

## FREQUENTLY ASKED QUESTIONS

### ABOUT MARRIAGE:

#### **What do Catholics believe about marriage?**

The laws in force in the Catholic Church describe marriage in this way. “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. For this reason, a valid matrimonial contract cannot exist between the baptized without it being by that fact a sacrament. The essential properties of marriage are unity and indissolubility, which in Christian marriage obtain a special firmness by reason of the sacrament.” Pope John Paul II wrote “the love of the spouses requires, of its very nature, the unity and indissolubility of the spouses’ community of persons which embraces their entire life: ‘so they are no longer two, but one flesh’. [...] The unity of marriage is made clear in the equal personal dignity which must be accorded to man and wife in mutual and unreserved affection.” There is no innate ability to be a husband or a wife; it is learned behavior with couples learning how to be self-revelatory; understanding of self and other as individuals and as a couple; and, finally, loving in the sense of sacrificing for the good of the other in all things.

#### **What is a mixed marriage?**

Marriage between a Catholic and either a baptized, or even a non-baptized, non Catholic often arise in today’s society. His Holiness Pope John Paul II noted in the *Catechism of the Catholic Church*: “Differences of confession between the spouses does not constitute an insurmountable obstacle for marriage, but do require particular attention on the part of couples and their pastors. Differences about faith and the very notion of marriage, but also different religious mentalities, can become sources of tension in marriage, especially as regards the education of children. The temptation to religious indifference can then arise.” According to the laws in force for the Roman Catholic Church, a mixed marriage between two baptized parties needs for licity the express permission of the Catholic bishop; a dispensation for validity is needed from disparity of worship if one of the spouses is non baptized. In either case the Church presupposes that both parties know and do not exclude the essential ends and properties of marriage and the obligations assumed by the Catholic party concerning the baptism and education of the children in the Catholic faith.

#### **What does the Catholic Church believe about Non Catholic Marriages**

The Catholic Church recognizes and upholds the validity of marriages of a non Catholic man and non Catholic woman who marry with no impediments, such as the bond of a previous marriage, or consanguinity or affinity and who enter marriage through a form accepted by their church or ecclesial community and the civil government. Such marriages between two baptized Christians, the Catholic Church automatically upholds to be sacramental marriages as Jesus described in Matthew 19:1-9 and

Mark 10:1-11. Catholic Church law is clear. “From a valid marriage there arises between the spouses a bond which by its nature is perpetual and exclusive. Moreover, a special sacrament strengthens and, as it were, consecrates the spouses in a Christian marriage for the duties and dignity of their state.” For a Catholic spouse to marry a non Catholic, Catholic discipline is different. In addition to freedom from impediments, Catholics must observe a Catholic form of marriage unless previously dispensed from that obligation. “Only those marriages are valid which are contracted before the local ordinary (bishop), pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses” unless this requirement was dispensed by the local ordinary. Assistance means the Catholic clergyman “asks for the manifestation of the consent of the contracting parties and receives it in the name of the Church” according to canon 1108, §2. Failure of a Catholic to observe this requirement robs a union of canonical validity and church recognition.

### **Who can contract marriage?**

It is the basic teaching and discipline of the Catholic Church that “all persons who are not prohibited by law can contract marriage.” Moreover, “the consent of the parties, legitimately manifested between persons qualified by law, makes marriage; no human power is able to supply this consent.” For specific items, please consult the check list of items noted in the question: What requirements exist in the Diocese of Venice in Florida to marry?.

### **What requirements exist in the Dioceses in Florida to marry?**

By agreement of all of the dioceses of the State of Florida, the following items are to be submitted and retained in the pre-nuptial file of the Church where the wedding takes place or the Church where the couple were prepared for marriage.

- Catholics must provide a church certified copy of their baptismal certificate “with all notations,” dated within six months of the wedding date.
- If one party is non-Catholic, a letter testifying to their baptism or lack of baptism is required (From parents or church, as appropriate).
- In the presence of a priest or his delegate, both bride and groom must complete a prenuptial questionnaire under oath (Canonical Pre Nuptial Questionnaire).
- Two relatives or friends of the bride and two relatives or friends of the groom must sign, under oath and in the presence of a priest or his designee, a form declaring the freedom of each party to marry (Form B).
- A marriage preparation course is mandatory for all couples as is a Pre Marital Inventory (PMI). An Engaged Encounter Weekend retreat (Friday evening to Sunday afternoon) is highly recommended.
- If there is a former marriage both the previous marriage certificate and civil dissolution or divorce certificate, or death certificate or Catholic declaration of nullity must be provided. Moreover, the priest or deacon preparing the couple for marriage must in the case of a declaration of nullity check with the Tribunal to insure that no *monitum* or *vetitum* exists for marriage preparation or celebration.

- In a marriage between a Catholic and non-Catholic, the Catholic party is to make a written or verbal promise to do all in his or her power to the Catholic baptism and upbringing of any and all children born of this marriage in the Catholic faith. The non-Catholic party is to be made aware of the Catholic's promises which the Catholic party is to make in this matter.
- If a priest other than the parish priest is to perform the ceremony, delegation must be obtained in advance.
- If one or both parties to be married are not regular parishioners of the church, a letter of permission from his/her pastor to be married outside of their home parish must be provided.
- A non-Catholic minister may take part in a Catholic marriage ceremony with prior permission from the priest performing the ceremony with only one restriction. The Catholic minister must ask for and receive the manifestation of marital consent.
- A civil marriage license in the jurisdiction where the ceremony will take place must be provided prior to the ceremony.

### **What preparation programs are required?**

Catholic Church law obliges the pastors of things which must precede the celebration of marriage in canons 1063 – 1072. The Diocese has a number of marriage preparation programs at the parish level to assist the priest or deacon who may witness the marriage ceremony. Couples should inquire at that parish for available programs around six months prior to the wedding ceremony. Some programs are one day meetings while others are a weekend retreat format.

### **Does the wedding ceremony have to be in a Church?**

Catholic Church law entrusts with canon 530 the assistance at marriages and the nuptial blessings to the pastor of the residential parish of the bride or the groom. These liturgical actions are not private actions but celebrations of the Church itself to be celebrated with the presence and active participation of the Christian faithful. The parish church or a chapel authorized by the Bishop is the place for marriage to be celebrated according to canons 1115 and 1118. The Bishop of the Diocese of Venice does not grant permission for weddings to be held outside, e.g. in gardens or parks, on beaches or boats. If one of the parties is Jewish, Muslim, or Hindu, whose entry into a Catholic place of worship is a grave religious problem, the Bishop of the Diocese of Venice will grant permission for the wedding ceremony to a Catholic spouse to be held in another indoor location for the sake of family harmony.

### **What choices do we have to select a clergyman for our marriage?**

Couples entering marriage have a degree of flexibility in requesting the services of a clergyman to witness their marriage vows. Most often the clergyman would be one of the priests or deacons who are attached to the parish where the bride and groom have their home. In the United States it is often customary to celebrate marriage in the parish of the family home of the bride. Couples may request a visiting priest or deacon who has family ties or friendship with the bride or groom or their family.

In mixed marriages, the clergy person of the non Catholic party may be invited to participate at the ceremony by reading, providing a nuptial blessing, as long as it the Catholic clergyman who asks for and receives the marital consent. If a couple wishes to marry in a non Catholic Church with the non Catholic minister asking for and receiving the consent, they may request of the Catholic bishop a dispensation from canonical form. In such a case, the Catholic Church recognizes the validity of the marriage as well as the sacramentality of the marriage as a sacred event. In a choice of clergyman, it would seem more important to select one who can effectively prepare a couple to live their marriage vows than one who simply presides at the wedding ceremony.

## **ABOUT DIVORCE:**

### **What does the Catholic Church believe about Divorce?**

The Catholic Church remains faithfully committed to teaching and upholding the dignity and sacramentality of marriage between a man and a woman as entrusted to it by Jesus Christ in Matthew 19:1-9 and Mark 10:1-12. The Church also recognizes human frailty, weakness, and mistakes which Jesus characterizes as creating a “hardness of heart” between husbands and wives. Catholic church law maintains that “spouses have the duty and right to preserve conjugal living unless a legitimate cause excuses them.” Adultery or infidelity is one of those causes, but there are other causes. No spouse, for example, should remain in a physically abusive relationship; nor should one remain when alcoholism, drug abuse, neglect of children, or many of today’s social problems make married life impossible. Church law is clear. “If either of the spouses causes grave mental or physical danger to the other spouse or to the offspring or otherwise renders common life too difficult, that spouse gives the other a lawful cause for leaving,” that is seeking a civil separation, divorce or dissolution.

After the separation of the spouses has taken place, the adequate support and education of the children must always be suitably provided. Ending a marriage under civil law, however, does not free one to enter a new marriage. Civil divorce or dissolution does not remove from either spouse the impediment of the previous marriage, thus prohibiting any future marriage until either the death of the other spouse or the dissolution or declaration of nullity of the first bond of marriage through ecclesiastical procedures. Today’s Catholics must always continue to teach and uphold the gospel mandates and not settle for simply accepting or promoting accommodations which arise from human failing.

### **What is the status of divorced Catholics?**

Because of the Catholic Church’s teachings on the indissolubility of marriage, divorce creates a particular difficulty with multiple answers. Divorced Catholics are not excommunicated from the Catholic Church, this church penalty, operative only in the United States between 1893 and 1970, having been removed. Divorced Catholics who have not remarried have the right to receive all of the sacraments of the Catholic Church with the exception the sacrament of matrimony until such time as they are free of the previous marriage bond. Divorced Catholics who remarried outside the Catholic Church are in a different position regarding sacramental participation, especially reception of Holy Communion. The bishops of the United States are quite clear that until their previous

marriage bond is resolved, they should not receive Holy Communion as their sexually active living situation is considered, objectively speaking, sinful behavior. They are highly encouraged to continue fulfilling their obligation to Sunday Mass and all other obligations of the faith which became part of their lives at baptism. They should also seek canonical-pastoral guidance to explore whether there may be grounds to obtain a declaration of matrimonial invalidity (annulment) of their prior union.

### **What does the Catholic Church hold about divorced non Catholics?**

The Catholic Church understands that Orthodox and many Protestant Churches have different understandings of the theology of the indissolubility of marriage. These churches interpret the teachings of Jesus in Matthew 19:1-9 and Mark 10:1-10 differently than Catholics. While we respect their belief, we maintain that the sacred bond of marriage intended by the Creator is not destroyed by a civil divorce, dissolution, or annulment so that, with respect to a new marriage with a Catholic spouse, divorced non Catholics are prohibited by reason of the impediment of a prior marriage until such time as the bond is removed by either the death of their former spouse or through a Catholic ecclesiastical process.

### **What is the status of children of divorced spouses?**

Church law is quite clear that “parents have the most grave duty and the primary right to take care as best they can for the physical, social, cultural, moral, and religious education of their offspring.” Canon 1137 states: “The children conceived or born of a valid or putative marriage (a marriage believed at the time of marriage to be valid) are legitimate.” Persons who do not understand the difference between “status of persons” and “status of relationship” mistakenly hold that an annulment retroactively makes any children of the union to be illegitimate. Such persons mix legalities with real life in words and actions inimical to the children’s rights and their own duties. A church annulment in no way negates or denies the fact that a valid civil marriage existed between the parties, and any children born of that union remain the legitimate sons and daughters of their parents whether or not the annulment is granted.

### **Can a person marry after a civil divorce?**

One who has received a civil divorce, dissolution of marriage, or even a civil annulment remains bound under the laws of the Catholic Church by an ecclesiastical impediment of a prior bond of marriage. This impediment renders a person unqualified to contract marriage validly. To contract another marriage it is necessary that the nullity or dissolution of the prior marriage is established with certainty according to Catholic Church law. Dissolution of the impediment takes place through either death of the previous spouse or the grant of a privilege of the faith by church authority; nullity of the bond of marriages takes place by judicial decision.

## **Can a divorced non Catholic join the Catholic Church?**

The RCIA or Rite of Christian Initiation of Adults program is the normal way for both baptized and unbaptized non Catholics to enter the Catholic Church at Easter time. Such a person may participate in the program. If he/she has no present intention to remarry, the person may be admitted to the Easter Sacraments. However unless and until the prior marriage would be declared invalid, a subsequent marriage in the Church could not be celebrated. If the non Catholic who wishes to enter the RCIA program is remarried, he/she may be admitted to the program, but would generally be excluded from the Easter Sacraments until any prior marriage bond by the non Catholic and his/her current spouse is declared invalid. To minimize any problems the Administrator of the RCIA program should be given notice of any and all prior marriages as soon as possible and consultation with the Tribunal Office should take place.

### **ABOUT FREEDOM FOR REMARRIAGE:**

#### **Who is free to remarry in the Catholic Church?**

Any man or woman, regardless of their baptismal status, who is no longer under the bond of a previous marriage, or any other impediment, is free to enter marriage in the Catholic Church. This would include people whose spouse has died as well as those people who received a Catholic ecclesiastical declaration of sacramental nullity (annulment) or a dissolution of the marriage bond by reception of a Privilege of the Faith. Marriage is understood and defended in Catholic theology and teaching as a natural right which is impeded only by the teachings of Jesus Christ as found in the gospels of St. Matthew, chapter 19, and St. Mark, chapter 10.

#### **What grounds are cause for nullity under church law?**

It is not possible to list, or adequately explain, all of the possible grounds for nullity under church law, but if you respond “yes” to any of the following questions, you may wish to obtain further information.(1) Were both spouses free to enter into marriage, i.e. no outside pressures or no previous marriage? (2) Did each spouse intend from the beginning to accept and fulfill God’s plan for marriage, intending fidelity, permanence and open to procreation of children? (3) Did each party have the physical, emotional and/or psychological ability to live out the consent given to marriage?

#### **Does my former spouse have to be contacted?**

Church law requires that your former spouse be contacted, informed of his or her rights and encouraged to participate. While the former spouse does not always participate, failure to inform the Respondent is a denial of the right of defense which negates the entire process, as well as any decision. In the event the address of the spouse is unknown, this should be explained to the priest or deacon at the time the application is being prepared. While the current address of the former spouse may not be known, the address of a former spouse’s family member or friend may be used. You will not have direct contact with your former spouse; the tribunal office will seek his or her

cooperation through a family member to ensure the former spouse receives the correspondence.

### **Is it true that all requests are granted?**

Not every case presented to the Tribunal is granted an Affirmative decision. The materials presented by a person must overturn the presumption that the marriage is not a valid and sacramental marriage. Sometimes the lack of cooperation by one of the spouses makes this impossible. In other case, all of the possible witnesses who could testify are no longer living. Sometimes marriages end in the civil courts because one or the other party makes a fatal mistake and ruins a sound marriage. Finally, some cases can not fulfill the requirements of jurisprudence which Church authority set down as necessary to grant an Affirmative decision. Decisions are given on establishing the truth as to what transpired in a marriage rather than the goodness or badness of the spouses.

### **Why does the Catholic Church annul marriages and other Churches do not?**

Our Catholic approach attempts to be faithful to the scriptures and our two thousand year traditions. Divorce existed long before the time of Jesus and it remains a reality today. Since the first centuries of Christianity, the bishops have struggled with questions, for example, of whether to allow reception of the Eucharist by divorced and remarried persons; whether the innocent party in a divorced marriage could enter a subsequent marriage; whether adultery broke the bond of marriage. The Catholic approach attempts to follow the explicit teachings of Jesus that it is the intention of the Creator that marriages between a baptized man and a baptized woman entered with proper consent and capacity at the time of the ceremony are indissoluble unions. Civil divorce terminates a marriage from that time forward; a Catholic annulment declares that no bond of marriage existed from the beginning of that marriage because of a deficiency of consent or capacity on the part of one or the other, or both, spouses.

### **What types of Catholic Annulment cases are possible?**

There are three types of cases considered by Catholic tribunals. One focuses on technical requirements required to enter marriage; another focuses on an impediment which disqualifies a person; a third focuses on a deficiency of consent or capacity to engender and sustain that consent. The following provides a brief description of the three types.

**Lack of canonical form:** The law identifies certain requirements to recognize marriage as valid or binding. An example in civil law would be the requirement of a marriage license or that the marriage be witnessed by an authorized minister or notary. Canon law contains similar technical requirements, imposing on Catholics the obligation to be married before a properly delegated priest or deacon and two witnesses according to the rites of the Catholic Church. Generally, if a Catholic does not marry according to the canonical form (or receive a dispensation/permission from the Bishop for the lack of proper form), the marriage is not valid or non-binding under Church law, whether it lasted one year or fifty years. Annulments based on a lack of form are documentary cases and require limited proofs .

**Impediment to Marriage:** Canon law, like civil law, identifies certain impediments to a valid or binding marriage. Examples would include parties who do not satisfy minimum age requirements, are too closely related by blood, or who may be bound by a prior marriage (ligamen), etc. The church cannot recognize the remarriage of a person during the lifetime of the former spouse, because despite the civil divorce the church presumption as to the validity or binding nature of the previous marriage stands until proven otherwise before an ecclesiastical tribunal. Should a person attempt marriage in the Catholic Church under an impediment, he/she would marry invalidly.

**Formal Case/Defect of Consent:** In a formal case, all of the external or technical requirements for marriage appear to have been satisfied. The issue is whether some element which the church understands to be intrinsic and essential to the formation of the marital covenant, was omitted or excluded by one or both of the parties at the time of consent. In such a case, a true communion of life and love consistent with the church's understanding of this sacred vocation is impossible. The formal case requires an examination of the intent and capacity of both parties through a background investigation, witnesses and other proofs, and is much more involved and lengthy. Questions and Answers as to the formal case are identified on this web site

### **Who can file for an ecclesiastical annulment?**

Any civilly divorced Catholic, or any divorced person civilly married to a Catholic, or intending to marry a Catholic, has the right to petition a competent tribunal to investigate the validity of a previous marriage. The party filing the petition is referred to as the Petitioner. The other party, referred to as the Respondent, must be informed and his/her participation sought and rights observed. Those initiating a marriage case must do so through the priest or deacon at their parish; those who have no proper parish should consult with the Tribunal office.

### **Why is Witness Testimony Required for Annulments?**

The Tribunal relies on the testimonies of both former spouses in order to gain a clearer understanding of the consent each gave at the time of marriage ceremony and/or each's ability to live out that marital consent. Witness testimony is used to corroborate the statements of the two former spouses. Witness testimony comes in the form of civil documents, letters, news reports, and statements by family and friends of the couple who knew them before and during the course of their common life. Some witnesses are excluded from participating as for example a couple's children; others might be excluded as they are bound by professional confidentiality. Witness testimony is evaluated by considering the condition or reputation of the person; whether their knowledge derives from personal knowledge or whether from opinion, rumor, or hearsay. Judges often look for testimony that is consistent or inconsistent, uncertain, or vacillating, and whether or not that testimony is supported by co-witnesses. A minimum of two to four witnesses is normative for a formal annulment case.

### **What are my financial obligations?**

Tribunal fees vary with the type of case being processed, i.e a documentary case or a formal case. Fees are not revenue generating and user support contributes about 30% of annual expenses. Fees meet administrative costs connected with the work of the Tribunal, such as mailings, salaries of priests and lay staff, rent and telephone, stationery, computer maintenance and professional fees to consultants. For a formal case, for example, the Petitioner is responsible for a \$100.00 application filing fee and is asked to contribute an additional \$550.00 to partially address actual processing costs. One's ability to contribute, even a little, does not affect the acceptance of the petition or the final decision. No procedures are delayed or denied on the basis of money. The tribunal is subsidized by the faithful of the Diocese of Venice through the Catholic Faith Appeal and some Catholic parishes in the diocese may be able to provide some financial aid.

### **What are the rights of both spouses in tribunal proceedings?**

The rights of both parties must be defended and protected by the Tribunal. Canon law requires certain rights that must be extended to the Petitioner and the Respondent, including the following seven rights. There is the right to be informed of the grounds and to object to the grounds or propose other grounds as well as the right to be represented by a Procurator/Advocate (a priest, deacon or approved pastoral minister who represents the party before the Tribunal). Each spouse has the right to offer testimony (in writing and/or in a taped interview) and the right to offer witnesses (relatives, friends, counselors). As the process goes forward each spouse has the right to review the "Acts" or information submitted in support of the grounds and offer rebuttal and the right to review the sentence/decision of the tribunal. Finally, either party the right to appeal the sentence/decision.

### **How long do Tribunal proceedings take?**

It is impossible to predict the length of time. As a rule of thumb, the longer the common life, the more difficult the case. Cases vary and depend upon the documents needed, the participation of the former spouses, and the availability of testimony. A documentary case requires less time than a formal case. On average, it takes approximately nine to twelve months for the Diocese of Venice to review the written information, schedule formal interviews of one or both parties, cite and await the return of witness questionnaires, draw the case to conclusion and render a definitive sentence on a formal petition for nullity. The process can be delayed unnecessarily due to failure of witnesses to timely return questionnaires. The length of the appeal process varies dramatically depending upon the choice of forum and the type of case.

### **Why should I bother seeking an annulment?**

Some people believe their failed marriage is a matter between themselves and God alone. At the present time in our country marriages are failing at a rate of 50% + of those who enter marriage. Divorce is socially acceptable, and it is human not to want to look back at the pain and suffering one

went through before the divorce. Divorced people often describe their feelings about their divorce in terms similar to death and dying feelings identified by social scientists. The self-revelatory activities of the tribunal processes often bring understanding to that person as an individual and as a couple. The process can be cathartic and healing if its focus is upon understanding the truth of what caused marital failure so that one is reassured that the problems of the past will not be repeated. Social scientists point out the statistics that second and third marriages fail at even high percentages unless persons face the reality of their past.

Revised: May 1, 2012