

# *The Sacrament of Matrimony in the Polish National Catholic Church \**

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## **Matrimony - A Sacrament**

“Matrimony is the Sacrament which makes a Christian man and woman husband and wife, gives them grace to be faithful to each other and to bring up their children in love and devotion to God.”<sup>1</sup> In our society the smallest fundamental unit is the family and the family has its beginning in marriage. The importance of matrimony in the Christian life is self-evident and the church needs to stress its importance as our culture has become so accepting of co-habitation.

God revealed to man his need for a wife (Gen. 2:18) and a woman’s need for a husband (Gen. 3:16). Marriage belongs to the very order of creation. God created woman for man and man for woman at the beginning of time (Gen. 1:26-27).

Marriage is an integral part of our society. In marriage, and in sexual communion in particular, a man and woman enjoy and demonstrate in outward manifestation what is an inward grace. Ordained of God (cf. 1 Tim. 4:3), it is the highest expression of mutual affection and the deepest human communion, so that God Himself has used marriage to express the unfathomable depths of His own love to us. It is only in the marital relationship that the use of the sexual faculty can be morally good.

The Sacrament of Matrimony is a solemn covenant entered into by one man and one woman in perfect freedom, in which they pledge their love and fidelity, one to the other, in joy and in sorrow, in health and in sickness, in prosperity and in adversity, so long as they both shall live. It is terminable in God’s sight only by death, or by gross infidelity, or by separation on the part of an unbelieving spouse (Mt. 5:32; 19:19, Rom.7:2-3; 1 Cor. 7:15). Such a covenant should be made only between a man and woman of like mind and faith (2 Cor. 6:14-15).

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A vocation is yet another description of marriage, a calling of God to demonstrate the highest form of love to each other and thus to the world (Gen. 2:23-24; Eph. 5:21ff). Marriage is also to propagate children (Gen. 33:5, 48:4, Deut. 28:4, Josh 24:3-4; Ps. 127:3) and to nourish them physically and spiritually, teaching them the Word of God (Deut. 6:7-20; 11:18-21; Prov. 22:6) and training them to be good citizens (Prov. 13:24; 19:18; 22:15; 23:13; 29:15,17).<sup>2</sup>

The book of Genesis makes it clear that marriage is a privileged state where persons – male and female – can develop the capacity for that love which reveals them as the image of God. “Then God said, ‘Let us make humankind in our image, according to our likeness; and let them have dominion over the fish of the sea, and over the birds of the air, and over the cattle, and over all the wild animals of the earth, and over every creeping thing that creeps upon the earth.’ So God created humankind in His image, in the image of God He created them; male and female He created them” (Genesis 1:26-27).

The highest creativity and freedom of the human person is expressed in mutual love when each one helps the other become a masterpiece of God, a privileged sign of His loving presence. Marriage is the place where the love of God becomes visible in the mutual love of the spouses, in the love of the parents for their children, and in the love of the children for their parents. The most notable potential of marriage – not only for Christians, but for all people – is the authentic experience of love that creates persons who are ever more able to radiate love, joy, peace and promote sound reasoning in their lives.

“Therefore a man leaves his father and his mother and clings to his wife, and they become one flesh” (Gen. 2:24). Marriage is such an institution which defends this oneness and supports this mutually exclusive bond of husband and wife. In human history there has been no institution more sought after or admired. In marriage a man and woman freely create a new and unique oneness, instituted by God and blessed by Him.

In the New Testament period Paul reemphasizes the sanctity of marriage as a covenantal sign of oneness and of God’s abiding presence. So holy does marriage continue to be for the early Christians that the comparison is made to the unending love and devotion of Christ to the Church: “This is a great mystery, and I am applying it to Christ and the Church” (Ephesians 5:32).

In examining this sacrament we need to realize that Matrimony was the last of the sacraments to be considered a sacrament in the Church.

Relatively early in the history of Christianity, marriage was regarded as a sacrament in the broad sense, but it was only in the 12<sup>th</sup> Century that it came to be regarded as a sacrament in the same sense as baptism and the other official sacraments. In fact, before

the 11<sup>th</sup> Century there was no such thing as a Christian wedding ceremony and throughout the Middle Ages there was no single church ritual for solemnizing marriages between Christians. It was only after the Council of Trent, because of the need to eliminate abuses in the practice of private marriages, that a standard Catholic wedding rite came into existence. <sup>3</sup>

Therefore, we realize that throughout human history when a man and woman are united in an integrated, faithful marital love that helps them and others to become more fully the image of God, this is a privileged sign of God's loving presence. But whenever, in family life, persons exploit each other and treat each other as objects or means, or seek anything less noble than love, they are obscuring and obstructing the creative and redemptive presence of God.<sup>4</sup>

The increasing affluence in today's Western culture has freed many people from the vital concerns of mere survival. It has concurrently, however, allowed the moral structure of life to fall subject to the whims of this same system. While it is true that the Will of God is expressed through a given cultural background at a given time, this principle has been carried to the extreme, making a situational ethic out of the Truth and Will of God and abandoning morality based on Revelation. Prominent among those affected by this development is the pillar of society; the family. We see this breakdown of the family unit with the rise in the number of separations and divorces, and the increase of unfaithfulness and sexual permissiveness. Recent attitudes towards premarital sex and cohabitation have contributed greatly to the demise of the Christian family.

We, as followers of Jesus Christ, must stand by the values, principles and ideals which are necessary to save the God-given institution of marriage for the benefit of the individuals, our local communities, our nation and of all humankind. We must strive to live a life based on the life of Christ, for we know from history that every nation which had permitted moral and spiritual decay eventually had fallen.

### **The Priest is the Minister of the Sacrament**

The purpose of this section of the paper is to examine when the PNCC began to teach that the Priest is the Minister of the Sacrament of Matrimony and what influences may have led to the acceptance of this teaching/doctrine.

Before we begin this journey, it is important to remember as noted above that the Sacrament of Matrimony was not regarded as a sacrament in the Church until the 12<sup>th</sup> century. In the 14<sup>th</sup> century John Duns Scotus wrote on this topic, Joseph Martos says of his work:

Scotus was also the first theologian to teach that the minister of the sacrament was not the priest but the couple that was getting married. According to canon law people who wed without a priest were validly married even though they went about it illegally, and according to theology people who were validly married received the sacrament. It followed, therefore, that the bride and groom have to be the ones who administered the sacrament to each other when they gave their consent to the marriage.<sup>5</sup>

The first evidence for the PNC teaching that the priest is minister of this sacrament is found in the minutes of the VI General Synod (June 4, 1931). Fr. Anthony Turkiewicz presented a paper on Matrimony to the General Synod. Following his presentation Bishop Francis Hodur spoke to the body concerning the status of the clergyman of the National Church in administering the sacrament. Hodur said:

In the Roman Catholic Church, the ministers of the sacrament of matrimony are the wedding couple, and the priest is only the necessary witness, in the Polish National Catholic Church, however, the minister of the sacrament of matrimony, as indeed in all other sacraments, is the clergyman in the name of the Church. After the conclusion of the lecture, Father Rudolf Zabek made a motion that the Body should accept the thesis of the First Bishop in his underlayment as the teaching of our Church. The motion was accepted unanimously.<sup>6</sup>

The question to be asked is: why adopt this teaching? One could reasonably conclude that prior to 1931 the PNCC taught that the couple was the minister of the Sacrament of Matrimony, an identical teaching to the Roman Catholic Church from which the PNCC broke some 34 years earlier. What influences were present for Hodur and the PNCC to define or adopt this teaching in June of 1931?

The answer may lie in the Orthodox Church. The teaching of the Orthodox is that the priest is the minister of the Sacrament of Matrimony, in fact, the priest is the minister of all Sacraments for the Orthodox. In examining the events during this time, we note that in June of 1931 the PNCC synod was held in Buffalo. This was just prior to the conference between the Anglicans and the Old Catholics that culminated with the Bonn Agreement in July of 1931. Although the Bonn Agreement does not speak to this matter directly, it does mention a scheduled upcoming meeting of the Old Catholic International Bishops Conference for September of 1931 to be held in Vienna where discussions with the Orthodox were to be held. This potential influence must be considered.

What influence did the Orthodox have on Hodur, the PNCC and the Old Catholics? We know that the PNCC removed the Filioque clause (“and from the Son”) from the Nicene Creed in 1968 but were there earlier influences?<sup>7</sup>

In examining the Old Catholic position the “The Road to Unity”: *A collection of agreed statements of the joint Old Catholic – Orthodox Theological Commission* states that the priest is the minister of the sacrament:

The Church, which has blessed marriage since ancient times, “so that it responds to the Lord and not to lust” (Ignatius of Antioch, Polyc. 5.2 – PG 5.724), is not simply giving its blessing to the natural union of man and woman, but rather is uniting the new couple in the eucharistic fellowship and thereby placing the marriage in the context of the mystery of the Church. The consent of the bridal couple is indispensable for marriage which is concluded as a sacrament by the blessing of a lawfully ordained minister.<sup>8</sup>

As we look to the Eastern Rite of the Roman Catholic Church, we see that there are tensions here in the Roman theology. Canon 828 of the Eastern Code states:

Only those marriages are valid which are celebrated with a sacred rite, in the presence of the local hierarch, local pastor, or a priest who has been given the faculty of blessing the marriage by either of them, and at least two witnesses, according, however to the prescriptions of the following canons, with due regard for the exceptions mentioned in canon 832 and 834.<sup>9</sup>

Thus, we see a different position being held within the Roman Church.

Paul Evdokimov defines the Orthodox position:

Matrimony draws its strength from the blessing (given) by the priest, so that if anyone is married without it, this marriage is null. The priest is minister of the sacrament that is instituted by God; mutual consent indicates that the betrothed are not bound by any other engagement, but that the grace results only from the rite performed. In no way, not in any sense, can the spouses be the ministers of the sacrament.<sup>10</sup>

Some may argue that the PNCC teaches or should teach the same position as the Orthodox on this issue. One needs to exercise caution with the Orthodox position because of the role the deacon plays in the Orthodox Church. The Orthodox deacon cannot function apart from the Bishop or the priest during the liturgy. If the PNCC held the identical Orthodox sacramental theology then this

teaching would have ramifications on the permanent diaconate which is now a part of the PNCC. The deacon within the PNCC can baptize and preach, both of which are sacramental actions. These actions of the deacon stand on solid Scriptural grounds, with Philip, the deacon, baptizing the Ethiopian and Stephen preaching in the Book of Acts. In the Orthodox Church the deacon is solely a liturgical assistant and cannot even administer Holy Communion without the direct permission of a bishop.

One could argue that in the 1930's the only diaconate that existed in the PNCC was a transitional one and, therefore, this would not have been a consideration because the emergence of the permanent diaconate as a distinct order in the PNCC came in the 1980's. Deacons are not authorized to officiate at the Sacrament of Matrimony in the PNCC.

Another influence that should receive some consideration is the fact that this teaching would distance the PNCC from Rome. Realizing that Rome held their position because of canon law, as noted earlier, would be attractive to some in the PNCC at this time. Later PNC documents shed a little more information on this topic. In 1946 during the synod, Bishop Hodur said the following:

Matrimony is a contract and a sacrament of the New Testament between two individuals, man and a woman. The conditions for the indissolubility of matrimony are: 1. Blessed by a priest, 2. Free, 3. Both parties are healthy in body and soul, 4. Religious, that is, that there are not too great differences in the faith of those undertaking the marital union.<sup>11</sup>

This teaching is a part of the PNC Catechism and was addressed during the 15<sup>th</sup> General Synod in 1978. A presentation was made about the Sacrament of Matrimony but no explanation or rationale was given for the PNCC teaching on the priest as the minister of the Sacrament of Matrimony.

The PNC Church Doctrine Commission in 1996 revisited this question and concluded that the 1958 ritual with the blessing of the man and woman by the priest during the marriage rite illustrated the PNC teaching that the priest was the minister of the Sacrament of Matrimony.

In defining a theology for the Sacrament of Matrimony within the Polish National Catholic Church we must be careful that we do not adopt positions merely because they are convenient or because they satisfy some need to separate ourselves from another Church body that thinks differently.

This being said, we can still rightly argue that the "priest" of the Polish National Catholic Church is the minister of the Sacrament of Matrimony, without adopting the Orthodox opinion that only the priest is the minister of all

Sacraments. This latter opinion would be rather difficult for us to adopt for the reasons already noted above.

However, it would not be too difficult for us to restrict the ministerial actions within the Sacraments to the ordained clergy of the Church, against the view of the Roman Catholic Church, which states that the minister of the Sacrament of Matrimony is the couple, and the clergy is only a necessary witness. Only the ordained clergy of the Church have received the imprint of the character of Holy Orders to act in the name of and as the representative of Christ's Church. The ontological change imparted through Holy Orders unites one with Jesus Christ and makes him fit to carry on the work of human salvation through the One, Holy, Catholic and Apostolic Church.

We begin by saying that the Sacraments, as signs of God's grace, must pass to the faithful through the Church. First, let us examine the scholastic definition of a Sacrament, "a visible sign of God's invisible grace, instituted by Christ, for our sanctification and salvation." If we are willing to go beyond the view that our Lord and Savior Jesus Christ physically instituted the sacraments during His three year ministry on this earth, then we can say that all sacraments are products of the "Body of Christ", which is the Church, and that the ordained ministers of that body, the clergy, act in the place of our Lord in the administration of the Sacraments.

In this though we do not necessarily have to limit the ministerial function within the Sacrament of Matrimony to the priesthood. Ministerial functions solely limited to the priesthood can be determined by the sacraments which are related to the sacrifice of our Lord, Jesus Christ; these include the Eucharist, which is the presentation of that Sacrifice, also Penance and Holy Unction, which are tied to it because of the forgiveness of sins. Likewise, Holy Orders are restricted to the Bishop because of his role as "overseer" and protector of the faith and teachings (and, therefore, who teaches) of the Christian Church.

In our discussion we must not think that the role of the couple within the ceremony is of no importance. Most definitely the couple taking their vows enters into the contract of marriage and it may be in this where a PNC theology of the Sacrament of Matrimony can be developed. We read in the pages of God's Field a report of the discussions that took place at the 1931 Synod. It says:

Marriage is an indissoluble bond of two free people, a man and woman, who by a free act give themselves to each other and through the prayer of the Church receive the Sacraments and make a pledge by the power of which they commit themselves to live together, raise children in the principles of their religion and support each other in fulfilling societal obligations.<sup>12</sup>

This concept that Matrimony is a two-fold reality (Contract and Sacrament) is most certainly not new. It is found within the teachings of several theologians before the Council of Trent within the Roman Catholic Church, but ultimately it was rejected at Trent.

Within this outlook we may find the solution to the search for a theology defining the PNC position. The Roman Catholic Church put forward the idea that the minister of the Sacrament had to be the couple, because it was possible to get married without a priest present. They believed that since a marriage was contracted, it must therefore already be a sacrament. Therefore the couple had to be the ministers. By keeping separate these realities of the “contract” and the “sacrament”, the PNCC can keep each sphere in its place; the contract is enacted by the couple and the blessing of the clergy invokes the sacrament. If only the contractual aspect of the marriage is obtained this marriage is recognized by civil law, however, in the view of the Church this marriage would not be a sacramental marriage.

## **Administration of the Sacrament of Matrimony**

### **Preparation**

1. Every priest of the Polish National Catholic Church shall conform to the laws of the State governing the creation of the civil statutes of marriage and also to the laws of this Church governing the solemnization of Holy Matrimony.
2. No priest of this Church shall administer the Sacrament of Matrimony unless the following conditions are complied with:
  - a. He shall have ascertained the right of the parties to contract a marriage according to the laws of the State.
  - b. He shall have ascertained the right of the parties to contract a marriage according to the laws of the PNCC.
  - c. He shall have ascertained that both parties have received the Sacrament of Baptism.
  - d. He shall have ascertained that at least one of the parties is a member of the PNCC for at least six months.
  - e. He shall have instructed the parties as to the nature of Holy Matrimony in no less than three separate sessions.
  - f. He shall publish the banns of marriage, the public church announcements of an intended marriage stating the name of those who intend to marry, for three consecutive Sundays prior to the date of marriage. The purpose of the banns is to provide an opportunity to disclose any impediments to the marriage, should such exist. For a just cause the bishop may dispense with the publication of the banns of marriage.



- g. The intention of the parties to contract marriage shall have been signified to the pastor at least six months before the service of solemnization; provided, that, for weighty cause, the priest may dispense with this requirement, if one of the parties can furnish satisfactory reason of his/her responsibility. In case the six month notice is waived, the pastor shall report his action in writing to the diocesan bishop immediately.
  - h. There shall be present at least two witnesses to the solemnization of marriage.
  - i. The pastor shall record in the proper register the date and place of the marriage, the names of the parties and their parents, the age of the parties, their residences, and their Church status; and the witnesses and the pastor shall sign the record.
3. It shall be within the discretion of any priest of this Church to decline to solemnize any marriage.
  4. No priest of this Church shall solemnize any marriage except in accordance with the ritual and these regulations of the Polish National Catholic Church.
  5. No priest of this Church shall solemnize the marriage of any person who has been the husband or wife of any other person then living whose marriage has been annulled or dissolved by the civil court, except as hereinafter in these regulations provided; nor shall any member of this Church enter upon a marriage when either of the contracting parties has been the husband or the wife of any person then living whose marriage has been annulled or dissolved by a civil court, except as hereinafter in these regulations provided.
  6. The non Polish National Catholic party in the marriage is urged to respect the discipline of his/her church regarding mixed marriage (e.g., dispensation).
  7. Only a Polish National Catholic priest or bishop may administer the Sacrament of Matrimony at marriage ceremonies performed in PNCC.

## **Ceremonies**

1. Nuptial Mass and Ceremony: The Church strongly recommends that the bride and groom marry at a Nuptial Mass offered for their intention and that they receive Holy Communion. The union of husband and wife in the Sacrament of Matrimony is strengthened in the communion with our Lord Jesus Christ in the Holy Eucharist.
2. Marriage Ceremony alone: When the marriage ceremony does not take place at a Nuptial Mass, usually a Mass is celebrated in their intention at another

time (usually in the morning of that same day). If the Nuptial Mass does not follow the ceremony, the priest includes a reading from Scripture during the ceremony. The wedding ceremony normally is to take place in the church building. Marriage ceremonies may not be celebrated outside the church unless written permission is received from the diocesan bishop.

3. **Blessing of those who have contracted Civil Marriage:** The pastor shall have ascertained the right of the parties to contract marriage according to the laws of the Church. Having ascertained the right of the parties to marriage and having found no impediments, the priest may administer the Blessing of the Marriage, thereby elevating the marriage to the status of a Sacrament.

4. **Marriage of a Member of our Church with a Non-Christian:** If one of the couple is not a Christian, then the marriage ceremony is administered according to a revised ritual. Such a ceremony does not confer the Sacrament of Matrimony on either party.

## **Annulment, Dissolution and Divorce**

In order to understand this section of the paper, we must understand the terms: annulment, dissolution and divorce. The terms annulment and dissolution are not helpful to this situation because they imply that the Church makes a marriage null or that the Church dissolves a marriage – what the Church does is recognize that a marriage was either null or has been dissolved.

**Annulment** is a determination by legitimate ecclesiastical authority that such a marriage never existed due to one or more defects that existed prior to the administration of the Sacrament of Matrimony. This recognizes that this marriage was null.

**Dissolution** of a valid sacramental marriage is the ecclesiastical determination that one or more actions or factors occurred following the marriage ceremony effectively dissolving the marriage bond.

**Divorce** is a dissolution under civil law of the marriage bond.

In the Old Testament in Deuteronomy 24:1-4, Moses permitted divorce of a husband from his wife if the husband found 'erwat dahar' (Hebrew) some uncleanness in her. The nature of such an accusation was so general that it led to two interpretations at the time of Christ: a narrower interpretation taught by the school of Shammai, which confined divorce to unfaithfulness; and a broader view, taught by the school of Hillel, which extended divorce to include anything that might displease the husband. The requirement that a man give his wife a bill of divorcement gave the act a legal and official status, since it needed the aid of at least a Levite to execute it properly. The further rule forbidding him to take

his wife back after she had married another showed the gravity of the act (Deut. 24:4).

There were several circumstances, however, in which divorce was forbidden. When a man had openly and wrongfully accused his younger bride of premarital unfaithfulness, he must pay damages to her father and thereafter, 'he may not put her away all his days' (Deut 22:19). Again, if a man had premarital relations with a maiden, he must first pay an indemnity to the father and then marry the girl. Because he had humbled her, he also was not allowed to ever divorce her thereafter (Deut. 22:28-29; Ex. 22:16-17).

In the case of adultery with either another married person or between a married and unmarried person, the Old Testament penalty was death. ["If a man commits adultery with the wife of his neighbor, both the adulterer and the adulteress shall be put to death"- Leviticus 20:10; see also Deut. 22:22]. The same penalty even applied to a wife who had practiced fornication before marriage (Deut. 22:21, 23). Thus the possibility of divorce was replaced by the penalty of death in such cases.

One more example of divorce as recorded in the Old Testament remains. The Israelites were commanded to put away unbelieving heathen wives by Ezra (Ezra 9-10) and Nehemiah (Neh. 13:23; Mal. 2:10-16), since these wives were leading them astray. The command in II Corinthians 6:14,17, not to be unequally yoked with unbelievers, deals with the same problem; both cases would apply only when the wife or husband was leading the believer into unbelief or heathenism. A dissolution in this case is known as the Pauline privilege.

In the New Testament the Pharisees approached Jesus concerning the views of Shammai and Hillel and asked: "Is it lawful for a man to put away his wife for any cause?" (Mt. 19:3ff) His answer sheds light on Deuteronomy 24:1-4. Moses did not command that a bill of divorcement be given as they maintained (v. 7). He merely suffered or permitted it because of the hardness of their hearts (v. 8). From the beginning, that is, from the first revelation of the nature and meaning of marriage in Genesis 2:23-24, man was to have only one wife - "they shall become one flesh" and to have her permanently (Mt. 19:6) - "Cleave unto his wife" (Gen. 2:24). The one exception permitting divorce, which Christ mentioned at this point, was 'porneia' fornication (v. 9; Mt. 5:32).

In II Corinthians 7:10 Paul gives additional teachings of Christ concerning marriage and divorce as he writes: "Unto the married I command, yet not I, but the Lord ..." Paul is saying that he is writing what Christ taught. The wife is not to leave her husband because he is an unbeliever, for the unbelieving husband is sanctified by the wife (v. 10,14). To express it in theological terms, the covenantal family relationship made by a believer with God for himself and his children

cares for the marriage. If the believing party leaves, he is not to marry again (v. 11) unless the unbeliever breaks the marriage vow by adultery or remarriage (Mt. 5:32; 19:19). However, if the unbeliever deserts his believing wife, then the believer seems to be considered free to remarry: "A brother or a sister is not under bondage in such cases" (1 Cor. 7:15).

Difficulties have arisen over Christ's teaching in the Gospels concerning this matter. First: in Mark 10:11-12 and Luke 16:18 Christ made no allowances whatsoever for divorce on any grounds; only in Matthew 5:32 and 19:19 does He mention that divorce is allowed in case of fornication. Here we have to apply the principle that all the details must be gathered and scripture must be compared with scripture before we draw any conclusions. A complete inductive synthesis requires that all Christ taught on divorce, as recorded in the Gospels and in Paul's writings, be assembled.

How is Christ's view on divorce to be reconciled with the Old Testament? How could Moses have been instructed by God to give such general permission for divorce? The condition of the human state at these times needs to be considered. These instructions were given to Moses because of the demoralized attitudes of humanity. The ideal conditions which existed when God gave the original ordinance of marriage no longer existed. Moses was told to promulgate a civil law which would regulate divorce rather than a divine law.

Christ did not mention adultery as a ground for divorce, but only 'porneia' fornication. Is it therefore not included? This can be explained first by the fact that the admission of the lesser sin of fornication implies the inclusion of the greater sin of adultery. Further adultery was already considered in both Jewish and Roman law as a legitimate reason for divorce, and therefore would not require to be mentioned. To this must be added the fact that though fornication and adultery are separately mentioned in many cases, fornication is often used alone to include both. The view generally accepted, therefore, is that by the use of the term fornication our Lord meant to cover the two.<sup>13</sup>

Summarizing the New Testament teachings, we find that dissolution is permitted where there has been fornication or adultery, and in the case of desertion; but not because of some whim or even incompatibility. For such, only separation is permitted (1 Cor. 7:10 ff).

Some practical questions had arisen for the Church. How is it to regard adultery and premarital relations? The latter is clearly the lesser sin. Paul was probably answering the question, "Is it well for man not to touch a woman" in I Corinthians 7:1ff, when he replied in the imperative mood, "Let every man have his own wife." The Old Testament was very strict concerning fornication - that young people who have committed it must marry, yet it was lenient in

comparison with adultery, when the offenders were to be stoned to death. We also need to remember that when the woman was caught in adultery, Jesus told the crowd ready to stone her, "Let him without sin cast the first stone" (John 8:7). After all left her Jesus did not condemn her, but rather told her not to commit adultery again. The Church needs to be mindful of this when it acts.

In examining the New Testament teaching on divorce and remarriage "our reaction must be that it is not at all correct to speak of a New Testament teaching, for there are several teachings and they are not in agreement. Nor are they all derived solely from Jesus."<sup>14</sup>

Diverging accounts of the question of divorce and remarriage, as of many other important things, are an integral part of the New Testament tradition as the disciples of Jesus sought to bring the meaning of his life and death and resurrection into their lives. There are diverging accounts, we now believe, because divergent Christian communities had divergent pressing concerns that needed to be answered. That is what Mark did, and Matthew and Paul. That the popular wisdom in the later Catholic tradition singled out one element in those diverging accounts, namely, the element of indissolubility of a marriage, and allowed that element to override all others, ought never be allowed to obscure the original divergence.<sup>15</sup>

We see that in the Early Church, problems had arisen and the concession was made to allow a woman to marry again while her husband was alive. Origen (182-251 A.D.) writes:

But by this time some of the leaders of the Church have contravened the scriptural injunctions in allowing a woman to marry again while her husband is alive. This is against the letter of Scripture (1 Cor. 7:39; Rom. 7:3), but it is not an utterly unreasonable concession; for it is probable that the indulgence is granted in consideration of the worse evils (that a rigorous policy would produce), though it contravenes the law laid down in the Scriptures.<sup>16</sup>

## **The Church Fathers and Dissolution of Marriage**

To some the view that a marriage could be dissolved is quite shocking as the idea of the indissolubility of marriage has become so ingrained in the Western understanding of the theology of marriage. But certainly when we look at the writing of the Fathers of the Church this was not always the case.

Generally, marriage began to be looked at as indissoluble in the Western Church from the time of the Scholastics, who relied heavily on the writings St.

Augustine. Much of this opinion can be traced to the fact that St. Augustine relied on the biblical translation of St. Jerome, in looking at the phrase in Ephesians:

For this reason a man will leave his father and mother and be joined to his wife, and the two become one flesh. This is a great mystery, and I am applying it to Christ and the Church.

Jerome translated the Greek word “mysterion” to the Latin “sacramentum.”<sup>17</sup> The usage of this word carried with it a whole set of assumptions on the part of Sacramental Theology, when much of this may not have been meant by the author. All of this becomes especially true when we take into account that, certainly during the time of St. Paul and even St. Augustine, there was no concept of marriage as a Sacramental rite of the Church.

The place of indissolubility within the context of marriage is a development of the prevailing laws dealing with marriage within the Western part of the Christian world. In particular these involved the Germanic and Roman civil codes of law, as well as the later Catholic understanding of marriage. In the Byzantine section of the empire, this clash of laws never occurred and, therefore, this understanding of indissolubility never developed. This idea of the indissolubility of marriage did not become set in stone in the West until the Council of Trent. In its reaction to Luther and many other Protestants, who claimed that much of St. Augustine’s, and therefore the Church’s understanding of marriage was based on a mistranslation, the Council asserted a position which was against the reformers.<sup>18</sup> It can also be noted that the presence of a priest for the validity of marriage also dates from this Council.

In contrast, the Byzantine section of the Christian world did not have to rely on this misunderstanding of Scripture, nor were they trying to uphold a certain doctrine against a reforming group, nor did they have to deal with the Germanic and Roman civil legal systems. Therefore in the Eastern part of the empire the Church’s teaching and everyday practice of dealing with marriage problems, especially dissolution, was based on the tradition of the Church Fathers, and guided by a pastoral concern for its people.

We see the beginnings of this practice within the writing of Origen in his “Commentary on Matthew”, where he states:

Already, apart from the Scriptures certain heads of the Church have permitted a certain woman to be married while her husband is still alive. They have done this apart from the Scriptures in which we read, “The wife is bound to her husband as long as he lives,” and “If she gives herself to another man while her husband is still alive, she is legally an adulteress.” However they have not acted altogether

unreasonably. This accommodation is allowed in lieu of even worse ones, even though apart from that which was written and handed down from the beginning.”<sup>19</sup>

From this quote we can see several things operative in the Early Church. First, that this practice was permitted by several bishops in their local dioceses; second, that permission was sought and granted by the Church through the bishops for this action. This is especially interesting, since at this time, the first marriages were in no way regulated by the Church. Lastly and most importantly, the bishops considered it within their spiritual competency to make pastoral decisions of this type, even when there was some scriptural decisions to the contrary.<sup>20</sup>

As time went on, one would imagine that this sort of practice of the bishops and of the churches would become more regularized. We can see the beginning of a codified method of dealing with the problem of divorce and remarriage in the works of St. Basil of Caesarea in his canons that are preserved in letters dating from the years 374 and 375 A.D. Several of these canons deal directly with the matters of divorce and remarriage. For example, in Canon 35 we read:

About an abandoned husband, one must first examine the reason for his being abandoned. If it appears that his wife left him without cause, he merits being pardoned, she being punished. The pardon is accorded the husband, so that he may be in communion with the Church.<sup>21</sup>

We could possibly see here the first mention of some sort of a Matrimonial Commission, as the case must be judged on its individual merits and then a decision rendered.

In Canon 77 we see most strongly the fact that divorce and remarriage existed in the Church at Caesarea with restrictions. This canon states:

He who abandons the wife to whom he is legally married and marries another, he is, according to the Lord’s declaration, subject to the judgment of adultery. But our Fathers have ruled that such men should be for one year among those who weep [the first step in the penitential return to communion], for two years among those who hear, for three years among the prostrate, and during the seventh year with those who stand among the faithful – and thus render themselves worthy of the sacrament if they have done this penance with tears.<sup>22</sup>

Some important aspects here are the fact that the divorce and remarriage are looked at as arising from an occasion of sin, therefore a penitential process is prescribed. This process forgives the sin, as can be seen by the fact that the man is returned to the communion of the Church, without his sending away the second wife. So this second marriage is allowed to continue. These canons of St. Basil later became more widespread throughout the Eastern Church, when in 691 A.D. they were promulgated by the Council of Trullo.<sup>23</sup>

Following these years, the Church also began to identify other situations, which it placed in the same category for allowing the dissolution of a marriage and the possibility of remarriage. In the Apostolic Canons we find an explicit set of reasons allowing the dissolution of a marriage and remarriage which was divided into two classes: those which resulted from an offense, such as adultery, and serious assaults against marriage as a lifelong association. The second class contains, impotence before marriage, insanity, the desire of both spouses to enter religious life and the solid presumption of death during wartime.<sup>24</sup> We can also see that the idea of an absolute indissolubility for marriage was not present in the East because these canons make no distinction between a nullity of marriage, which would occur from something that occurred before the marriage took place, and those things which dissolved the marriage afterwards.

Throughout the works of the Church Fathers of both East and West we see counseling and even the prohibition of remarriage as an upholding of the intention of our Lord Jesus and also the Church. However, in the Eastern approach, which was not so weighed down with a constant battle for the defense of doctrine, we can see here a certain economy to being pastoral. The Eastern Church acknowledged that marriages break up because of sin, that sin can be forgiven through the rites and action of the Church, and people can return to the communion of the Church.

*“The Road to Unity: A collection of Agreed Statements of the Joint Old Catholic – Orthodox Theological Commissions”* states the following on this topic:

The sanctity of marriage and the spiritual character of the union and fellowship of persons in a marriage blessed according to the pattern of the union between Christ and his Church is the basis for the Church’s conviction that marriage is a life-long union and indissoluble. The Lord proclaimed the sanctity and indissolubility of marriage (Mt. 19:6), but admitted the possibility of its dissolution for reasons of adultery (Mt. 5:32; 19:19). . .

In the strict sense, therefore, a marriage cannot be dissolved for reasons other than adultery or the death of one of the spouses; but the Church, out of forbearance and love for people, acknowledges other, analogous reasons. In its pastoral care the Church is guided



by divine commandment and the divine disposition to forgive as it deals with marriages which have failed due to human shortcomings.<sup>25</sup>

We need to realize that, unfortunately, marriages can and do break down for various reasons. The Bishops of our Church have decided that under certain circumstances, which will be discussed later in this paper, either an annulment or dissolution may be declared and permission to remarry in the Church may be granted.

Throughout history there have been various laws concerning divorce and in recent years we have seen a drastic rise in the divorce rate (estimates from the 2000 Census are that 65 to 70% of marriages end in divorce). Also the causes and grounds for divorce have changed, so that today they include even “no-fault” divorce and “amicable” divorce. We must remember that this pertains only to the legal or civil aspects of marriage and we must not confuse it with or overlook the sacramental aspect of Matrimony.

## **Impediments to Marriage – Grounds for Annulment or Dissolution**

The impediments to marriage are listed below. They form the grounds on which an ecclesiastical annulment or dissolution may be declared and on which permission may be granted for a divorced person to remarry in the Church. Permission to remarry is not granted to a situation, but to people (i.e. only the individual applying may be granted permission to remarry). Please note the Church either declares that the marriage bond never existed or no longer exists. Annulments and dissolutions are two separate issues.

### **1. CONSANGUINITY - Blood Relationship**

- a. **One may not marry one’s mother, father, son or daughter**
- b. **One may not marry one’s sister or brother**
- c. **One may not marry one’s aunt or uncle, niece or nephew**
- d. **One may not marry one’s first cousin**

*-> An annulment would be declared.*

### **2. AFFINITY**

- a. **One may not marry the blood relatives of one’s spouse by another marriage (i.e. step-children, adopted children, step-grandchildren)**
- b. **One may not marry one’s godchild**

*-> An annulment would be declared.*

Along with consanguinity we must also consider affinity. Basically, affinity means the relationship that exists between one spouse and the blood relatives of the other spouse. This also includes the descendants of a spouse by another marriage such as stepchildren, step-grandchildren etc.

In his Third Canonical Epistle to Amphilochius, St. Basil the Great writes in his 87<sup>th</sup> Canon the following:

‘For they are no longer twain, but one flesh’ (Mt. 19:6), so that through the wife her sister attains to a state of close familiarity with the husband. For just as he must not take the mother of his wife, so must he not take her daughter either, because he is not allowed to take either his own mother or his own daughter to wife. Thus he is not allowed to take a sister of his wife, because neither is he even allowed to take his own sister to wife, and vice versa, neither is a woman permitted to cohabit with relatives of her husband; for the rights of both and to both are held in common, by both sides of the relationship. To anyone wanting the marriage I will protest that ‘the fashion of this world is passing away’ (I Cor. 7:29,31), and that ‘the time is short, leaving even those who have wives as though they had none’ (I Cor. 7:29,31).

The impediment arises only between the spouses and does not affect anyone else; e.g., a man’s brothers and sisters are not related by affinity to his wife’s brothers and sisters.

**3. FRAUD, COERCION OR DURESS, OR SUCH DEFECTS OF PERSONALITY AS TO MAKE COMPETENT AND FREE CONSENT IMPOSSIBLE [LACK OF FREE OR LEGAL CONSENT OF EITHER PARTY]**

*-> An annulment would be declared.*

The marriage covenant can only become such when entered into by the free consent of both parties. The marital contract is unlike other contracts because it is an act whereby the spouses freely commit themselves to each other totally. Therefore, the consent given must be given freely and not due to force or fear.

Legal acts, which result from external force which cannot be resisted, are invalid. We may here consider that force, which can be physical or moral that an individual cannot resist, compels the individual to choose marriage in order to avoid the greater evil. We also take this to mean that, if there were no outside force, the person would not choose marriage.

This threat may include bodily harm or it may be moral pressure. The threat of bodily harm is self-explanatory. Moral pressure may consist of the threat of lawsuits, imprisonment, loss of reputation, employment, etc.

We are dealing here with a person who externally gives consent due to the force being applied, but if there were no force, they would not have chosen marriage. Therefore, it is highly doubtful that they are interiorly consenting to it.

In dealing with fear, we must realize that it comes from within. It is the intimidation of the mind, which comes about precisely because of an external force. Though the person may have a minimal degree of freedom to act, because of the nature of the marriage covenant the consent is considered invalid. We must remember that fear can be so overpowering that it could render a person temporarily irrational and that it ordinarily diminishes, but does not totally suppress, the freedom to act.

#### **4. LEGAL CONSENT**

*-> An annulment would be declared.*

It is prudent on the part of the pastor to be aware of the local civil law when the problem of legal consent is involved. A pastor can perform a marriage between two people only after they have fulfilled the requirements of the applicable civil law.

#### **5. MISTAKE AS TO THE IDENTITY OF EITHER PARTY**

*-> An annulment would be declared.*

Mistake or error is a false judgment about something or someone, a defect in understanding. As such it is a defect of the intellect. Marital consent is a gift of one person to another, and thus requires a knowledge of the person with whom the consent is exchanged. Therefore, if an error is made regarding the identity of the person, the consent is invalid. For instance if a woman married Joe Smith and months or years later realized he was not Joe Smith but rather Edmund Lake, then an annulment would be declared.

Mistake may also happen concerning some quality of a person (i.e., financial, professional, moral, social, physical, religious or legal status). In most cases, error regarding such qualities has no real effect on the consent to marry, even if the mistake was the reason for entering into a marriage. Therefore, if a man consents to marry a woman in the mistaken belief that she is wealthy and would not have married her if he had known that she was not, his error about the quality of her financial status does not of itself invalidate his consent. Given the complexity of this impediment, no comprehensive definition can be given, and petitions for a declaration of nullity on these grounds must be examined on a case-by-case basis.

## **6. MENTAL DEFICIENCIES PREVENTING THE EXERCISE OF A FREE CHOICE**

*-> An annulment would be declared.*

## **7. INSANITY**

*-> An annulment would be declared (if prior to the marriage ceremony).*

*-> A dissolution would be declared (if insanity occurred after the marriage ceremony).*

Insanity causes the free consent of the married union to be invalid if this condition exists prior to the marriage. With insanity we are dealing not so much with the incapacity to contract marriage, but rather with the incapacity to bind oneself to the rights and obligations of marriage. A person can perform human acts, but the special act of binding oneself in marriage is not possible because of some distortion of judgment.

We must also realize that quirks of temperament (egoism, laziness, unskillfulness, clumsiness, uncleanness and the like) are not to be confused with psychic anomalies. Nor should any spouse who is abnormal in a certain degree be classified as a psychotic, neurotic or psychopathic, even if another party considers him or her as such unless they can confirm this from the evidence. In the case of insanity of either party, an annulment would be declared if this was present prior to the marriage and a dissolution would be declared if insanity occurred after the marriage ceremony.

## **8. FAILURE TO HAVE REACHED THE AGE OF PUBERTY**

*-> An annulment would be declared.*

Because of ecclesiastical and civil law, marriage is prohibited at an early age (i.e., before puberty). Since the Church stresses that one of the objectives of marriage is procreation, a marriage that is entered into by children could not be valid.

## **9. IMPOTENCE UNDISCLOSED**

*-> An annulment would be declared (if prior to marriage ceremony).*

Impotence is the inability of a man or woman to have normal sexual intercourse. In order for impotence to be valid grounds for annulment it must be undisclosed, which is to say that if a couple marries and the impotence is known to both prior to marriage, it cannot be used as grounds for an annulment later.

## **10. SEXUAL PERVERSION**

*-> An annulment would be declared (if the condition was present and unknown prior to marriage ceremony).*

*-> A dissolution would be declared (if the condition developed after the marriage ceremony).*

The term “sexual perversion” has been replaced by “psychosexual disorders.” Due to the sweeping changes in today’s society towards sexual norms, the common attitude among people is that if it feels good for both people, then do it.

By psychosexual disorders we mean in particular paraphilia, which is a condition in which a person’s sexual arousal and gratification depends on a fantasy theme or an unusual sexual experience that becomes the principal focus of sexual behavior. A paraphilia can revolve around a particular sexual object, (e.g., children, animals, underwear), or a particular sexual act, (e.g., inflicting pain, making obscene telephone calls). The nature of a paraphilia is generally specific and unchanging. Most of the paraphilias are more common in men than in women.

Listed below are some paraphilias to be considered:

**Fetishism** - sexual arousal occurs principally in response to an inanimate object or body part that is not primarily sexual in nature;

**Transvestitism** - a condition in which a heterosexual male repeatedly and persistently becomes sexually aroused by wearing feminine clothing.

**Voyeurism** - is a condition in which a person who obtains sexual gratification by watching others engaging in sexual activity or by spying on them when they are undressing or nude.

**Exhibitionism** - a condition in which a person repeatedly and preferentially exposes the sex organs to unsuspecting strangers to obtain sexual arousal.

**Sadism** - the intentional, repeated infliction of pain on another person to achieve sexual excitement.

**Masochism** - is a condition in which a person derives sexual arousal from being hurt or humiliated.

**Pedophilia** - describes adults whose preferred or exclusive method of achieving sexual excitement is by fantasizing or engaging in sexual activity with prepubertal children.

**Coprophilia and Urophilia** - this refers to, respectively, to sexual excitement deriving from contact with feces and urine.

**Necrophilia** - is sexual arousal from viewing or having sexual contact with a corpse. <sup>26</sup>

Also, to be considered under Sexual Perversion is homosexuality. The Church teaches that homosexual acts are immoral and are not condoned or

sanctioned. Should one spouse enter into a homosexual relationship following the marriage, a dissolution could be granted.

#### **11. ADULTERY**

*-> A dissolution would be declared.*

Scripture is clear on this ground: "It has also been said: Anyone who divorces his wife must give her a writ of dismissal. But I say this to you: everyone who divorces his wife, except for the case of fornication, makes her an adulteress; and anyone who marries a divorced woman commits adultery" (Mt. 5:31,32).

When one of the spouses enters into a sexual relationship with a person other than his or her spouse, adultery has been committed and the marriage bond has been broken. It is possible that the adulterous act could damage the marriage beyond reconciliation. In the case of adultery a dissolution would be declared.

#### **12. UNDISCLOSED SEXUALLY TRANSMITTED DISEASE**

*-> An annulment would be declared (if prior to marriage ceremony).*

When one of the parties entering marriage deceives the other by not disclosing the fact they have a sexually transmitted disease, then this marriage could be declared null.

Sexually transmitted diseases contracted after marriage, by itself, would not be grounds for dissolution for it is possible to contract some of these diseases without sexual intercourse or sexual activity. However, if the sexually transmitted disease is contracted through an adulterous act, then the grounds of adultery would apply.

#### **13. NO CONSUMMATION OF MARRIAGE**

*-> An annulment would be declared.*

It is presumed that if the spouses live together after the marriage ceremony that the marriage has been consummated. It is, therefore, up to the petitioning party to prove otherwise when seeking an annulment. The reasons for the non-consummation are not relevant.

#### **14. BIGAMY**

*-> An annulment would be declared (for subsequent marriages).*

*-> A dissolution would be declared (for the initial marriage).*

If one of the parties has contracted a previous marriage and has not received a proper divorce and annulment, then the sacrament of the second marriage is null and void.

## **15. MALICIOUS INTERFERENCE IN THE PRACTICE OF RELIGION**

*-> A dissolution would be declared.*

This ground would apply when one of the spouses joins the Church and the other spouse interferes with the faith of the believer. This could cause severe and irreparable harm to the marriage. There is the hope that the believer would convert the unbeliever to accept the faith, however this may not be possible. When the situation has become so severe that it is impossible for the marriage to continue, then a dissolution would be declared. This ground is also known as the Pauline Privilege.

## **16. PREMEDITATED PERMANENT AVOIDANCE OF PREGNANCY**

*-> A dissolution would be declared.*

Any deliberate avoidance of pregnancy without the knowledge and approval of the other spouse would be grounds for a dissolution. Although the Church allows birth control and is in favor of family planning, it must be remembered that procreation is one of the purposes of marriage.

## **17. STERILITY (If undisclosed)**

*-> An annulment would be declared.*

If a person knows he or she is sterile and does not inform the other party, this would invalidate their marriage. Sterility is a condition which does not eliminate the possibility of intercourse, but excludes the conception of a child.

## **18. UNDISCLOSED INCURABLE DISEASE**

*-> An annulment would be declared.*

In this case the incurable disease would have to be of a serious nature, known by the spouse having the condition and this condition not disclosed to one's future spouse prior to the marriage. Please note that if one of the spouses developed an incurable disease after the marriage ceremony, this would not be grounds for an annulment or dissolution.

## **19. UNDISCLOSED ALCOHOLISM OR DRUG ADDICTION**

*-> An annulment would be declared (if prior to marriage ceremony).*

*-> A dissolution would be declared (if occurred after the marriage ceremony).*

If any of the above conditions were present prior to the marriage ceremony and undisclosed by the spouse having the condition, then an annulment would be declared.

If one of the spouses became an alcoholic or drug addict after the marriage, then caution needs to be used in determining whether or not a dissolution should be declared. In the marital relationship the spouses may be able to accept and work through the above conditions and continue in the married state. It would be important to consider the will of the person who has obtained one of the above conditions and his or her willingness to seek the necessary counsel in dealing with the particular condition.

## **20. UNDISCLOSED CRIMINAL RECORD**

**-> An annulment would be declared.**

Undisclosed felonies, not misdemeanors, are the only criminal records to be considered as grounds for annulments. The criminal record must have knowingly been kept from the other spouse.

## **21. DESERTION**

**-> A dissolution would be declared.**

Desertion occurs when one partner in the marriage permanently removes himself or herself from the marital home. The removal must occur as a result of the will of the one who leaves and not from any outside coercion. It must be for a prolonged period of time and it must also be accompanied by a complete and total break in the marital relationship (i.e., no physical contact with the spouse, a separation of assets, and unwillingness to support his or her spouse and family).

In essence, desertion or abandonment says that one spouse has removed himself or herself from the responsibilities and graces of Christian marriage. Since the unity and the support of family are of prime importance to any marriage, the one who abandons the marriage or family is the one who rejects the true meaning of matrimony.

It should also be noted that this cause for dissolution is one of the oldest to be found in the writings of the Church Fathers.

## **22. GRAVE PHYSICAL, MENTAL OR VERBAL ABUSE**

**-> A dissolution would be declared.**

Abuse is the willful physical, psychological, emotional, mental, or verbal infliction of hurt to an individual. For the abuse to be considered grave, it could be prolonged over a period of time or be particularly severe. Circumstances must also take into account when several of these types of abuse are used together to instill fear, humiliation, intimidation and isolation. Some of the types of abuse, could include:



**Physical Abuse** – causing pain or injury which is willfully inflicted, such as direct beatings, sexual assault, physical restraint, food deprivation.

**Neglect** – the failure to provide care to the spouse, as could be reasonably expected, such as withholding of food, clothes or proper medical care.

**Emotional or Psychological Abuse** – causing fear and intimidation willfully in the spouse, such as threats against spouse, children or loved ones; and isolation from family and friends.

**Verbal Abuse** – willfully causing fear or emotional pain, such as terrorizing a spouse through verbal means, causing a spouse to go into depression or withdrawal because of constant degradation.

We notice that many items of this list certainly fit more than one category, and likewise the abuse of an individual tends to fall into several categories.

One who abuses a spouse can be said to no longer consider the marriage to be a partnership of equal individuals before God, joined in Holy Matrimony.

## **Permission to Remarry**

Often, the issues of dissolution and annulments come up in the context of a person seeking to be remarried in the church. It must be remembered that the dissolution or annulment of a marriage on the one hand, and the permission to remarry on the other, are two separate issues.

In looking at a dissolution or annulment, the Church is examining whether some condition or action, either before the marriage or after, had the effect of making the marriage null from the start or dissolving it after the action occurred. When a marriage is recognized as being dissolved or null, the effect is for both partners. But this does not mean that both individuals immediately have permission to remarry within the Church.

In allowing someone to remarry within the Church, the Church is interested in safeguarding the sanctity of the marriage covenant, as well as the protection and safety (physical, spiritual and emotional) of her members. It is for this reason that permission to remarry is granted only to the one who applies to the diocese through its Matrimonial Commission. This is not to say that both parties cannot apply separately, but each case will be judged on its own merits. A decision of allowing permission to remarry or not will be granted to each applicant individually.

In order to receive this permission, the Matrimonial Commission must judge the reasons for which the original marriage was null or dissolved. In

examining these reasons it also tries to gauge which party may have played the significant role in the ultimate breakdown of the marriage. It must be said that the matrimonial commission will not try to lay blame on either party. It will try to ascertain the existence of repentance for past wrongdoing, a resolution to proceed with new faith in Christ, and a commitment to live in the new marriage as God intends marriage to be.

### **Procedures for an Annulment or Dissolution of a Marriage**

1. Who may apply? Any person being a member of the PNCC in good standing for at least six months whose marriage has been declared annulled or dissolved by a civil court of competent jurisdiction may apply to the Bishop Ordinary of the Diocese in which such a person is a resident for a judgment as to his or her marital status in the eyes of the Church.
2. An application may be provided by the priest only after the judgment of the civil court has become final. The application to the Matrimonial Commission must be completed properly and signed by the pastor and the applicants. The application and all necessary documents therein listed must be sent to the Diocesan Bishop, who will assign the Matrimonial Commission to study it and render their recommendations.
3. The Bishop and the Matrimonial Commission shall ensure that their judgments are based upon and conform to the doctrine of the Polish National Catholic Church, that marriage is a physical, spiritual and mystical union of a man and woman created by their mutual consent of heart, mind and will thereto, and is a Holy Estate instituted by God and is in intention lifelong; but when any of the facts set forth above in "Impediments to Marriage", are shown to exist or to have existed which manifestly establish that no marriage bond as the same is recognized by this Church exists, the same may be declared by proper ecclesiastical authority. No such judgment shall be construed as reflecting in any way upon the legitimacy of children or the civil validity of the former relationship. In other words, the children of spouses who obtain an annulment are legitimate.
4. The final decision will be rendered by the Bishop Ordinary in writing and shall be made a matter of permanent record in the Office of the Diocesan Bishop.
5. Any person in whose favor a judgment has been granted under the provisions of these regulations may be married by a priest of this Church, provided that, if the marriage is proposed to be solemnized in another Diocese than the one in which said judgment has been granted, the said judgment shall have been previously submitted and permission to remarry shall be given by the Bishop Ordinary of that diocese.

## **Matrimonial Commission**

### **Composition**

The Diocesan Matrimonial Commission is composed of three or more priests of the diocese, who are knowledgeable in this particular field. This commission is appointed by the Bishop Ordinary to review and study applications for ecclesiastical annulment or dissolution and to give its recommendation to the same. The Diocesan Matrimonial Commission may be a standing commission or may be appointed as the need arises at the Bishop Ordinary's discretion.

### **Requirements**

1. Persons petitioning to have their case reviewed and/or prior marriages declared annulled or dissolved by the Church, must be members of the PNCC. They are obligated to attend Mass and receive the sacraments for a period of six months and must have fulfilled all financial obligations before their petition will be considered. The date on which the petitioner complied with the regulation above is to appear on the application submitted to the Matrimonial Commission.
2. The pastor, to whom the petitioner applies, may refuse to accept, prepare and review said petition if the petitioner is not a member of the PNCC and has not fulfilled the requirements listed in (1) above. The pastor is, however, obligated to present the petition if the petitioner has fulfilled those requirements.
3. The application must be presented and signed by the pastor, and must include his recommendation and opinion concerning the moral and spiritual state of the applicant. Otherwise, the application will not be considered. The pastor's recommendation and opinion will be kept confidential.
4. The pastor must check that all necessary documents are included with the application and verify that the application has been completed properly.
5. The chairman of the Matrimonial Commission, upon receiving the application from the Diocesan Bishop, reviews and verifies all necessary documents. In the event that all of the necessary documents have not been submitted, he will request that these documents be forwarded to the commission.
6. The Matrimonial Commission has the right to seek legal or other counsel when deemed necessary, at the expense of the petitioner.
7. The Matrimonial Commission is convened at a time and place designated by the Diocesan Bishop.

8. The Matrimonial Commission will study and review the case and will present its recommendation to the Diocesan Bishop, who either confirms or rejects the petition or returns it to the commission for further study.
9. The final decision rests with the Diocesan Bishop. The pastor presenting the petition shall be informed of the decision in writing. The document will include the ground on which the decision was based, if the decision is positive. The decision of the Diocesan Bishop will permit or deny him the right to administer the Sacrament of Matrimony to the applicant. (Any priest solemnizing a marriage of a divorced person without proper authorization and proven guilty of such an act, faces disciplinary action by his Diocesan Bishop).
10. All documents submitted with the application will not be returned, regardless of the decision of the Matrimonial Commission and the Diocesan Bishop. All applications, together with the accompanying documents are retained in the files of the Diocesan Bishop. (Certified copies are acceptable.)
11. At least (6) weeks should be allowed for studying the application and making a recommendation by the Matrimonial Commission.
12. The application fee must accompany the completed application. This fee will help defray the cost of transportation for commission members, correspondence and telephone calls which must be made concerning the application. The fee is set by the Diocesan Bishop.

This paper was prepared by the Rev. Anthony A. Mikovsky and the Rev. Robert M. Nemkovich Jr. Portions of this paper were based on: the 1978 synodal paper, "Matrimony: Marriage in Christ", by Rev. Robert M. Nemkovich and Rev. A. Wayne Kargul; the paper, "Grounds for Annulment in the Church Defined", by Very Rev. John Z. Kraus; the paper, "Are Marriages Indissoluble?" by Rev. Anthony A. Mikovsky; and the paper "The Minister of the Sacrament of Matrimony in the Polish National Catholic Church", by Rev. Anthony Mikovsky and Rev. Robert M. Nemkovich Jr.

## Works Cited

- <sup>1</sup> Rt. Rev. Thaddeus Zielinski, *A Catechism of the Polish National Catholic Church* (Scranton, PA, 1974), p.77
- <sup>2</sup> Charles F. Pfeiffer, Howard F. Vos, and John Rea ed., *Wycliffe Bible Encyclopedia* (Chicago, 1975), p. 1080
- <sup>3</sup> Joseph Martos, *Doors to the Sacred* (Doubleday, New York, 1982), p. 399
- <sup>4</sup> Bernard Haring, *The Sacraments and Your Everyday Life* (Liguori, Missouri, 1976), p. 139-141
- <sup>5</sup> Martos, p. 434
- <sup>6</sup> Casimir J. Grotnik, ed., *Synods of the Polish National Catholic Church* (Columbia University Press, New York, 1993) p.175-176
- <sup>7</sup> *God's Field* vol. 44 no. 8 (Scranton, 1968), p.27
- <sup>8</sup> *The Road to Unity: A collection of Agreed Statements of the Joint Old Catholic - Orthodox Theological Commission* (Scranton, PA, 1990), p. 222
- <sup>9</sup> *The Eastern Code of Canon Law - Code of Canons of the Eastern Churches, Latin - English Edition* (Canon Law Society of America, Washington, D.C., 1992) p. 403
- <sup>10</sup> Paul Evdokimov, *The Sacrament of Love*, (St. Vladimir's Seminary Press, Crestwood, N.Y., 1985) p. 129
- <sup>11</sup> Casimir J. Grotnik, ed., *Synods of the Polish National Catholic Church* (Columbia University Press, New York, 1993) p. 251.
- <sup>12</sup> *God's Field*, vol. 9 no. 14 (Scranton, 1931)
- <sup>13</sup> Pfeiffer, p. 468-469
- <sup>14</sup> Michael G. Lawler, *Marriage and Sacrament* (Liturgical Press, Minnesota, 1993), p. 82.
- <sup>15</sup> *Ibid.*, p. 84
- <sup>16</sup> Henry Bettenson, *The Early Christian Fathers* (New York, 1956), p. 352.
- <sup>17</sup> Joseph Martos, "Catholic Marriage and Marital Dissolution in Medieval and Modern Times", *Catholic Divorce, The Deception of Annulments* (Continuum, New York, 2000) p. 132
- <sup>18</sup> *Ibid*, p. 137-138
- <sup>19</sup> Theodore Mackin, *Divorce and Remarriage, Marriage in the Catholic Church* (Paulist Press, New York, 1984) p. 131-132

<sup>20</sup> Peter L' Huillier, "Marriage in Orthodox Law and Practice", *Catholic Divorce, The Deception of Annulments*, ed. By Pierre Hegy and Joseph Martos, (Continuum, New York, 2000), p. 132

<sup>21</sup> Mackin, p. 148-149

<sup>22</sup> Mackin, p. 149

<sup>23</sup> L' Huillier, p. 115

<sup>24</sup> L' Huillier, p. 116

<sup>25</sup> *The Road to Unity*, p. 222-223 {The PNCC 18<sup>th</sup> General Synod in 1990 accepted this statement without qualification.}

<sup>26</sup> Masters, William H., Johnson, Virginia E., Kolodny, Robert C., *Human Sexuality*, (Little, Brown and Company, Massachusetts, 1982)

## BIBLIOGRAPHY

*{This Bibliography applies to the section: Impediments to Marriage}*

- Coriden, James A., Green, Thomas J., Heinischel, Donald D., The Code of Canon Law a Text and Commentary, New York, Paulist Press, 1985
- Cummings, D., The Rudder, Chicago, Orthodox Christian Educational Society 1957
- Czudak, Edward, Rev. Annulments and Dissolutions in the Polish National Catholic Church, Scranton, 2002
- Devine, Rev. A., The Sacraments Explained, New York, R. & T. Washbourne, 1901
- Fagothey, Austin, Right and Reason Ethics in Theory and Practice, St. Louis, C. V. Mosby Company, 1953
- Herberman, Charles, Ph.D., LL.D., The Catholic Encyclopedia, 15 Vol, The Encyclopedia Press Inc., 1913
- Jurgens, W. A., The Faith of the Early Fathers, 3 Vol., Minnesota, The Liturgical Press, 1970
- Smyth, Kevin, A New Catechism, New York, herder & Herder, Inc., 1967
- Martos, Joseph, Doors to the Sacred, New York, Image Books, 1982
- Masters, William H., Johnson, Virginia E., Kolodny, Robert C., Human Sexuality, Massachusetts, Little, Brown and Company, 1982
- McAuliffe, Clarence, S.J., Sacramental Theology, St. Louis, B. Herder Book Co., 1958
- Nemkovich, Rev. Robert M. and Kargul, Rev. A. Wayne, Matrimony : Marriage in Christ, 15<sup>th</sup> General Synod, Chicago, 1978
- Tanquerey, The Very Rev. Adolphe, S.S., D.D., The Spiritual Life, New York, Desclee & Co., 1930
- Williams, Janet B.W., M.S.W., Diagnostic and Statistical Manual of Mental Disorders Third Edition, Washington, D.C., 1983
- Woywood, Rev. Stanislaus, O.F.M., J.C.L., A Practical Commentary on the Code of Canon Law, 2 Vol., New York, Joseph F. Wagner, Inc., 1957

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## Notes

- <sup>1</sup> Rt. Rev. Thaddeus Zielinski, *A Catechism of the Polish National Catholic Church* (Scranton, PA, 1974), p.77
- <sup>2</sup> Charles F. Pfeiffer, Howard F. Vos, and John Rea ed., *Wycliffe Bible Encyclopedia* (Chicago, 1975), p. 1080
- <sup>3</sup> Joseph Martos, *Doors to the Sacred* (Doubleday, New York, 1982), p. 399
- <sup>4</sup> Bernard Haring, *The Sacraments and Your Everyday Life* (Liguori, Missouri, 1976), p. 139-141
- <sup>5</sup> Martos, p. 434
- <sup>6</sup> Casimir J. Grotnik, ed., *Synods of the Polish National Catholic Church* (Columbia University Press, New York, 1993) p.175-176
- <sup>7</sup> *God's Field* vol. 44 no. 8 (Scranton, 1968), p.27
- <sup>8</sup> *The Road to Unity*, A collection of agreed statements of the joint Old Catholic - Orthodox Theological Commission (Scranton, PA, 1990), p. 222
- <sup>9</sup> *The Eastern Code of Canon Law - Code of Canons of the Eastern Churches, Latin - English Edition* (Canon Law Society of America, Washington, D.C., 1992) p. 403
- <sup>10</sup> Paul Evdokimov, *The Sacrament of Love*, (St. Vladimir's Seminary Press, Crestwood, N.Y., 1985) p. 129
- <sup>11</sup> Casimir J. Grotnik, ed., *Synods of the Polish National Catholic Church* (Columbia University Press, New York, 1993) p. 251.
- <sup>12</sup> *God's Field*, vol. 9 no. 14 (Scranton, 1931)
- <sup>13</sup> Pfeiffer, p. 468-469
- <sup>14</sup> Michael G. Lawler, *Marriage and Sacrament* (Liturgical Press, Minnesota, 1993), p. 82.
- <sup>15</sup> *Ibid*, p. 84
- <sup>16</sup> Henry Bettenson, *The Early Christian Fathers* (New York, 1956), p. 352.
- <sup>17</sup> Joseph Martos, "Catholic Marriage and Marital Dissolution in Medieval and Modern Times", *Catholic Divorce, The Deception of Annulments* (Continuum, New York, 2000) p. 132
- <sup>18</sup> *ibid*, p. 137-138
- <sup>19</sup> Theodore Mackin, *Divorce and Remarriage, Marriage in the Catholic Church* (Paulist Press, New York, 1984) p. 131-132



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<sup>20</sup> Peter L' Huillier, "Marriage in Orthodox Law and Practice", *Catholic Divorce, The Deception of Annulments*, ed. By Pierre Hegy and Joseph Martos, (Continuum, New York, 2000), p. 132

<sup>21</sup> Mackin, p. 148-149

<sup>22</sup> Mackin, p. 149

<sup>23</sup> L'Huillier, p. 115

<sup>24</sup> L' Huillier, p. 116

<sup>25</sup> *The Road to Unity*, p. 222-223

<sup>26</sup> Masters, William H., Johnson, Virginia E., Kolodny, Robert C., *Human Sexuality*, (Little, Brown and Company, Massachusetts, 1982)