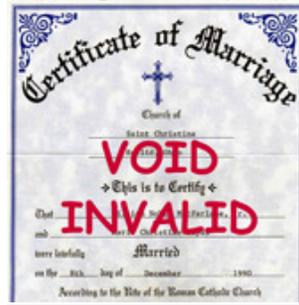


# Annulments

James Akin

(abridged and adapted)



## Q: What is an annulment?

**A:** It is a declaration by the Church that a given marriage was not valid at the time the parties attempted to contract it, meaning that the parties were not genuinely sacramentally married by it and so are or were free to contract a subsequent marriage.

## Q: Is that the same as a divorce?

**A:** No. A divorce is the dissolving of only the civil aspect of a marriage. It has no effect on the sacramentality of a Christian marriage. An annulment is a declaration that there never was, in actuality, a sacramental marriage.

## Q: Why is this distinction important?

**A:** Because Christ and Paul indicated that a genuine marriage between believers cannot be dissolved in God's eyes (only in man's eyes) by anything but death, and to remarry under such circumstances leads to living in a state of adultery (see Mark 10:11-12; Romans 7:2-3; 1 Corinthians 7:10-11). While a civil divorce may dissolve a marriage in terms of man's law, it does not dissolve it in terms of God's law. This means that people who have gotten a civil divorce may still be married in God's eyes and so are not free to marry other people. To show that they *are* free to marry other people, you need to show that there was never a valid Christian marriage between them and so they are not bound in God's eyes. Showing that there never was a valid marriage is what an annulment is.

## Q: How can a couple live together for years and then have their marriage annulled?

**A:** This question proceeds from an assumption that the length of time a couple spends together makes it married. It doesn't. If a couple lives together for years without getting married in God's eyes then they are still unmarried in God's eyes. The passage of time doesn't change that.

This is the principle which allows an annulment after a period of years. If a couple were never sacramentally married in God's eyes, the mere passage of time does not create the sacrament between them. Thus if it can be established that their initial contracting of the marriage was invalid (due to an impediment or the fact that the couple did not exchange

valid matrimonial consent), then no matter how much time has elapsed the two are not married because there never was a marriage in the first place.

Consider an analogy. A marriage is a special kind of contract (an especially serious kind known as a covenant), but even with regular human contracts--say one that brings into existence a partnership--if the contract were illegal for some reason, the partnership it attempted to bring about does not exist, no matter how long the two "partners" have been working together. In the same way, a sacramental marriage must be valid before God from the time it was contracted or it is not valid at all and thus can be annulled--that is, it cannot be determined to have been invalid from the beginning.

**Q: What if they have had children?**

**A:** This doesn't change anything. The fact a couple has had a child does not make them any more sacramentally married than if they had not. If two unmarried people have a child, it does not make them married, and if two people are living in a marriage that was invalid from its beginning then the conception of a child will not validate their marriage.

**Q: Does that mean children born to people who later have their marriages annulled are illegitimate?**

**A:** No. First of all, illegitimacy (as its name suggests) is a legal category, and it pertains to man's law, not God's. It is no stain on the child in God's eyes if the child was born in a valid marriage, an invalid marriage, or no marriage at all. The child is equally precious to God and the Church no matter how it was conceived.

Illegitimacy is a purely human legal category that is used for such things as determining inheritance rights. As a result, if a child is born in a marriage that is valid under civil law (even if it was invalid in God's eyes) then the child is legitimate. The only case when a child would not be legitimate would be if it was conceived by parents who were not married even under man's law and if they never got married.

**Q: How can I know if I need an annulment?**

**A:** You should presume you need an annulment and go ask a local priest or canon lawyer about it if you meet the following conditions: (1) You have been married before; (2) Your previous spouse is still living; (3) You wish to remarry or have remarried. You should also check with a local priest concerning an annulment if your previous spouse was living at the time you remarried even though that spouse has subsequently died.

**Q: What if one partner in the former marriage was not Catholic or the marriage was not performed by a minister?**

**A:** These are not normally relevant. The rule of thumb is ask a priest or canon lawyer about it.

**Q: How difficult is it to get an annulment?**

**A:** It depends entirely on the circumstances. If the original marriage was valid, an annulment cannot be granted. If it was invalid then the difficulty of obtaining an annulment will be the same as how difficult it is to show that it was invalid. If it can be easily shown that this was the case then the annulment will be easy. If it is harder to show this then obtaining the annulment will be harder.

**Q: What are some grounds for an annulment?**

**A:** Examples include: The Catholic Church currently requires that its members either be married in a Catholic ceremony or get a dispensation to have a non-Catholic one. If they don't do this, the validity of the marriage will be automatically blocked by canon law. Therefore, if a Catholic married someone in a non-Catholic service (either civil or religious) and didn't get a dispensation first, the marriage was automatically invalid. This is straightforward.

There are situations in which it can be shown one or both of the partners refused to get married on God's terms *and* would not have gotten married had they known what God's terms are (if they were merely ignorant of God's terms but would have gotten married anyway then they were *willing* to get married on his terms and so the marriage is valid; they just didn't know all of what they were agreeing to at the time). By being unwilling to marry on his terms, they excluded an essential property of marriage according to God's definition of what marriage is, and so had no genuine marriage. E.g. One of the essential properties of Christian marriage is the property of unity, meaning that the marriage is monogamous. If, in one of those countries where polygamy is still practiced, a Christian got married but intended in this heart the possibility of additional wives, then the person was not accepting Christian marriage on God's terms, meaning that he rejected Christian marriage and so was never married in God's eyes.

More relevant to our society, a person might exclude the essential property of fidelity and say in his heart, "Yeah, I will marry her, but only on condition that I can fool around a little later if I get tired of her." This person rejects the essential property of fidelity, and so rejects Christian marriage, meaning he was never married in God's eyes because he refused marriage on God's terms. Similarly, a person might exclude the essential property of indissolubility in his heart and say, "I will marry her, but *only* if I can divorce her later and remarry if this doesn't work out." Such a person would be refusing Christian marriage on God's terms and thus would be refusing Christian marriage.

Finally, a person might exclude the essential property of openness to children and say, "Okay, I'll get married, but *only* on the condition that we *never* have kids, and if I knew we were going to have kids, then I just *wouldn't* get married." Again, an essential property of marriage is excluded, and so the marriage itself is excluded.

Other situations in which there would be an impediment to marriage would be ones in which one or both spouses were psychologically immature to the point of not being able to make a rational commitment to marriage, severely mentally ill, under the influence of drugs or alcohol, had lied about their identity, had lied about their sexual orientation, had lied about their ability to consummate the marriage, etc.

**Q: Why is the Catholic Church so hung up about annulments? No other church makes divorced people go through such a process before they can marry again.**

**A:** To the extent that is true, it is because no other church is doing its job. It is not, however, entirely true. It is true that no Protestant group has such a process, and this is sad because historically their churches have taught that there are some situations in which one cannot biblically remarry and thus that Jesus' command about remarriage in these circumstances being adulterous really means something (Mark 10:11-12). Therefore, they should be conducting their own objective investigations of marriages and

whether a given church member can remarry. Instead, the decision of whether or not to marry a couple is left up to the pastor whom they approach and ask to do the service, and of course there is immense pressure on the pastor to not refuse a marriage request from members of his congregation.

It is thus for the sake of the souls who wish to remarry after one marriage has failed that the Church has established the annulment process. The Church must remain faithful to Jesus' teaching that remarriage following a genuine marriage results in an adulterous union, which is gravely sinful, and so if the Church is being asked to marry people who have been divorced, it must, for the sake of the souls involved, conduct an investigation of whether or not the first marriage was sacramentally valid, lest it bless an adulterous union between the parties petitioning it.

**Q: Seems like annulments are a scheme to get more money.**

**A:** In order to be sure that the two parties were never married in God's eyes, the Church must make very, very sure that this is the case and must conduct a thorough investigation. If it treated the issue cavalierly then people who were married in God's eyes could be granted an annulment, meaning that if they married again then they objectively would be living in an adulterous marriage, which Jesus explicitly warns us against in the gospels (Mark 10:11-12).

Thus in examining marriage cases the Church *assumes* that any marriage was valid and (if between Christians) sacramental unless *compelling* evidence to the contrary is produced. The Church must conduct a thorough investigation to show that any purported evidence stands up under cross-examination, and if a preliminary finding of nullity is made then the case is automatically appealed within the Church's internal marriage tribunal system. Only if the finding of nullity is held up on appeal is a decree of nullity -- an annulment -- issued, declaring that it is reasonable to believe that the parties were not married in God's eyes and thus are free to marry.

The Church thus takes great pains to ensure that all facts are checked and cross-checked in order to ensure that people are not given permission to marry who are already married in God's eyes. It is because of the extensive investigations that must be conducted that a fee is asked. The salaries of the canon lawyers who investigate the case, the tribunal judges who evaluate the case, the fees of any specialists like psychologists who may be consulted, and the clerical workers who gather and record the facts and keep the records must be paid somehow, and most dioceses have these salaries paid primarily on a user-access basis (i.e., those who are seeking annulments are those who pay for most of the costs of the annulments). Even so, every diocese ends up *losing* money in their marriage tribunals (the fee asked is not equal to the actual costs), and the difference is made up out of the diocese's general funds.

Even so, no diocese insists that the poor and the indigent pay marriage tribunal costs, and if a person cannot pay the regular asking cost then they are either asked for a lower cost or the cost is waved entirely. Thus the Church does not make money off of the marriage tribunal/annulment evaluation situation. Rather, it loses money from its general funds which could be spent on other things.

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