

This presentation outlines the Catholic Church's teaching on **Marriage, Divorce, Annulments (Declarations of Nullity), and Convalidation**, drawing from the *Catechism of the Catholic Church* (CCC) and the *Code of Canon Law*.

Marriage: The Sacred Covenant

In the Catholic Church, marriage is understood as a **covenant** established by God, not merely a contract.

Essential Nature and Properties

- **Source:** God himself is the author of marriage, establishing it as a permanent institution ordered to the good of the spouses and the procreation and education of children (CCC 1603).
 - **Sacrament:** Between two **baptized** persons, a valid marriage is also a **Sacrament** (*Sacrament of Matrimony*), symbolizing the unbreakable covenant between Christ and the Church (CCC 1601, 1617).
 - **Essential Properties (Canon Law 1056):**
 1. **Unity:** It is a union between one man and one woman.
 2. **Indissolubility (Permanence):** The bond is lifelong and cannot be dissolved by any human power ("*What therefore God has joined together, let not man separate*" - Matthew 19:6).
 - **Requirements for Validity (Canon Law):** A valid marriage requires:
 1. **Capacity:** The spouses must be legally and psychologically capable of entering marriage (free from impediments like a prior, valid marriage, etc.).
 2. **Consent:** They must freely and deliberately exchange consent to a permanent, exclusive union open to children.
 3. **Canonical Form: For Catholics,** consent must generally be exchanged before a Bishop, Priest, or Deacon, and two witnesses (Canon Law 1108). Without this, or a dispensation, the marriage is **invalid** due to a "lack of canonical form."
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Divorce: Separation vs. Dissolution

The Catholic Church makes a crucial distinction between civil divorce and the dissolution of the marriage bond.

Church Teaching on Divorce

- **Indissolubility:** The Church upholds Jesus' teaching that a **valid, ratified, and consummated sacramental marriage** cannot be dissolved except by **death** (CCC 1643, 2382).
- **Civil Divorce:** A **civil divorce** is acknowledged as a legal action for separating property, providing for children, and ensuring certain rights. It can be tolerated in difficult situations (e.g., abuse) but does **not** dissolve the marriage bond in the eyes of the Church (CCC 2383).
- **Remarriage:** A person who obtains a civil divorce and **remarries** without an **Annulment** is considered to be in an invalid union (public and permanent adultery, CCC 2384) and cannot receive Holy Communion, though they remain Catholic and are encouraged to participate in other Church life.

Annulments: Declarations of Nullity

The term "annulment" is a common name for a **Declaration of Nullity**—it is *not* a Catholic divorce.

What is a Declaration of Nullity?

- **Nature:** It is a formal judgment by a Church Tribunal (court) that a **valid marriage, as understood by the Church, never actually existed** from the very beginning (*ab initio*), even if a wedding ceremony took place and the couple lived together for years.
- **Basis:** The Tribunal investigates whether some **essential element**—required for a valid marriage—was **lacking** at the time consent was exchanged.
- **Grounds for Nullity (Canon Law 1095-1107):** Grounds often relate to defects in consent, such as:
 - **Lack of Discretionary Judgment:** Serious lack of the use of reason concerning the essential rights and obligations of marriage (e.g., severe mental illness).
 - **Incapacity:** Inability to assume the essential obligations of marriage (e.g., due to severe addiction or psychological disorder).

- **Defective Intention:** Exclusion of one of the essential properties (permanence, fidelity, or openness to children) at the moment of consent.
 - **Impediments:** A legal factor that made the marriage impossible (e.g., prior undissolved marriage, consanguinity).
 - **Lack of Canonical Form:** For a Catholic, being married outside the required Church form without a dispensation.
 - **Effect:** If a nullity is declared, both parties are considered **free to marry** in the Catholic Church (unless a restriction is imposed).
 - **Children:** A declaration of nullity does **not** render children illegitimate. The marriage is considered a "putative marriage" if at least one spouse entered it in good faith (Canon Law 1137).
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Convalidation: Validating an Existing Union

Convalidation is the process by which a marriage considered **invalid** by the Catholic Church is made **valid** in the eyes of the Church.

Circumstances Requiring Convalidation

Convalidation is typically necessary for Catholics who:

1. **Married outside the Church without a Dispensation:** This is the most common case, often referred to as an invalid marriage due to **lack of canonical form** (e.g., a Catholic marries before a justice of the peace or non-Catholic minister without permission).
2. **Married Invalidly due to an Impediment:** A couple married invalidly because of an impediment (like a prior bond for one party) and the impediment has since been removed (e.g., a declaration of nullity for the prior marriage was granted).

The Convalidation Process (Canon Law 1156-1160)

- **New Consent:** Convalidation is **not a mere blessing** of a civil union. It requires the spouses to exchange a **new, free act of consent** in the presence of the Church's minister and two witnesses. It is a new marriage, with the date of convalidation becoming the true marital anniversary in the Church.

- **Marriage Preparation:** The couple undergoes the normal marriage preparation process to ensure they fully understand and intend the essential properties of a Catholic marriage (unity, indissolubility, openness to life).
- **Radical Sanation (Canon Law 1161-1165):** In certain exceptional cases (often when one party refuses to renew consent), the Church can grant a *radical sanation* ("healing at the root"), retroactively validating the marriage without the formal renewal of consent, provided the initial consent persists.

Feature	Civil Divorce	Catholic Declaration of Nullity (Annulment)
Authority	State/Civil Government Court	Diocesan Church Tribunal (Court)
Focus/Goal	To dissolve a legally valid contract and divide assets/custody based on the failure of the relationship .	To declare that a valid, sacramental bond never existed from the beginning (<i>ab initio</i>) due to a defect at the time of consent.
Basis/Grounds	Irreconcilable differences, abandonment, cruelty, etc. (focus on events during the marriage).	Defects in consent, capacity, or form (focus on the moment of the vows).
Effect	Terminates the legal marriage contract; determines asset division, alimony, and child custody.	No civil effect. Declares a person free to remarry in the Church .
Prerequisite	None (though some Tribunals require a civil divorce to begin the nullity case).	The civil divorce must usually be final before a formal nullity case is initiated.

The Role of the Advocate and Defender of the Bond

The canonical process is structured to seek the **objective truth** about the marriage's validity, which necessitates the appointment of specific roles within the Tribunal.

1. The Advocate (Petitioner/Respondent Representative)

- **Role:** The Advocate is a trained person (often a layperson or deacon) who assists the **Petitioner** (the person seeking the declaration of nullity) or the **Respondent** (the former spouse).
- **Function:**
 - Provides pastoral support and guidance through the complex process.
 - Helps the party formulate the **grounds** (the specific canonical defect) for nullity.
 - Assists in gathering necessary documents and evidence (witnesses, baptismal records, etc.).
 - **Defends the rights and interests** of their assigned party within the canonical trial.

2. The Defender of the Bond (*Defensor Vinculi*)

- **Role:** This is a key official appointed by the Bishop for every nullity case (Canon Law 1432).
- **Function:**
 - **His sole duty is to defend the marriage bond;** he is obliged to present and argue all that can reasonably be brought forward **against** the declaration of nullity.
 - He ensures that the Church's law and its commitment to the permanence of marriage are upheld in the trial.
 - His participation is **required for the validity of the process**. If the judges decide for nullity, the Defender of the Bond must be consulted to ensure a thorough review before the sentence is executed.

The Nullity Process Summary

1. **Petition:** The Petitioner (with a civil divorce final) meets with a pastor or advocate to file a formal petition with the Diocesan Tribunal.

2. **Acceptance & Citation:** The Tribunal accepts the case, cites the **Respondent** (who has the right to participate), and names the **Defender of the Bond**.
 3. **Instruction (Investigation):** Testimony is gathered from the Petitioner, Respondent, and witnesses. The Advocate helps their party prepare their statements.
 4. **Publication of Acts:** Both parties and the Defender of the Bond are given the opportunity to review the collected testimony.
 5. **Defense of the Bond:** The Defender of the Bond presents their arguments **against** the nullity. The Advocate (for the Petitioner) presents arguments *for* nullity.
 6. **Judgment:** The Judges (a college of three, or a single judge with two assessors) issue a definitive sentence, ruling **Affirmative** (nullity granted) or **Negative** (nullity not proven).
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