

## Annulments

By Steve Ray

Dear Protestant Radio Talk Show Host:

If you don't mind, I would like to comment on your show the other day about Catholic Annulments [Endnote 1]. You treated the topic with a cavalier and disdainful tone. You also talked only about the *practice* of annulments but not the foundation *doctrine* behind Church law. I thought it would be good to take a few minutes to explain annulments and why they are part of Catholic teaching and law.

But first, it should be made clear that *divorce* and *annulment* are two different things. *Divorce* is the legal act of severing a married union usually based on civil law. *Annulment* on the other hand is a declaration that a valid sacramental marriage never existed in reality. Within the secular world and in most Christian denominations, such a civil divorce releases the individuals from the commitment and indicates they are now free to remarry. But within the Catholic Church a civil divorce does not release the two parties from the bonds and covenant of matrimony.

Divorce and remarriage has become rather acceptable in most Protestant traditions to allow divorce and remarry even though the teaching of the Church has always been that such actions are in violation of Scripture. Jesus said, "For your hardness of heart Moses allowed you to divorce your wives, but from the beginning it was not so. And I say to you: whoever divorces his wife, except for unchastity, and marries another, commits adultery; and he who marries a divorced woman, commits adultery (Mt 19:8–9). Mark and Luke have no "exclusion clause" [Endnote 2]. For example, in Luke Jesus says "Everyone who divorces his wife and marries another commits adultery, and he who marries one who is divorced from a husband commits adultery." According to Jesus, divorce and remarriage is adultery. (See Mt 5:31–32; 19:3–9; Mk 10:9; Lk 16:18; 1 Cor 7:10–11.) The marriage bond is cemented together by God and cannot be dissolved by any human agency, or for any reason besides death. For the Catechism's teaching on divorce see paragraphs 615–616; 2382–2386.

With every issue there is a *foundational* aspect and a *practical* aspect—most of St. Paul's letters are structured in this way, with the foundational/doctrinal section first and the practical/moral following. The topic of annulments should be approached in the same way. On your radio program you emphasized the *practical* and almost completely ignored the *foundational*. Catholics have not "invented" annulments out of thin air and the granting of annulments is carefully explained and administered in the Church.

Are there abuses in the granting of annulments? Possibly. I am not privy to the inner workings in. Are the principles of Catholic Canon Law always meted out with perfection. Probably not. The Church does not claim that every priest or legal tribunal is infallible in its judgments. [Endnote 3]. However, it was very unfair of you to only address what you perceive as abuses without giving the background for annulments, the laws that govern them, and the reason for them. You should have been fair and had a Catholic canon lawyer on with you and your anti-Catholic guest to give a balanced and fair presentation.

So, let me explain a bit of what you neglected to tell your audience. Some authoritative body has to define, administer, and adjudicate the sacrament or covenant of marriage. As an institution it has to have parameters and be governed by clearly established and authoritative rules. As individuals we are incapable and inadequate for the job. It needs to be governed in society and the spiritual world by an “agency” larger than the individual. Thus, the Church has been the administrator of God’s sacrament of matrimony and the adjudicator of annulments.

The Church has always seen this as her prerogative since the institution of marriage is at its heart a sacrament—the Sacrament of Matrimony—and sacraments are from God to be administered by the ordained clergy in the Church. When men and the secular state assume to be the final judges of the marriage “contract”, they base their claim on the assumption that marriage is merely a contract (not a covenant) which is merely instituted by human sources and is subject to no higher law than the secular state or society. When Protestants rejected five of the seven sacraments, Matrimony as a sacrament was removed from its high standing as sacrament [Endnote 4] By choice or default, Protestants have relegated this authority to Caesar—the State. Catholics on the other hand look to the Church as the final authority in the spiritual, sacramental, and legal aspects of marriage, which is by its very nature a relationship created by God and has *always* been adjudicated by His covenant people, not the secular state.

The basic principles are simple: Is there such a thing as an invalid marriage? You judge. If a man is to take a young woman at gunpoint and forces her to marry him, is it a valid marriage? If a man marries a 10-year-old girl, is it a valid marriage? If a gay man or undisclosed felon deceptively marries an unsuspecting woman, is that a valid marriage? If sex is denied or the marriage never consummation, is it a valid marriage? If a man discovers on their wedding night that his new wife is really a transvestite, is it a valid marriage? If a polygamist marries a third or fourth wife, is that a valid marriage? What about a marriage where one party informs the other that they will refuse to have children? The answer, even by most secular standards is, “Of course not.” *Two points*: there is such a thing as an invalid marriage; and second, some governing body has to set the standards and adjudicate the legal union of marriage.

There are a number of reasons for which a marriage can be annulled. Peter Stravinskis summarizes them, “A marriage can be declared invalid for a variety of reasons: lack of canonical form if one party is Catholic and thus required to be married in the presence of a priest, deacon or bishop; the existence of an undispensed impediment; the presence of an intention contrary to marriage at the time of the wedding; the presence of psychological factors that rendered one or both parties incapable of knowing what they were doing or of assuming the fundamental responsibilities of marriage” (Rev. Peter Stravinskis, *Our Sunday Visitor’s Catholic Encyclopedia* [Our Sunday Visitor, 1994]).

Who has the authority to judge in these matters? Christ established sacraments and he established a Church (Mt 16:18–19; 18:1–18; 1 Tim 3:15). The Church is the Body of Christ on earth and has the authority through its ordained leaders to bind and loose which is a very specific authority granted to legislate, adjudicate, excommunicate, set guidelines and forgive. Peter was given the authority as a shepherd to feed and shepherd the flock, which based on Old Testament precedents meant to teach and govern. The Church has the authority and the responsibility to administer and

adjudicate the sacraments of the Church.

The Catholic Church has thought about this matter for two thousand years. The Code of Canon Law concurs with Paul (1 Cor 7) that the Church has jurisdiction in spiritual matters including marriage. The Code states, “Marriage cases of the baptized belong to the ecclesiastical judge by proper right” (Can. 1671). Civil authorities have jurisdiction when the situation involves “merely civil effects of marriage” (Can. 1672).

The teaching of the Church on marriage and annulments is summarized in the *Catechism* which states:

CCC 1625 “The parties to a marriage covenant are a baptized man and woman, free to contract marriage, who freely express their consent. ‘To be free’ means:

- not being under constraint;
- not impeded by any natural or ecclesiastical law.

1626 “The Church holds the exchange of consent between the spouses to be the indispensable element that ‘makes the marriage.’ If consent is lacking there is no marriage.

1627 “The consent consists in a ‘human act by which the partners mutually give themselves to each other’: ‘I take you to be my wife’ – ‘I take you to be my husband.’ This consent that binds the spouses to each other finds its fulfilment in the two ‘becoming one flesh.’

1628 “The consent must be an act of the will of each of the contracting parties, free of coercion or grave external fear. No human power can substitute for this consent. If this freedom is lacking the marriage is invalid.

1629 “For this reason (or for other reasons that render the marriage null and void) the Church, after an examination of the situation by the competent ecclesiastical tribunal, can declare the nullity of a marriage, i.e. that the marriage never existed. In this case the contracting parties are free to marry, provided the natural obligations of a previous union are discharged.”

I am not addressing the question of whether the Catholic teaching and law is correctly carried out in every situation. That is not the point here. Since men administer the laws of God, it we can assumed that just as with any governing Protestant body or any godly Christian father, it will be done implemented without perfection in very case, but I must say that it is done carefully and in good faith in all cases I have seen. But the point here is whether there is such a thing as valid and invalid marriages and who if anyone has the authority to make that judgment. This *is the very heart and foundation of the discussion!* Who determines the validity of a marriage: the individual, the state, or the Church? Me, Caesar, or God? We cannot ignore the foundational principles.

Are annulments unbiblical? Look at one interesting situation in Ezra 10 (especially verses 10–12, 17, 44). *Marriages were annulled.* After a full investigation by the authoritative leaders, the Jewish “hierarchy” reached a decision that was considered infallible by the Jews at the time. They were required by God (in a judicial decision mediated by the human leaders of God’s

covenant people), to abandon their wives and children of foreign extraction. These were real unions, even resulting in children, made with the full consent of both parties, apparently with the previous consent of the leaders. God ordained marriage (Gen 1, 2) and these were outwardly viewed as real marriages. Yet, even from a cursory look at such a biblical passage it appears that such things as a wedding ring and children are not always the final criterion for a valid sacramental marriage, at least not in God’s eyes.

The practice of annulment is not “Catholic divorce” as is so often suggested. Rather, it is a declaration by the Church that the marriage is sacramentally invalid—it did not meet the necessary requirements to be a valid sacramental marriage and the annulment releases the parties involved any covenant obligations since the covenant was not constituted from the start due to the lack of certain covenantal elements.

The Code of Canon Law covers the issues of annulments in paragraphs 1095–1107. Again, the Catechism summarizes the matter by saying:

For this reason (or for other reasons that render the marriage null and void) the Church, after an examination of the situation by the competent ecclesiastical tribunal, can declare the nullity of a marriage, i.e. that the marriage never existed. In this case the contracting parties are free to marry, provided the natural obligations of a previous union are discharged (CCC 1629).

Annulments can be seen as a mercy in the immoral quagmire of our current day. Many plunge into sex and marriage without the basic understanding of what they are doing. The sacramentality of matrimony is scoffed at by the world. Matrimony is seen as a legal arrangement of a strictly human origin governed by the state. Nuptial agreements are entered into beforehand in case of a divorce, almost assuming it will happen. Marriage is often entered into without the least understanding of what it is or the rules or conditions established by God. Later in life when the great sorrow of ignorance and poor choices come home to roost, the granting of a legitimate annulment can be a great mercy, especially in the case of abuse, abandonment, divorce, adultery and other marriage-shattering events. After painstaking research and the judgment of the Church tribunal, and if grounds for an annulment exist, an annulment can be given. It declares that a marriage was null from the beginning due to any of the number of causes and frees the individuals to start again—much like the Jews in the of Nehemiah.

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I have provided sources for further information on Annulments for those interested.

Link to the [Code of Canon Law](#) on the web

Link to [Ed Peter’s Canon Law](#) website

Link to Ed Peter’s book “[100 Answers to your Questions on Annulments](#)“

Link to Jimmy Akin’s Excellent On-line [Answers to Questions on Annulments](#)

Links to [Annulments in the Catholic Church](#) website

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Endnotes:

1: In response to a Detroit Radio program very derogatory of the Catholic Church and annulments.

*Annulment*: “An annulment, or more properly, a declaration of nullity, is a decree issued by a competent Church authority or Church tribunal that an ecclesiastical act or a sacrament is invalid, thus having no canonical effects. The reasons for granting or issuing an annulment vary, depending on the act or sacrament in question. Ordinarily most annulments pertain to marriage. ... Annulments of marriage are only granted after a thorough investigation of all aspects of the marriage by a Church tribunal” (Stravinskias, Rev. Peter, *Our Sunday Visitor’s Catholic Encyclopedia*, “Annulment” [Our Sunday Visitor, 1994]).

2: “Erasmus and most Protestants have thought Matthew allows the innocent party to divorce and remarry in the event of *porneia*. But according to the almost universal patristic as well as Roman Catholic opinion, separation but not remarriage is permitted” (Barton, J., & Muddiman, J. *Oxford Bible Commentary* (Mt 5:31) (New York: Oxford University Press, 2001)).

“The clarity of the saying in Mk and Lk is undisputed; there Jesus simply forbids divorce entirely. Mk’s formula reflects Roman law, which allowed the wife to institute divorce; Mt and Lk allude to the Jewish practice in which only the husband could divorce. *except the case of unchastity*: This exceptive clause is universally regarded as an expansion of the original form. Many interpreters and the Greek church understand it as a permission of divorce for adultery. But this is so plainly out of harmony with Mk and Lk that it seems improbable. Mt is the only Gospel that seems to allude to the rabbinical disputes; the allusion is quite clear in 19:3 (see comment). The interpretation of the phrase as an exception to the repudiation of divorce would place Jesus with the school of Shammai. If Matthew meant adultery, he chose a less apt word for it; *porneia* means literally “prostitution,” and it designates unchaste conduct generally. *Moicheia* (the cog. word occurs in 5:32) means “adultery.” The distinction between the two words is not so rigid as to make it impossible that here *porneia* means adultery. Nevertheless, if the verse is translated “He who dismisses his wife, except for adultery, makes her commit adultery,” the saying sounds quaint, to say the least; the divorced wife commits adultery unless she has already committed adultery. J. Bonsirven (*Le divorce dans le Nouveau Testament* [Tournai, 1948]) called attention to a rabbinical use of the Hebrew word *zenūt*, which would be translated by the Greek *porneia*, to designate an unlawful union of concubinage. He proposed that it was this type of union that was designated by the exception. It is easier to understand this interpretation if one recalls that Greek has no distinct noun for “wife.” Literally the sentence reads: “Every one who sends away his woman—except in the case of concubinage—makes her commit adultery.” This seems to be the most satisfactory interpretation of the passage, and it explains the exceptive clause from the Jewish background that is so often apparent in Matthew” (Brown and Fitzmyer, *The Jerome Biblical Commentary*).

“It appears to abolish rather than radicalize the Torah. This saying occurs twice in Matthew, here with a parallel at Luke 16:18 (Qumran) and also in Matt. 19:9 (= Mark 10:11-12). Paul also knows of Jesus’ prohibition of divorce (1 Cor. 7:10-11), which gives it triple attestation. The tendency is to modify Jesus’ absolute prohibition. Matthew concedes it on the ground of *porneia*. The traditional interpretation, “adultery,” must be rejected for these reasons: first, the Greek word used is different from the word for adultery in the preceding antithesis; second, “adultery” is used where the wife’s infidelity is clearly in view (John 8:3); third, the punishment for a wife’s

extramarital relations was stoning (Lev. 20:10; Deut. 22:22-24), and one would therefore expect the exception to be formulated as an antithesis. It has been suggested that “sexual immorality” here refers to unions with kin forbidden by the Torah (Lev. 18:6-18), contracted by pagans prior to their conversion. This would accord with the situation of Matthew’s church, for such previous pagan marriages would be a problem in a Jewish church open to gentile mission” (Mays, J. L., *Harper’s Bible Commentary* (Mt 5:31) (San Francisco: Harper & Row, 1968).

3: Most Protestants sadly misunderstand the issue of infallibility. There is a vast difference between infallibility and impeccability. Paul was not impeccable, but when he wrote scripture he was infallible due to the protecting hand of God. The Catholic Church is very careful in its definition of infallibility. The Church is the Body of Christ and has both a divine and a human face. The human face is often the only thing the antagonist sees. Jesus was weak and hungry, wept and showed anger, had body odor and dirty feet from the journey. These human elements tended to veil his divinity, yet divine he was divine. Catholics have never claimed to be perfect in the practice of the faith. Paul was not impeccable—not even consistent with his own principles at times (Acts 18:18 [cp. Num 6:1–18]; 21:20–26; 16:1–3), yet he was protected by God with infallible writings and traditions which he passed on to the Church. Infallibility is a *negative* protection against error in official teaching on faith or morals, not a guarantee against any error in practice, or impeccability in application.

4: “That Christian marriage (i.e. marriage between baptized persons) is really a sacrament of the New Law in the strict sense of the word is for all Catholics an indubitable truth. According to the Council of Trent this dogma has always been taught by the Church, and is thus defined in canon i, Sess. XXIV: ‘If any one shall say that matrimony is not truly and properly one of the Seven Sacraments of the Evangelical Law, instituted by Christ our Lord, but was invented in the Church by men, and does not confer grace, let him be anathema.’ The occasion of this solemn declaration was the denial by the so-called Reformers of the sacramental character of marriage. Calvin in his *Institutions*, IV, xix, 34, says: ‘Lastly, there is matrimony, which all admit was instituted by God, though no one before the time of Gregory regarded it as a sacrament. What man in his sober senses could so regard it? God’s ordinance is good and holy; so also are agriculture, architecture, shoemaking, hair-cutting legitimate ordinances of God, but they are not sacraments’. And Luther speaks in terms equally vigorous. In his German work, published at Wittenberg in 1530 under the title *Von den Ehesachen*, he writes (p. 1): ‘No one indeed can deny that marriage is an external worldly thing, like clothes and food, house and home, subject to worldly authority, as shown by so many imperial laws governing it.’ In an earlier work (the original edition of *De captivitate Babylonica*) he writes: ‘Not only is the sacramental character of matrimony without foundation in Scripture; but the very traditions, which claim such sacredness for it, are a mere jest’; and two pages further on: ‘Marriage may therefore be a figure of Christ and the Church; it is, however, no Divinely instituted sacrament, but the invention of men in the Church, arising from ignorance of the subject.’ The Fathers of the Council of Trent evidently had the latter passage in mind” ([Catholic Encyclopedia](#), Vol 10, “Sacrament of Marriage” [Robert Appleton Company, 1910], Electronic edition by Kevin Knight).