My friend Tom asks:

What is the basis for the Catholic church to annul a marriage based  "on the conditions PRIOR to the marriage, not afterwards"? is it based on tradition? There is definitely no scriptural reference on that approach.

I replied……

Hi Tom,

Thanks for the reply. I appreciate your willingness to learn exactly what the Church teaches, and why. I’ll do my best to convey that.

The basis behind the Church’s position on the indissolubility of marriage is simply “What God has joined together, let no man put asunder.” This is the original plan of God stated with the creation of man and woman, and reinforced by Jesus when He was asked if it was acceptable for a man to divorce his wife. Jesus said it was not. Paul said it was not.

What that means is valid marriages are permanent in the eyes of God. And the “exception clause” of Matt 19:9 points to conditions prior to the wedding, not after, or else the behavior would be called “adultery=mocheia”.

The principle of an annulment is that once a marriage takes place, it is indissoluable. So, if it can be shown that the union was made contrary to the direction of God, then it was never a marriage in the first place – and the man and woman would then be free to marry another. The reason the use of “porneia” vs. “mocheia” is significant is because infidelity AFTER marriage is defined as “adultery”. That should be clear that the “exception clause” in Matt 19:9 is not referring to sexual infidelity during the marriage, but something else.

But your question is a good one Tom. What is the Church’s basis for this?

It is based on God’s view of marriage as a permanent union until death. So it doesn’t matter what the conditions are after a valid marriage is made. But it does matter that the bond is made the way God wants it. It is possible for 2 to enter for the wrong reasons – for example, if it is forced, if there is no intention of fully committing, if there is serious deception, if it is between close relatives, etc.

More…..

Shortly after God created humanity, he instituted marriage. This is evidenced in the second chapter of the Bible: "Therefore a man leaves his father and his mother and cleaves to his wife, and they become one flesh" (Gen. 2:24). From the beginning God intended marriage to be a lifelong commitment, and his displeasure with divorce was made clear: "For I hate divorce, says the Lord the God of Israel" (Mal. 2:16).

Even so, the Mosaic law allowed divorce and remarriage among the Israelites. The Israelites saw divorce as a way to dissolve a marriage and enable the spouses to remarry others. But, as we will see, Jesus taught that this is not what God intended.

The Pharisees questioned Jesus when he taught on the permanence of marriage:

Pharisees came up to him and tested him by asking, "Is it lawful to divorce one’s wife for any cause?" He answered, "Have you not read that he who made them from the beginning made them male and female, and said, ‘For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh’? So they are no longer two but one flesh. What therefore God has joined together, let not man put asunder." They said to him, "Why then did Moses command one to give a certificate of divorce, and to put her away?" He said to them, "For your hardness of heart Moses allowed you to divorce your wives, but from the beginning it was not so." (Matt. 19:3–8; cf. Mark 10:2–9; Luke 16:18)

Thus, Jesus re-established the permanence of marriage among his followers. He raised Christian marriage to the level of a sacrament and taught that sacramental marriages cannot be dissolved through divorce. This was part of Jesus’ fulfillment (or perfection) of the Old Law of which he said, "Think not that I have come to abolish the law and the prophets; I have come not to abolish them but to fulfill them" (Matt. 5:17).

**An Exception to the Rule?**

Some Christians hold that Jesus made an exception to the rule of permanence of marriage when he said that "whoever divorces his wife, except for unchastity, and marries another commits adultery" (Matt. 19:9, emphasis added; cf. Matt. 5:31–32.) The word translated as "unchastity" here is the Greek word porneia (from which the word pornography is derived) and its literal meaning is debated among Scripture scholars. Full treatment of this topic is beyond the scope of this article, but suffice it to say here that Jesus’ and Paul’s constant and forceful teaching about the permanence of sacramental marriage as recorded elsewhere in Scripture makes it clear that Jesus was not making an exception in the case of valid, sacramental marriages. The constant teaching of the Catholic Church attests to this as well.

It is important to note that in Jesus’ teaching about marriage and divorce, his concern was with the presumption that divorce actually ends a sacramental marriage and enables the spouses to remarry. He said to his disciples, "Whoever divorces his wife and marries another commits adultery against her; and if she divorces her husband and marries another, she commits adultery" (Mark 10:11–12). But divorce that does not presume to end a sacramental marriage (e.g., divorce intended only to legally separate the spouses) is not necessarily evil.

Paul’s teaching agrees with this: "To the married I give charge, not I but the Lord, that the wife should not separate from her husband (but if she does, let her remain single or else be reconciled to her husband)—and that the husband should not divorce his wife" (1 Cor. 7:10–11). Paul understood that divorce is a terrible thing, yet it is sometimes a reality. Even so, divorce does not end a sacramental marriage.

The Catholic Church still today understands that separation and even civil divorce that does not presume to end a sacramental marriage is sometimes necessary (e.g., in the case of an abusive spouse). But such actions simply cannot dissolve the marital bond or free the spouses to marry others. The Catechism of the Catholic Church teaches:

The separation of spouses while maintaining the marriage bond can be legitimate in certain cases provided for by canon law. 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. (CCC 2383)

That being said, the Church clearly teaches that divorce does not—indeed cannot—end sacramental marriage. "A ratified and consummated marriage cannot be dissolved by any human power or for any reason other than death" (Code of Canon Law 1141). Only death dissolves a sacramental marriage.

Paul’s writings agree:

Do you not know, brethren—for I am speaking to those who know the law—that the law is binding on a person only during his life? Thus a married woman is bound by law to her husband as long as he lives; but if her husband dies she is discharged from the law concerning the husband. Accordingly, she will be called an adulteress if she lives with another man while her husband is alive. But if her husband dies she is free from that law, and if she marries another man she is not an adulteress. (Rom. 7:1–3)

**A Marriage Not Made in Heaven**

Thus far our discussion of the permanence of marriage has concerned sacramental marriages—marriages between baptized Christians. What about marriages between two non-Christians or between a Christian and a non-Christian (also called "natural marriages")?

Paul taught that divorce of a natural marriage is not desirable (1 Cor. 7:12–14), but he went on to teach that natural marriages may be dissolved in certain circumstances: "If the unbelieving partner desires to separate, let it be so; in such a case the brother or sister is not bound. For God has called us to peace" (1 Cor. 7:15).

Accordingly, Church law provides for the dissolution of natural marriages in certain circumstances as well:

A marriage entered into by two non-baptized persons is dissolved by means of the Pauline privilege in favor of the faith of the party who has received baptism by the very fact that a new marriage is contracted by the same party, provided that the non-baptized party departs. (CIC 1143)

Marriages not yet ratified through consummation are treated similarly:

For a just cause, the Roman pontiff can dissolve a non-consummated marriage between baptized persons or between a baptized party and a non-baptized party at the request of both parties or of one of them, even if the other party is unwilling. (CIC 1142)

**Catholic Divorce**

Annulments are sometimes mistakenly called "Catholic divorces." In reality, annulments do not presume to end marriages at all but simply recognize and declare, after sufficient investigation, that a marriage never existed in the first place. If a marriage never really existed, then there is nothing to dissolve. Such situations can come about for one (or more) of three reasons: lack of sufficient capacity, failure to adequately consent, or violation of canonical form.

Capacity involves a party’s ability to contract marriage. For example, a person who is currently married is incapable of attempting another marriage. Consent involves a party’s commitment to the marriage as the Church understands it. Form is the actual process of entering into marriage (i.e., the wedding).

Non-Catholics usually understand the capacity and consent requirements for a marriage to come into being, but they often do not understand what violation of canonical form is. Simply put, Catholics are bound to observe the form of marriage prescribed by the Church. Failure to observe this form (or to be dispensed from this obligation) invalidates a marriage:

Only those marriages are valid that are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses. (CIC 1108)

Why are Catholics bound to observe such form? For one thing, the Catholic form of marriage ensures that God is not left out of the picture. The Church has the authority to bind Catholics in this way by virtue of Jesus’ conferral to it of the power to bind and to loose: "Truly, I say to you, whatever you bind on earth shall be bound in heaven, and whatever you loose on earth shall be loosed in heaven" (Matt. 18:18).

**Is Divorce Allowable?**

Do we see annulments occurring in the Bible? Some apologists argue that the exception clause cited above (Matt. 19:9) exemplifies annulments. If "unchastity" refers to illicit relations between the spouses themselves, then divorce is not only acceptable but preferable. But such divorce would not end a marriage, for a true marriage could not have existed in the first place under such circumstances.

It is clear that Catholic teaching remains faithful to scriptural teaching on marriage, divorce, and annulments as Jesus intended. The author of the letter to the Hebrews summed it all up when he wrote, "Let marriage be held in honor among all, and let the marriage bed be undefiled; for God will judge the immoral and adulterous" (Heb. 13:4).