

A MINISTRY OF RECONCILIATION



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What is a Marriage?

Marriage is, by God's plan, an enduring and exclusive partnership between a man and a woman. The purpose for this partnership is the giving and receiving of love and for the procreation and education of children. For all baptized persons, a valid marriage is also a sacrament. In accord with the Gospels, the writings of St. Paul and centuries of Christian tradition, the Catholic Church teaches that every consummated sacramental marriage is indissoluble. The Catholic Church presumes that every marriage, or at least every initial marriage, including a marriage between two non-Catholics, is valid.

Is it possible to remarry in the Church?

In every presumption the opposite may be true. If the evidence shows that a particular marriage is invalid (i.e., from the beginning it suffered from a radical defect), the original presumption no longer holds. To render a marriage invalid, the radical defect must be present *from the beginning*, i.e., at the time of the wedding ceremony. No defect that might arise *during* the marriage would have the power of turning a valid marriage into an invalid one. When we can prove that a particular marriage was never valid in the first place, then the Church may declare it invalid.

We better describe an annulment as a **Declaration of Invalidity**. It does not deny that a real relationship existed, nor does it imply that the parties entered the relationship with ill will or moral fault. The Church is saying that the relationship fell short of at least one element essential for a binding, lifelong union.

What elements are essential for a binding, lifelong union?

For a marriage to be a sacrament it is necessary that the parties intend to have permanent, faithful and exclusive union. Both parties need to have a certain degree of discretion of judgment concerning the essential matrimonial rights and duties being exchanged. Both parties must have the psychic capacity of assuming the essential obligations of matrimony. The essential rights and duties or obligations include the partnership of the whole of life and the good of the spouses. They also include the procreation and education of the children and the good of the sacrament. They specifically include self revelation, understanding and caring.

Are there any civil effects to a Church Declaration

of Invalidity?

A Declaration of Invalidity has no civil effect in the United States. It does not affect in any manner the legitimacy of children, property rights, inheritance rights, names, etc. The Catholic Church simply declares that a particular union, perhaps begun in good faith and thought to be a marriage, lacked some essential element necessary for an indissoluble covenant.

What is the purpose of the Tribunal?

Church law calls for the existence of a tribunal in every diocese of the world. The Fargo Tribunal has a staff of specially trained and experienced priests, deacons, religious and lay persons. It offers assistance to persons requesting that the Church investigate a marriage to find whether there is any possibility of a Declaration of Invalidity. The Tribunal then investigates the marriage and on completion of the investigation, declares whether invalidity has been proved. The purpose of the procedure is reconciliation and peace of conscience and spirit as well as to determine the freedom of the parties to marry within the Catholic Church..

How is the Tribunal a Ministry of Reconciliation?

Divorce is an emotionally painful experience. Dreams are ended. Persons feel hurt and alienated from one another, their community, the Church and God. Often a person holds the pain of rejection inside.

This process is an opportunity for reflection. One recalls and tells the story of the marriage as a whole. In recalling and telling one's story the person looks at the cumulative effects of their experiences on this relationship. As one writes or speaks about the marriage relationship, a person learns more about the former spouse and the self. As the parties come to recognize the root of the failure of their marriage, they can more easily forgive and move on..

The Declaration of Invalidity provides an official statement that the former marriage is not an obstacle to a future marriage within the Church.

How does one request a Declaration of Invalidity?

A person, known as the Petitioner, begins by completing an application form and sending it to the Tribunal. This form is available from a parish priest or from the Tribunal. The application includes an outline for the Petitioner to provide the history of the marriage. It asks

for information concerning the background of the Petitioner and the former spouse, known as the Respondent, and for significant information about the courtship and married life. The application and history serves as the **libellus**, the first step in seeking a Declaration of Invalidity. It will have to be signed by the parish priest or a pastoral minister delegated to work with annulments. As part of this libellus the Petitioner must provide the Tribunal with the names and addresses of witnesses and also the address of the Respondent.

The witnesses should be people knowledgeable about the parties and the history of the marriage. Key witnesses are those who knew both parties before and during the marriage. These are often parents, brothers or sisters. Ideally the Petitioner will provide the names of a witness who would be from the side of the Respondent. The Tribunal will contact the Respondent and the witnesses. They may come into the office for an interview, write their testimony or call and tell us what they know about the marriage especially its beginnings. The Petitioner then makes an appointment with a staff member of the Tribunal for a personal interview to clarify the description of the marital history. We will explain the process in more detail and answer any questions.

What documents are needed?

The Petitioner will supply the Tribunal with records of the baptisms of both spouses and of the marriage and divorce. Without the final decree of civil divorce, the Tribunal cannot consider any petitions for an annulment. The divorce decree serves as juridical proof that a reconciliation between the parties is unlikely.

What about the former spouse?

The Tribunal must contact the Respondent. The Respondent can complete a marital history and offer names of witnesses. The universal law of the Catholic Church requires this contact. Hearing from the Respondent is very helpful to the study. If there is sufficient evidence, we may give a decision even when the Respondent chooses not to participate in the process.

The Tribunal needs an accurate, current address of the Respondent. If this is not available, evidence must be provided that every reasonable attempt to obtain the address has been exhausted. Reasonable attempts include obtaining address of a family member, the last known address of the Respondent, internet searches, or VA records. If the Social Security number of the

Respondent is known, there are services that will do a search. The Petitioner does not have to contact the Respondent directly. The Tribunal will try to contact the Respondent. Frequently the Respondent is willing to offer testimony.

What about confidentiality?

In view of the nature of the information, we promise a limited degree of confidentiality. Only the officers of the Tribunal and the Petitioner and the Respondent have the right to view all of the information provided. The Petitioner and the Respondent do have a right to know what was said about them so that they can defend themselves. For a grave reason the judge can reserve specific pieces of information to the Tribunal. The parties also have the right to the final decision with its explanation of the reasoning. Our policy is that the decision must be received either through our office or through the local pastor. A signed release form must accompany any requests for release of a person's own testimony to a third party (such as a counselor).

How is the case decided?

When the libellus is presented to the Tribunal, the auditor will assist the Petitioner in determining appropriate grounds. The Respondent will be notified of the grounds. After compiling all the testimony an Advocate will write a brief applying the entire history of the marriage as seen by the parties and witnesses (sometimes they include the reflections of a psychological expert) to the jurisprudence of the Church regarding the set grounds. Then the Defender of the Bond reviews and points out the elements of the case that favor the validity of the marriage. After reviewing the arguments of the Advocate and the Defender of the Bond, the Judge will come to a decision.

Is the Tribunal's decision final?

No. Church law requires an automatic appeal process. If the decision is affirmative, i.e., we proved that the marriage was invalid, we must appeal it to the Court of Appeals of the Province for a second decision. It cannot be considered final until they issue a second affirmative decision. If there is some objection to the first affirmative decision, the Defender of the Bond or the Respondent may file a personal appeal. This must be done in writing within three weeks of notification of the first decision. When its work is completed, the Tribunal will notify the parties of the final decision.

If the first decision is negative, that is, declaring that we did not prove the marriage invalid, either the Petitioner

or Respondent may appeal the decision.

Should the Court of Appeals reverse a decision in a given case, the Court of Third Instance would be the Roman Rota. The Respondent has the right to appeal an affirmative decision from the Appeals Court to the Roman Rota. The Respondent also has the right to appeal directly to the Rota for second instance. The Respondent becomes responsible for the fees that result from their appeals to the Rota.

Is remarriage in the Catholic Church allowed?

If we prove the marriage invalid and there are no restrictions concerning remarriage, they may start the usual procedure of preparing for marriage in the Catholic Church with the local parish priest.

If we prove a marriage invalid due to a possibly ongoing cause, we cannot permit a second marriage obviously until they have shown that they have removed the cause which invalidated the first marriage.

No new marriage may be scheduled in any Catholic parish until the procedure has been completed and requirements for remarriage have been fulfilled.

Is there a fee for Tribunal services?

Operating a Tribunal is expensive. The Diocese of Fargo is committed to providing this ministry. On average it costs the diocese approximately **1500** per case. Salaries for auditors, advocates, defenders of the bond and judges must be paid. There are expenses for paper, telephones, computers and other supplies required in any office. To help the diocese we invite the Petitioner to pledge a contribution toward defraying some of the cost. We suggest that the petitioner pledge a contribution of **\$750**. We do request a filing fee of \$25 to accompany the libellus.

Recognizing the difficult financial circumstances of many people, the Tribunal attempts to make it as easy as possible to pay this pledge. Many persons pay monthly. If a person is unable to pledge this amount, we ask them to pledge what they can. Also if anyone can make a larger contribution we welcome that help to offset those who are unable to make the suggested contribution. Once we accept the preliminary questionnaire, we will send the petitioner a pledge form. On this form they show the total pledge and the amount they can pay each month. We will send a reminder each month.