

Australian Catechumenate Network National Conference 2014

WORKSHOP

The Marriage Question: Marriage Divorce and the RCIA

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Expanded PowerPoint version

THE MARRIAGE QUESTION:

Marriage, Divorce and the RCIA Process

by Ross Privitelli

In this workshop participants are invited to deepen their understanding of the marriage and divorce issues of Catechumens and Candidates in the RCIA process. They will gain some knowledge of Canon law and Australian law on the subject. They will also gain some insight as to how to identify and deal with these marriage and divorce issues, as and when they arise, and to develop some “pastoral” strategies.

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Contents:	Slide No	
Introduction	1	
Contents	3	
Part 1: The Marriage Question in the RCIA	6	
Part 2: Marriage	13	
• The Union between a man and a woman	15	
• Marriage and the Natural Law	16	
• The Sacrament of Marriage	17	
• The indissolubility of sacramental marriage	19	
• The presumption of validity	20	
• Untying the Catholic marriage knot	21	
Part 3: Divorce	26	
• What Jesus said	29	
• The Catholic position	30	
• The position of other Christian denominations	31	
• The Civil law today	32	

Contents:	Slide No
Part 4: Current Developments & Views	34
• The Vatican review on families, divorce and remarriage	35
• The view supporting change	39
• The view supporting the status quo	41
• Considerations for reform	43
Part 5: Marital Status & Marital Issues	50
• The RCIA Questionnaire and Interview	51
• Identifying Marital Status in the RCIA process	52
• Dealing with Marital issues in the RCIA process	53
• The RCIA pastoral mindset	56
• Enquirers with irregular marriages in the Catechumenate	58
Part 6: Annulment	60
• Understanding the Annulment process	61
• Formal Annulment cases	67
• Documentary Annulment cases	68
• Dissolution and Privilege cases	72
• Annulment and the RCIA	76
• Annulment statistics	78

Contents:	Slide No
Part 7: Convalidation	82
• When to Convalidate ?	84
• Convalidation and the RCIA	86
Part 8: Married Catechumens & Candidates	88
• Steps to follow in the RCIA process	89
• Baptism sacramentalises marriage	90
Part 9: Unmarried Catechumens & Candidates	91
• Preparing for Initiation and Marriage	92
• “the time to wed”	93
Part 10: Conclusion: The Marriage Question Revisited	94
Bibliography	97

PART 1

THE MARRIAGE QUESTION IN THE RCIA

THE MARRIAGE QUESTION:

Marriage, Divorce and the RCIA Process

The word “**marriage**” appears only once in the RCIA text (in para 47). “**Divorce**”, “**annulment**” and “**dissolution of marriage**” do not get a mention.

The Marriage Question in the RCIA process:

- is a question Catechumens and Candidates often ask, but RCIA practitioners sometimes do not want to hear, and
- is a question RCIA practitioners need to ask, but Catechumens and Candidates sometimes do not want to answer.

The Marriage Question is too often forgotten, or ignored, or put in the “too hard basket”.

The Marriage Question and the RCIA

At a pre-catechumenate enquiry session, one of the enquirers, Jane, wants to ask a question.

Jane:

- is a baptised Anglican,
- she married Ted, 20 years ago, who is also a baptised Anglican. They married freely, with full consent and had a fulfilling and loving relationship until Ted left Jane for a younger woman.
- Jane and Ted are in the middle of Family Court proceedings and Ted is applying for a divorce.
- Jane is seeing Tony, a baptised Catholic who has never been married before.
- Jane and Tony hope to be married sometime in the future.
- Jane asks a simple question.

Can I become a Catholic?

The Marriage Question and the RCIA:

This is followed by more questions from Jane

- If I become a Catholic now, can I marry Tony after my divorce ?
- Can I marry Tony in the Catholic Church ?
- What about Tony, how does this affect him ?
- What do you suggest, and what are my options ?

The Marriage Question:

The Marriage Question involves issues concerning:

- married couples
 - those intending to marry
 - divorced persons
 - divorced and remarried persons
- (and what the Church calls “cohabitation ad experimentum”)*
- defacto partners
 - same sex unions

The Marriage Question and the RCIA:

The Marriage Question affects:

- the RCIA process
- Catechumens
- Candidates
- RCIA practitioners
- team members
- parish priests

PART 2

MARRIAGE

The Marriage Question:

Underlying principles of a valid marriage in the Catholic Church:

Marriage is:

- a union between a man and a woman
- based on Natural Law (natural institution)
- a graced filled union (sacramental institution)
- indissoluble

Marriage: a union between a man and a woman.

Canon Law c.1055

“The matrimonial covenant, by which **a man and a woman** establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptised”

Marriage Act (Commonwealth) 1961, section 5 defines:

"marriage" as “the union of **a man and a woman** to the exclusion of all others, voluntarily entered into for life”.

Marriage is based on Natural Law (natural institution)

Natural law is a basic source for Catholic teaching on sexual morality (as well as sacred scripture and tradition).

- “Sexual pleasure is morally disordered when sought for itself, isolated from its **procreative** and **unitive** [between spouses] purposes.” Catechism of the Catholic Church, CCC 2351
- The rule of “**no sex outside marriage**”.
- The rule against **adultery**. CCC 2380ff, the 6th Commandment.
- The rule against **Communion** for divorced and re-married persons: see CCC 1650:
“If the divorced are remarried civilly, they find themselves in a situation that objectively contravenes God’s law. Consequently, they cannot receive Eucharistic communion as long as this situation persists”.

Marriage is a graced filled union (sacramental institution).

Marriage is a sacrament for Catholics and Orthodox. Protestants do not considered marriage a sacrament.

A **sacramental** union / marriage, takes place:

- when both the husband and wife are **baptised** Christians.
- “Baptism” makes the difference between a sacramental marriage and a “non- sacramental” marriage.

When a baptised person marries an unbaptised person the marriage cannot be a sacramental marriage.

Marriage is graced filled union (sacramental institution).

But a sacramental marriage also requires compliance with Canonical form to be valid in the Catholic Church.

“canonical form” requires:

- an authorised minister of the Church (priest/deacon).
- to be before 2 witnesses.
- to take place within a Catholic Church.

But observance with “canonical form” does not make the marriage a sacramental marriage (e.g. baptised Catholic marries unbaptised person with dispensation).

Marriage is indissoluble.

The principal of “indissolubility of sacramental marriage”:

- is said to derive from the teachings of Jesus:
"What God hath joined together, let no man put asunder"
- it is part of the tradition of the Church.
- any valid marriage between two baptised people is a sacrament and cannot be dissolved (**permanency of marriage**).
- it is impossible for partners in a sacramental marriage to ever dissolve the marriage (divorce) and enter into a new marriage during the lifetime of the other partners (**the prohibition against divorce**).
- if anyone, in a sacramental marriage, divorces and remarries that person lives in “**perpetual adultery**”, a state of “mortal” sin. (see CCC 1650)

The Marriage Question:

Presumption of Validity:

A marriage between a man and a woman is presumed to be valid and binding, whether civil or religious, until proven otherwise.

“... the validity of a marriage must be upheld until the contrary is proven.” Canon Law, c. 1060

The presumption of validity holds for all marriages:

- marriages of other faiths
- civil ceremonies
- regardless where these marriages take place

Some argue that the presumption is based on “fairness” and avoids “triumphalism” (i.e. the only valid marriages are those of the Catholic Church).

But the presumption also acts to prevent a “new marriage” until the invalidity of the prior marriage is proven.

The Marriage Question:

Untying the Catholic marriage knot

Avoid confusing terminology, e.g.

- marriage
- sacramental marriage
- natural marriage
- putative marriage
- mixed marriage
- valid / invalid marriage
- regular / irregular marriage
- church marriage
- civil marriage

The Marriage Question:

Untying the Catholic marriage knot

You can navigate your way around this terminology “jungle” by understanding 3 terms:

- sacramental marriage
- valid marriage
- civil marriage

The Marriage Question:

Untying the Catholic marriage knot

Sacramental Marriage

when both the husband and wife are **baptised**
Christians

The Marriage Question:

Untying the Catholic marriage knot

Valid Marriage:

Valid when:

1. There are **no impediments**: age, baptism, no prior bond, no vow of chastity, consanguinity...
2. **Consent** of both partners: valid and informed consent.
3. **Canonical Form**: before an authorised minister of the church, 2 witnesses and in Church.

The Marriage Question:

Untying the catholic marriage knot

Civil marriage:

It is a marriage pursuant to the Marriage Act (Cth) 1961.

Where: "*marriage*" means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life. (section 5).

And before: an authorised celebrant and 2 adult witnesses.
(Authorised ministers of religion are authorise marriage celebrants under the Marriage Act).

PART 3

DIVORCE

The Marriage Question:

The Dark Cloud of Divorce

Divorce:

Spouses have a right and duty to maintain the marriage union. (c.1151)

Separation is only justified for serious causes. (c1152ff)

Even when these causes exist and the spouses separate, the matrimonial bond endures.

- the indissolubility of a sacramental marriage
- the prohibition against divorce
- The Catholic Church maintains that Christ explicitly ruled out divorce
- According to Church Doctrine:
 - anyone who divorces and remarries (during the lifetime of the other partner) without first obtaining an annulment is in permanent state of sin.

The Marriage Question:

The Dark Cloud of Divorce &

The State of Confusion Amongst Christians

1. What did Jesus say?

2. The Catholic position.

3. Other Christian Denominations:

4. The Civil law position:

The Marriage Question:

The Dark Cloud of Divorce

The State of Confusion Amongst Christians

1. What did Jesus say?

• Catholics rely on Mark 10: 11-12

11 He said to them, “Whoever divorces his wife and marries another commits adultery against her; 12 and if she divorces her husband and marries another, she commits adultery.”

• Catholics distinguish Matthew 19:3-9

8 And I say to you, whoever divorces his wife, except for unchastity, and marries another commits adultery.”

[Note: there has been considerable debate regarding the “exceptive “clause in Matthew 19:8]

The Marriage Question:

The Dark Cloud of Divorce

A State of Confusion Amongst Christians

2. The Catholic position:

It is impossible to remarry

- after divorce
- during the lifetime of the other partner without first obtaining an annulment.

The Marriage Question:

The Dark Cloud of Divorce

A State of Confusion Amongst Christians

3. Other Christian denominations:

- The Orthodox Church permit divorce.
- The Protestant Reformation, Martin Luther and the Counter-Reformation and the Council of Trent.
- Protestant denominations (e.g. Anglicans, Presbyterians, Methodists etc) permit divorce.

The Marriage Question:

The Dark Cloud of Divorce

A State of Confusion Amongst Christians

4. The Civil Law position:

- **Pre 1975** divorce was permitted on **fault** based system
 - providing 14 grounds including adultery desertion, cruelty, habitual drunkenness, imprisonment and insanity.
 - To succeed on one of these grounds, a spouse had to prove marital fault.

The Marriage Question:

The Dark Cloud of Divorce

A State of Confusion Amongst Christians

4. The Civil Law position:

- **Post 1975** under the Family Law Act 1975 divorce is permitted on a **no fault** basis:
 - providing for a single ground of irretrievable breakdown established by separation and living apart for a continuous period of 12 months. (s. 48)
 - Before the granting of the divorce order, the Court must make a finding that there is no reasonable likelihood of cohabitation being resumed. (s48(3))
 - Upon the granting of a divorce order under the Family Law Act a party may marry again. (s 59)

PART 4

CURRENT DEVELOPMENTS & VIEWS

The Marriage Question

Current developments in the Church:

Oct 2013

- Pope Francis calls a Synod to discuss families, divorce and remarriage.
- The Vatican issues a preparatory document headed: “Pastoral Challenges To The Family In The Context of Evangelisation”

(for full text of preparatory document search: *“pastoral challenges to the family in the context of evangelisation”*).

- The Synod will be pastorally focussed.
- The basic moral teaching of sexuality, marriage and family will remain in place.

The Marriage Question

Current developments in the Church:

Oct 2013

The purpose of the Vatican's review is to uncover better ways to respond to people's circumstances in areas such as:

- faith in family life
- marriage
- divorce
- annulment
- same sex unions
- natural family planning
- participation in sacraments as part of family life

The Marriage Question

Current developments in the Church:

Oct 2013

The Questionnaire.

The preparatory document included a Questionnaire, consisting of 38 questions, under headings such as:

- Marriage according to Natural Law
- Pastoral Care in Certain Difficult Marital Situations
- On Unions of Persons of the Same Sex

The Questionnaire was distributed to bishops worldwide for responses and feedback by January 2014.

For the Catholic Archdiocese of Melbourne publication of the questionnaire, search: *“Pope calls for views of Melbourne Catholics on the family”*.

The Marriage Question

Current developments in the Church:

Oct 2014

The Extraordinary Assembly of the Synod of Bishops is due to be convened to define the status of the review.

2015

The Ordinary Assembly of the Synod of Bishops will be convened to develop “*working approaches for the pastoral care of the human person and the family*”.

The Marriage Question

Current views:

(a) **In favour of change:**