

# Pastoral Instruction and Policy on Marriage



Clergy's guide to Theology, Canon  
Law, and Diocesan Policy

Spring 2013  
Diocese of Phoenix

Most Reverend Thomas J. Olmsted, JCD

Dear Brothers in Christ,

I am pleased to present this Pastoral Instruction and Policy on Marriage to all the Clergy of the Diocese of Phoenix. It is my hope that this Instruction will serve us well in assisting those who are preparing to celebrate their marriage in the Church. Given the contemporary pastoral situation and the state of marriage in our society, it is imperative that we not only assist those preparing for marriage with solid catechesis and formation, but that we also ensure that the celebration of the ritual itself is proper and dignified according to the laws of the Church. As you will see, the content of this Pastoral Instruction and Policy on Marriage offers helpful guidance in order that the clergy and faithful alike can be confident of the dignity and valid celebration of marriage as prescribed by canon law and the liturgical books. Therefore, the goal of this Pastoral Instruction is aimed at ensuring the validity and liceity of the ceremonial ritual itself and to provide the Clergy with the information necessary to uphold the proper order of this important celebration in the life of the couple and of the whole Church.

The title of this document is purposefully called, an, "Instruction." Canon 34 of the Code of Canon Law states that,

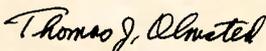
Instructions clarify the precepts of laws and elaborate on and determine the methods to be observed in fulfilling them. They are given for the use of those whose duty it is to see that laws are executed and oblige them in the execution of the laws. Those who possess executive power legitimately issue such instructions within the limits of their competence.

The sources for the information contained in this Pastoral Instruction are, the Catechism of the Catholic Church, the Code of Canon Law, documents of the Second Vatican Council, and other official pronouncements of the Apostolic See. Thus, the incorporation of these various sources of Church teaching serves to illustrate the importance of these precepts of the law and the impact that such teachings have on the proper celebration of marriage. Furthermore, it is important that our Clergy are aware that this Pastoral Instruction and Policy on Marriage goes hand in hand with the list of Faculties in the *Pagellae* as well as the Marriage Preparation Policy entitled, Covenant of Love. I urge you to keep these sources close at hand in your ministry to couples preparing for marriage.

During my years of service as Bishop of the Diocese of Phoenix, I have approved many policies in regards to various areas of Church life and ministry. These policies are equivalent to what canon law describes as "particular law." Consequently, such policies must be promulgated as law. This Pastoral Instruction is no different in terms of our obligation as Clergy to implement it in our parishes and to abide by its prescriptions. As of the date inscribed below, the Pastoral Instruction and Policy on Marriage will have the force of law for the Diocese of Phoenix.

Given on the Feast of the Annunciation, April 8, 2013.

Sincerely Yours in Christ,



+ Thomas J. Olmsted  
Bishop of Phoenix



Sr. Jean Steffes, CSA  
Chancellor

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## Abbreviations:

**CIC = Code of Canon Law**

**CCC = Catechism of the Catholic Church**

# I.

## What is Marriage?

The Code of Canon Law defines marriage as follows: “The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptized” (*CIC*, 1055 §1). It further indicates that the essential elements of marriage are unity and indissolubility (*CIC*, 1056). Therefore, when a couple marries they need to understand and accept that marriage is an indissoluble partnership, open to the procreation of children, and includes fidelity.

This understanding of marriage is foundational and applies to all marriages, whether it is a marriage in the Catholic Church between two Catholics, or a ceremony between two unbaptized people before a justice of the peace. This is because marriage is rooted in human nature. In fact, the Catechism of the Catholic Church states, “The intimate community of life and love which constitutes the married state has been established by the Creator and endowed by him with its own proper laws.... God himself is the author of marriage. The vocation to marriage is written in the very nature of man and woman as they came from the hand of the Creator. Marriage is not a purely human institution despite the many variations it may have undergone through the centuries in different cultures, social structures, and spiritual attitudes” (*CCC*, 1603).

The ministers of the Sacrament of Matrimony are the man and the woman, and not the cleric. The cleric is the official witness for the Church and asks for and receives the consent of the couple in the name of the Church. Canon 1057 of the Code states, “§1. The consent of the parties, legitimately manifested between persons qualified by law, makes marriage; no human power is able to supply this consent. §2. Matrimonial consent is an act of the will by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage.” Therefore, it is the consent of the parties, in freedom and knowledge, that makes marriage.

## II. Who Can Marry?

The Code of Canon Law states, “§1. Sacred ministers cannot deny the sacraments to those who seek them at appropriate times, are properly disposed, and are not prohibited by law from receiving them. §2. Pastors of souls and other members of the Christian faithful, according to their respective ecclesiastical function, have the duty to take care that those who seek the sacraments are prepared to receive them by proper evangelization and catechetical instruction, attentive to the norms issued by competent authority” (CIC, 843).

There is not an absolute right to any sacrament. Rather, the ability to exercise one’s right to a sacrament is moderated by three conditions: the sacrament is requested at an appropriate time, the parties are properly disposed, and they are not prohibited by law.

Being properly disposed for marriage means that “persons must possess at least the minimal psychological capacity to establish and nurture an intimate partnership of life, sufficient knowledge of the nature of this partnership, and the intention to undertake it. If these psychological, intellectual, or volitional requirements are lacking, a person’s consent is deficient and fails to give rise to a marriage” (John Beal, *New Commentary on the Code of Canon Law*, 1250).

The Holy Father, Pope Benedict XVI, stated in his 2011 Address to the Roman Rota that, “The right to marry, *ius connubii*, ... is not a subjective claim that pastors must fulfill through a merely formal recognition independent of the effective content of the union. The right to contract marriage presupposes that the person can and intends to celebrate it truly, that is, in the truth of its essence as the Church teaches it. No one can claim the right to a nuptial ceremony. Indeed the *ius connubii* refers to the right to celebrate an authentic marriage.”

Those who are prohibited by law (canon law) from marriage are those with an impediment to marry. Some impediments to marriage can be

dispensed, but those of divine or natural law cannot be dispensed. The specific impediments are:

- Insufficient age: prior to 16 for men, prior to 14 for women
- Impotence. **Note:** this is **NOT** sterility. Impotence is the inability to physically consummate the marriage.\*
- Prior Bond/*Ligamen*\*\*
- Disparity of Cult (one Catholic and one unbaptized party)
- Holy Orders
- Public Perpetual Vow of Chastity in a Religious Institute
- Abduction
- Crime (when a person conspires to kill his/her spouse in order to be free to marry again)
- Consanguinity (the couple is too closely related by blood)
- Affinity (the couple is too closely related by another's marriage)
- Public Propriety
- Adoption (the couple is too closely related due to an adoption)

\*In regards to the impediment of impotence, in order to enter validly into marriage, both parties to the marriage must be able to complete the sexual act. They do not have to do it (Mary and Joseph), but they have to be capable of completing the act. Incapacity does not mean performing the act is uncomfortable or dangerous for health reasons (heart problems, etc.) but means that in no way is one or both of the parties capable of performing the sexual act. This becomes a particularly difficult pastoral issues when elderly couples want to marry in the Catholic Church, whether they are widowed or convalidating their marriage. Should one or both parties be incapable of completing the sexual act, they are prohibited from entering into the Sacrament of Marriage. This is a natural law impediment and cannot be dispensed.

\*\*In regards to the impediment of prior bond, that is, a party who has already contracted marriage with another person (even if they have obtained a civil divorce), the person must have his/her matrimonial situation investigated through the annulment process before setting a date for a new marriage or starting marriage preparation.

**Civil Law:** According to the laws of the State of Arizona, it is illegal for

any cleric to witness a marriage that is not also recognized as civilly binding in some jurisdiction. Clerics must be aware that by witnessing the marriage in the Catholic Church without the couple obtaining a valid civil marriage license, a priest or deacon places himself at risk with the civil authorities, as he is considered a civil servant in terms of marriage in the State of Arizona. Therefore, a cleric **may not** witness the vows of a couple who has not obtained a civil marriage license. Situations that have surfaced in the parish regarding couples not wanting to get a civil marriage license involve immigrants and elderly couples. Contact the Tribunal or the appropriate Consulate if you need further assistance.

**RCIA:** Those people who present themselves for catechesis with a view towards becoming Catholic often bring with them complicated marital situations that may prevent them from not only marriage in the Catholic Church, but the reception of the Sacraments of Initiation.

Anyone who is divorced and remarried (Catholic or non-Catholic) without a decree of nullity issued by the Church must have their situation investigated through the annulment process. While people in irregular marriages are impeded from completing initiation, they can certainly participate in the Period of Pre-Catechumenate, the Rite of Acceptance and the subsequent period of the Catechumenate, but they cannot be accepted as Elect (i.e. be admitted to the Rite of the Elect) and/or approach the sacraments until their impediment is removed.

Individuals or couples who are Catholic, but married outside of the Church, and who have no previous marriages will need to have their Marriage convalidated prior to completing their Sacraments of Initiation. In certain circumstances, it may be appropriate to convalidate the marriage after reception of the sacraments if the couple fully understands the expectation of the Church prior to their convalidation that they must live as brother and sister until the convalidation.

Married couples who have no prior marriages, and neither party was Catholic at the time of the wedding, are not bound by Canonical Form and therefore are married in the eyes of the Church. After they receive their sacraments, no convalidation is necessary. The couple may have a blessing of their union, but the renewal of vows is prohibited.

### III.

## Marriage Preparation

The requirements for marriage preparation for the Diocese of Phoenix are outlined in the Marriage Preparation Policy. This can be found online at [www.ourcovenantoflovephx.org](http://www.ourcovenantoflovephx.org).

Marriage preparation in the Diocese of Phoenix is a nine month process and is required for all marriages and convalidations involving at least one Catholic.

Those bound by this policy are Latin Catholics who live in the territory of the Diocese of Phoenix. Regardless of the location of the wedding ceremony, a couple is bound to the marriage preparation policy of the diocese where the Catholic party(ies) lives. For example, if a Catholic couple lives in the territory of the Diocese of Phoenix but will be married in the Archdiocese of Los Angeles, the couple is bound to follow the marriage preparation policy of the Diocese of Phoenix and NOT the policy of the Archdiocese of Los Angeles. Should both parties be Catholic and they live in different dioceses, they can choose either diocesan policy for their marriage preparation.

**Prenuptial Files:** If one of your parishioners is getting married in another diocese, the couple must complete the marriage preparation of the Diocese of Phoenix and the prenuptial file must be sent to the Tribunal of the Diocese of Phoenix for transfer to the Diocesan offices of the location of the parish that will perform the marriage. This is required so that the parish where the marriage takes place is assured that the couple is free to marry and properly prepared for the Sacrament of Matrimony.

In the prenuptial file, please include all the required paperwork for the various courses required, any dispensation or permission requests, and a letter of delegation (if necessary) to the Tribunal in the Diocese of Phoenix. The Judicial Vicar must review the file and indicate whether there is anything that would prevent a valid and licit celebration of the wedding. If he determines that the documentation is in order, he will place the

*nihil obstat* on the file and forward the file to the diocese where the wedding will take place. The diocese of the place of marriage will review the file and transfer it to the parish where the wedding will be celebrated.

The prenuptial file **CANNOT** be transferred from parish to parish when the wedding is taking place outside of the Diocese of Phoenix. In addition, the couple **CANNOT** hand carry the file to the parish, nor can they have a copy of the file. If the file needs to be sent overseas or with special delivery, the shipping costs will be the responsibility of the couple who is getting married. In addition to sending the file overseas, the couple may hand carry a sealed “photocopy” of their prenuptial file if it is determined that the file will take an extended period of time to reach the diocese where the wedding will be celebrated. This is the only exception from the rule barring photocopies.

It is necessary that the Tribunal receive prenuptial files for weddings outside the diocese at least **30** days in advance for weddings within the United States, and at least **90** days for weddings outside the United States. For marriages outside the United States, a civil marriage ceremony may be required before the wedding in the Catholic Church. (If the couple is already in a civil union, they will just need to produce a copy of that certificate.) It is the responsibility of the couple to inquire as to the laws of the country in which they will be married so that the civil effects of their marriage are attained. However, please contact the Tribunal if you need assistance.



## IV.

# The Wedding

Before a wedding can take place in the Catholic Church, there are several items that need to be addressed to ensure a valid and licit marriage.

1. **Freedom to Marry:** Before marriage preparation begins and a date set for the wedding, determine if either party has ANY previous marriages. If they do have previous marriages, refer them immediately to your Parish's Nullity Minister. **DO NOT** start marriage preparation. By starting marriage preparation prematurely, we may be giving them a false hope about their freedom to marry in the future. Negative decisions on annulment cases are given, which would mean that either or both parties are not free to marry. The Tribunal cannot give a definite time frame for when a case will be finished. A formal annulment case normally takes between 18-24 months, but some cases can require more time. People must be found to be free to marry when they **BEGIN** marriage preparation.

If a person has received an annulment, ask him/her to provide you with a copy of the decree. That decree must be placed in the pre-nuptial file. Also, if a person's previous spouse is deceased, a certified death certificate must be added to the pre-nuptial file.

2. **Immigrants:** Clerics must be aware that by witnessing the marriage of a couple in the Catholic Church without a valid civil marriage license, a priest or deacon places himself at risk with the civil authorities, as he is considered a civil servant in terms of marriage in the state of Arizona. Clerics may not witness a wedding in the Church without having the couple's civil marriage license. Contact the Tribunal or the appropriate Consulate if you need assistance with such a situation.
3. **Permissions & Dispensations:** Once a couple's freedom to marry has been established, determine which dispensations or permissions will be needed. The following are the possible dispensations or per-

missions that can be granted:

- **Dispensation for Disparity of Cult:** This is required when a Catholic marries an UNBAPTIZED person. This dispensation is required for the **validity** of the marriage. A Mass is not appropriate for a marriage between a Catholic and an unbaptized person (see *The Rites of the Catholic Church, Marriage 8-9*).
- NOTE: this dispensation is also required for a Catholic to marry non-Catholic parties “baptized” in an ecclesial community that does not perform valid baptisms, i.e. Jehovah’s Witnesses, Church of Jesus Christ of the Latter Day Saints (Mormons), etc. Contact the Tribunal if you are not sure about the group in question.
- **Permission for Mixed Marriage:** This is required when a Catholic marries a BAPTIZED non-Catholic. This permission is required for the marriage to be licit. A marriage between a Catholic and baptized non-Catholic may be performed within the context of a Mass. However, as the *Directory for the Application of Principles and Norms on Ecumenism* states, this type of marriage “ordinarily takes place outside the Eucharistic liturgy” (41).
- **Permission for Marriage Outside an Approved Place:** The Code of Canon Law states in canon 1118 §1 that weddings are normally to be celebrated in a parish church. The diocesan bishop has authority to determine other approved places for weddings in his diocese. The Diocese of Phoenix may give permission for marriages to be performed in an indoor non-religious facility, i.e., a hotel conference room, for good reason. Please also reference the Decree issued on November 11, 2009 regarding the use of high school chapels in the Diocese of Phoenix for weddings.

**The Diocese of Phoenix will not approve or allow a marriage to be performed outdoors.**

Few bishops in the United States are allowing outdoor weddings at this time. From the experience of many bishops, priests, and laity involved in marriage preparation and wedding liturgies, they have found that such settings tend to give the wrong message about the seriousness and sacredness of the vows. In addition, outdoor weddings have to deal with many more difficulties and distractions. For example, there is the concern of the threat of inclement weather such that alternate plans have to be made and the focus becomes the place and not the sacred event. Also, should the ceremony have to move, the priest or deacon receiving the vows may run the risk of no longer having the faculty to validly receive those vows, therefore rendering the marriage invalid.

When a marriage is performed outside of an approved place, the vows must be received by a Catholic minister. Any request for this permission must include reasons as to why the couple does not want to be married in a parish church.

- **Dispensation from Canonical Form:** The Code of Canon Law defines the Canonical Form of Marriage in this way: “Only those marriages are valid which are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses “ (CIC, 1108 §1). This requirement applies whenever there is at least one Catholic in the marriage. And, once a Catholic, always a Catholic. Therefore, even if an individual no longer considers himself/herself a Catholic, if he/she was baptized or received into the Catholic Church, he/she must be married in the Catholic Church. The requirement for Catholics to be married according to Canonical Form affects the **validity** of the marriage. Therefore, when a wedding involving at least one Catholic is not celebrated according to Canonical Form, and did not receive a dispensation from Canonical Form, the couple is in an invalid marriage.

If there is a good reason for a couple not to be married according to the Canonical Form of marriage, the Catholic

party can ask for a Dispensation from Canonical Form. **If granted, this dispensation means that the couple will not be married according to Canonical Form and a Catholic minister will not perform the wedding. This dispensation is never granted for two Catholics.**

Just as with the Permission for Marriage Outside an Approved Place, there must be a good reason why the couple does not want to be married according to Canonical Form and the reasons must accompany the request for the dispensation.

If a dispensation from Canonical Form is granted, Catholic clergy are prohibited from asking for and/or receiving the consent of the couple in the marriage ceremony. Since the couple has requested to be free from the Canonical Form of marriage, it would be very confusing for the Catholic cleric to be involved in the ceremony. If a Catholic cleric wishes to attend the marriage ceremony, he is directed to refrain from vesting or reading any prayers at the wedding ceremony. A Catholic priest (or deacon) may offer a blessing of the couple after the ceremony is complete. For more information, please see the diocesan document *In Search of Unity*, numbers 38 and 39.

**“It is forbidden to have another religious celebration of the same marriage to give or renew matrimonial consent before or after the canonical celebration. Likewise, there is not to be a religious celebration in which the Catholic who is assisting and a non-Catholic minister together, using their own rites, ask for the consent of the parties” (CIC, 1127 §3).**

**NOTE:** In the Diocese of Phoenix, all matrimonial dispensations and permissions are ordinarily granted by the Judicial Vicar. The Adjutant Judicial Vicar, the Vicars General, and the Diocesan Bishop also may grant these dispensations. **Deans (Vicars Forane) do not have the authority to grant permissions or dispensations, and any attempt to do so would be invalid.**

**Emergency Situations:** In the case of an emergency, if a dispensation is needed and the Judicial Vicar, Adjutant Judicial Vicar, the Vicars General, or the Diocesan Bishop cannot be reached, the Code of Canon Law states the following:

**Can. 1079 §1.** In urgent danger of death, the local ordinary can dispense his own subjects residing anywhere and all actually present in his territory both from the form to be observed in the celebration of marriage and from each and every impediment of ecclesiastical law, whether public or occult, except the impediment arising from the sacred order of presbyterate.

§2. In the same circumstances mentioned in §1, but only for cases in which the local ordinary cannot be reached, the pastor, the properly delegated sacred minister [priest or deacon]... possess the same power of dispensing.

§3. In danger of death a confessor possesses the power of dispensing from occult impediments for the internal forum, whether within or outside the act of sacramental confession.

§4. In the case mentioned in §2, the local ordinary is not considered accessible if he can be reached only through telegraph or telephone.

**Can. 1080 §1.** Whenever an impediment is discovered after everything has already been prepared for the wedding, and the marriage cannot be delayed without probable danger of grave harm until a dispensation is obtained from the competent authority, the local ordinary and, provided that the case is occult, all those mentioned in can. 1079, §§2-3 [the pastor or the properly delegated priest or deacon] when the conditions prescribed therein have been observed possess the power of dispensing from all impediments except those mentioned in can. 1078, §2, n. 1 (the impediment arising from sacred orders or from a public perpetual vow of chastity in a religious institute of pontifical right).

§2. This power is valid even to convalidate a marriage if there is the same danger in delay and there is insufficient time to make recourse to the Apostolic See or to the local ordinary concerning impediments from

which he is able to dispense.

**Can. 1081** The pastor or the priest or deacon mentioned in can. 1079, §2 is to notify the local ordinary immediately about a dispensation granted for the external forum; it is also to be noted in the marriage register. [In the Diocese of Phoenix, the records of all marriage dispensations are kept in the Tribunal. Therefore, please notify the Tribunal so that the dispensation can be properly recorded.]



**4. Faculties:** Information about a priest's or deacon's faculty to celebrate weddings can be found in the Diocesan *Pagellae* (faculty handbook) and the priest's or deacon's individual appointment letter.

What is a faculty? A faculty is a power granted that enables a person the ability to act. By ordination, a priest or deacon does not have the faculty to witness marriages. A cleric acquires the faculty to witness marriages by office, by mandate of the Diocesan Bishop, or by delegation. Furthermore, a priest or deacon who has the faculty to witness marriages can exercise that faculty only within the territorial boundaries of the parish to which he is assigned. Finally, it is important to note that a dean does NOT have the faculty to witness marriages throughout his deanery. Rather, the dean only has the faculty to witness marriages within the parish boundaries of the parish to which he is assigned.

Clergy who have the faculty to witness marriages by office are pastors, and in the Diocese of Phoenix, parochial vicars, deacons assigned to the parish, and priests in residence in the parish (please see the section on marriage in the *Pagellae*). Again, this faculty does not extend beyond the boundaries of the cleric's parish.

If there is a visiting priest or deacon presiding at a wedding, the pastor or parochial vicar of that parish must delegate the faculty to the visiting cleric in writing.

**NOTE: Contrary to previous policies of this Diocese, Deans (Vicars Forane) in the Diocese of Phoenix do NOT have the power to delegate the faculty to witness marriages within their Deanery. A Dean only has this power within the boundary of his own parish. Any attempt to delegate this faculty outside of his parish boundaries would be invalid.**

**Luke Air Force Base** is under the jurisdiction of the Military Archdiocese. The Pastor of the parish in whose territory it sits (St. Thomas Aquinas) and the Dean do not have the faculty to witness marriages on the base for Catholic members of the military. They must be delegated this faculty from the Military Chaplain of the base or the Military Archdiocese. The Pastor of St. Thomas Aquinas does have jurisdiction, however, over weddings on the base in cases where the Catholic party(ies) are not members of the military.

Possessing the faculty to witness marriages affects the **VALIDITY** of a marriage. If a priest or deacon does not have the faculty to witness the vows of a couple, the marriage is invalid. Please consult the Tribunal if you have questions about faculties.

**The marriage rite presumes that the priest who celebrates a wedding Mass is also the cleric who asks for and receives the vows of the couple. If it is the desire of the couple to have a wedding Mass, the presiding priest must be the one to receive the vows. *The General Instruction of the Roman Missal* states in number 108, "One and the same Priest must always exercise the presidential function in all of its parts, except for those**

parts which are proper to a Mass at which the Bishop is present.” Therefore, in general it is not appropriate for a deacon to receive the vows of a couple during a wedding Mass. However, in highly unique and rare circumstances the Diocesan Bishop may grant an exception to this. Contact the Tribunal to make such a request. (Please also refer to *Inter Oecumenici*, 72.)

**5. Baptismal Record:** The Code of Canon Law states:

**Can. 1121 §1.** After a marriage has been celebrated, the pastor of the place of the celebration or the person who takes his place, even if neither assisted at the marriage, is to note as soon as possible in the marriage register the names of the spouses, the person who assisted, and the witnesses, and the place and date of the celebration of the marriage according to the method prescribed by the conference of bishops or the diocesan bishop...

§3. For a marriage contracted with a dispensation from canonical form, the local ordinary who granted the dispensation is to take care that the dispensation and celebration are inscribed in the marriage registers of both the curia [Tribunal] and the proper parish of the Catholic party whose pastor conducted the investigation about the free status. The Catholic spouse is bound to notify as soon as possible the same ordinary and pastor about the marriage celebrated and also to indicate the place of the celebration and the public form observed.

**Can. 1122 §1.** The contracted marriage is to be noted also in the baptismal registers in which the baptism of the spouses has been recorded.

§2. If a spouse did not contract marriage in the parish in which the person was baptized, the pastor of the place of the celebration is to send notice of the marriage which has been entered into as soon as possible to the pastor of the place of the conferral of baptism.

**Can. 1123** Whenever a marriage is either convalidated, declared null, or legitimately dissolved other than by death, the pastor of the place of the celebration of the marriage must be informed so that a notation is

properly made in the marriage and baptismal registers.

- 6. Eastern Catholics:** There are 22 Churches *sui iuris* in the Catholic Church; the largest of these is the Latin Church. The other 21 are Eastern Churches. These Churches are in full communion with the Pope and all of their sacraments are valid and licit. The Diocese of Phoenix is a LATIN Catholic Diocese and in most cases we do not have jurisdiction over the other Eastern Churches *sui iuris*. Therefore, if an Eastern Catholic couple approaches a Latin cleric for marriage and neither of the parties is of the Latin Church, the Latin cleric does not have the faculty to witness their marriage. The couple needs to be sent to their Church *sui iuris*. If you have any questions about this, please contact the Tribunal.

A Latin Catholic may marry an Eastern Catholic in that Catholic's Eastern Church, and vice versa. This is perfectly acceptable and no dispensation or permission is needed. All parties are Catholic and as long as the person marrying them belongs to the Church *sui iuris* of at least one of the parties, the marriage is valid.

- 7. Ascription:** Another issue that arises is when someone has entered the Church from another Christian denomination. A baptized Christian retains his/her rite when entering the Catholic Church. Here are some examples:

**A Lutheran becomes a Latin Catholic.**

**A Byzantine Orthodox becomes a Byzantine Catholic.**

**A Greek Orthodox becomes a Greek Catholic.**

**A Baptist becomes a Latin Catholic.**

In order to formally change one's ascription, there is a formal process that is done between Dioceses, Eparchies, etc. or with the Holy See.

This change of ritual Churches cannot be done at the parish and is

not part of the process of RCIA. Just because someone comes into the Catholic Church in the Latin Church does not mean that person is a Latin Catholic. We must be attentive to the Christian community or church from which the individual is entering the Catholic Church. If you have any questions, please contact the Tribunal.

**8. Orthodox:** The Eastern Orthodox Churches are not in union with Rome. However, all of their Sacraments are valid.

If a Catholic wants to marry an Orthodox Christian in the Orthodox Church, they must petition for a dispensation from Canonical Form and permission for mixed marriage. However, if a Catholic married an Orthodox Christian in the Orthodox Church without this dispensation the marriage is still VALID.

If a Catholic wants to marry an Orthodox Christian in the Catholic Church, they must request permission for mixed marriage.

**NOTE: To be married in an Eastern Catholic Church or Orthodox Church, the consent of the couple must be received by a priest for the validity of the marriage. A deacon cannot witness a marriage in the Eastern Churches due to the form requirement of the priestly blessing, which is required for validity.**



## V. Convalidations

If a Catholic marries outside of the Catholic Church, without a dispensation, the marriage is invalid and the couple is not considered to be married. Therefore, both must make a new act of marital consent according to the Canonical Form of the Church. The Church uses the term “convalidation” to indicate the Catholic marriage of two people already in a civil union. A convalidation must include an act of consent that makes marriage. Therefore, a convalidation is NOT A “BLESSING” of a civil union, nor is it merely the Church’s “recognition” of a civil union.

It is important to note that the actual wedding date of the parties is the date of the convalidation. If one or both of the parties intends the convalidation as merely a “blessing” ceremony or a recognition of their civil union, it can invalidate the convalidation. In essence, the parties must know and accept that the convalidation is the true and actual beginning of their marriage, and that their civil union was invalid before the Church. Furthermore, since a convalidation is their one and only valid marriage, the full marriage preparation process is required for all couples, unless the pastor decides to dispense them from portions of the preparation when evaluating a couple’s readiness for marriage.

The only people who are required to get married according to the Canonical Form of marriage in the Catholic Church are those who are Catholic at the time of the marriage. Being married according to Canonical Form is required whenever at least one of the parties is Catholic. Therefore, a convalidation is only needed when at least one of the parties was Catholic at the time of a civil union.

When neither party was Catholic at the time of consent, they do not need a convalidation if they later enter the Catholic Church. Since neither of them were Catholic at the time of consent, they were not bound by the Canonical Form of marriage. If a non-Catholic enters the Church and has multiple marriages, those prior marriages must be reviewed by the Tribunal. Once any necessary decrees of nullity have been received,

a convalidation may or may not be needed in these situations. Please contact the Tribunal for assistance in these cases.

It often happens that when non-Catholic married couples become Catholic they want to get married in the Catholic Church. **This cannot and should not happen.** Their marriage is already valid because at the time of marriage neither party was Catholic, and therefore were not bound to Canonical Form. Because their consent makes them married, a convalidation or even a renewal of vows would not be necessary. However, a blessing by a priest may be pastorally appropriate.

NOTE: Canon 1055 of the Code of Canon Law states, “§2. For this reason, a valid matrimonial contract cannot exist between the baptized without it being by that fact a sacrament.”

Consequently, in marriages where there was at least one unbaptized person at the time of consent, when the unbaptized party is baptized, their marriage becomes sacramental. Catechizing new Catholics about this reality is important and may help when there is a desire to get “re-married” in the Catholic Church.



## VI.

# Pastoral Care after the Wedding

As is true of any vocation, there are often difficulties and struggles in a marriage. Regular participation in the sacraments of Holy Communion and Penance provides grace and strength to endure those challenging times.

In addition, Catholic couples should be enriched and supported by their parish and other married Catholics. Numbers 69-78 of *Familiaris Consortio* deal with the pastoral care of young couples and families. It states, “In this sense every local Church and, in more particular terms, every parochial community, must become more vividly aware of the grace and responsibility that it receives from the Lord in order that it may promote the pastoral care of the family. No plan for organized pastoral work, at any level, must ever fail to take into consideration the pastoral care of the family” (70).

The clergy have a particular responsibility in this work as they are agents of this pastoral care. “Priests and deacons, when they have received timely and serious preparation for this apostolate, must unceasingly act towards families as fathers, brothers, pastors and teachers, assisting them with the means of grace and enlightening them with the light of truth. Their teaching and advice must therefore always be in full harmony with the authentic Magisterium of the Church in such a way as to help the People of God to gain a correct sense of the faith, to be subsequently applied to practical life. Such fidelity to the Magisterium will also enable priests to make every effort to be united in their judgments, in order to avoid troubling the consciences of the faithful” (73).

Some suggestions for parishes to care for couples and families are:

- Designate active couples in the parish to meet with newly married couples one-on-one to continue their formation in the vocation of marriage. This can be of great help to newlyweds in assisting them with any issues that arise in their marriage. Careful

discernment about which couples to choose is essential, and on-going formation of couples may be needed. Contact the Office of Marriage and Respect Life for formation opportunities.

- Meetings with priests or deacons, as well as workshops and spiritual formation programs offered for couples and families.
- Encourage all couples to learn Natural Family Planning, even if they have been married for many years. Not only is NFP the only accepted form of family planning in the Catholic Church, it is also an effective tool to promote communication and bonding between the spouses. For more information, go to [www.phxnfp.org/](http://www.phxnfp.org/).
- Encourage married couples to learn more about the Theology of the Body and Human Sexuality through the Diocese's John Paul II Resource Center for Theology of the Body and Culture: [www.diocesephoenix.org/john-paul-ii-resource-center.php](http://www.diocesephoenix.org/john-paul-ii-resource-center.php).
- Encourage the husband or wife to individually attend the annual Diocesan Men's or Women's conference. These traditionally occur in February and March, respectively. The conferences are evangelistic and catechetical, and the subject of marriage is always an essential part of the day.
- Suggest a Marriage Encounter: [www.wwme-phx.org/](http://www.wwme-phx.org/) or other marriage renewal retreat or event in the diocese. For an updated list of events, see [ourcovenantoflovephx.org/initiative](http://ourcovenantoflovephx.org/initiative).
- Annually, the Diocese of Phoenix sponsors a Diocesan Marriage Conference with the goal of renewal and evangelization of married couples. Couples celebrating their 25th, 40th, and 50+ wedding anniversaries will receive a special blessing at the Mass, a certificate of remembrance from the Bishop and places of honor at the luncheon.
- For your parishioners in a troubled marriage, recommend that they approach Retrouvaille for assistance: [www.retrouvaille.org/](http://www.retrouvaille.org/).
- Experienced Catholic counseling professionals can also help couples in need. For an updated list of recommended Catholic marriage counselors, call the Marriage and Respect Life Office.



# VII.

## Annulments

### **What is an Annulment?**

An annulment is a determination, after a thorough investigation, that a particular marriage is invalid. That is, the consent of the parties did not give rise to a valid matrimonial bond because of the presence of some factor recognized in law as preventing a valid bond. Essentially, the declaration of nullity is a statement that, while attempting to enter the union, the person did not establish an indissoluble marriage bond.

The annulment process is an investigation into whether or not the bond of marriage was formed at the time of consent. Because it is an investigation and a judicial process, it is required that a Petitioner present witnesses, evidence, and testimony.

Receiving an annulment can NEVER be presumed! Negative decisions are sometimes rendered, which would disqualify someone from marrying again because the Catholic Church considers the parties of the annulment to still be married despite their civil divorce.

### **An Annulment is NOT:**

- Catholic divorce
- Simply the permission to marry again in the Catholic Church
- The Sacrament of Confession

Divorce and remarriage is not permissible, as commanded by Jesus Christ in the Gospel (Matthew 19:1-12). However, an annulment is a statement that the bond of marriage was never formed. To say it another way, the Catholic Church does not annul marriages like civil authorities do, but declares that a marriage was never valid from the time of consent. Divorce purports to break a valid bond. An annulment states that no valid bond ever came into existence.

**The following are likely to petition for an annulment (this is not**

## **an exhaustive list):**

- A divorced Catholic
- A divorced non-Catholic who would like to marry a Catholic (or convalidate a civil union with a Catholic)
- A divorced and remarried non-Catholic who wishes to enter the Catholic Church

## **Nullity Ministers**

The policy of the Diocese of Phoenix is that each parish have at least one Nullity Minister available to assist people with submitting their annulment petition to the Tribunal. The Tribunal provides an intensive training program so that Nullity Ministers are knowledgeable about the requirements for the petition and the processing of the case.

## **How long does it take to get a decision?**

Since an annulment is an investigation of a complex reality, the timing can be affected by many factors that cannot be anticipated or controlled. In general, once the Tribunal has received the petition from the parish, cases are processed within the following timeline:

- Formal cases: 18-24 months
- Ligamen (Prior Bond): 6 months
- Pauline Privilege: 6 months

## **As a cleric, how do I deal with parishioners who receive a negative decision and cannot get married in the Catholic Church?**

If an annulment petition receives a negative decision, that means that the parties are considered to still be married. Therefore, they are not free to marry again. Any future marriage would be invalid and their sexual relationship would be considered adulterous and render them incapable of receiving Holy Communion.

If someone in this situation is already in a civil union, there are a few options for him/her:

- Appeal the case
- File a new case under new grounds.

If an appeal or new case is not possible and he/she is concerned about his/her status in the Church and desires to receive Holy Communion:

- Explain to the couple that a negative decision does not mean they are excommunicated.
- Catechize the couple about the Sacraments of Marriage and the Eucharist to help them understand why their current invalid union and their reception of Holy Communion are not compatible.
- **Frater/Soror:** When someone receives a negative decision, the Church is saying that the couple in the case (petitioner and respondent) are considered still married. Consequently, any sexual activity outside of that marriage would be considered adultery. If someone cannot separate from his/her spouse of a civil union, the couple can ask to live as brother/sister (*Frater/Soror*) in order to receive Holy Communion. When requesting a *Frater/Soror*, the couple promises to not engage in sexual relations in order to receive the Sacraments. **The policy of this diocese is that this permission is only granted by the Diocesan Bishop when doing so would not cause scandal to the community.** Scandal could occur if it is well known that a couple is not married in the Catholic Church and is in need of an annulment, yet is receiving Holy Communion at Mass. It may lead others to believe that the Church has changed its teaching on divorce and remarriage.
- Catholics in civil unions are not permitted to be involved in public ministry (i.e. Extraordinary Minister of the Eucharist, Lectors, Ushers, Parish Council, etc.), nor can they participate in groups such as the Knights of Columbus, sodalities, etc. in the Catholic Church. (See CCC, 1650).
- The so-called “Internal Forum Solution” is not a solution. In fact, this is contrary to the teachings of Christ and the Church. (Please see the next section and the Appendix for more information.)



## VIII.

# Internal Forum

For some years, there has been a mistaken practice by some clergy to attempt to reconcile divorced and remarried Catholics to the Church by using what is sometimes called the “Internal Forum Solution.” The so called “solution” has been incorrectly applied so that a divorced and civilly remarried Catholic can feel free to approach Holy Communion, either without having petitioned for an annulment, or after having received a “negative” decision. The Tribunal and other pastoral ministers have had to address the consequences resulting from the use of the “Internal Forum Solution.” There appears to be a lot of misunderstanding and outright error amongst some clergy as to how to deal with the situations of divorced and remarried Catholics.

In order to provide the necessary clarity regarding the teaching of the Church, it must be said at the outset that the so-called “Internal Forum Solution” in regards to marriage, does not render a person ready to receive the sacraments. This “solution” is a misinterpretation of Church law and moral practice that, in truth, solves nothing.

The “Internal Forum Solution” usually manifests itself in one of three ways: 1) a priest, in advising divorced and remarried Catholics regarding their eligibility to receive Holy Communion, tells a person that they should follow their conscience, despite the decision of an ecclesiastical tribunal as to their marital status; 2) a priest “absolves” such Catholics in Confession without the intention of the Catholic to remedy their present situation; 3) a cleric secretly witnesses a marriage of people not free to marry giving the impression that the Church is sanctioning the union. These three practices will be addressed below.

1). Part of the reason that this pastoral practice is impossible is because the married state is a public reality and is not, therefore, a matter of the *internal* forum that remains secret. Therefore, this cannot be only a matter of the conscience since marriage is a public institution. The Congregation for the Doctrine of the Faith states:

The mistaken conviction of a divorced and remarried person that he may receive Holy Communion normally presupposes that personal conscience is considered in the final analysis to be able, on the basis of one's own convictions, to come to a decision about the existence or absence of a previous marriage and the value of the new union. However, such a position is inadmissible. Marriage, in fact, because it is both the image of the spousal relationship between Christ and his Church as well as the fundamental core and an important factor in the life of civil society, is essentially a public reality.

It is certainly true that a judgment about one's own dispositions for the reception of Holy Communion must be made by a properly formed moral conscience. But it is equally true that the consent that is the foundation of marriage is not simply a private decision since it creates a specifically ecclesial and social situation for the spouses, both individually and as a couple. Thus the judgment of conscience of one's own marital situation does not regard only the immediate relationship between man and God, as if one could prescind from the Church's mediation, that also includes canonical laws binding in conscience. Not to recognize this essential aspect would mean in fact to deny that marriage is a reality of the Church, that is to say, a sacrament (§7-8, 1994 Congregation for the Doctrine of the Faith's Letter to Bishops).

In addition, Blessed Pope John Paul II in his 1995 address to the Roman Rota stated, "An action deviating from the objective norm or law is thus morally reprehensible and must be considered as such: while it is true that humans must act in conformity with the judgment of their own conscience, it is equally true that the judgment of conscience cannot claim to establish the law it can only recognize it and make it its own."

2). With regard to the "Internal Forum Solution" and the Sacrament of Confession, when someone is "absolved" of a sin with no purpose of amendment, that person is not truly forgiven of the sin. So, if a person goes to confession regarding the issue of divorce and remarriage, with no intention of remedying the situation, the person remains ineligible to receive Holy Communion.

The Catechism of the Catholic Church states,

Today there are numerous Catholics in many countries who have recourse to civil divorce and contract new civil unions. In fidelity to the words of Jesus Christ - "Whoever divorces his wife and marries another, commits adultery against her; and if she divorces her husband and marries another, she commits adultery." The Church maintains that a new union cannot be recognized as valid, if the first marriage was. If the divorced are remarried civilly, they find themselves in a situation that objectively contravenes God's law. Consequently, they cannot receive Eucharistic communion as long as this situation persists. For the same reason, they cannot exercise certain ecclesial responsibilities. Reconciliation through the sacrament of Penance can be granted only to those who have repented for having violated the sign of the covenant and of fidelity to Christ, and who are committed to living in complete continence (CCC, 1650).

Blessed Pope John Paul II also states in *Familiaris Consortio*, 84,

However, the Church reaffirms her practice, which is based upon Sacred Scripture, of not admitting to Eucharistic Communion divorced persons who have remarried. They are unable to be admitted thereto from the fact that their state and condition of life objectively contradict that union of love between Christ and the Church which is signified and effected by the Eucharist. Besides this, there is another special pastoral reason: if these people were admitted to the Eucharist, the faithful would be led into error and confusion regarding the Church's teaching about the indissolubility of marriage.

Reconciliation in the sacrament of Penance which would open the way to the Eucharist, can only be granted to those who, repenting of having broken the sign of the Covenant and of fidelity to Christ, are sincerely ready to undertake a way of life that is no longer in contradiction to the indissolubility of marriage. This means, in practice, that when, for serious reasons, such as for example the children's upbringing, a man and a woman cannot sat-

isfy the obligation to separate, they "take on themselves the duty to live in complete continence, that is, by abstinence from the acts proper to married couples."

3). When a cleric agrees to witness a marriage of a couple where one or both of the parties has been married previously but does not have an annulment and a prior spouse is still living, the cleric does so contrary to the teachings and laws of the Church. This action by a member of the clergy gives the couple the impression that the Church now accepts their union as valid and that they can approach Holy Communion. Despite the fact that their consent was "received" by a cleric, the marriage would be invalid and not sanctioned by the Catholic Church if one or both of the parties is impeded from marrying due to the diriment impediment of a prior marital bond.

So, what is the solution for parishioners in this situation? If receiving a declaration of nullity is not possible— *and only the Tribunal can make that determination* —and it would be burdensome for the couple to separate, the couple may approach the Sacrament of Holy Communion if they promise to live as brother and sister and if their reception of Communion does not cause scandal to the community. This is the *Frater/Soror* discussed on page 25 of this Instruction and is a formal request through the Tribunal, which must be approved by the Diocesan Bishop.

It must be stressed that although the "Internal Forum Solution" may seem like a pastoral and merciful "solution" to enable the faithful to reconcile with the Catholic Church, it is actually misleading and compromises the integrity of the sacraments. In the past, couples have expressed their deep hurt when they come to realize that they have been led to believe their marriage and sacramental life were in accord with the teachings of the Church, when in fact they were not. Ultimately, clergy who claim to use the "Internal Forum Solution" do more harm to the faithful than good in these difficult situations.

Despite the restrictions discussed above, the Congregation for the Doctrine of the Faith stated the following:

This does not mean that the Church does not take to heart the

situation of these faithful, who moreover are not excluded from ecclesial communion. She is concerned to accompany them pastorally and invite them to share in the life of the Church in the measure that is compatible with the dispositions of divine law, from which the Church has no power to dispense. On the other hand, it is necessary to instruct these faithful so that they do not think their participation in the life of the Church is reduced exclusively to the question of the reception of the Eucharist. The faithful are to be helped to deepen their understanding of the value of sharing in the sacrifice of Christ in the Mass, of spiritual communion, of prayer, of meditation on the Word of God, and of works of charity and justice (§6, 1994 Congregation for the Doctrine of the Faith's Letter to Bishops).

Included in the Appendix of this Instruction is the Congregation for the Doctrine of the Faith's Letter to Bishops concerning some of these issues. This document from the CDF makes it very clear that an "Internal Forum Solution" is not, nor has it ever been, a possible solution to difficult marriage situations. *Familiaris Consortio* contains more information regarding these and other related marriage and family issues. In addition, my pastoral letter to the priests of the Diocese of Phoenix on the Sacrament of Penance and Reconciliation, issued January 25, 2013, will be of assistance as well.

**If there are any concerns or questions about these issues, especially regarding particularly difficult pastoral issues, please contact the Tribunal for clarification and guidance.**



# IX.

## Quick Reference Guide

### **What is an annulment?**

An annulment is a declaration that a marriage is in fact invalid after an extensive investigation. What is investigated is whether or not at the time of consent a valid marriage bond was created. It is not a divorce; it is a statement that the bond of marriage as it is understood by the Catholic Church was not created at the time of the wedding.

### **Who is likely to petition for an annulment?**

- A divorced Catholic
- A divorced non-Catholic who would like to marry a Catholic (or convalidate a civil union with a Catholic)
- A divorced and remarried non-Catholic who wishes to enter the Catholic Church

### **Why do non-Catholics need to petition for an annulment?**

The Catholic Church upholds the permanence of all marriages, whether they are Catholic or not. Thus, in any case of a marriage between two non-Catholics, the presumption is that a marriage is valid. Before a person can marry a Catholic, he/she must petition for an annulment because it is assumed that he/she is still married and is not free to marry again unless it can be proven that the first marriage was invalid. According to Catholic teaching, divorce does not have any effect upon the binding nature of a marriage. Therefore, despite the desire of the couple to divorce civilly and to separate themselves and their belongings, in the eyes of the Church the bond of marriage is presumed to remain binding upon the two parties. As a result, in order to be free to marry it must be proven that the bond of marriage did not exist in the first place, thus making it necessary for a person to petition for an annulment.

### **Does a couple need to be civilly divorced before petitioning for an annulment?**

Yes. This is due to the fact that the annulment process is a purely religious process. It does not involve custody of children, temporal goods,

etc. which must be settled before the investigation in the Tribunal may begin. In the United States there are no civil effects to the Catholic Church's annulment process. A civil divorce is a definitive separation of the spouses and serves as an indicator that the marriage and common life have, for all intents and purposes, ceased. If the Church were to declare a marriage no longer binding, while the couple still remained civilly bound to one another, it would create numerous problems with custody of children, financial disputes, and put the Church at odds with civil authorities.

### **How long does the annulment process take?**

The process takes anywhere from 18 to 24 months to complete. The process can be lengthy when the Tribunal has to wait for the responses of the parties and/or their witnesses.

### **Do both spouses need to be involved in the annulment process?**

Both parties must be notified that an annulment case has been initiated. However, if the other party does not wish to participate, or cannot be located, the case can continue without them. It is recommended that both parties participate by providing written testimony and naming witnesses.

### **What if someone has been married more than once?**

All of the marriages will need to be investigated.

### **Can someone set the date for a wedding before receiving an annulment?**

No. A wedding date should not be set until the parties are declared free to marry. In the eyes of the Catholic Church, the person is still married to his/her former spouse and is not free to marry unless a decree of nullity has been issued. Because the annulment process can be lengthy and it is not guaranteed that the annulment will be granted, the couple must wait until the court has made its decision before setting a date.

### **What is a convalidation?**

If at least one of the parties to a marriage is Catholic, the wedding must be performed according to Canonical Form for the validity of the marriage. If a Catholic is in a civil union and is free to marry, a convalidation must be performed. THIS IS NOT MERELY A BLESSING, nor is it the

recognition of a civil union. It is a new act of the will and it is at this moment that the couple is considered married validly for the first time.

### **Can a divorced Catholic receive the sacraments?**

Merely being divorced does not disqualify someone from the reception of the Sacraments. However, as is stated in the Catechism of the Catholic Church, number 1650,

If the divorced are remarried civilly, they find themselves in a situation that objectively contravenes God's law. Consequently, they cannot receive Eucharistic communion as long as this situation persists. For the same reason, they cannot exercise certain ecclesial responsibilities. Reconciliation through the sacrament of Penance can be granted only to those who have repented for having violated the sign of the covenant and of fidelity to Christ, and who are committed to living in complete continence.

### **What if a couple approaches me for marriage, but they do not want to get a civil marriage license? Can I witness their marriage anyway?**

No. By witnessing the marriage of a couple in the Catholic Church without a valid civil marriage license, a priest or deacon places himself at risk with the civil authorities, as he is considered a civil servant in terms of marriage in the state of Arizona. Contact the Tribunal if you need assistance with such a situation.

### **Can people serve as lectors, hospitality or extraordinary ministers of the Eucharist, catechists, etc. if they have divorced and remarried outside of the Catholic Church?**

No. They are living in a state contrary to the teachings of Christ and the Church and should not serve in the Church in these capacities. As ministers, they are witnesses to all of the teachings of the Church. Their marital status is an important public reality and must be in accord with the teachings of the Church.

### **Does someone need to petition for an annulment before he/she can become Catholic if the person has divorced and remarried?**

Yes, they do need to petition for an annulment before entering the Church if they have been divorced and are now remarried. The reason

for this is twofold: First, it would not be prudent to bring someone into Full Communion with the Catholic Church while that person is living in a situation that is contrary to the Church's teaching on divorce and remarriage. Secondly, since the Church presumes that all marriages are valid and binding until proven otherwise through the annulment process, the couple cannot marry in the Catholic Church. Consequently, the parties cannot receive the sacraments of Holy Communion or Penance since their marital status remains irregular. Therefore, an annulment of a prior marriage is necessary before receiving a person into Full Communion with the Catholic Church. While people in irregular marriages are impeded from completing initiation, they can certainly participate in the Period of Pre-Catechumenate, the Rite of Acceptance and the subsequent period of the Catechumenate, but they cannot be accepted as Elect (i.e. be admitted to the Rite of the Elect) and/or approach the sacraments until their impediment is removed. Each case is unique so seek assistance when needed.

### **Do married Catechumens or Protestant Candidates need their marriage convalidated?**

Married couples who have no prior marriages, and neither party was Catholic at the time of the wedding, are not bound by Canonical Form and are therefore married in the eyes of the Church. After they receive their sacraments no convalidation is necessary.

### **How should uncatechized baptized Catholics who are married civilly be incorporated into the RCIA process?**

Individuals or couples who are Catholic but married outside of the Church, and who have no previous marriages will need to have their Marriage convalidated prior to receiving the sacraments. In certain circumstances it may be appropriate to convalidate the marriage after reception of the sacraments if the couple fully understands the expectations of the Church prior to their convalidation (i.e. they must live as brother and sister until convalidation).



# X.

## Resources

**Diocese of Phoenix** [www.diocesephoenix.org](http://www.diocesephoenix.org)  
Marriage Preparation [www.ourcovenantoflovephx.org](http://www.ourcovenantoflovephx.org)  
Tribunal [www.diocesephoenix.org/tribunal](http://www.diocesephoenix.org/tribunal)  
Natural Family Planning [www.phxnfp.org](http://www.phxnfp.org)  
John Paul II Resource Center [www.diocesephoenix.org/john-paul-ii-resource-center.php](http://www.diocesephoenix.org/john-paul-ii-resource-center.php)  
Family Catechesis [www.diocesephoenix.org/family-catechesis-home.php](http://www.diocesephoenix.org/family-catechesis-home.php)

**United States Conference of Catholic Bishops**  
[www.usccb.org](http://www.usccb.org)  
[www.usccb.org/marriageuniqueforareason/index.shtml](http://www.usccb.org/marriageuniqueforareason/index.shtml)  
<http://foryourmarriage.org/catholic-marriage>

**Vatican**  
[www.vatican.va](http://www.vatican.va)

**Worldwide Marriage Encounter Arizona**  
[www.wwme-phx.org](http://www.wwme-phx.org)

**Retrouvaille**  
[www.retrouvaille.org](http://www.retrouvaille.org)

**5 Love Languages**  
[www.5lovelanguages.com](http://www.5lovelanguages.com)

**Fathers For Good (Knights of Columbus)**  
[www.fathersforgood.org](http://www.fathersforgood.org)

**Catholics Come Home**  
[www.catholicscomehome.org](http://www.catholicscomehome.org)

# XI.

## Appendix

### **CONGREGATION FOR THE DOCTRINE OF THE FAITH LETTER TO THE BISHOPS OF THE CATHOLIC CHURCH CONCERNING THE RECEPTION OF HOLY COMMUNION BY THE DIVORCED AND REMARRIED MEMBERS OF THE FAITHFUL**

*Your Excellency*

1. The International Year of the Family is a particularly important occasion to discover anew the many signs of the Church's love and concern for the family(1) and, at the same time, to present once more the priceless riches of Christian marriage, which is the basis of the family.
2. In this context the difficulties and sufferings of those faithful in irregular marriage situations merit special attention(2). Pastors are called to help them experience the charity of Christ and the maternal closeness of the Church, receiving them with love, exhorting them to trust in God's mercy and suggesting, with prudence and respect, concrete ways of conversion and sharing in the life of the community of the Church(3).
3. Aware however that authentic understanding and genuine mercy are never separated from the truth(4), pastors have the duty to remind these faithful of the Church's doctrine concerning the celebration of the sacraments, in particular, the reception of the Holy Communion. In recent years, in various regions, different pastoral solutions in this area have been suggested according to which, to be sure, a general admission of divorced and remarried to Eucharistic communion would not be possible, but the divorced and remarried members of the faithful could approach Holy Communion in specific cases when they consider themselves authorized according to a judgment of conscience to do so. This would be the case, for example, when they had been abandoned completely unjustly, although they sincerely tried to save the previous marriage, or when they are convinced of the nullity of their previous marriage, although unable to demonstrate it in the external forum or when

they have gone through a long period of reflection and penance, or also when for morally valid reasons they cannot satisfy the obligation to separate.

In some places, it has also been proposed that in order objectively to examine their actual situation, the divorced and remarried would have to consult a prudent and expert priest. This priest, however, would have to respect their eventual decision to approach Holy Communion, without this implying an official authorization.

In these and similar cases it would be a matter of a tolerant and benevolent pastoral solution in order to do justice to the different situations of the divorced and remarried.

4. Even if analogous pastoral solutions have been proposed by a few Fathers of the Church and in some measure were practiced, nevertheless these never attained the consensus of the Fathers and in no way came to constitute the common doctrine of the Church nor to determine her discipline. It falls to the universal Magisterium, in fidelity to Sacred Scripture and Tradition, to teach and to interpret authentically the *depositum fidei*.

With respect to the aforementioned new pastoral proposals, this Congregation deems itself obliged therefore to recall the doctrine and discipline of the Church in this matter. In fidelity to the words of Jesus Christ (5), the Church affirms that a new union cannot be recognized as valid if the preceding marriage was valid. If the divorced are remarried civilly, they find themselves in a situation that objectively contravenes God's law. Consequently, they cannot receive Holy Communion as long as this situation persists(6).

This norm is not at all a punishment or a discrimination against the divorced and remarried, but rather expresses an objective situation that of itself renders impossible the reception of Holy Communion: "They are unable to be admitted thereto from the fact that their state and condition of life objectively contradict that union of love between Christ and his Church which is signified and effected by the Eucharist. Besides this, there is another special pastoral reason: if these people were admitted to

the Eucharist, the faithful would be led into error and confusion regarding the Church's teaching about the indissolubility of marriage"(7).

The faithful who persist in such a situation may receive Holy Communion only after obtaining sacramental absolution, which may be given only "to those who, repenting of having broken the sign of the Covenant and of fidelity to Christ, are sincerely ready to undertake a way of life that is no longer in contradiction to the indissolubility of marriage. This means, in practice, that when for serious reasons, for example, for the children's upbringing, a man and a woman cannot satisfy the obligation to separate, they 'take on themselves the duty to live in complete continence, that is, by abstinence from the acts proper to married couples'"(8). In such a case they may receive Holy Communion as long as they respect the obligation to avoid giving scandal.

5. The doctrine and discipline of the Church in this matter, are amply presented in the post-conciliar period in the Apostolic Exhortation *Familiaris Consortio*. The Exhortation, among other things, reminds pastors that out of love for the truth they are obliged to discern carefully the different situations and exhorts them to encourage the participation of the divorced and remarried in the various events in the life of the Church. At the same time it confirms and indicates the reasons for the constant and universal practice, "founded on Sacred Scripture, of not admitting the divorced and remarried to Holy Communion"(9). The structure of the Exhortation and the tenor of its words give clearly to understand that this practice, which is presented as binding, cannot be modified because of different situations.

6. Members of the faithful who live together as husband and wife with persons other than their legitimate spouses may not receive Holy Communion. Should they judge it possible to do so, pastors and confessors, given the gravity of the matter and the spiritual good of these persons (10) as well as the common good of the Church, have the serious duty to admonish them that such a judgment of conscience openly contradicts the Church's teaching(11). Pastors in their teaching must also remind the faithful entrusted to their care of this doctrine.

This does not mean that the Church does not take to heart the situation

of these faithful, who moreover are not excluded from ecclesial communion. She is concerned to accompany them pastorally and invite them to share in the life of the Church in the measure that is compatible with the dispositions of divine law, from which the Church has no power to dispense(12). On the other hand, it is necessary to instruct these faithful so that they do not think their participation in the life of the Church is reduced exclusively to the question of the reception of the Eucharist. The faithful are to be helped to deepen their understanding of the value of sharing in the sacrifice of Christ in the Mass, of spiritual communion (13), of prayer, of meditation on the Word of God, and of works of charity and justice(14).

7. The mistaken conviction of a divorced and remarried person that he may receive Holy Communion normally presupposes that personal conscience is considered in the final analysis to be able, on the basis of one's own convictions(15), to come to a decision about the existence or absence of a previous marriage and the value of the new union. However, such a position is inadmissible(16). Marriage, in fact, because it is both the image of the spousal relationship between Christ and his Church as well as the fundamental core and an important factor in the life of civil society, is essentially a public reality.

8. It is certainly true that a judgment about one's own dispositions for the reception of Holy Communion must be made by a properly formed moral conscience. But it is equally true that the consent that is the foundation of marriage is not simply a private decision since it creates a specifically ecclesial and social situation for the spouses, both individually and as a couple. Thus the judgment of conscience of one's own marital situation does not regard only the immediate relationship between man and God, as if one could prescind from the Church's mediation, that also includes canonical laws binding in conscience. Not to recognize this essential aspect would mean in fact to deny that marriage is a reality of the Church, that is to say, a sacrament.

9. In inviting pastors to distinguish carefully the various situations of the divorced and remarried, the Exhortation *Familiaris Consortio* recalls the case of those who are subjectively certain in conscience that their previous marriage, irreparably broken, had never been valid(17). It must be

discerned with certainty by means of the external forum established by the Church whether there is objectively such a nullity of marriage. The discipline of the Church, while it confirms the exclusive competence of ecclesiastical tribunals with respect to the examination of the validity of the marriage of Catholics, also offers new ways to demonstrate the nullity of a previous marriage, in order to exclude as far as possible every divergence between the truth verifiable in the judicial process and the objective truth known by a correct conscience(18).

Adherence to the Church's judgment and observance of the existing discipline concerning the obligation of canonical form necessary for the validity of the marriage of Catholics are what truly contribute to the spiritual welfare of the faithful concerned. The Church is in fact the Body of Christ and to live in ecclesial communion is to live in the Body of Christ and to nourish oneself with the Body of Christ. With the reception of the sacrament of the Eucharist, communion with Christ the Head can never be separated from communion with his members, that is, with his Church. For this reason, the sacrament of our union with Christ is also the sacrament of the unity of the Church. Receiving Eucharistic Communion contrary to ecclesial communion is therefore in itself a contradiction. Sacramental communion with Christ includes and presupposes the observance, even if at times difficult, of the order of ecclesial communion, and it cannot be right and fruitful if a member of the faithful, wishing to approach Christ directly, does not respect this order.

10. In keeping with what has been said above, the desire expressed by the Synod of Bishops, adopted by the Holy Father John Paul II as his own and put into practice with dedication and with praiseworthy initiatives by bishops, priests, religious and lay faithful is yet to be fully realized, namely, with solicitous charity to do everything that can be done to strengthen in the love of Christ and the Church those faithful in irregular marriage situations. Only thus will it be possible for them fully to receive the message of Christian marriage and endure in faith the distress of their situation. In pastoral action one must do everything possible to ensure that this is understood not to be a matter of discrimination but only of absolute fidelity to the will of Christ who has restored and entrusted to us anew the indissolubility of marriage as a gift of the Creator. It will be necessary for pastors and the community of the faithful to suffer and to love

in solidarity with the persons concerned so that they may recognize in their burden the sweet yoke and the light burden of Jesus(19). Their burden is not sweet and light in the sense of being small or insignificant, but becomes light because the Lord - and with him the whole Church - shares it. It is the task of pastoral action, which has to be carried out with total dedication, to offer this help, founded in truth and in love together.

United with you in dedication to the collegial task of making the truth of Jesus Christ shine in the life and activity of the Church, I remain Yours devotedly in the Lord

**Joseph Card. Ratzinger**

*Prefect*

+ **Alberto Bovone**

*Titular Archbishop of Caesarea in Numidia*

*Secretary*

During an audience granted to the Cardinal Prefect, the Supreme Pontiff John Paul II gave his approval to this letter, drawn up in the ordinary session of this Congregation, and ordered its publication.

Given at Rome, from the offices of the Congregation for the Doctrine of the Faith, 14 September 1994, Feast of the Exaltation of the Holy Cross.

- (1) Cf. John Paul II, Letter to Families (2 February 1994), n. 3.
- (2) Cf. John Paul II, Apostolic Exhortation *Familiaris Consortio* (22 November 1981) nn. 79-84: AAS 74 (1982) 180-186.
- (3) Cf. *ibid.*, n. 84: AAS 74 (1982) 185; Letter to Families, n. 5; Catechism of the Catholic Church, n. 1651.
- (4) Cf. Paul VI, Encyclical Letter *Humanæ Vitæ*, n. 29: AAS 60 (1968) 501; John Paul II, Apostolic Exhortation *Reconciliatio et Pœnitentia*, n. 34: AAS 77 (1985) 272, Encyclical Letter *Veritatis Splendor*, n. 95: AAS 85 (1993) 1208.
- (5) Mk 10:11-12: "Whoever divorces his wife and marries another, commits

adultery against her; and if she divorces her husband and marries another, she commits adultery."

- (6) Cf. Catechism of the Catholic Church, n. 1650; cf. also n. 1640 and the Council of Trent, sess. XXIV: DS 1797-1812.
- (7) Apostolic Exhortation *Familiaris Consortio*, n. 84: AAS 74 (1982) 185-186.
- (8) Ibid., n. 84: AAS 74 (1982) 186; cf. John Paul II, Homily on the Occasion of the Closure of the Sixth Synod of Bishops, n. 7: AAS 72 (1980) 1082.
- (9) Apostolic Exhortation *Familiaris Consortio*, n. 84: AAS 74 (1982) 185.
- (10) Cf. I Cor 11:27-29.
- (11) Cf. Code of Canon Law, 978 §2.
- (12) Cf. Catechism of the Catholic Church, n. 1640.
- (13) Cf. Congregation for the Doctrine of the Faith, Letter to the Bishops of the Catholic Church on Certain Questions concerning the Minister of the Eucharist, III/4: AAS 75 (1983) 1007; St Teresa of Avila, *The Way of Perfection* 35,1; St Alphonsus de' Liguori, *Visite al SS. Sacramento e a Maria Santissima*.
- (14) Cf. Apostolic Exhortation *Familiaris Consortio*, n. 84: AAS 74 (1982) 185.
- (15) Cf. Encyclical Letter *Veritatis Splendor*, n. 55: AAS 85 (1993) 1178.
- (16) Cf. Code of Canon Law, 1085 § 2.
- (17) Cf. Apostolic Exhortation *Familiaris Consortio*, n. 84: AAS 74 (1982) 185.
- (18) Cf. Code of Canon Law 1536 § 2 and 1679 and Code of the Canons of the Eastern Churches 1217 § 2 and 1365 concerning the probative force of the depositions of the parties in such processes.
- (19) Cf. Matt 11:30.

