

# SEPARATION, DIVORCE, NULLITY OF MARRIAGE

In any marriage, there can be moments of tension. They may have their origin in attitudes of one spouse or the other, but often responsibility lies with both. It is desirable for both spouses to contribute to overcoming these difficulties, working together patiently, humbly, and forgivingly, treasuring the love that led them to establish a family, the love promised before the altar of God for the needs of the children and the good of society and the Church, which has family stability as one of its foundations. No sacrifice should be considered too great when it is a question of saving the unity of a marriage. Praying fervently to God to touch hearts and dispel misunderstandings is a basic element for overcoming moments of crisis. Humbly admitting one's mistakes can smooth over many difficulties. Asking a friend with good judgment and sound principles to mediate may be a reasonable course that can produce good and positive results.

Sometimes, despite a couple's sincere efforts, a severe crisis cannot be overcome, and, unfortunately, one spouse may become

convinced that a break is inevitable. The reasons for reaching such an extreme situation must not be petty, such as stubbornness based on pride or a lack of generosity in seeking solutions. A decision must be contemplated over a long period of time and be made only after listening to the advice of impartial people who can be recommended for their experience of married life.

For very serious reasons, it may be legitimate to conclude that the only solution humanly possible is *separation*, that is, the discontinuation of married life together. The justifications for separation include one spouse threatening the life of the other spouse, life together plagued by physical or moral violence, risk to the moral integrity of the children, and other similarly grave reasons. When one reaches this extreme, painful, and unavoidable decision to separate, one must rebuild a life alone and trust in God. The separated spouse must still maintain marital fidelity, even though the other party may be gravely at fault. A person who is separated cannot legitimately and morally attempt to establish another marriage bond; that would mean, according to the clear teaching of Jesus, a fall into the sin and situation of *adultery*: “Whoever divorces his wife and marries another commits adultery against her; and if she divorces her husband and marries another, she commits adultery” (Mk 10:11 f.). A person who is separated and not living with another is not prevented from approaching the Sacrament of Reconciliation and receiving absolution and is allowed to approach the Eucharist to receive the Body and Blood of Christ.

In many countries, civil law has introduced *divorce*. This institution purports to break a validly established marriage bond and leave the people who have contracted it free to establish civilly a

new family. If the people who divorce were united not only civilly but also sacramentally, the civil divorce has no effect on the church marriage, and the divorced person continues to be married before God. If a person has divorced solely for the property consequences, which cannot be otherwise obtained, and does not attempt to marry again civilly, that person can receive the sacraments of the Church, because he or she is not living in sin. But if that person marries again civilly, being already united in a true marriage before the Church, he or she ends up in a situation of *adultery* and cannot receive absolution from sin, much less Holy Communion, while remaining in that state.

There is another situation that may seem similar to divorce but is not: a *declaration of nullity of the marriage* issued by a tribunal of the Church. A *declaration of nullity* proves that what was *apparently* a marriage in reality *never was*, because there was a defect in the beginning that prevented its validity. While *divorce* purports to break and destroy a marriage bond recognized as valid and existing, a *declaration of nullity* is limited to recognizing that what was apparently a marriage in reality was not. To determine whether a marriage is null requires knowledge of canon law. What are the defects that can provide a basis for a *declaration of nullity* of a marriage? The subject is complicated, but here are a few examples of defects: having contracted marriage under severe pressure, that is, without the necessary freedom; having contracted marriage with a lack of maturity serious enough to prevent true consent to the marriage; being married to a person who was not free to marry because he or she was validly united in marriage to another person; being married to a person who is a very close blood relative; being incapable of carrying out the sexual relationship that

is proper to marriage; being mistaken about the identity of the person one wished to marry. Again, a declaration of nullity means recognizing that something appeared to be a marriage but in reality never was. It is, *absolutely* distinct from divorce and separation. A declaration of nullity does not break a truly existing bond but declares that it was only *apparent* and did not correspond to the reality.

The Church has no power to break the bond of a marriage that was validly contracted between two baptized people and consummated through sexual relations: “Therefore, what God has joined together, no human being must separate” (Mt 19:6, Mk 10:9).

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**SACRAMENT SERIES**

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# MARRIAGE

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