Canonical Implications for the Pastoral Care of Marriage
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The Goods of Marriage (Cannons 1055 & 1056)

Canons 1055 and 1056 describe marriage in its essential components. In the culture in which we live, we ought not to presume that these ‘goods of marriage’ are well known and accepted by those who approach us for marriage. It is important that the four items be discussed in some detail, perhaps at the time we are reviewing the matrimonial vows and their implications.

**Good of the spouses** embraces the notion of sacrificial love. What is the motivation for parties who are seeking marriage? Do they intend to form a home together where they will share life and love?

**Procreation and education of children** is one of the more traditional goods of marriage, not only in the Christian tradition, but also in the order of nature. Number and spacing of children are intensely personal issues and are often issues that couples need to discuss before making their matrimonial consent. During the discussion of this topic the benefits of Natural Family Planning should be introduced. For mixed religion couples their intention with regard to choice of religion for their offspring is also an important topic for discussion.

**Unity** would be rated as a high value by nearly every couple, and yet infidelity is not all that rare, sometimes during courtship and sometimes shortly after the wedding. Even though this value should be obvious, it cannot be taken for granted.

**Indissolubility** of marriage continues to be an essential teaching of the church, even though it is no longer held with great esteem in society. The divorce mentality has certainly impacted the way Catholics view marriage.

In pre-marriage interviews and discussions, the spiritual nature of each of these goods of marriage should be emphasized. It is when these goods are lived in a sacramental way that they become salvific and draw the parties into the mystery of God’s love.

Four Phases of Remote and Immediate Support For Matrimony (Canon 1063)

1. **Preaching and catechesis that is adapted to age groups.** Throughout the liturgical year there are several opportunities for effectively preaching about the Sacrament of Marriage in positive and challenging ways.

Another positive way of highlighting matrimony is by offering the church’s blessing at weekend Masses on the occasion of special anniversaries. When members of the parish are recognized on these occasions, they become witnesses of married love and a source of encouragement to other married couples and to others who will become married. There are beautiful prayers in the church’s book of blessings.
There should also be prayers for married couples and families included in the weekend prayers of petition, at least from time to time.

As a part of the curriculum for religious education, there should be generous time devoted to imparting the church’s teaching on matrimony, at grade appropriate level. Education regarding the church’s teaching on matrimony should be expressed in very positive terms and as one of the vocations that draws us into the image of God.

2. Personal preparation should follow diocesan guidelines, but should also fit the needs of couples. In recent years the period of preparation has sometimes been expressed as a ‘waiting period’ and has come to be viewed as a burden or a ‘set of hoops to jump through.’ This can become a time when the pastor and the engaged couple get to know each other. It is sometimes a time when people on the fringes of the church have an opportunity to get more firmly connected in a very positive way.

When pastors are viewed as the gate keepers of who can get married and who will be denied a church wedding, this view will set up an antagonism that will never be helpful to the life of the couple or the life of the church. This may be the first opportunity for the couple to relate to the pastor at a personal level and a positive relationship will bear great fruit in the life of the church.

3. The liturgical celebration of marriage should reflect the church’s teachings on marriage, but it is also a very personal time for the couple exchanging their vows. Balancing these two values is sometimes a source of frustration for pastors and for couples. Sometimes couples lack the depth of formation that would lead them to make appropriate decisions regarding their wedding plans and may need assistance in this regard. On the other hand, sometimes pastors can be overly rigid in applying their own personal tastes.

The celebration of weddings is also an important time for married couples to be strengthened in their own bonds of marital love. Even though the wedding party may be focused on other aspects of the day, the people in the pews will be encouraged by the spiritual dimensions of the celebration.

4. The law reminds us to assist those already married. As mentioned above, anniversary blessings are a good time to focus on marriage. Some parishes also host special programs for married couples on Valentine’s Day, Holy Family Sunday, or other times. The feast day of SS Joachim and Anne is a time to encourage Natural Family Planning.

**Premarital Inquiries Concerning the Freedom to Marry (Canon 1067)**

Canon 1067 refers to the premarital inquiries concerning the freedom to marry. It is the custom that parties be examined separately when Form A is being completed.

**Baptismal Certificate & Baptismal Registry (Canon 1122)**

A recently issued baptismal certificate from the parish of baptism should be included in the file. After the wedding has taken place, the parish of baptism should be notified so that the marriage can be recorded in the baptismal registry.
**Wedding in Another Parish or Diocese**

When a wedding is to take place in another parish of the diocese, the pastor working with the couple will assemble the pre-marriage file and obtain any permissions or dispensations from the Chancery. Then the completed file is to be mailed to the pastor where the wedding will take place.

When a wedding is to take place in another diocese for a couple living in this diocese, special norms are followed. In the Diocese of Sioux Falls and this ecclesiastical province, it is the custom that the premarital file is assembled by the pastor in the place where preparation takes place. This file is then forwarded to Jerry Klein at the Chancery who records it, and will then forward it to the diocese where the marriage is to take place, along with the necessary permissions or dispensations. This file should include Form A and if necessary Form B. The premarital inventory is not to be included.

Pastors in other places who are preparing couples for marriage in this diocese are asked to follow the same procedure. Files should pass through the hands of both chanceries.

**Previous Marriage of a Non-Catholic**

A question that is frequently asked concerns the previous marriage of a non-Catholic. It is sometimes presumed that people who married before a civil magistrate have not contracted validly. This presumption would be true for Catholics, since Catholics are bound to the Catholic form of marriage (two witnesses and a Catholic sacred minister). However, non-Catholics are not bound to any form of marriage. Therefore, a non-Catholic previously married, even before a civil official, will have to complete a formal nullity study before he/she can marry in the Catholic Church. Beginning this process well before the time of the intended wedding will clarify the person’s freedom to marry.

**Marriage Location**

Canon 1115 provides that marriages are to take place in a parish where at least one of the parties had domicile, or the permission of the proper pastor of one of the parties. It is customary that parties often return to their home parish for their weddings, even though they may have established domicile in another place. There is nothing in the law that discourages this practice. For family harmony and convenience there is much to recommend the practice. Marriage preparation may be provided at a place that is accessible to both parties.

**Recording of Wedding**

Canon 1121 instructs the witnessing cleric to record weddings as soon as possible after the event. In many parishes this task is completed by the parish secretary, especially if the cleric’s handwriting is illegible. All sacramental records are to be kept in a safe and fireproof place in the parish office. The premarital paperwork is to be filed in a safe place in the parish office or archives. The Bishop of Sioux Falls has requested to inspect all sacramental records whenever he visits parishes for Confirmation.
Mixed Religion Marriages

Canon 1125 specifies that Catholics entering ‘mixed religion marriages’ must sign promises that they will continue to practice their Catholic faith and will do all in their power to rear their children in the Catholic faith. These same promises apply to those who wish to marry someone who is non-baptized. The non-Catholic party will not be asked to sign promises but must be informed that the Catholic party has signed the promises.

The promises concerning rearing children in the Church are not absolute. The promise is to do ‘all in my power.’ In fact that may be very little, depending on the disposition of the other party and the circumstances of the marriage. The promises do provide an excellent opportunity for the parties to discuss their future plans and to take their own faith commitments seriously. Simply postponing these important discussions until the children are born is rarely a good decision.

Dispensation to Canonical Form

Canon 1127 provides for a dispensation from the canonical form of marriage for pastoral reasons. Following the ordinary marriage preparation in the Catholic Church, a Catholic party may apply for the bishop’s permission to have a marriage witnessed by a non-Catholic minister. This is typically the case when the non-Catholic party has a special relationship with his/her own church or minister. The dispensation is requested from the local bishop, even if the marriage is to take place in another diocese. The dispensation is readily granted, but time must be allowed if the marriage is to take place outside this ecclesiastical province.

There is no necessity for any Catholic minister to be present at weddings that have been dispensed from the canonical form. Often there is pastoral advantage for the families to have their pastor present, but once the dispensation is granted, the non-Catholic minister will validly witness vows. It is Catholic teaching that the parties are ministers of the sacrament; the minister witnesses the vows in the name of the Church. It is left to the presiding pastor to assign ministerial roles in the liturgy, readings, blessings or prayers.

There might, likewise, be a pastoral advantage to invite non-Catholic pastors to participate in mixed-religion marriage that take place in the Catholic Church. When a family is closely tied to their own church, they may be eager to have their pastor share in the joy of the celebration.

A marriage that was contracted with a dispensation from form is to be recorded in the parish of the Catholic party where the marriage preparation took place. (Canon 1121.3). Notation should also be made in the baptismal registry of the Catholic party, and the registration form provided by the chancery should also be returned after the wedding.

Special Considerations for Questions of Marriage Nullity

We begin with the presumption that marriage enjoys the favor of the law. That is, anyone who has exchanged marriage vows is presumed to be married, until a canonical process demonstrates the opposite. This presumption holds true to Catholics and those who do not profess the Catholic faith.

The process of declaring a marriage null is very confusing for many people and especially so for those who are not Catholic. All persons who come to the Church seeking a declaration of nullity are in special need of pastoral care, simply because they have already suffered through a failed marriage. At times the nullity process seems overwhelming to them,
and they need an extra measure of encouragement and care. The pastor or another pastoral minister can be very helpful to the person who needs assistance in initiating a process.

The Church intends that the process of examining a marriage not be seen as a mere juridic exercise. The tribunal tries to extend a pastoral hand to those who have experienced a failed marriage so that healing can occur before another marriage is attempted.

The fee for a successful formal case in the Diocese of Sioux Falls is $650 and is voluntary. We do request a $50 filing fee that accompanies the petition. When a case is resolved affirmatively, the petitioner is advised of the successful conclusion and is requested to pay the remaining $600 if able to make the payment. The payment can be made totally, in part or by payments. Nonpayment does not impact the outcome of the case, since the outcome is announced before payment is requested. Fees are computed based on the total cost of operating the tribunal for a year, divided by the average number of cases.

A marriage where one or both parties was Catholic that was contacted outside the canonical form can be declared null in a simple process by demonstrating that the form was not followed. The application forms are on the diocesan web site.

A marriage between two non-Catholics cannot be declared null in this simple form because non-Catholics are not bound to any particular form of marriage. Even civil unions are presumed valid. The same formal process is followed for non-Catholics that we follow for Catholics. Forms are available on the diocesan web site.

When parties have submitted an adequate history, the appropriate documents and the names of people who actually participate in the process, the process tends to go more smoothly and more quickly. The length of the process is often exacerbated by the failure of parties to make appointments for interviews in a timely fashion and the delay of witnesses to return their testimony. The interested pastoral minister can assist this process greatly by showing an active interest and reminding the parties upfront about their responsibility in following through.

It is also important that the parties know from the beginning that a favorable outcome for their application is not always possible. Our tribunal works toward making just decisions and it tries to help people to regularize their life in the church. But sometimes there is not sufficient evidence presented for an affirmative decision.

Sometimes non-Catholics qualify to have a marriage declared null through the process known as ligamen. Ligamen occurs when one of the spouses was married prior to the marriage in question. If we can demonstrate that the spouse was not free to marry because of the prior marriage, we can declare null the marriage in question. Forms are available on the diocesan web site.

Occasionally it is possible for the bishop to grant a Pauline Privilege when both parties of a marriage were never baptized during the time of the marriage. If the one requesting the privilege is now willing to be baptized, the privilege would allow him or her to marry a Catholic. (Canons 1143-1147) With the decline in the practice of infant baptism across our society, the possibility of the Pauline Privilege is growing.

Questions concerning the appropriate process or some step in the process can be directed to personnel in the tribunal office or to the judicial vicar.

Convalidation of a Civil Union

When a Catholic has married outside the Catholic form of marriage and wants to return to the full practice of the faith, the person may request to have the marriage ‘validated’ in the church. Sometimes in the past this ritual was referred to as ‘blessing’ and occasionally some people still asked to have their marriages ‘blessed.’ The civil union may actually have been
before a non-Catholic minister but still outside the Catholic form and so unrecognized by the church.

Preparation for convalidation should be designed to fit the needs of the couple. For example, a couple with some years of successful marriage will need different preparation than those couples who returned home from a ‘destination’ wedding and want to validate their recent vows. Pastoral wisdom and discretion will design preparation that will help draw the parties into the life of the church. What needs to be emphasized is that this ritual is an authentic exchange of matrimonial consent, not a mere blessing. The usual pre-marital inquiries and dispensations are required.

The ritual for convalidation is the same as for those who are marrying in the church for the first time. Two witnesses are required, along with the sacred minister. The churches of baptism of the Catholic parties should be notified.

Occasionally a non-Catholic party is unwilling to exchange vows in the Catholic form to accomplish convalidation. In that case the church offers the opportunity for radical sanation which is discussed in canons 1161 – 1163. A helpful way to view sanation is a dispensation from canonical form that works retroactively. Application forms are available from Jerry Klein at the Chancery.