

Divorce, remarriage and annulments, what does the Catholic Church teach?

By Graham Osborne

This is always a touchy subject, particularly because of the complexities of marital situations some people find themselves in. And this article isn't meant to address particular situations – that's always best done with your pastor. But there is much confusion around this issue, with some insisting that an annulment is simply "Catholic divorce". So let's take a look at these, and see what Scripture and the Church has to say about them – and see how they fundamentally differ.

Let's start with Jesus very clear teaching on divorce and remarriage in Mark 10:2-9: The Pharisees... asked, "Is it lawful for a husband to divorce his wife?..." He said to them in reply, "What did Moses command you?" They replied, "Moses permitted him to write a bill of divorce and dismiss her." But Jesus told them, "*Because of the hardness of your hearts he wrote you this commandment. But from the beginning of creation, 'God made them male and female. For this reason a man shall leave his father and mother [and be joined to his wife], and the two shall become one flesh.' So they are no longer two but one flesh. Therefore what God has joined together, no human being must separate*"... the disciples again questioned him about this. He said to them, "Whoever divorces his wife and marries another commits adultery against her; and if she divorces her husband and marries another, she commits adultery." Luke 16:18 is similar: "*Every one who divorces his wife and marries another commits adultery, and he who marries a woman divorced from her husband commits adultery*".

Jesus' answer takes the Pharisees right back to the beginning in Gen. 2:24: "Therefore a man leaves his father and his mother and cleaves to his wife, and they become one flesh". God's original plan for marriage was absolute indissolubility. One-flesh unity that no human could break, "for I hate divorce, says the Lord" (Mal. 2:16). But God temporarily tolerated divorce in Old Testament times because of the hardness of the Israelites' hearts.

But now, Jesus has come to institute a New Covenant, with new Sacraments and graces to help his followers live married life the way God had originally intended – with no divorce and remarriage. While divorce was permitted in the past, it has never had the power to end a valid marriage. If someone then remarried, they would then be committing adultery because they would still be married to their first wife – divorce or not! This is what Jesus wants to make clear to the Pharisees, and all of us.

St Paul re-emphasizes Jesus' teaching in Romans 7:2-3 "a married woman is bound by law to her husband as long as he lives; but if her husband dies she is discharged from the law concerning the husband. Accordingly, she will be called an adulteress if she lives with another man while her husband is alive." Similarly, in 1 Cor 7:10-11,39 he adds: "To the married I give charge, not I but the Lord, that *the wife should not separate from her husband (but if she does, let her remain single or else be*

reconciled to her husband)—and that the husband should not divorce his wife... A wife is bound to her husband as long as he lives.”

The Church also echoes this teaching in her constant insistence on the indissolubility of marriage: “The matrimonial union of man and woman is indissoluble: God himself has determined it ‘what therefore God has joined together, let no man put asunder’ [CCC 1614-15]. Similarly, Canon Law confirms that, “a ratified and consummated marriage cannot be dissolved by any human power or for any reason other than death” (*Code of Canon Law* 1141).

What about Unchastity/Porneia?

But some will point out that Jesus seems to make an exception to this teaching in Matthew 19:9: “Whoever divorces his wife, *except for fornication*, and marries another woman commits adultery.” Similarly, Matthew 5:31–32 states, “It was said, whoever divorces his wife, let him give her a certificate of divorce. But I say to you, everyone who divorces his wife—except for fornication—causes her to commit adultery, and whoever marries a divorced woman commits adultery.”

The word translated as, “fornication” [“unchastity” in other translations], here is the Greek word, *porneia* (from which the word *pornography* is derived), which can have various meanings. If we look to how this word is used in other situations in the New Testament, we can gain some good insight in to how Jesus is using it here.

St. Paul uses it in 1 Cor. 5:1 when he refers to an illicit union between a Christian and his dead father’s wife. The Council of Jerusalem in Acts 15 uses it in the exact same sense, as it sends a letter to the new Gentile converts in Antioch. The four prohibitions of this letter conform to the four prohibitions that were made in Leviticus 17:8–18:26 on any foreigners who wished to live in Israel. It was common for Gentiles in those days [and in Jesus’ day] to have marriages between close relatives – marriages that were forbidden by Jewish law – and such illicit relationships were referred to collectively as “porneia”.

Acts 15 is echoing this usage, now reminding Gentile converts that they were to refrain from porneia – marriage within forbidden degrees – marriages that would be seen as invalid by the Christian Church, just as they were seen by the Jewish Old Testament Church.

In fact the New American Bible, an official English translation of the Catholic Church, makes the point clearly by translating this verse as the Church has always understood it for 2000 years: “But I say to you, whoever divorces his wife (*unless the marriage is unlawful*) causes her to commit adultery, and whoever marries a divorced woman commits adultery.”

Similarly, the Revised Standard Version Catholic Edition adds this footnote to Matthew 5:32: “*unchastity*”: The Greek word used here [porneia] appears to refer to

marriages that were not legally marriages because they were either within the forbidden degrees of consanguinity (Lev 18.6-16) or contracted with a Gentile.”

And recall that Jesus’ whole point in his teachings on marriage was to restore marriage back to its original form: to become one flesh, and what God has joined no man can separate. It would make no sense if he was then to return to the Mosaic concession he had just repealed. In using the word “porneia”, Jesus is not allowing divorce in the cases of unchastity/fornication, he’s allowing civil divorce in cases where no marriage exists at all.

This brings us neatly to the difference between divorces and annulments. A divorce is simply a civil proceeding that allows for the material practicality of a couple separating – the painful process of dividing property, children, money and other similar concerns. The Catechism summarizes things for us: “The separation of spouses *while maintaining the marriage bond* can be legitimate in certain cases... [specified by Canon Law] if civil divorce remains the only possible way of ensuring certain legal rights, the care of the children, or the protection of inheritance, it can be tolerated and does not constitute a moral offense (CCC 2383).

But still, such a divorce has no power to end a valid marriage whatsoever. A validly married Catholic who obtains a divorce is *still married* to their spouse, and for that reason is not free to marry someone else. If they do, they potentially commit adultery just as Jesus taught. But divorce, of itself, does not prevent a Catholic from receiving Holy Communion.

An annulment is completely different. It is an official examination process carried out by the Church to try and determine whether a valid marriage exists or not. It cannot end a valid marriage either, but if a marriage tribunal determines that a marriage was not properly contracted, then there is no actual bond of marriage to be dissolved, and the two persons involved would be free to marry.

The Pauline Privilege of 1 Cor. 7:15 fits loosely under this idea as well, usually applied where one spouse becomes a Christian and the other does not: “If the unbelieving partner desires to separate, let it be so; in such a case the brother or sister is not bound” [see Canon Law 1143 for more details and situations), as does a marriage not yet ratified through consummation (Canon Law 1142).

In the annulment process, the Church speaks of capacity, form and consent.

Capacity involves a person’s ability to contract marriage. For example, a person who is married cannot contract another marriage.

Form is the actual process of entering into marriage. Canon Law clarifies that, “Only those marriages are valid that are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses.

Failure to observe this form (or to be dispensed from this obligation) invalidates a marriage” (CIC 1108). The Church has the authority to bind and loose marital form based on the authority that Jesus gave it in Matthew 18:18: “Truly, I say to you, whatever you bind on earth shall be bound in heaven, and whatever you loose on earth shall be loosed in heaven”.

Consent involves whether a person has made a proper commitment to marriage, particularly regarding what the Church holds as *essential* to making such a commitment valid. When dealing with the proper consent needed for a valid marriage [and this is extremely important, and every couple preparing for marriage needs to fully understand each of these], some simplify things to “Four F’s”: Faithful, Free, Fruitful and Forever.

First, the person must intend, *before* marriage, to be totally *faithful* to their spouse-to-be [with no intention or openness whatsoever to future extra-marital affairs]. They must also *freely* choose marriage, and cannot be pressured against their will [no parental or other pressures, no fear of reprisals by anyone, no forced/arranged marriages – even premarital pregnancy can be a consideration here].

They must also intend their marriage to be *fruitful* – even if they may not be fully excited about children [and that could be seen as a potential warning sign], both spouses must be open to children. Natural Family Planning – highly effective – is permissible, but a topic for another article. But it’s worth noting that couples who practice NFP the way the Church teaches have a 97 to 100 percent marital success rate, according to several different surveys.

And finally, each person must intend their marriage to be *forever*. If, at the time of marriage, divorce and remarriage is a lingering backup option in either person’s mind if things don’t work out, this could be sufficient grounds for an invalid consent to marriage.

All four of these conditions must be met *before* the marriage in order to validate the vows of both persons. If even one is lacking, this would potentially make for an invalid consent of marriage. But otherwise, marriage is “for better or for worse”.

If, for example, a spouse later decides [*after* making the marriage vow in good faith] that they no longer want children, such a decision cannot end a valid marriage.

If, tragically, spousal abuse started occurring, this, surprising to some, usually does not invalidate a marriage [unless there were serious pre-existing psychological issues, or some serious consideration hidden from or not revealed to the other spouse before the marriage]. Such abuse could be valid grounds for separation [and even an associated civil divorce], but cannot end a valid marriage.

If one spouse is unfaithful [despite an intention of perfect faithfulness before marriage], difficult as this may be, the infidelity does not end a valid marriage. However, if a person always intended to keep past or future romance options open, even after their marriage, this could violate the conditions of “faithfulness” required to contract a valid marriage.

From my years of experience in marriage preparation [my wife was the Marriage preparation coordinator for the RCAF for several years], it seems that many couples marrying today may not fully understand the depths of the commitment they are making. Solid, comprehensive, Godly marriage preparation is critical to avoiding the heartache of a failed marriage. And this preparation is best begun at home by parents – and fairly early on in an age appropriate way.

“Let marriage be held in honor among all, and let the marriage bed be undefiled; for God will judge the immoral and adulterous” (Heb. 13:4).