptions to this rule will be considered by the Tribunal only for very serious reasons.

All materials submitted to the Tribunal become the property of the Tribunal.

How much does an annulment cost? Although the Tribunal is subsidized by the annual Catholic Appeal, the remaining funds necessary to operate must be raised through the assessment of fees. These fees defray expenses such as personnel salaries and benefits. Therefore, fees are assessed whether or not the declaration is granted.

The actual cost of processing a request for a declaration of nullity is approximately \$1,500.00. The Petitioner is asked to assume half of that cost: a \$50 filing fee and the remaining \$700.00. The remainder is assumed by the Archdiocese in the form of a subsidy.

In addition, should the opinion of an expert witness be needed, the Petitioner will pay the expert directly for his or her services.

The ability of a Petitioner to pay does not impact the progress of a case before the Tribunal or its final outcome.

How long does it take for the annulment to be granted? It is important to understand that not every petition for a declaration of nullity ends in a favorable decision. The Tribunal is dedicated to dealing fairly with each case, without delay, but each union is unique and must be carefully examined. Since each case is unique, the Tribunal cannot offer a good estimate as to how long each will take to judge.

Permission to marry in the Catholic Church cannot be granted before completion of the entire process. Therefore, to avoid any potential problems, no plans for a future marriage should be made before the annulment is final. Priests are not permitted to set dates for marriages in the Catholic Church before that time.

The Petitioner and the Respondent may contact the Tribunal at any time to discuss the status of their case.

What happens after the Boston Tribunal gives its decision? An initial decision that a union is invalid must automatically be reviewed and confirmed by a second Tribunal. Both parties will be informed at this stage of the process, and a party who disagrees with the finding may lodge a formal appeal.

Similarly, a Petitioner or Respondent who receives a negative decision may also appeal the finding. Depending on the individual case, the appeal process can take a significant amount of time to complete.

Can one spouse receive an annulment and the other be denied? The purpose of the Tribunal is to make a decision about the presence or absence of a true marital bond between the Petitioner and the Respondent. If it is the finding of the Tribunal that no such bond existed, then both parties are free from that marriage. Similarly, if the Tribunal upholds the validity of the marriage, both parties remain bound.

It is very important that an annulment not be viewed as a reward to or punishment on either party for conduct during the union. Instead, it is intended to be an objective assessment of the time of consent—the wedding day itself, when the bond either forms or fails to form—based upon the evidence regarding the couple's intentions and capacities as of that time.

However, it is important to note that, even when an annulment is granted, there is no automatic permission for either party to enter another marriage in the Catholic Church. Since the Church is entrusted with upholding and protecting the dignity of marriage, the Tribunal must be reasonably certain that any future marriage in the Church will not suffer from the same defect which rendered the first marriage invalid.

Canon 1057§2

Matrimonial consent is an act of will by which a man and a woman by an irrevocable covenant mutually give and accept one another for the purpose of establishing a marriage.

What if I have other questions? If you have other questions, please seek assistance from any priest, deacon or certified pastoral associate with whom you are comfortable. Alternatively, you may contact the Tribunal by phone at (617) 746-5900 or find us at our website <http://www.bostoncatholic.org/Tribunal.aspx> which has additional contact information. Our staff members will be pleased to offer you whatever help possible.

For additional reading related to marriage and invalidity, please consult the book *Annulment: The Wedding That Was* by Monsignor Michael Smith Foster, J.C.D.

Catholic Annulment

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