
A declaration of nullity: a judicial process

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A marriage duly celebrated between two baptized persons is known as a “ratified” marriage; once it has been consummated, it cannot be dissolved by any human power. When a wedding takes place, the presumption is that we are speaking of a man and a woman who are capable of mutually expressing their free and irrevocable consent to this marriage, and are not prohibited by some ecclesiastical law from doing so. However, there are certain instances in which, despite appearances, some element of the marital consent is defective. To identify and verify this defect, a person must approach the diocesan marriage tribunal. A Catholic marriage tribunal is a court of canon law consisting of a team of professionals with canonical expertise.

Marital consent is a public juridical act that is amenable to external objective analysis by a legally instituted marriage tribunal in a diocese. The result of this judicial process is usually known as a “declaration of nullity”, more commonly called an “annulment”. In this process, a divorced party contacts the tribunal and receives a preliminary questionnaire. A formal petition is then drawn up and signed by the petitioner. The tribunal, under the direction of the designated judge, summons the petitioner and the respondent to collect their depositions under oath. In addition, both parties are asked to provide the names of witnesses who can testify under oath regarding facts relating to the marriage in question. We should keep in mind that the task of the marriage tribunal is to declare what is valid or what is invalid and nothing else, thus administering justice to all who ask for it. It is never a question of assessing blame for the break-up of the marriage.

This is the first of two articles on the annulment process. Please consult Catholic Ottawa and the archdiocesan web site – CatholicOttawa.ca – for other tribunal articles. The second part of this article “The Annulment Process” will be published in the next issue of Catholic Ottawa.