

## THE PASTORAL MINISTRY OF THE TRIBUNAL

Welcome. You have picked up this brochure for yourself or someone you care about. This brochure will briefly explain the pastoral ministry of the Green Bay Diocesan Marriage Tribunal, especially the ecclesiastical process called annulment.

### 1. What is a Tribunal?

The Tribunal is a Court of the Roman Catholic Church which is directed by a group of judges and other personnel and governed by detailed and exacting procedural laws found in the Code of Canon Law and other Church decrees.

### 2. To whom does the Tribunal minister?

The Tribunal generally ministers to men and women who have been through a civil divorce. Catholics and non-Catholics (who are marrying a Catholic) can approach the Tribunal. Rather than a counseling service (ex. Catholic Social Services) the Tribunal is a court of law. The Tribunal examines petitions from parties looking to have their marriage declared null and void. That declaration would mean that, even though their relationship may have seemed like an apparent marriage from some aspects, an essential element of true marriage was missing from the beginning.

### 3. How does the Church define marriage?

If you don't mind, we'll turn your question over to the Catechism of the Catholic Church: "The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life, is by its nature ordered toward the good of the spouses and the procreation and education of offspring; this covenant between baptized persons has been raised by Christ the Lord to the dignity of a sacrament (#1601).

The Church speaks specifically of two essential properties of marriage. One is unity and the other is indissolubility. Marriage has been intended by God to be a relationship between one man and one woman, and it is meant to last "until death." The sacrament of marriage is seen as a covenant in light of the Gospel of Jesus Christ. "The Church is deeply convinced that only by the acceptance of the Gospel are the hopes that man legitimately places in marriage and in the family capable of being fulfilled" (Cf. John Paul II, Apos. Exhort., Familiaris Consortio, 12/15/81, #3).

### 4. How does the Church view divorce?

Again turning to the Catechism we read: Divorce is "a grave offense against natural law. It claims to break the contract, to which the spouses freely consented, to live with each other till death. Divorce does injury to the covenant of salvation, of which sacramental marriage is a sign. Contracting a new union, even if recognized by civil law, adds to the gravity of the rupture." (#2384). The Catechism does, however, state:

□ 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. □ (#2383)

Anyone who has experienced divorce, personally or by a family member, knows the great hardship divorce causes because it represents the end of a marriage and a family unity that can never be reconciled. The Church has tried to address this hardship through support groups, Beginning Experience, the Tribunal, Catholic Social Services, publications and local parish outreach.

#### 5. Why do I have to apply for an annulment?

How about **we** instead of **I** for your question? The annulment process is in the context of Church, much like the civil divorce is done through the eyes of the State. We, as Church, walk through the process together. The person applying for an annulment of his/her marriage has been through a civil divorce. That time is emotionally very painful and will take years to heal. The annulment process can be part of that healing process. Through the completion of the Preliminary Investigation Form and the formal oral testimony with an Advocate of the Tribunal, a person can sense a bit of healing by sharing his/her story. The pastoral ministry of the Tribunal, hopefully, can be an aid to this healing. Secondly, the Church is concerned both for the healing of the parties and their families, but also for speaking to the integrity of the sacrament of marriage. Divorce affects the families and the whole community of the Church. Divorce brings disorder to family and society. The Church attempts to bring healing and insight to the parties of the broken marriage. It is not uncommon that a divorced person will remarry and divorce again unless some healing and insight takes place after the first marriage.

#### 6. Could you please tell me about the steps of an annulment?

We would be glad to. If you, personally, have been through a civil divorce, you know there are certain steps for a civil divorce. The Church in its search for the **truth** of what happened in the marriage also requires steps for the validity of the annulment. There are four steps in the annulment process: a) the Preliminary Investigation and Formal Testimony of the Petitioner; b) the Formal Investigation of the case; c) the Decision Phase and d) the Appeal/Ratification Process.

To begin that first step, the Petitioner approaches their priest, parish director or pastoral associate in their local parish who, after a brief discussion, may refer them to a field Advocate of the Tribunal (priest, deacon, a religious or lay person).

#### **A. Preliminary Investigation and Formal Testimony of the Petitioner**

An initial interview is conducted by the Advocate with the Petitioner. The interview gives/gains basic information so that the Petitioner knows the meaning of the annulment and the process. A comprehensive form known as the Preliminary Investigation Form is given to the Petitioner to complete at home. The form asks information about the family background of both parties, their courtship and the marriage. The Petitioner returns to the Advocate with the completed form along with a copy of both the civil marriage license and the civil divorce.

In the second meeting the Advocate will conduct a session known as the Petitioner's Formal Testimony. The Advocate will ask the Petitioner to explain/expand their answers given in the preliminary form. These answers will be taped and will be given under oath. After the formal testimony, the Petitioner will be asked to sign three documents: 1) a petition asking the Tribunal officially to start the annulment case; 2) a mandate appointing the Advocate for their case; and 3) a signed oath indicating what the Petitioner has written in the Preliminary Form and spoken in the Formal Testimony is the truth.

The Advocate will then send all the material to the Tribunal.

## **B. Formal Investigation**

Within a short period of time, the priest-judge assigned to the case will contact the Respondent. The Respondent (the other party to the marriage) will be given the right to give Formal Testimony regarding the marriage. The testimony of the Respondent can either be written or verbal. The Respondent may refuse to cooperate, but the annulment still proceeds since the Respondent cannot prevent the case from being heard.

The Tribunal will contact the witnesses by mail that the Petitioner has named, and who have already given their consent to being witnesses. They should have personal knowledge of the Petitioner, the Respondent and the marriage. The testimony of the witnesses is usually submitted through the mail, but they may request to give their testimony verbally.

Sometimes during the formal investigation, the priest-judge may feel he needs to talk to the Petitioner in person. In such cases the Petitioner will be asked to come to the Tribunal in Green Bay. During this time documentation may be sought to help clarify the grounds for an annulment. Depending on the specific character of the case, the Tribunal may appoint an expert psychologist for an evaluation.

Once all testimony, documentation and evaluation have been gathered, the priest-judge closes the case. It is at this time the Petitioner and the Respondent are given the right to review the Acts of the case. After this period the case proceeds to the decision phase.

## **C. The Decision Phase**

The Tribunal Advocate studies all the testimony in the case. He/she presents reasons why the annulment should be granted. The Defender of the Bond will take the position that the marriage is valid and sacramental until the opposite is proven. His responsibility is the protection of the rights of the parties involved and the sacredness and indissolubility of the marriage.

Once the legal briefs of the Advocate and the Defender of the Bond have been presented, the priest-judge makes his determination as to the validity or invalidity of the marriage. He then issues his formal sentence or decision. In his sentence restrictions may be placed on one or both parties. Premarriage preparation is one restriction, but in the case where more serious problems arise (ex. alcohol abuse, abuse, infidelity, etc.) professional counseling may be mandated prior to any remarriage in the Church. The presiding cleric working with the Petitioner or the Respondent consults the Tribunal concerning the restrictions.

## **D. Appeal/Ratification Process**

If an affirmative sentence is issued by the Tribunal in Green Bay, the sentence is reviewed by the Tribunal of the Archdiocese of Milwaukee. This review is mandated by Canon Law. Once this review (appeal/ratification process) is completed, the presiding judge of the Tribunal of Green Bay will notify the parties of the final decision.

7. I am planning to be married, how long does an annulment take?

The time depends on the volume of cases handled by the staff at the Tribunal. Also our reliance on the voluntary testimony of witnesses is a major factor. With that said, a case usually takes eight to twelve months to process from the time the Tribunal receives the case from the Advocate until it is ratified by the

Archdiocese of Milwaukee. One must note that not all annulment cases are given an affirmative decision. That is why the Tribunal reminds everyone that NO WEDDING DATE SHOULD BE SET IN A ROMAN CATHOLIC CHURCH UNTIL THE ANNULMENT IS COMPLETED. This fact is very important when a possible restriction of professional counseling may be required prior to the wedding (e.g. chemical abuse).

8. If an annulment is granted, are my children illegitimate?

The annulment is an ecclesiastical (church) process and does not alter the status of your children. Crude statements about the annulment process and the children's status may have been made by those bitter because of the divorce. Such resentment does not help the children who need the healing of the hurt they experience when their mother and father divorce. The mother and father are still raising their children after the civil divorce and resentment only harms the family. That is why the Tribunal states that all obligations of the civil divorce must be followed and one should not approach this Tribunal seeking justice from the Church when one is not being just with their civil obligations to their family (e.g. paying child support as outlined by the civil court). The Church does not allow one to remarry in the Church without an annulment and the fulfillment of "the natural obligations of a previous union" (Catechism #1629, Code 1071, #1,3).

9. I heard that you can buy an annulment if you have enough money.

The Church is not in "the business" of making money, but in sharing the gospel of Jesus Christ. The Catholic Church declares the beauty of marriage as a sacrament of divine love. The Tribunal tries to apply justice and the Lord's pastoral care to marriages that have broken apart. Yes, there is a fee to the Petitioner (maximum: \$350) for the services, even as a fee was charged with the civil divorce. This fee covers only half of the costs of the process. The money is not kept by the priests or staff personally. It goes into diocesan funds to help defray the expense of the annulment proceedings. In spite of stories you might have heard, no one has been denied an annulment process because of the inability to pay the court expenses. For those unable to afford the cost, the fee can be reduced or waived when the Petitioner states his/her reasons for declaring financial hardship. A payment schedule can also be worked out with the Tribunal. It should be noted that one does not "buy" an annulment. The payment of fee does not mean a petition for an annulment will be granted an affirmative decision.

10. Is my testimony confidential if I apply for an annulment?

The Tribunal is an external forum. All testimony given by the Petitioner and/or the Respondent, as well as their witnesses, can be seen by the Petitioner, the Respondent and the Tribunal officials. This right is considered "the right to defense" in case one would like to give additional testimony. If, because of the sensitivity of the information given, the person would like the information confidential he/she can give reasons in writing why he/she wishes this information to be kept confidential. The final decision in this matter will remain with the presiding judge (Canon 1598).

11. What if I disagree with the decision of the Tribunal?

If you disagree with the decision of the Tribunal, there is a possibility of appealing your case to the Appellate Tribunal of the Archdiocese of Milwaukee or to the Roman Rota, the Appellate Tribunal in Rome.

12. What is my status if I apply for an annulment but I am not granted an affirmative decision?

Very good question. It is true that not all annulment cases are granted an affirmative decision. In fact, our Church presumes all marriages are valid, unless proven otherwise. Thus some of the reasons for not granting an annulment are: a) the marriage is valid in the Tribunal's view from the information the Tribunal

received from the Petitioner, the Respondent and the witnesses; or b) The Tribunal lacks the facts of the marriage to prove a judgment of invalidity (ex. lack of cooperation from the witnesses).

Some other points: First, someone who is divorced can receive the Sacrament of the Eucharist. Second, one who is divorced and has remarried without an annulment cannot legally receive the Eucharist (Catechism 1650). Third, one who is divorced and has not received an annulment of that first marriage cannot remarry in the Church. The sacraments are signs of unity with the Roman Catholic Church. Pope John Paul II in his letter

Familiaris Consortio, nevertheless, reminds priests, "I earnestly call upon pastors in the whole community of the faithful to help the divorced and with solicitous care to make certain that they do not consider themselves as separate from the Church," (no. 84). The Church community is called to share the "solicitous care" by reflecting the Father's love to those who are hurting. The Church walks with you and supports you. Christian faith guides us through all difficult times. As St. Paul reminds all of us, "We walk by faith, not by sight ... This being so, we make it our aim to please Him whether we are with Him or away from Him. The lives of all of us are to be revealed before the tribunal of Christ so that each one may receive his/her recompense, good or bad, according to his/her life in the body." (2 Cor 5: 7-10) It is our relationship with the Lord and our appearance before His tribunal that is key for all of us.

The Lord's blessing and healing to you and your family.