

Divorce, Remarriage and Annulment

by Sebastian R. Fama

God intended a Christian marriage to be a lifelong endeavor. In Luke 16:18 we hear Jesus saying: "Everyone who divorces his wife and marries another commits adultery, and he who marries a woman divorced from her husband commits adultery." Paul says essentially the same thing in Romans 7:2-3: "Thus a married woman is bound by law to her husband as long as he lives; but if her husband dies, she is discharged from the law concerning the husband. Accordingly, she will be called an adulteress if she lives with another man while her husband is still alive. But if her husband dies, she is free from that law, and if she marries another man, she is not an adulteress."

Those who disagree will often point to Matthew 5:31 where Jesus says: "It was also said, 'whoever divorces his wife, let him give her a certificate of divorce.' But I say to you that everyone who divorces his wife, except on the ground of unchastity, makes her an adulteress; and whoever marries a divorced woman commits adultery."

And so, the reasoning goes, if my spouse cheats on me I am free to divorce and remarry. But that is not the case. The Greek word that is translated as "unchastity" is *porneia* (πορνεία) which can mean harlotry, adultery, incest, or fornication. In determining how Jesus uses the word there are a couple of things we need to consider. First, you cannot have Jesus contradicting himself by making no exceptions in one verse (Luke 16:18) and then allowing for them in another (Matthew 5:31).

The Church has always seen the word unchastity as referring to an invalid marriage such as a couple who are living together. They can separate because they were never legitimately married in the first place. And then there is the obvious fact that if Jesus was referring to adultery, he would have used the word adultery, just as he did two other times in the same verse.

Second, let us look at this logically. If the critics are correct in their interpretation of Matthew 5:31, then anyone can divorce their spouse and remarry someone else no matter what the reason. Think about it, all that would be necessary is for one of them to go out and have an affair. Somehow, I do not think that is what God intended.

Marriage is a bond established by God. Jesus revealed this to us in Mark 10:6-9: "But from the beginning of creation, 'God made them male and female.' 'For this reason, a man shall leave his father and mother and be joined to his wife, and the two shall become one. **What therefore God has joined together, let no man put asunder.**"

These may be tough words, but they are the words of Christ Himself. While it is important to understand what they mean, it is also important to understand what they do not mean. It is true that the bonds of a valid marriage can never be broken short of death. However, there may be occasions when it becomes necessary for a couple to separate, for instance in the case of an abusive spouse. If there is any threat to the wellbeing of one of the spouses or the children, a separation would constitute the best course of action. However, even in such a case remarriage would not be possible. Paul makes this very clear in his first letter to the Corinthians where he writes: "To the married I give charge, not I but the Lord, that the wife should not separate from her husband (but if she does, let her remain single or else be reconciled to her husband) and that the husband should not divorce the wife" (1 Corinthians 7:10-11).

There are times when an exception can be made. If certain problems existed at the time of the marriage, they could have prevented that marriage from being valid in the first place. If such is found to have been the case, a decree of nullity can be obtained, and the innocent party would be free to remarry.

Quite often you will hear an annulment described as a Catholic divorce. But an annulment and a divorce are two different things. Divorce dissolves a civil marriage while an annulment is a recognition that a sacramental marriage (valid in the eyes of the Church) never existed. The Church does recognize, however, that a civil marriage (valid in the eyes of the state) did exist.

For a marriage to be valid in the eyes of the Church, both parties must be aware of what constitutes a sacramental marriage. They must also be free, willing, and capable of entering such a commitment. Sometimes, despite the best of intentions, a couple is deficient in one or more of these areas. It is not unusual for such a couple to be unaware of this at the time they are married. **This, of course, illustrates why careful preparation before marriage is so important.**

Consequently, an annulment proceeding is concerned with the situation as it existed at the time the marriage took place. Subsequent events are important only insofar as they may shed light on relevant conditions that may have pre-existed the marriage. If serious problems were present at the beginning of the marriage, there is a good chance that they were present before the marriage. Of course, this must never be assumed. However, if such were the case it could have been an impediment to a valid marriage.

There are several reasons why a marriage can be declared invalid. They can be divided into two types of cases, Formal and Documentary. Within the Formal category the most practical grounds are divided into three sub categories: (1) Psychological (2) Simulation of Consent (3) Force and Fear.

Under psychological grounds a variety of factors are considered. Both parties must be able to grasp and assume the responsibilities of a lifelong commitment. Both must be mature, financially responsible, free from mental illness, and possess a sufficient use of reason. Additionally, spouses must have the ability to cope with ordinary stresses. Homosexuality would also be considered under this category.

Under Simulation of Consent both parties must be open to all that marriage entails. Both must enter marriage with the intention to be faithful. Both must be open to the possibility of children. If either party excludes from the beginning any essential element of marriage, the marriage is invalid. For valid consent to take place you must be aware of what is required, and you must agree to it internally and externally.

Under Force and Fear both parties must give their consent freely. No one should marry because of any outside threat or pressure. For example, marriage is not something to be used as an escape from abusive parents. Neither is it to be seen as a necessary result of pre-marital pregnancy.

Within the Documentary category we find two sub categories: (1) Defect of Form, and (2) Previous Bond. Concerning Defect of Form, the Catholic Church has a set of requirements for what constitutes a proper marriage ceremony. If the specified procedures are not followed, the marriage is not considered to be valid. For instance: if a couple was married by a Justice of the Peace and at least one of the parties was Catholic, the marriage would be invalid. If the marriage took place before a non-Catholic minister without the permission of the bishop, the marriage would also be invalid. As for Previous Bond, a Catholic with a previous valid marriage may not contract another marriage while the first spouse is still alive.

You do not have to worry about confronting a former spouse during the annulment process. In fact, most cases involve only the submission of paperwork by your parish priest. Also, just as a divorce has no effect on the legitimacy of any children produced by the marriage, so to a decree of nullity has no effect. Finally, the fee charged for an annulment does not even cover the cost of the process and is usually much lower than one would expect. If a petitioner cannot pay, the case will still go through.

I have heard people scoff at the annulment process and its requirements. They refer to it as "Church Law." And of course, they are implying that such laws were made by men and not God. Consequently, they can be ignored. Only those things said by Jesus are to be obeyed. I find that a rather curious argument. If we only consider what Jesus said directly on the subject there is no chance for remarriage after a divorce. Not that the Church is contradicting Jesus by granting annulments. As we saw before the Church is merely investigating whether a valid marriage was entered into in the first place. If the marriage was valid, remarriage is not possible. If it was not valid then remarriage is possible. Admittedly this can have an undesirable result for some. And while we can sympathize with those affected, we must in the final analysis follow Christ and not men.