

Annulment: A Catholic Divorce?

By Fr. William P. Saunders

(Reprinted with permission from the 7/29/04 issue of the Diocese of Arlington *Catholic Herald*)

A Protestant friend of mine had a question about annulments, and after my explanation, said, "Sounds like Catholic divorce." Could you explain the matter better? — A reader in Annandale, Virginia

Before addressing the issue of an annulment, we must first have a clear understanding of marriage. When the Pharisees questioned our Lord about divorce, He replied, "Have you not read that at the beginning the Creator made them male and female, and declared, 'For this reason a man shall leave his father and mother and cling to his wife, and the two shall become as one'? Thus, they are no longer two but one flesh. Therefore, let no man separate what God has joined" (Mt 19:3-6).

Given this teaching, we as Catholics believe that when a baptized, Christian man freely marries a baptized, Christian woman, they form an indissoluble, sacramental bond. So whether the marriage involves two baptized Catholics, or two baptized Protestants, or two baptized Orthodox Christians, or any combination thereof, the marriage of two baptized Christians constitutes a sacrament. This indissoluble, sacramental bond is evidenced in the vows they exchange: "I take you, to be my wife/husband. I

promise to be true to you in good times and in bad, in sickness and in health. I will love you and honor you all the days of my life," or "I take you for my lawful wife/husband, to have and to hold, from this day forward, for better, for worse, for richer, for poorer, in sickness and in health, until death do us part" (*Rite of Marriage*). These vows express a love that is permanent, exclusive, faithful, self-giving, and life-giving.

Moreover, we must never forget that marriage is indeed a sacrament. The Lord Himself gives the couple the grace to live the marriage. By turning to the Lord each day and

imploping His assistance, by rejoicing in the countless blessings they share as well as sharing their crosses with Him, the husband and wife will have a strong marriage.

Recently, a dear friend's father died who had been married to his wife for 66 years. Imagine — 66 years of marriage to the same person! This couple faced the regular routine of life — war and



The Holy Family

peace, economic depression and abundance, good health and medical problems; they faced burying one of their own children; and they faced their own personal and family difficulties. Yet, they had a strong faith in God and in each other. They never stopped believing in their vows. That faith and the grace of God kept their marriage strong. One could honestly say that “the two had become one.”

Sadly, though, divorce does occur. Statistics show that 50 percent of all marriages in the United States end in divorce within five years. The state court considers marriage as a contract, not as a sacrament. The divorce decree establishes the rights of both parties, and now legally, the former spouses can again marry civilly. However, in the eyes of God and the Church, an indissoluble sacramental marriage is presumed to have occurred: “Marriage enjoys the favor of the law; consequently, when a doubt exists, the validity of a marriage is to be upheld until the contrary is proven” (*Code of Canon Law*, No. 1060). One cannot deny that the couple exchanged those vows before God, their family and their friends, and indeed the whole Church, and those witnesses presume the vows were freely exchanged and sincere — “until death do us part.” Therefore, no one can just pretend that the marriage never took place and remarry.

Since the vows were exchanged in public and meant to be “until death do us part,” then there must be a public declaration stating that the vows are not binding. The Church sincerely tries to help those individuals who have suffered the tragedy of divorce as well as to hold true to the teachings of our Lord. A

person who is divorced may petition the Church to review the marriage and investigate whether a full, free-willed consent (as much as any person can give) was exchanged at the time of the wedding.

The *Code of Canon Law* specifies that “matrimonial consent is an act of the will by which a man and a woman, through an irrevocable covenant, mutually give and accept each other to establish marriage” (No. 1057.2). If the Church determines that a defect in the consent existed at the time of marriage, then a Declaration of Nullity (an annulment) would be granted. Such a declaration proclaims that one or both parties did not (or could not) give a full, free-willed consent, and therefore no indissoluble, sacramental bond was established. Yes, a ceremony took place, but no sacrament occurred.

In investigating these cases, the Tribunal of the Diocese carefully examines the circumstances of the couple at the time of the marriage: such circumstances include their age and maturity; a pattern of alcohol, drug, or any substance abuse; any physical or emotional abuse in their personal history and in their relationship; any deviant sexual practices; any infidelity; any conditions placed upon the marriage; their openness to children; any history of serious psychological problems or mental illness; any previous marriages or attempts to marry; and the ability to enter a permanent, faithful, exclusive union.

In examining these circumstances and how they impact upon the couple’s ability to make a full, free-willed consent, the Tribunal looks at the couple’s relationship during the

courtship, the time of marriage, and their lived-life in marriage. The Tribunal will also ask for witnesses, who knew the couple during this time frame, and contact them to answer specific questions. In all, the Tribunal strives to be compassionate and just. Moreover, the proceedings are done under strict confidentiality.

Granted, pursuing a Declaration of Nullity is not easy. The process involves paperwork and interviews, which do surface hurtful memories. The process also may take twelve months or more because of the caseload of the Tribunal. Nevertheless, the process does bring healing and closure to a past hurt. Moreover, if granted, the Declaration of Nullity brings freedom to a person who now can enter into a new marriage freely.

Sometimes people ask, "If a marriage is annulled, does this make the children illegitimate?" The Declaration of Nullity simply states that the vows were null from the beginning, and therefore both parties are now free to marry. The declaration has no civil bearing on the legitimacy of the children.

Another question arises concerning the status of a divorced person in the Church. Since divorce involves a civil decree by the state and is not recognized by the Church, a divorced person remains in good standing and may receive the sacraments. However, if a divorced person remarries without a Declaration of Nullity, then strictly speaking, an act of adultery is committed: since the first marriage still is presumed valid, remarriage without an annulment places the person in a state of mortal sin and prevents him from

receiving holy Communion. Therefore, the Church encourages a divorced person who may think he may one day remarry to see his parish priest and pursue the annulment process.

The Church must be very careful in administering this annulment process. In 1968, 338 annulments were granted in the United States; in 1995, 54,013 were granted. (Declarations of Nullity, 73,108 of them, were granted for the entire Church throughout the world, revealing the disproportionate number in the United States.) Never should the Church give the impression that the annulment process is merely a burdensome, rubber stamping, hoop-jumping game which eventually leads to a guaranteed annulment. No such guarantee exists. Never should a couple enter marriage thinking, "Well, if it doesn't work out, I can always get it annulled." Rather, we must teach and uphold that marriage is for life. Couples should be encouraged to prepare spiritually for entering the sacrament of marriage and for making a Christ-centered marriage.

Fr. Saunders is pastor of Our Lady of Hope Parish in Potomac Falls, Maryland, and a professor of catechetics and theology at Notre Dame Graduate School in Alexandria, Virginia.

Please note: 100 articles of this column have been compiled in a book, Straight Answers, and another 100 articles in Straight Answers II. These books are available by calling 703/256-5994 (fax 703/256-8593) or may be purchased through the Daughters of St. Paul, the Catholic Shop, the Paschal Lamb and other religious book stores. All proceeds benefit the building fund of Our Lady of Hope Church.

Copyright ©2004 Arlington Catholic Herald. All rights reserved.