
HALLAM DIOCESAN TRIBUNAL

Marriage Nullity

THE SACRAMENT OF MARRIAGE:

The Catholic Church believes marriage to be a Sacrament. It is an enduring and exclusive partnership for the mutual exchange of love for the well-being of the spouses and for the procreation and education of children.

The Church believes that every valid, sacramental marriage, which has been consummated is indissoluble, that is, it is permanent and lasts for the lifetime of the spouses. This understanding is based on evidence found in the Old Testament, the Gospels of Matthew, Mark and Luke, the writing of St Paul, and almost two thousand years of Christian tradition.

Each and every marriage (Catholic, Protestant, Jewish, Muslim etc...) is presumed to be a valid marriage. The good of all concerned (spouses, children, in-law, society, the church etc...) demands such a presumption.

MARRIAGE BREAKDOWN:

It is clear that marriages do actually break down, the possible causes of any such break down are great, all marriage break down involves immense pain for those personally involved.

Given the Church's understanding of the indissolubility of marriage, the Church recognises that civil divorce only has civil effect and does not effect the spiritual reality of the marriage relationship. This is true of any marriage, whether it be religious or civil. Essentially the civil divorce is seen as a necessary practical arrangement for a couple for whom the marriage relationship has ceased.

At such times it is also a very natural question to ask why this breakdown occurred. Not in terms of who is to blame for the actual break down, but why two people who stood before a civil or religious official with witnesses and pledged their lives to each other in an exclusive and indissoluble partnership, now find themselves living separate lives. The answers to such questions sometimes lead to the conclusion that for one reason or another the covenant of marriage which is presumed to exist actually never came into being.

For such a covenant to be valid there must be a free exchange of consent, furthermore each party must be able to fulfil the conditions of such a covenant, and that they were able with adult judgement to chose marriage and bind themselves by the conditions of the marital state. If this covenant was so flawed as to have been invalid, the parties would be free to contract a subsequent valid marriage within the Church community.

DECLARATION OF NULLITY:

The Church declares such persons free to marry by what is called a "Declaration of Nullity", this only happens after a considerable investigation into the circumstances of the marriage and the parties to the marriage, which may allow the Church authorities to have moral certainty that the invalidity of a marriage has been adequately proven. It should be noted that "marriage enjoys the favour of the law", in other words a person who has undergone a church or civil marriage ceremony, is presumed to be married unless the contrary is proven.

A declaration of nullity does not deny the reality of the relationship, or imply that the invalid marriage was entered into with ill will or moral fault. It is a declaration by the Church that the relationship fell short of a binding union because one or more of the essential elements was actually absent.

NULLITY AND THE CIVIL LAW:

In this country the civil and catholic legal systems act completely independently, hence an ecclesiastical declaration of nullity in no way affects the laws and statutes of civil law, the provisions established by the civil courts in the divorce decree are completely unaffected. Nor does the Declaration of Nullity in anyway affect the legitimacy of children, property rights, inheritance rights, or names. It is a declaration that a particular union is in fact invalid according to the Church's definition of a valid marriage. Given the independence of the two legal systems the Church is not able, in this country, to investigate a marriage with a view to giving a declaration of nullity, until a civil divorce decree has been issued.

APPLYING FOR A DECLARATION OF NULLITY:

Anyone, Catholic or non-Catholic, can approach the Church to petition for a Declaration of nullity. In this Diocese this is done through the Diocesan Tribunal at the address given below.

A person may contact the Tribunal directly, either to begin a formal process or simply to ask for clarification and information, or it may be done through a local priest or other church representatives.

Sometimes the case itself is processed by another Tribunal, in which case we will gladly assist a person wishing to pursue a Declaration of nullity and forward the information to the correct Tribunal.

BEGINNING A NULLITY PROCESS:

A nullity process is begun when a person contacts, either directly or indirectly, the Tribunal, which will then supply a number of forms for completion. These forms ask for basic details such as full names, age, addresses etc... and to provide a short account of the relationship, the marriage, and its breakdown. Since marriage is by its nature a public affair, you will also be asked to propose witnesses who will be interviewed locally at a later date. These people should know you and/or your former spouse and preferably know something of the background to the relationship, the marriage and the breakdown (if possible we do ask for at least one parent to be willing to act as a witness).

Having received these forms arrangements are made for the person presenting a case to be interviewed. This usually takes place at the Pastoral Centre, in some cases other arrangements are made. It is not until after this interview that a formal Petition for Nullity is drawn up and the Formal Process begins.

CONFIDENTIALITY:

Your own statements and the statements of your witnesses are treated as confidential. Only the individual members of the Tribunal Staff, especially assigned to study the marriage, have access to these statements. These people are bound to secrecy by an oath. Both yourself and the other party in the case, if they co-operate with the Tribunal, do have the right to view the statements. This is only done, however, under supervision at the Tribunal offices. Any contentious statements may be removed beforehand by the Presiding Judge. No documents, copies, or notes of any case can be removed from these offices. In this way we aim at protecting both the confidential nature of the statements given and the right of those involved to give a full account of themselves and their relationship which includes the right to knowledge of the whole case.

YOUR FORMER SPOUSE:

After the Tribunal has received your petition, your former spouse will be notified in writing by us. He/she will then be offered the opportunity to present a complete account of the marriage as well as proposing any witnesses. The universal law of the Church requires this procedure in order to protect the rights of all those concerned.

It is important, therefore, to have an accurate address for your former spouse, or at least his/her last known address and sometimes the address of someone through whom he/she can be contacted.

You may or may not wish to contact your former spouse directly, if you wish you are perfectly free to do this. However, there is no expectation or requirement that you do this and the Tribunal will not divulge any information about your whereabouts if this is not already known to your former spouse. It has been our experience that in the majority of cases the former spouse is co-operative.

If your former spouse does not wish to co-operate, or simply does not reply to the Tribunal, the case will, most often, continue with their absence. Sometimes the nature of the case makes it essential to get the co-operation of the former spouse in order to come to any decision.

In either case, at the end of the process the Tribunal will consider the evidence presented in order to arrive at moral certainty regarding the case.

MAKING A DECISION:

When the statements of the parties, the evidence of witnesses, and any other relevant items have been collected, the case is sent to a Tribunal Official called the Defender of the Bond. This official is charged by law to examine the evidence and to propose any legitimate reasons for upholding the validity of marriage. Sometimes, other officials will also be required to offer observations, whether this be expert witnesses, or an Advocate, who is a legal expert appointed to act on your behalf.

When this is complete the evidence together with any observations are forwarded to a panel of Judges who will study the case and make a decision. If the Hallam Tribunal gives an affirmative decision (that is in favour of the Petition and against the validity of marriage), then this decision requires confirmation from the Tribunal of Appeal at Liverpool. This is done either by a simple decree of ratification or by a more in depth review of the case depending on the circumstances.

If the Hallam Tribunal gives a negative decision (that is against the Petition and in favour of the validity of the marriage), then the party who presented the Petition has the right to appeal to the Tribunal in Liverpool. In this case our task becomes essentially that of your agent, we will communicate the Appeal, and send all the documentation etc... if required we will take more evidence as directed by the Liverpool Tribunal.

REMARRIAGE:

Remarriage within the Church is only permitted when a Tribunal has given an affirmative decision and this decision has been confirmed by an Appeal Tribunal. Once this has taken place the usual procedure for getting married should be followed with the local parish priest, in addition to the usual documents required you will also have to present the Declaration of Nullity to the parish priest.

When a marriage has been declared invalid due to a specific cause, it is important that the Church take care that this cause is not still present should the same person wish to marry again. In such cases a restricting clause may be incorporated into the Declaration of nullity, this may require a person to fulfil certain conditions before being allowed to remarry. Again the Tribunal will make any necessary arrangements and help anyone to fulfil any conditions imposed and petition the relevant authority for the lifting of the restriction.

Please note that permission to remarry in the Catholic Church can in no way be guaranteed before the completion of the entire nullity process. No plans for future marriages should be made before that time. No one within the diocese is authorised to make any kind of promise to this effect before the nullity process is complete.

COSTS:

The Nullity process is a considerable administrative procedure involving a number of people employed by the diocese. Although we do not hope to cover these costs we do try to recoup some of the expenses by making basic charges. When a case is begun we ask for a deposit of £60, in the course of the process we ask for a further £240, which can be paid in a variety of ways.

Financial considerations do not determine the work of the Tribunal or the outcome of a case. The Tribunal will readily accept a reduction in fees or process the case free of charge. At no time should financial circumstances discourage or prevent a person from pursuing a Declaration of Nullity. If you have any concerns in this area please do not hesitate to contact the Tribunal.

DURATION:

It is impossible to predict the exact length of time any particular case may take because there are so many variable factors. Usually from our experience it takes AT LEAST A YEAR to complete a case, many cases take about EIGHTEEN MONTHS. However there can be no guarantee that a case can be completed within this time, priests are not permitted to set dates for remarriage in Church until a Declaration of Nullity has actually been issued.

The Tribunal processes each case as efficiently as possible in strict rotation according to the order in which they are presented.

Hallam Diocesan Tribunal
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