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Pope Francis should consider the church's outdated annulment process

Fr. Peter Daly | Jan. 13, 2014 Parish Diary

The pope wants to know what *we* think.

That in and of itself qualifies as a minor miracle. In our top-down hierarchical church, the concept of the *sensus fidelium* has been pretty much a dead letter since the Second Vatican Council. Usually Rome talks and we listen. But now he wants to hear from us. Thank you.

In preparation for the meeting of bishops in October, Pope Francis has asked the whole church to answer 38 questions in nine broad categories, all dealing with marriage and family life. I just want to deal with just one question: annulments.

Here is my view: It is time for us to scrap our current annulment process and look east to see what our Orthodox brothers and sisters are doing.

It is pretty clear from the Gospels that Jesus did not approve of divorce and remarriage. He says it amounts to adultery, which is pretty strong language, especially coming from Jesus. But if we are his followers, we have to at least try to deal with his teaching. Our annulment process is an attempt to take his teaching seriously and still allow people a second (or third) chance.

The problem with the process in the Roman Catholic church is that it takes what ought to be a pastoral matter and turns it into a legal one. It is complicated, often unfair, and frequently unintelligible to the participants. Some tribunals are easy. Some are hard. It can be very capricious.

Annulments come up every year in our RCIA program. We always have several couples who are divorced and remarried and want to come to the sacraments. Often, they have been divorced and remarried for years, even decades. Sometimes their own children don't even know about the previous marriages. Until they felt the attraction to the church, it never even occurred to them that they might need a Catholic annulment. It does not make any sense to them that they need to get a marriage annulled that may have taken place 30 years ago in a Baptist church or before a justice of the peace. All the annulment process does is put a road block in their way to entering the church.

There is a loophole for Catholics. If either party in the former marriage was a Catholic and the marriage took place in a non-Catholic ceremony, the annulment is just a matter of paperwork. It is a slam dunk that goes through in a few weeks.

I always get these right away. But it seems unjust. It rewards people who were disobedient to the church years ago and got married outside the church. Most people take it for what it is: a loophole. They get a chance at a second marriage because of the kind of ceremony they had years ago.

The thornier annulments involve people who were not Catholics at the time and had absolutely no reason to get

married in a Catholic church. Ironically, they have to go through a full legal process before a church tribunal.

It is painful and pointless. They have to find witnesses, get records, take statements, dig up old contacts, and open old wounds. All of our language is legal, not pastoral. We speak of petitions, tribunals, witnesses, advocates, petitioners, defendants and evidence. It is Kafkaesque. It turns pastors into bureaucrats, to no purpose.

Sometimes there are good reasons why people don't want to get in touch with the former spouse. There may have been abuse or violence. They open themselves up to further wounds or retribution. They may not even know where the former spouse or witness is after so many years. I have had cases in which former spouses held up an annulment out of spite for years.

Nobody is deterred from getting divorced and remarried by our annulment process. But many people are deterred from coming into or back to the church by our annulment process. It is spiritually counterproductive.

The Roman Catholic annulment process needs a total overhaul. We should look to the Orthodox churches for a better way to handle it.

In the Eastern churches, the first annulment is handled entirely by the parish priest. After all, he is the person on the scene. He knows the people involved and can judge their sincerity and seriousness. He can talk to them about marriage and see if they are sincere in their desire for reconciliation with the church. No tribunal downtown at the chancery office can do that.

Basically, in the Orthodox churches, couples get a second chance. Their first marriage can be annulled by the parish priest in a simple conversation and confession. But third or fourth marriages would need the permission of the bishop in most Orthodox churches, as I understand it. However, this is a pastoral process, not a legal one.

Our legal process of annulments is a holdover from the days when the Catholic church was the civil law of marriage in many countries. Today, it makes no sense.

Over the years, I have had several couples get infuriated with me or with the church and just walk away in anger. A friend of mine who is an Episcopal priest told me once, "So long as you guys are so strict about divorce and remarriage, there will be a reason for the Episcopal church."

Sometimes, I have just taken the pastoral route. For instance, I've had couples in their late 70s and 80s who were married decades ago. They can hardly remember their first marriage, let alone dredge up the records. Or I've had people who are terminally ill and want to come into the church. There is no time or energy to get an annulment.

If I were pope, I would leave the decision about annulments and reception of the sacraments entirely up to the parish priest. It should be resolved in the internal forum of the confessional. The emphasis should be on mercy, not law. End of story. Move on.

The people who come to RCIA are spiritually mature. They are serious people who are really giving the Catholic church a serious look. I find that these converts make the best Catholics and the strongest witnesses to the faith.

If we put a legal roadblock in the way of converts, all we really accomplish is keeping them from coming back to or into the church. No grace for you!

It does not change any of the facts of their lives. They are already in their second or third marriage. It would not be moral or prudent to expect them to leave their current spouse just because we say so.

To our faithful, the real scandal is not the fact that divorced and remarried people might receive Communion,

but that sincere people who really desire the Eucharist are kept from it by a legalistic, complicated, capricious and alienating annulment process.

Let divorced and remarried people make a good confession and offer sincere contrition and a firm purpose of amendment. Then let them start again. God has forgiven us much worse.

Priests and bishops should be pastors, not jurists. That's one pastor's opinion, anyway.

I'm glad the pope is asking and actually wants to know what is happening in the local church.

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