



**DIOCESE OF VENICE
IN FLORIDA**

**MANUAL OF TRIBUNAL
MARRIAGE
PROCEDURES**

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Section I

DISPENSATIONS FOR MARRIAGE

DISPENSATIONS are for Validity

A **DISPENSATION** is a relaxation of a merely ecclesiastical law in a particular case. Under certain circumstances, a dispensation can be granted by the competent authority when an obstacle prevents the full observance of the law. A dispensation can be granted only for a just and reasonable cause which must be present at the time the dispensation is requested. In marriage matters, the priest or deacon must supply the reason, proportionate to the seriousness of the case, for requesting the dispensation. In addition, the reason must be objectively true at the time the request is made; otherwise, the dispensation is invalid, and the marriage is also invalid.

Church law recognizes certain obstacles to marriage in the church which are called diriment or invalidating impediments. These impediments are listed in Canons 1083 to 1094, some of which are dispensable (because they are merely ecclesiastical laws), while others are non-dispensable, (because they are of divine or natural law origin). In the Diocese of Venice, only the Ordinary or someone delegated by him for this purpose is authorized to grant **DISPENSATIONS** for marriage.

In addition, although not considered an impediment, the Church requires that a Catholic marry according to the Catholic form of marriage, that is, before a **properly delegated** priest or deacon, for the union to be considered a valid one (Canon 1108, §1), unless a **DISPENSATION** has been granted. (See Dispensation from Canonical Form, page 3.)

Regarding the officiating minister, the Local Ordinary and Pastors have ordinary executive power, given by the law itself, validly to officiate at marriages within the confines of their territory provided at least one is a Roman Catholic. Parochial Vicars (Associate Pastors) do not possess power to officiate at marriages in virtue of their office. Rather, they receive **delegated power** for this purpose in the habitual faculties granted to them with their official parochial appointment. In the Diocese of Venice, Pastors and Parochial Vicars validly assist at marriages **only within the confines of their own territory**. Should either attempt to officiate at marriages outside his territory without having been properly delegated to do so, the marriage would be canonically invalid. Faculties of the Diocese of Venice given to extern Priests (diocesan or religious) who do not receive an official parochial assignment do not include delegation for marriage. In order to witness a marriage **validly**, such Priests must first obtain delegation from the appropriate authority. (See Delegation, page 10).

Diriment Impediments and their dispensation

For a complete listing and brief explanation of all matrimonial impediments, please see ***THE DIRIMENT IMPEDIMENTS*** on page 5. An explanation of the impediments and dispensations most commonly present in marriages is as follows:

Disparity of Cult or Worship

The most common **DISPENSATION** is that of **Disparity of Cult or Worship** (Canon 1086), for marriage between a Catholic (who has not left the Church by a formal act) and an unbaptized person. In cases of doubt concerning whether a Catholic has left the Church by a formal act, please consult one of the priests in the diocesan tribunal.

Consanguinity

The second most common **DISPENSATION**, among certain ethnic groups or cultures, is that of **Consanguinity in the collateral line** (Canon 1091). This impediment is one of relationship by blood. The State of Florida does not permit marriages between uncles and nieces nor between aunts and nephews. It does permit marriages between first cousins, and the Local Ordinary can permit a dispensation for legitimate and serious reasons. No dispensation can be given for the second degree (the relationship between brother and sister). No impediment exists beyond the fourth degree of the collateral line. (Thus, for example, the marriage between second cousins is not an impediment to marriage.) Likewise, no dispensation is ever granted for consanguinity in the direct line, regardless of the degree of relationship.

Age

Another impediment which is dispensable is the lack of the required **Age** (Canon 1083). A Catholic male must be at least sixteen years of age, or a Catholic female must be at least fourteen years of age in order to marry validly in the Catholic Church. If one or the other party is under that age, a **DISPENSATION** is required for the validity of the marriage. Local civil regulations regarding age must be observed. The reasons for requesting this type of dispensation must be very serious, given the nature of marriage and the extreme youth of at least one of the parties to the proposed marriage. **Please note:** In the Diocese of Venice, both parties must be at least 19 years of age in order to marry **licitly**. Hence, although a **DISPENSATION** may not be required, **PERMISSION** for such a marriage must be obtained from the Ordinary or one of his delegates. Confer the Dispensation Form.

Dispensations Reserved to the Holy See

Given their very serious nature, the ecclesiastical impediments of **Holy Orders** (Canon 1087), **Perpetual Vow of Chastity** in a religious institute of pontifical right (Canon 1078), and **Crime** (a person, wishing to marry another, brings about the death of that person's spouse or of his/her own spouse--Canon 1090), are impediments whose **DISPENSATIONS ARE RESERVED TO THE HOLY SEE**. In danger of death, a dispensation may be possible locally in these situations, **except** for the impediment arising from the sacred order of the presbyterate, which is **always** reserved to the Holy See (Canon 1079).

Non-Dispensable Impediments

Because they arise from the Catholic understanding of divine law or natural law, the impediments of **Ligamen** or **Prior Bond** (Canon 1085), **Impotence** (Canon 1084), and **Consanguinity** in the direct line or in the second degree of the collateral line (Canon 1091) are **NOT DISPENSABLE**.

The Dispensation from Canonical Form

This **DISPENSATION** means that a non-Catholic minister will be the official witness of a marriage celebrated according to the ritual of his or her Church. Therefore, such a **DISPENSATION** should be requested only for a serious reason, such as true spiritual harmony between the parties and their families. It must be remembered that in this instance, there is only **one** ceremony and only **one** exchange of vows. (See *Permission from Place* for additional information.)

Since the **DISPENSATION FROM CANONICAL FORM** can be given locally only for the marriage of a Catholic to a non-Catholic, (but not for a marriage between two Catholics), it follows that there is required as well **either** a **DISPENSATION FROM DISPARITY OF CULT** (if the non-Catholic is not baptized) or **PERMISSION FOR A MIXED MARRIAGE** (if the non-Catholic is certainly and validly baptized).

PERMISSIONS FOR MARRIAGE

PERMISSIONS are for Liceity

Unlike **DISPENSATIONS** which are required for the **validity** of certain marriages,

PERMISSIONS are required for the **liceity** (lawfulness) of certain marriages. Such **PERMISSION** is to be obtained from the Ordinary or one of his Delegates when the priest or deacon preparing a couple for marriage encounters one of the following situations:

1. A Catholic and a baptized non-Catholic (Mixed Religion);
In the Diocese of Venice, the faculty is given to Pastors and Administrators of parishes to grant permission for a mixed marriage to be celebrated in their parish, provided the non-Catholic baptism was certainly and validly conferred (Diocesan Faculty #18). A baptismal certificate of the non-Catholic (or two sworn affidavits from first-hand witnesses) is required as proof of the baptism. While Parochial Vicars do not enjoy this faculty, they may request their Pastor to grant the permission upon presentation of proof of valid non-Catholic baptism.
2. A person who is under 19 years of age;
3. A situation involving a pre-marital pregnancy;
4. A person who has notoriously rejected the Catholic faith;
5. A couple who will have less than a six-month preparation;
6. A marriage of a person who, bound by natural obligations toward another party or toward children arising from a prior union, has neglected or is neglecting them;
7. A Catholic who wishes to marry a non-Catholic in a non-Catholic church with a properly delegated Catholic priest or deacon officiating;
(see next section, ***THE PERMISSION FROM PLACE.***)

The Permission from Place

The **PERMISSION FROM PLACE** in Church law concerns the case of a Catholic wishing to marry a non-Catholic in a non-Catholic Church or sacred place with a properly delegated Catholic priest or deacon officiating. Since the Catholic form of marriage will be used, **no dispensation from form** is required. However, a Dispensation from disparity of cult must be granted if the non-Catholic is not baptized, or Permission for a mixed marriage if the non-Catholic is validly baptized. Moreover, if the marriage is to be celebrated outside the territory of the officiating Catholic priest or deacon, **delegation** must be received from the Pastor or Parochial Vicar of the territory in which the marriage is to be celebrated, under pain of invalidity of the marriage. Only **one** ceremony and only **one** exchange of vows is permitted, with the Catholic priest or deacon being the official witness. When requesting a **PERMISSION FROM PLACE**, please remember that **in accord with diocesan policy**, it is understood that the marriage will normally be celebrated **in a church**.

PLEASE NOTE: Outdoor weddings, weddings in the home, or weddings in other non-sacred places are **not** permitted in the Diocese of Venice. Under special circumstances, however, the Local Ordinary does allow a wedding between a Catholic and Jewish person to be celebrated in a place other than a Church or Temple. Such cases may also necessitate a dispensation from canonical form, as well as a dispensation from disparity of cult. The Vicar for Marriage Matters for the Diocese of Venice is to be consulted in every such case.

Requirements for Requesting Dispensations and/or Permissions

As already stated, a sufficient reason must be provided by the priest or deacon when a **dispensation** and/or **permission** is requested. Examples of such reasons, which must be objectively true when the permission or dispensation is sought, can be found on the last page of the application for matrimonial dispensations and permissions.

In addition, in order for the Ordinary or one of his Delegates validly and licitly to grant the **dispensation** and/or **permission**, it is required that the Catholic party for whom the **dispensation** and/or **permission** is sought be a resident of the Diocese of Venice or be physically present in the Diocese at the time the **dispensation** and/or **permission** is sought (Canon 1078, §1). Since these cases involve the marriage of a Catholic to a non-Catholic (baptized or not baptized), the Catholic party must make the usual **DECLARATION** and **PROMISE** to do all in his/her power to assure that children born of the marriage will be baptized and educated as Catholics. If the conferral or validity of the baptism of the non-Catholic party is in doubt and remains so after investigation by the priest or deacon, the dispensation “Disparity of Cult ad Cautelam” should be requested. If such a marriage is a convalidation of a previously invalid marriage, then, as in any convalidation, the priest or deacon must obtain a copy of the civil marriage license.

THE DIRIMENT IMPEDIMENTS

Diriment (or invalidating) **impediments** are of two types, divine law impediments and impediments of ecclesiastical law. The impediments of divine law are those of impotence, ligamen or prior bond, and consanguinity in all degrees of the direct line as well as in the second degree of the collateral line (brother and sister). The divine law can never be dispensed; hence, the existence of these impediments **always** invalidates a marriage. They apply to everyone, Catholics and non-Catholics, including the unbaptized. All other impediments are of ecclesiastical origin. Their existence also invalidates a marriage if they have not been dispensed by the proper authority, all requirements for valid dispensation having been verified. The only impediments to marriage in the Church are those listed below as found in Canons 1083-1094.

Canon 1083: **AGE:** Males must be at least **16** years of age, while females must be at least **14** years old in order to marry validly in the Church. This is what is called a merely ecclesiastical law which can be dispensed for a very serious reason. Since November 27, 1983, it obliges only two Catholics, or in a mixed marriage, an under-aged Catholic party. The requirements of civil law regarding age must also be met.

Canon 1084: **IMPOTENCE:** Impotence differs from sterility, which is the inability of a couple to have children. Sterility is not an impediment to marriage. Impotence is the inability of at least one of the parties to engage in sexual intercourse. The impotence must exist before the marriage, be certain, and be perpetual. If the impotence is doubtful, the marriage is not to be impeded. However, if the impediment truly exists, it cannot be dispensed, since the impediment is of divine natural law.

Thus, it affects even non-Catholics who marry between themselves.

Canon 1085: **LIGAMEN OR PRIOR BOND:** The prior bond must exist as a **valid** marriage according to form. The impediment is considered to be of divine origin. Hence, it is binding on all persons including non-Catholics, be they baptized or not, when these latter persons marry between themselves. No dispensation is possible. Thus, a non-Catholic, divorced from another non-Catholic, is not free to marry a Catholic validly until and unless the first marriage has been declared invalid or resolved by way of Privilege.

Canon 1086: **DISPARITY OF CULT:** The marriage of a Catholic (who has not left the Church by a formal act) to a non-baptized person is invalid. However, the impediment is of ecclesiastical origin. Hence, it can be dispensed.

Canon 1087: **HOLY ORDERS:** One who has received Holy Orders invalidly attempts marriage. The impediment is of ecclesiastical origin. However, dispensation from the impediment is reserved to the Holy See. In danger of death, the Local Ordinary can dispense deacons (Canon 1079). Dispensation from the sacred order of presbyterate is **always** reserved only to the Holy See. Under certain conditions, Roman regulations provide for a married permanent deacon who has been widowed to request a dispensation from the Holy See to marry again while remaining a functioning deacon. In such situations, please consult the Diocesan Chancellor or Judicial Vicar.

Canon 1088: **PERPETUAL VOWS:** Those bound by a public perpetual vow of chastity in a religious institute of pontifical right invalidly attempt marriage. Although the impediment is of ecclesiastical law, it is one of three such impediments which can be validly dispensed only by the Holy See. In danger of death, the Local Ordinary can dispense if the conditions of Canon 1079 are fulfilled.

Canon 1089: **ABDUCTION:** Abduction or detention of a woman by a man for the purpose of contracting marriage with her invalidates the marriage. The opposite, however, is not true. The impediment is of ecclesiastical origin and as such, it does not bind non-Catholics (since November 27, 1983). Although the impediment can be dispensed by the Local Ordinary, such a dispensation is unlikely, even in danger of death, while the abduction or detention continues, since the ability by the woman to choose marriage freely would appear to be compromised. Once the abduction or detention ends and the woman is capable of making a free decision to marry, the impediment simply ceases to exist, and no dispensation is required.

Canon 1090: **CRIME:** This impediment is present when one person, wishing to marry another, brings about the death of that person's spouse or of his/her own spouse either personally, through mutual physical or moral cooperation, or through a third party. The impediment is of ecclesiastical origin and as such, it does not bind non-Catholics as of November 27, 1983. Given the seriousness of the impediment, **crime** is one of the ecclesiastical impediments which can be dispensed only by the Holy See except in danger of death (Canons 1078 and 1079).

Canon 1091: **CONSANGUINITY:** The impediment arises from a blood relationship, either full-blood or half-blood; therefore, its existence does not derive from the marital status of the common ancestor. In the direct line, all marriages are invalid; no dispensation is ever granted from consanguinity in the second degree of the collateral line [brother and sister] (Canon 1078). In the collateral line marriages are invalid to the third degree [aunts or uncles with nephews or nieces] as well as to the fourth degree [first cousins]. This impediment is of ecclesiastical law, and the Local Ordinary or his delegate can dispense for a sufficient reason; however, if civil legislation will not permit such a union, the Local Ordinary will not grant a dispensation (confer Canon 1071, §1, 2°). Beyond the fourth degree of the collateral line, no impediment exists.

Canon 1092: **AFFINITY:** Affinity arises only from a valid marriage. The impediment exists only in the direct line in any degree whatsoever. (Thus, the **impediment** of affinity differs from the **relationship** of affinity which exists also in the collateral line, namely, between the husband and the blood relatives of the wife and between the woman and the blood relatives of the husband). The impediment is of ecclesiastical law and can be dispensed by the Local Ordinary or his delegate. (Thus, a widow can request a dispensation to marry her deceased husband's son from a prior marriage, because no blood relationship exists.) Since November 27, 1983, the impediment binds only Catholics.

Canon 1093: **PUBLIC PROPRIETY:** The impediment arises from an invalid marriage after common life has been established, or from notorious and public concubinage. It invalidates marriage only in the first degree of the direct line between the man and the blood relatives of the woman, and vice-versa. The impediment is one of Church law and it can be dispensed by the Local Ordinary or his delegate. Since November 27, 1983, the impediment binds Catholics only.

Canon 1094: **LEGAL RELATIONSHIP:** Marriages are invalid between those who are related in the direct line or in the second degree of the collateral line through a legal relationship arising from adoption. The impediment arises from the act of **legal** adoption only. Thus, no impediment exists between children and their foster parents, regardless of the length of time they may live in the same home. The impediment is of ecclesiastical law. It can be dispensed by the Local Ordinary or his delegate. As an ecclesiastical law, it binds only Catholics as of November 27, 1983, although civil law may also forbid such marriages.

Canon 1095-1103: These canons address various areas which affect the validity of **matrimonial consent**, such as an exclusion of the right to children, an exclusion of permanency, conditional marriage, fraud, error, grave lack of discretion of judgment, and others. Defects in any of the areas mentioned in these canons can vitiate one's ability to consent to marriage as understood and taught by the Church. Should that happen, the marriage would be invalid, since marriage comes about through the free and knowledgeable exchange of consent between two parties who are capable of exchanging marital consent. No dispensation is possible since vitiated consent destroys the essential meaning of true marriage. Thus, non-Catholics are also bound by the content of these canons.

Summary of Dispensation from Impediments

- A. The Local Ordinary can dispense from all impediments of ecclesiastical law except those reserved to the Holy See.
- B. Impediments whose dispensation is reserved to the Holy See:
 - 1. The impediment arising from Holy Orders.
 - 2. The impediment arising from the Public Perpetual Vow of Chastity in a religious institute of pontifical right.
 - 3. The impediment of Crime.

Note: In danger of death, the Local Ordinary (and others) can dispense from these impediments **except the impediment arising from the sacred order of priesthood, which is always reserved to the Holy See (Canon 1079).**
- C. Some impediments are **NOT DISPENSABLE**, since they are of divine or natural law origin:
 - 1. **LIGAMEN** (Prior Bond)
 - 2. **IMPOTENCE** (which is certain, antecedent, and perpetual)
 - 3. **CONSANGUINITY** (in any degree of the direct line and in the second degree of the collateral line)
- D. No dispensation is possible from the various areas of defective consent treated in Canons 1095-1103. The presence of clear and certain defective consent before marriage (an extremely rare occurrence) would invalidate the union, since the valid consent of the parties brings marriage into existence. Before denying marriage to such a couple, the matter should be brought to the attention of one of the Tribunal canonists.

OTHER IMPORTANT MATTERS

Marriage Preparation

The Code of Canon Law could not be more clear in conferring the responsibility for marriage preparation upon the Pastor. The Pastor is, after all, the “proper shepherd” of the parish entrusted to him, responsible for the Pastoral care of its members (Canon 519). Canon 1063 states that “*Pastors of souls are obliged to see to it that their own ecclesial community furnishes the Christian faithful assistance so that the matrimonial state is maintained in a Christian spirit and makes progress toward perfection.*” Such responsibility is further detailed when the canon states that this assistance is accomplished through “*personal preparation for entering marriage so that through such preparation the parties may be predisposed toward the holiness and duties of their new state.*”

Parochial Vicars (Associate Pastors) ordinarily assist the Pastor in this obligation in virtue of their appointment to a particular parish, since they assist in fulfilling its entire pastoral ministry (Canon 545). The Pastor may also assign some of the tasks of marriage preparation to a Deacon or to a pastoral associate. However, when applying for dispensations and/or permissions for marriage, when completing the marriage interrogatories for the bride and groom (“A” Forms) or petitions for lack of form, please remember that it is required that either a priest or deacon complete and sign these forms with the party or parties involved.

The Keeping of Records

Once again, Canon Law makes it clear that the obligation of keeping the marriage records for a marriage is that of the Pastor. Canon 1121, §1 states that *after a marriage has been celebrated, the Pastor of the place of celebration or the person who takes his place, even if neither has assisted at the marriage, should as soon as possible note the following in the marriage register: the names of the spouses, the person who assisted and the witnesses, the place and date of the marriage celebration.* Thus, even though the recording of marriages may be done by the Parochial Vicar, the Deacon or some other person, the Pastor must ensure that the proper recording is being done, and he is to verify the accuracy of the entries. The record is considered an ecclesiastically authentic document about the matters to which it attests; therefore, it must be accurate in every respect.

It is important to remember that all records are to be kept in the place of celebration, that is, in the archives of the parish church within whose territorial boundaries the marriage took place. This is true even if the marriage investigation and preparation took place in a parish other than that of marriage. The only exception concerns marriages celebrated outside the territorial boundaries of the parish of the Catholic party with a **Dispensation from Canoncial Form**. In such a case, the marriage papers are to be kept in the archives of the parish of the Catholic party where the pre-nuptial investigation was made. The couple should be made aware of the parish where the records are being kept.

Notice of a marriage of any Catholic is to be sent to his/her church of baptism where the information is to be entered into the baptismal register.

Delegation

As stated earlier (page 1), if a marriage will not be celebrated within the territory of the parish where a priest or deacon exercises his faculties, he **MUST OBTAIN DELEGATION**, either orally or in writing, from the Pastor or from one of the parochial vicars within whose parish boundaries the wedding will take place; otherwise, the marriage is **INVALID**. If the delegation is given orally, the priest or deacon who will witness the marriage must make a written notation of the delegation in the marriage file, indicating the date the delegation was given and the person from whom it was obtained.

Important Notes

1. When a marriage which will be celebrated by a Catholic priest or deacon is to take place outside the Diocese of Venice, the priest or deacon must first complete all the preparations for marriage which can be accomplished in Venice. All **original** documents of the pre-nuptial file along with any request for dispensations and/or permissions, if needed, are then to be sent to the Tribunal. After issuing its *Visum est*, the file will be transmitted to the place of marriage for the *Nihil obstat*. The name and address of the parish where the marriage will be celebrated, the name of the celebrant, and the date of marriage are to be clearly indicated. **PLEASE REMEMBER:** When a marriage is celebrated outside the Diocese of Venice with a **Dispensation from Form**, the marriage papers are kept in the archives of the parish of the Catholic party where the pre-nuptial investigation was made.

2. Whenever marriage papers are mailed to the tribunal office, the **original papers obtained are to be sent**. A copy should be made in the event of possible loss in the mail. Upon the conclusion of its work, the Tribunal personnel will return the original papers along with the appropriate response. These original documents constitute the official pre-nuptial file for that particular marriage and must be kept in the parish archives where the marriage took place.

3. Requests for dispensations and the processing of marriage papers are to be sent to the tribunal office **no later than two weeks** (sooner, if possible), before the date of the wedding. It is the responsibility of the person requesting the rescript, not of the tribunal office, to ensure that a complete and proper preparation of the request is made to avoid requests for additional information, which may affect the wedding date. **For the same reason, and as a new requirement, the pre-nuptial questionnaires and baptismal certificates are to be sent to the Catholic Center along with the dispensation/permission request.**

4. At the present time, the Tribunal does not request a fee for processing requests for dispensations and/or permissions.

Section II

PETITION TO DECLARE THE INVALIDITY OF MARRIAGE

I. LACK OF PROPER CANONICAL FORM

LACK OF CANONICAL FORM versus DEFECT OF FORM

In accord with Canon 1108, §1, *for a Catholic only those marriages are **valid** which are contracted in the presence of the Local Ordinary or the Pastor or a priest or deacon **delegated** by either of them, who assist, and in the presence of **two witnesses***. Thus, the form of Catholic marriage requires that when at least one party is a Catholic, the marriage must take place before a properly delegated sacred minister and two witnesses. The requirement affects the validity of the marriage. Therefore, **lack of proper canonical form** refers to a marriage of at least one Catholic which was celebrated before either a non-Catholic minister or a civil official without the proper dispensation. Since the required form of Catholic marriage was not followed, it can be said that such a union “lacks form,” and is therefore invalid. This type of case is treated in an administrative procedure.

Defect of Form, however, usually refers to a case in which the Catholic form of marriage was attempted, but something was missing; thus, the form was “defective.” Examples are the following: The priest or deacon did not have proper delegation; only one witness or no witnesses were present. Such situations are called Documentary Cases. They follow special procedures which are discussed on Page 15.

Canonical Form obliges for VALIDITY

Prior to the First Sunday of Advent (November 27, 1983), when the 1983 Code of Canon Law became effective, Canonical Form was required for **all** Catholics baptized in the Church (either absolutely or conditionally) even if they had left the Church by a **formal act** before marrying.

Since November 27, 1983, the Canonical Form for valid marriage remains a requirement for all Catholics who have not left the Catholic Church by a formal act (Canon 1117). However, those who have left the Catholic Church by such an act (usually by being re-baptized or becoming a registered member of another religious denomination) and marrying after November 27, 1983, are **not** bound by the Canonical Form of marriage. Because the marriage of such persons is then considered valid with respect to form, a formal annulment, **not** a Lack of Form, would be required

should that person wish to marry in the Catholic Church. An authentic interpretation of what it means “to leave the Church by a formal act” has not been issued by any Roman Office. Hence, should this matter be an issue, please consult one of the priests of the Tribunal before taking any action whatsoever.

What is Necessary?

A declaration of invalidity for Lack of Proper Canonical Form is resolved through an administrative procedure based upon the veracity of the Petitioner’s testimony and the presentation of required authentic documents. In addition to completing the petition form, (under oath, with the answers being written by a priest or deacon), the Petitioner must furnish an authentic copy of the civil marriage license as well as a copy of the final judgment of civil divorce (not of property settlements). The divorce decree is necessary in accord with Canons 1446 and 1695 which impose upon the judge and other members of the Christian Faithful the obligation of seeking reconciliation of the parties before any legal action is taken. Of absolute importance is the presentation of a record of the Catholic party’s baptismal certificate with any annotations found in the baptismal register such as possible convalidation or sanation. The record must be **recent**, that is, issued within six months of the application, with the **original** signed certificate being sent to the Tribunal office.

In the event that a baptismal certificate is not available due to the destruction of parish records, a political situation, etc., a sworn affidavit provided by at least one person who witnessed the baptism, such as a parent, may be acceptable. Such an affidavit should be written or signed in the presence of a Roman Catholic priest or civil notary.

At the present time, the Tribunal requests a stipend of \$25.00 to cover the cost of the forms and the processing of applications for declaring invalid a union based on the grounds of Lack of Canonical Form.

Important Notes

1. Unless a dispensation from the Form has been granted, the Canonical Form for marriage is required for the validity of the marriage if at least one party is Catholic and has not left the Church by a formal act.

2. The Canonical Form for marriage should not be confused with the place where the marriage is celebrated. In certain situations, Canon 1118 allows the Ordinary to permit the marriage to be celebrated in a place other than a Catholic church building. Prior consultation with the Vicar for Marriage Matters is required. Outdoor weddings are not permitted in the Diocese of Venice.

3. The Canonical Form required for the marriages of Roman Catholics can be dispensed by the Local Ordinary (Canon 1127, §2), or one of his priest delegates in the Tribunal. The reason for requesting the dispensation must be a serious one which is objectively true. Such a dispensation can be granted by the Ordinary only in cases involving one Catholic and one non-Catholic. Thus, in

addition to the Dispensation from Canonical Form, there is required also either a Dispensation from Disparity of Cult (if the non-Catholic is not baptized), or Permission for a Mixed Marriage (if the non-Catholic is certainly and validly baptized).

4. Those who are not Catholic, be they baptized or not, are **not** bound by Canonical Form. Such persons who are free to marry and who do marry according to the civil laws of their territory enter **valid** marriages which are recognized as such also by the Catholic Church. These marriages must be referred to the diocesan Tribunal to determine the type of procedure required should one of the parties wish to be declared free to marry in the Catholic Church.

5. Persons who belong to **any Eastern Orthodox** Church are bound by the form required by their law. This form requires, among other matters, the presence and blessing of an Orthodox priest. The Catholic Church accepts this practice of the Orthodox Churches. Hence, the marriage of an Orthodox person to a person who is not Catholic baptized or not which took place before a Protestant minister or civil official can be declared invalid on the grounds of Lack of Canonical Form, according to the law of the Eastern Orthodox Church. The final decree, however, may have to be issued by the appropriate Eastern Catholic Eparchy.

6. A Roman Catholic who wishes to marry an Eastern Orthodox person remains obligated by the canonical form of marriage. However, the canonical form of the Roman Catholic Church in such an instance obliges for *liceity, not for validity*. Thus, the presence of a sacred minister (an Eastern Orthodox priest), officiating and blessing, is required for validity provided the parties are free to marry and have expressed proper intentions in marrying. **A dispensation from canonical form plus permission for a mixed marriage must be sought so that the marriage will be licit as well as valid.** The usual pre-nuptial investigation should also be conducted.

7. A petition to declare the invalidity of marriage based on the lack of observance of canonical form is not to be sent to the tribunal office until all the information and documentation required (as stated on the diocesan form for this type of case) has been obtained. Almost without exception, such petitions are part of a marriage preparation process. Hence, it is the responsibility of the person doing the marriage preparation also to conduct the lack of form investigation. The Tribunal personnel will to assist as needed.

PETITION TO DECLARE THE INVALIDITY OF MARRIAGE

II. THE DOCUMENTARY PROCESS

WHAT IT IS and WHEN IT IS USED

When a diriment impediment to marriage exists for which the required dispensation was not or could not be granted, or when there is a **defect** of the legitimate canonical form (not the **lack** of form), then the Judicial Vicar or a Judge designated by him may dispense from the formalities of the Ordinary process and employ the Documentary Process. It is called “Documentary” because “...if from a **document** which is subject to no contradiction or exception there is certain proof of the existence of a diriment impediment or a defect of legitimate form, provided that it is clear with equal certitude that a dispensation was not granted,” the Judge may declare the nullity of the marriage by a Judicial Sentence “having cited the parties and with the intervention of the Defender of the Bond” (Canon 1686).

As seen previously, three diriment impediments cannot be dispensed by anyone because they are considered impediments of divine or natural law. All other diriment impediments are of ecclesiastical origin and can be dispensed, either by the Local Ordinary or by the Holy See. In accordance with Canon 1686, when an impediment of ecclesiastical law is proven to have existed at the time of the marriage without having been dispensed, the marriage is invalid, since diriment impediments are invalidating and require dispensation prior to marriage being celebrated. Because the presence of the non-dispensed impediment does not mean that marital consent was necessarily defective, and because the invalidating impediment can be proven with moral certainty through the presentation of authentic documents (e.g., Age, Religious Profession, Holy Orders, Consanguinity in the fourth degree of the collateral line, Affinity, etc.), the marriage can be declared invalid through a process which is judicial, but which is resolved mainly upon the presentation of documentary evidence.

In this process, the evidence presented must demonstrate with moral certainty that an invalidating impediment was present but not dispensed. Both parties must be cited and their testimony obtained. The intervention of the Defender of the Bond is required. The testimony of witnesses is not required except insofar as it may be needed to establish the existence of an impediment (e.g., the couple were first cousins). An automatic appeal against an affirmative decision is not required, although a party who may feel aggrieved retains the right to appeal, as does the Defender of the Bond of matrimony, who may believe the presence of an impediment or of the lack of a dispensation is not certain.

a. Ligamen or Prior Bond

The most common Documentary Case is that of **ligamen or prior bond**. This is a diriment impediment of divine law which invalidates a subsequent marriage (Canon 1085). A simple illustration is the following: “A”, a non-Catholic, marries “B”, another non-Catholic. They divorce, and “A” marries “C”, a non-Catholic, while “B” is still alive. The marriage of “A” and “C” is invalid because of the diriment impediment of a **prior bond**, namely the marriage of “A” and “B”.

The impediment, of course, arises only from a prior **valid** marriage (Canon 1134). Thus, the proof must demonstrate that a presumed valid marriage had taken place and that the first spouse was alive when the Petitioner entered a second marriage. As long as the validity of the first marriage has not been attacked, it enjoys the favor of the law and its validity is sustained until the contrary is proven (Canon 1060). This presumption of validity establishes the impediment of a prior bond which invalidates any subsequent union. The impediment is considered to be of divine natural law, meaning that it cannot be dispensed by anyone, including the Holy See.

In presenting a case based on a prior bond, the Petitioner must provide documentation regarding the marriage whose validity is being attacked (the marriage of “A” and “C” in the example given above), as well as information regarding the previous valid marriage (the marriage of “A” and “B”). It is important that the Petitioner provide the address of the Respondent, since the law requires that both parties be cited and questioned in order to ascertain the facts. Authentic documents attesting to all the marriages under consideration must be obtained, as well as sworn witness testimony, if needed. Upon completion of the investigation, the Defender of the Bond having intervened, the Tribunal Judge renders his decision regarding the case.

b. Defect of Canonical Form

In accord with Canon 1108, §1, *only those marriages are **valid** which are contracted in the presence of the Local Ordinary or the Pastor or a priest or deacon **delegated** by either of them, who assist, and in the presence of **two witnesses***. Thus, the officiant must either be the Local Ordinary himself, the Pastor or Associate Pastor of the parish where the marriage is celebrated, or a priest or deacon delegated by any of them. A "Defect of Form" refers to the case when the Catholic form of marriage is attempted, but something is missing; thus, the form is "defective." For example, the priest or deacon does not have proper delegation, or there is only one witness or no witnesses. This is not the same as a “Lack of Form” case, in which the canonical form was not followed (e.g., a Catholic marries civilly or in a Protestant church without a dispensation having been granted). The same procedure given above for a prior bond case is used to process this type of case.

Important Notes

1. Canon 1116 permits a marriage in the presence of two witnesses only in two situations: in danger of death, or when it is foreseen that a person competent to assist at marriage will not be available for at least a month's time. The first situation would be a rare one. The second situation does not occur in the United States.

2. The Tribunal requests a fee of \$50.00 to cover the cost of the forms and the processing of an application for a documentary case of **ligamen (prior bond) and defect (not lack) of canonical form.**

3. The parish priest is expected to obtain all required documentation before submitting the petition to the tribunal office. The tribunal staff will assist the parish priest as requested.

Section III

PETITIONS FOR THE DISSOLUTION OF MARRIAGE

I. THE PAULINE PRIVILEGE

The Pauline Privilege is based upon Holy Scripture. In 1 Corinthians 7: 12-15, Saint Paul writes:

As for the other matters, although I know of nothing the Lord has said, I say: If any brother has a wife who is an unbeliever but is willing to live with him, he must not divorce her. And if any woman has a husband who is an unbeliever but is willing to live with her, she must not divorce him. The unbelieving husband is consecrated by his believing wife; the unbelieving wife is consecrated by her believing husband...

If the unbeliever wishes to separate, however, let him do so. The believing husband or wife is not bound in such cases. God has called you to live in peace.

Over the Centuries the Catholic Church has refined the application of the Pauline Privilege and enshrined it in the Code of Canon Law (Canons 1143-1147). The principal aspects of such a case are the following: a marriage occurs between two persons, neither of whom has ever been baptized. During the marriage or after it has ended, one of the parties is validly baptized while the other party remains unbaptized. When a subsequent marriage is celebrated in the Catholic Church, the first marriage is dissolved “by means of the Pauline Privilege in favor of the faith of the party who has received baptism” (Canon 1143, §1).

There are five essential conditions for the use of the Pauline Privilege:

1. Neither party was baptized at the time of the marriage. (It is assumed that this was the first marriage for each, or at least that both parties were canonically free to marry).
2. One of the parties receives baptism, while the other does not. (It is assumed the baptism will be a Catholic baptism. In a few instances, case law has determined that valid and certain baptism in a Christian denomination satisfies the canonical requirements.)
3. The unbaptized party must be questioned (interpellated) about his/her willingness to receive baptism or at least “to cohabit with the baptized party in peace without insult to the Creator” (Canon 1143, §1).

4. The baptized party must not have given the other party a just cause for departure (e.g., adultery, etc.), unless condoned by the unbaptized party.

5. When the Local Ordinary has decreed that the case has been successfully processed, the baptized person is informed that a subsequent marriage may be celebrated. It is this subsequent marriage, not the decision of the Local Ordinary, which dissolves the prior union.

What is Necessary?

1. Upon determination that the case presented to the Tribunal may be a Pauline Privilege case, the Petitioner will be cited to the Tribunal to give sworn testimony. The questions will, for the most part, determine that neither party was baptized when the marriage was entered, whether instructions in the Catholic faith have been begun or completed, that baptism will take place, that the Petitioner was not the person responsible for the failure of the marriage, and other similar questions. In addition, the Petitioner must submit the names of at least two witnesses (such as parents and older relatives) who have certain knowledge of the non-baptism of the Petitioner at the time of the marriage.

2. The Respondent is also asked questions concerning his/her non-baptism at the time of the marriage, as well as other questions similar to those asked of the Petitioner. The Respondent is requested to name witnesses who can testify to the fact of non-baptism at the time of the marriage and thereafter. If the Respondent is unavailable or unwilling to testify or to submit the names of witnesses, the Petitioner must also prove through personal testimony or through the testimony of third parties the fact of the non-baptism of the Respondent at the time of the marriage.

3. The party whom the Petitioner intends to marry and the person instructing the Petitioner in the Faith will be asked to supply testimony or other information.

4. If the Petitioner has attended any Christian churches during his/her lifetime, their names and addresses must be submitted so that the church records can be searched for any possible record of baptism. The same is required of the Respondent insofar as this is possible.

5. The following documents must be presented to the Tribunal in a **Pauline Privilege** case:

- The certificate of marriage of the Petitioner and Respondent;
- The final decree of divorce of the Petitioner and Respondent;
- The baptismal certificate of the Petitioner, if converted and baptized;
- The baptismal certificate of the proposed Catholic spouse;
- The marriage certificate of the Petitioner and the current Catholic spouse if they have already married.

Important Notes

1. The right to use the Pauline Privilege continues as long as the other party remains unbaptized. Thus, if the unbaptized party continues to live with the spouse who has been baptized, but who later departs without just cause or ceases to live peacefully with the baptized person, that baptized person may use the privilege. If there is any doubt regarding the cause of the separation, the judgement is to be given to the baptized party, in virtue of Canon 1150.

2. The Pauline Privilege cannot be employed if the previously unbaptized person is baptized after the marriage has ended but before the Pauline Privilege was used, because the marriage thus became sacramental, and an essential condition (one party must remain unbaptized), no longer exists.

3. The assumption is that the Petitioner will receive Catholic baptism and marry a Catholic in the Church. However, it is possible for the Petitioner to receive Catholic baptism but marry a non-Catholic in the Catholic Church, baptized or not, provided the proper dispensation or permission is granted and the corresponding prescriptions are observed.

4. The Petitioner must have received baptism from a sincere desire to embrace Christianity, not because the Pauline Privilege would permit a subsequent Church marriage.

5. Because the Pauline Privilege contains several essential conditions which may or may not be proven during the course of the investigation, no date for a wedding should be promised or set until the matter has been successfully concluded.

6. If the requirements listed for the Pauline Privilege are not fulfilled for some reason, a **Favor of the Faith (or Petrine Privilege)** case can be considered. Generally, in this latter type of case, there is no requirement for conversion as there is in the Pauline Privilege case. However, one party must not have been baptized before or during the marriage, and the Catholic Faith must be **favored** in some way.

7. A Pauline Privilege is processed completely at the local level. A Favor of the Faith case is processed at the local level, but sent to the congregation for the Doctrine of the Faith in Rome for referral to the Holy Father and a final decision.

8. The Tribunal requests a fee of \$50.00 to cover the costs of the forms and the processing of Pauline Privilege cases.

II. THE FAVOR OF THE FAITH

A Favor of the Faith case, also called Privilege of the Faith, involves a marriage between a baptized person and an unbaptized person. Such a marriage is non-sacramental, because only one person is baptized (Canon 1055, §2). As successor of Saint Peter, and by invoking the Power of the Keys entrusted to him (to bind and to loose), the Pope has the power to dissolve such a marriage **IN FAVOR OF THE FAITH** of the Catholic party so that a Catholic wedding can be celebrated. Being a dissolution of a natural bond of marriage, the Privilege is a declaration of freedom to enter into a new marriage. It is not an annulment. The question to be answered is not whether the prior marriage was valid or invalid, but rather whether it meets the requirements for a dissolution in **FAVOR OF THE FAITH**.

Conditions for the Validity of the Dissolution

So that a dissolution of marriage may be validly granted by reason of the Favor of the Faith, it is **absolutely required** that **three** conditions be proven:

1. The lack of baptism of one of the two spouses at the time of the wedding and throughout the entire duration of the marriage;
2. Non-consummation of the marriage after baptism, if baptism was received by the previously unbaptized party;
3. That the person who is not baptized, or who was baptized outside the Catholic Church, gives to the Catholic party the freedom and the ability to profess the Catholic religion and to baptize and educate the children as Catholics. It must be given in the form of a promise.

Conditions for the Liceity of the grant of Dissolution

Several conditions are required for the lawful grant of a Dissolution in Favor of the Faith. Among these are the following:

1. There is no possibility of restoring married life;
2. No public scandal or wonderment would follow if the favor were granted;
3. Neither the Petitioner nor the party with whom the new marriage is to be entered provoked the separation of the spouses or was the cause of the breakdown of the marriage;

4. Equitable provisions be made for the abandoned spouse and for any children born , and the Petitioner take care that such children be brought up in a religious manner.
5. The other party to the prior marriage be questioned (interpellated) about the essential aspects of the case.

What is Necessary?

Documents to be submitted to the Tribunal office are the following:

1. The marriage license for the Petitioner and Respondent;
2. The decree of final divorce of the Petitioner and Respondent;
3. The Baptismal, communion, and confirmation certificates
 - of the Petitioner, if already baptized;
 - of any children born from the marriage of the Petitioner and Respondent, and over whom the petitioner has charge;
 - of the proposed Catholic spouse;
 - of any children born from the marriage to the Petitioner and the proposed spouse, if they have already married.
4. The marriage license between the Petitioner and the current spouse, if already married;
5. An authentic document demonstrating the freedom to marry of the proposed spouse if he/she was previously married (such as a death certificate, decree of nullity issued by the Church, etc.);
6. The Petitioner's letter to the Holy Father requesting that the Privilege of the Faith be granted.

Important Notes

1. The dissolution of a non-sacramental marriage ***IN FAVOR OF THE FAITH*** is not a right but a **favor** granted by the Holy Father. Thus, many factors enter into the granting of a favorable decision, such as the sincerity of the parties, the avoidance of scandal, etc. The process is not to be seen as a purely pragmatic solution, but rather as a spiritual solution which truly does favor the sustaining of the Catholic faith in some way. The process must in no way be construed as a "Catholic divorce."

2. If a positive doubt about the validity of that marriage whose dissolution is sought arises during the diocesan process, the petition is to be directed to the Roman Pontiff with mention made of this doubt.

3. A petition for the dissolution of the bond of a non-sacramental marriage entered with a dispensation of disparity of cult can be presented to the Roman Pontiff only if the Catholic party

(who acts as Petitioner) intends to enter a new marriage with the baptized person. In the same case, the petition can be presented to the Roman Pontiff only if the nonbaptized party (who acts as Petitioner) intends to receive baptism and to enter a new marriage with a baptized party.

4. The dissolution of a valid, non-sacramental marriage entered into with a dispensation from disparity of cult is **not granted** to a Catholic party who petitions to enter a new marriage with another unbaptized person.

5. The dissolution of a valid, non-sacramental marriage is not granted if it was entered after a prior dissolution had been obtained from a valid, non-sacramental marriage.

6. Given the complexities of the process as well as the nature of the case as a **FAVOR** not a **RIGHT**, an affirmative decision cannot be anticipated. Accordingly, no date for a wedding is to be set prior to a final affirmative response being received.

7. At the present time, the fee for a **Favor of the Faith** case is \$450.00.

Section IV

THE FORMAL ANNULMENT PROCESS

WHEN TO Apply for a Formal Annulment

When no other process is available for declaring a person free to enter a new marriage (such as Lack of Form, Prior Bond, or any type of Privilege), the usual way to determine freedom to marry is to initiate the formal annulment process. The final decision in such a process declares either that the marriage in question was canonically invalid from its inception (so that the parties are **free** to marry), or that the marriage was valid (and the parties are **not free** to marry in the Catholic Church).

In very brief outline, the process of formal annulment consists of the following:

- Completion of a preliminary or application-for-nullity form;
- A signed petition requesting the tribunal's intervention;
- Citation of the two principal parties;
- Determination of the canonical grounds under which the alleged invalidity will be investigated;
- Formal and sworn testimony given by the principal parties as well as by knowledgeable witnesses;
- Expert testimony from a psychologist or psychiatrist when necessary;
- Publication of the Acts (testimony and other documentation) to the principal parties, advocates, and defender of the bond;
- Presentation of arguments on behalf of their clients by the advocates of the Petitioner and Respondent;
- Intervention of the Defender of the Bond of Matrimony;
- Study of the case by the Judge (or Judges, in a collegiate tribunal);
- The written decision of the Judge (called the Sentence) and communication of the first decision to the principal parties;
- Automatic appeal of an affirmative decision to a higher court called the Court of Second Instance;
- Communication of the final decision to the principal parties and their advocates.

HOW TO Apply for a Formal Annulment

Every parish in the diocese has the Tribunal Application Forms to be used when a person wishes to file a petition seeking the invalidity of a marriage. The person applying for the annulment

is called the **PETITIONER**, and the other party to the marriage is called the **RESPONDENT**. The priest or deacon is to propose the questions on the form to the Petitioner (explaining them where necessary), and writing the answers in the proper location. The questions request general background information of both parties to the marriage, information concerning the possible presence of undispensed impediments, a summary of possible problematic features in the backgrounds of both principal parties, as well as pertinent details concerning the courtship and the marriage. The Respondent's name and address must be supplied so that he/she can be contacted; otherwise, the entire process would be invalidated for lack of defense of the Respondent. Persons who have some knowledge which may be helpful in proving the grounds alleged for invalidity are to be listed as witnesses, along with any professional persons (priests, doctors, counselors, etc.) who were consulted over the course of the relationship.

Certain documents are to be collected and presented along with the form. These include recent copies of the baptismal certificates of Catholic parties to the marriage, a copy of the marriage certificate, and a copy of the final judgment of civil divorce. The application form is to be signed by the Petitioner and the priest or deacon assisting the Petitioner, and sent to the diocesan Tribunal office. A \$100.00 non-refundable application fee is to be sent to the Tribunal along with the application. Once an application is accepted, the Petitioner is asked to contribute the balance due of \$550.00 to help meet the expenses involved in the processing of a formal case.

Petitioners request the services of the tribunal through the parish in which they are registered or where they have a canonical residence. **It is extremely important, therefore, that their own Pastor, Parochial Vicar, or Deacon complete the application form along with the Petitioner.** Questions can be easily misunderstood by persons with no training in canon law and lead to incorrect information being supplied and/or essential information being omitted. The meeting of the Petitioner with one of his/her parish priests or deacons also establishes a Pastoral contact which will be most important throughout the course of the trial. Since every parish has large numbers of married and divorced parishioners, many of whom request the services of the tribunal, the opportunity to visit with them and assist them should be considered a very important part of the Pastoral ministry these clerics owe to their own people. An appraisal of the Petitioner and of the case should be given by the cleric in its designated place at the end of the questionnaire.

ACCEPTANCE of the Petition

When the application form is received at the Tribunal, it is reviewed to determine whether it has been correctly completed and whether all necessary documents have been presented. The Tribunal will determine whether it has the jurisdiction necessary in Canon Law to accept and try the case. This is called "canonical competence." In order for the Venice Tribunal to be canonically competent, one of the following must be true:

1. The marriage was celebrated in the territory of the Diocese of Venice.

2. The Respondent has a domicile or quasi-domicile in the Diocese.
3. The Petitioner has a domicile in the Diocese and the Respondent resides within the territory of the United States Conference of Bishops. This Conference includes all 50 states, the District of Columbia, and the U.S. Virgin Islands. It does **not** include Puerto Rico or some other U.S. territories. In addition, it is required that the Judicial Vicar of the domicile of the Respondent, after having heard the Respondent on this matter, gives his consent for the case to be heard in Venice.
4. The Petitioner and the most knowledgeable witnesses have a domicile in the Diocese, and the Judicial Vicar of the domicile of the Respondent gives consent for the case to be heard in Venice. The Judicial Vicar of the Respondent must first have determined whether the Respondent has any objections to this.

If the Venice Tribunal is not canonically competent to hear the case, it will assist the Petitioner in identifying the tribunals which are competent.

TESTIMONIES and QUESTIONNAIRES from the Parties and Their Witnesses

Both Petitioner and Respondent are asked to offer formal testimony at the tribunal office. The appointments are made at different times, and the parties do not see one another at the tribunal office. Each is asked to provide the names and addresses of knowledgeable witnesses. The Tribunal personnel will contact all those persons whose testimony is to be obtained, but the parties should first have determined the willingness of their witnesses to testify.

After all the testimony and other pertinent information has been received, an evaluation of the evidence is undertaken. No judgement is made at this point. If it appears that the evidence is weak, the Petitioner will be informed and provided with options appropriate to the situation.

EVALUATION and DECISION by Venice and Miami

One of the tasks of the Tribunal is to allow both Petitioner and Respondent every opportunity to present his or her case in the most complete way possible. Each of the parties is permitted to give additional testimony, add witnesses, or suggest other proofs previously not considered until the Judge determines that all available pertinent information has been obtained. As a result, no specific date can be set for rendering a decision. Usually, ten to fourteen months is foreseen as a reasonable time frame for processing a case which presents no serious or unforeseen procedural or substantive difficulties.

TWO affirmative decisions (that is, the marriage was declared invalid) are required before a person is considered free from the prior marriage and able to marry in the Catholic Church.

Therefore, every affirmative decision rendered by the Diocesan Tribunal of Venice must be sent to an Appellate Court for review. Usually, this Court will be the Metropolitan Tribunal for the Archdiocese of Miami, although it may also be the Roman Rota, if an aggrieved party so chooses. In addition to the automatic appeal, either the Respondent or the Defender of the Bond may append a personal appeal. This Appellate Court has several options after studying the information sent to it. One option is to confirm by decree the affirmative decision already rendered in Venice. The time frame for the completion of this action is dependent upon several factors. A second option available to the Appellate Court is to admit the case to a full Second Instance hearing. In this situation, the Second Instance decision can be delayed for approximately one year while the case is re-instructed. If the decision rendered by Miami is affirmative, the marriage is officially declared to be invalid, and the case is considered ended. If, however, the decision is a negative one, the Petitioner, in order to determine his or her status in the Church, must appeal personally to the Rota in Rome for a final and definitive decision.

Whereas two affirmative decision are required for a marriage to be declared invalid, only one negative decision is needed to determine that the presumption favoring the validity of marriage has been upheld, and the marriage is considered to be valid and binding. In this instance, there is no **automatic** appeal. However, the Petitioner may exercise his or her canonical right of appeal.

Sometimes, even though the marriage is found to be invalid, a prohibition (**vetitum**) may be imposed on either or both parties. The prohibition means that a future marriage cannot be celebrated licitly until the prohibited party has complied with the directions of the Tribunal. A prohibition is placed because evidence obtained reveals certain factors which led to the breakdown of the prior union may adversely affect a subsequent marriage as well. Only the appropriate authority can remove the prohibition. In the Diocese of Venice, this authority is usually the Judicial Vicar or Adjutant Judicial Vicar.

THE CATECHUMENATE and The Annulment Process

The question is often asked: *Should inquirers to the Faith who need a declaration of nullity be accepted in the RCIA process (Rite of Christian Initiation of Adults)?*

According to a private decision in response to this question, the Congregation of the Faith in Rome replied affirmatively, but with certain conditions. The reply extends both to true catechumens (the unbaptized seeking the rites of Christian initiation) and to the validly baptized who seek full communion with the Roman Catholic Church. The conditions require that the teaching of the Church on the nature of marriage (including its essential ends and properties) be presented clearly and not be compromised in any way, and that those bound by a prior valid bond be informed as soon as possible (in a sensitive and caring way) that they cannot be admitted to any of the rites of Christian initiation **UNTIL THEIR STATUS IN THE CHURCH HAS BEEN DEFINITELY AND SUCCESSFULLY RESOLVED.** The Congregation also noted in its reply the disappointment such a statement might cause, but repeated that the teaching of the Church cannot

be compromised, given its belief and doctrine regarding marriage. Pastoral staffs in the RCIA should determine the need for a declaration of nullity early on and suggest that the party initiate the process immediately.

A catechuman or a candidate who is simply separated or divorced but not remarried, does **not** need a declaration of nullity in order to receive the Sacraments of Initiation. However, the moral and canonical consequences of future attempts to marry without first having been declared free to marry must be carefully explained before the instruction process is completed.

NO DATES FOR WEDDINGS before a final decision

When a petition of annulment is presented to the Tribunal, there is no guarantee that two affirmative decisions will ultimately be given. This depends on what is proven in the course of the trial. If a prohibition has been placed on either or both parties, its instructions must be observed before marriage is celebrated. **NO DATE IS TO BE SET FOR A SUBSEQUENT MARRIAGE UNTIL THE PROHIBITION HAS BEEN LIFTED.**

THE TRIBUNAL WILL NOT BE RESPONSIBLE FOR MEETING ANY DEADLINES OR DATES WHICH A PARISH PRIEST OR DEACON MAY HAVE SET. IF THE PRIEST OR DEACON HAS SET SUCH DATES WHICH CANNOT BE MET, THEY MAY SUBJECT THEMSELVES TO POSSIBLE LEGAL ACTION.

Section V

CONCLUDING REMARKS

1. Since beginning its own activity, in 1984, the Tribunal for the Diocese of Venice in Florida has, through the procedures explained in this Manual, been able to declare literally many thousands of persons capable of becoming Catholic and/or of entering valid marriages in the Catholic Church. These persons are your parishioners, and when attention is given to them, they may well become, like the seed sown on fertile soil, active members and leaders of your parish community.
2. In recent years, the number of cases presented to the Tribunal, especially those requiring the formal process, has declined despite the tremendous population growth in our area, both general and Catholic. This is not because divorce is on the decline. It is not! Without question, divorced and remarried Catholics live within the boundaries of every diocesan parish or mission, and in larger numbers than we know or imagine. Moreover, these numbers increase annually. While a small percentage approach the Tribunal through their parishes, large numbers of divorced and remarried do not. The flock of Christ is incomplete, and it is the obligation of pastors, who are the rightful shepherds of their flock, to assist them, with the aid of the Church's legal system, to make it whole again, even though that may not be possible in all cases. Pastors, and the priests and deacons who assist them in parish ministry should use various means of locating the divorced and remarried who live within their parish boundaries. Such means must also be unique and creative, since many, if not most such couples, are not regularly present in church. While it is true that not everyone will eventually receive the decision they seek, the interest of the Parish and of the Church will be a source of consolation to them.
3. The work of the tribunal is essential to the mission of the Church as it seeks to remain faithful to the teachings of Christ on the permanent nature of marriage, a teaching which is increasingly difficult in today's world. Tribunals seek to do that through a proper application of matrimonial jurisprudence to the divine law on the permanent nature of marriage. Weddings are celebrated in the external forum, and investigations into their alleged invalidity must also be conducted in the external forum. To do otherwise would be to violate the law by denying the right of defense to the non-petitioning party and to the Church itself. Thus, the so-called internal form is **not** a viable option for the divorced and remarried. Moreover, the words emanating from Pope John II as well as from the Congregation for the Doctrine of the Faith regarding Communion to those persons are also pertinent in this situation. This information can be located on the Vatican website. The priests of the Tribunal can also refer you to these documents.

4. A series of questions and answers regarding our Tribunal activity can be found on the diocesan website. Simply click on the following: (1) Offices; (2) Tribunal; (3) F.A.Q. Many other dioceses have similar websites which can aid your ministry considerably in this area.

5. Finally, words of gratitude are in order. Parishes, priests, deacon, religious, and other parish ministers can be singled out for their fine work in ministering to the divorced and remarried – for spending time completing the various forms with them, and for being a true pastoral presence during the months required to complete a formal process. We thank them most sincerely. Nevertheless, it is always important that we feel challenged to even greater levels, and even these fine ministers can expand their ministry by actively seeking out the many divorced and remarried in their parish who would not otherwise approach someone in the rectory. The good accomplished through such an expanded ministry would surely benefit all greatly, and add to fulfilling the Mission of the Church.