

What God Has Joined Together

By Father John Catoir, JCD-8/14/17

Everyone agrees with Jesus, “What God has joined together, let no man put asunder” -Mark 10:9. When a marriage case comes before any Diocesan Tribunal, the question before the Chief Judge is this: Was this marriage joined together by God, or not? In other words, the presumption of validity can be challenged.

If the presumption of validity turns out to be false, the contract can be annulled. An annulment is merely an authorized statement that the marriage contract is not legally valid. The Church grants thousands of annulments world-wide every year because of contractual invalidity.

The grounds for an annulment vary. For example, if one party never intended a permanent union, or an exclusive union, it is “fraud going to the heart of the contract”. Having a hidden mistress from day one is a breach of contract.

Before 1960, annulments were rare. The records show that most small dioceses only produced one or two annulments a year. Petitioners were turned away in droves. Judges were hamstrung by canonical laws that reduced the flow of cases to a near standstill.

In response to the widespread feeling of unfairness, the Canon Law Society of America and Canada appointed a special committee to study the whole issue. In 1968, they came up with a plan for reform, and presented 27 Norms to the American Bishops.

A year later, the U.S. Hierarchy made a few edits, and forwarded these norms to the Holy See for approval. To everyone’s relief, Rome approved 23 norms of the 27 norms, and gave us permission to begin

implementing them in July of 1970. This approval was granted for an experimental period of three years. It was later extended.

Many of the reform items had to do with the specific procedures that caused needless delay. For instance, in understaffed Tribunals permission was given to appoint one judge to hear each case, instead of the normal three-judge panel. This expedited the process considerably.

We also learned about new grounds for granting an annulment. A 1968 case, in the Monitor Ecclesiasticus, Vol. II, reported a breakthrough decision made by a Judge on the Roman Rota. The annulment was based on “immaturity”. The judge made a distinction between appreciative knowledge, and mere conceptual knowledge of marital consent.

“Immaturity” as grounds for an annulment, was unheard of before 1970. In the past, so many petitioners, who had a legitimate case, were turned away because of canonical rigidity. This should tell you that judging the validity of marital consent is not an exact science.

I mention all this, by way of background to the controversy you may have been reading about between two contending forces in the Vatican, on the issue of divorce and remarriage. Pope Francis, and a clear majority of Cardinals prefer “Mercy”. A small minority of opponents stress canonical rigidity.

Pope Francis is right. The word “mercy” doesn’t change the doctrine of indissolubility. Marriage is a life-long commitment. Neither does it approve of adultery. It merely means that the Spirit of Mercy should infuse our use of the latest jurisprudence. By offering a second chance to people in need, and looking after the well-being of children we are offering justice tempered with mercy. Jesus said, “Help bear one another’s burdens,” -Gal 6:2.