

# **Priest-Judge In Atlanta Metropolitan Tribunal Writes Of Divorce And The Annulment Process**

**FATHER TIMOTHY A. GADZIALA, J.C.L., Special Contributor**

Published: November 11, 2004

*Reflect on the precepts of the Lord, let His commandments be your constant meditation; then He will enlighten your mind, and the wisdom you desire He will grant [...] Every counselor points out a way, but some counsel ways of their own; be on alert when one proffers advice, find out first of all what he wants [...] Seek no advice from one who regards you with hostility; from those who envy you, keep your intentions hidden [...] Instead, associate with a religious man, who you are sure keeps the commandments; who is like-minded with yourself and will feel for you if you fall [...] A man's conscience can tell him his situation better than seven watchmen in a lofty tower; most important of all, pray to God to set your feet in the path of truth" (Sirach 6: 37; 37: 7, 10, 12-15).*

These words from the Book of Sirach were thought upon and reflected deeply first by the Hebrew people of old; in writing these words, the author wrote this book not for personal gain but rather for all who seek instruction (Sirach 33:18). The purpose of the book was to defend the religious heritage of the Hebrew faith, and this book was meant to be a type of "manual" to inform the conscience of the Jewish people so that they could live peaceful lives amid a very Hellenistic culture, which was persecuting them because of their religious faith. According to biblical spirituality, the seven watchmen signify those persons who are in authority—an authority that was rooted in truth and justice, heralded by the prophets and governed by the Law. During the time of Sirach, authority in general was held in suspect and the law of Israel was disregarded by the civil culture of Hellenism, the culture of the Greeks. Because of the corruption within the culture of the time, many people did not regard highly the virtue of law, as interpreted by the scribes of the day. As a result, many persons placed the value of conscience in a higher regard than that of legal principle. Knowing this, the author of Sirach composed a type of "manual" to help the faithful Israelites have an informed conscience through the contemplation of Wisdom. It was through the virtue of wisdom, therefore, that just and religious persons could discern their consciences amid the virtues held by the "seven watchmen" amid broken lives and a chaotic world that knew neither virtue nor wished to seek out what was true and just. The virtue of wisdom was obtained by meditating on the precepts of the Lord conscientiously and in seeking out wise counselors who reflected on the law of the Lord. These counselors were held in high esteem as interpreters of Jewish law.

Society today, unfortunately, is not much different from that of the time of Sirach. We live in a world of brokenness and a gradually worsening culture of death, which knows neither virtue nor righteousness. For example, let me ask you a question: Outside the Catholic Church, what is the largest denomination of Christians? The answer may surprise you: It is lapsed Catholics, that is, Catholics who for some reason have left

the church. What do you think is the primary reason that these individuals left the church? It is because these persons sought and obtained a civil divorce decree and married outside the church. When this occurs, Christ, who is wedded to his Bride the Church, laments and implores them to return to the church and to legitimize their marital situation, for the sanctity of the sacrament of marriage requires that this be done, lest more confusion and brokenness confound our culture.

As with the time of Sirach, the seven watchmen signify authority in today's ever-changing culture. Specifically, this authority is believed by Christians to be revealed by Christ Jesus who is the light of the world who pierces the darkness of sin and death. Just as the prophets of old heralded the light, so too is the vocation of the church. As the Body of Christ, it is the expressed vocation of the entire Christian faithful to herald the Gospel message, individually within our conscience and collectively as an institution. In this way the conscience of the individual is held in the same high esteem as that of the integrity of the institution of the church, that is, the Magisterium. As with Sirach, therefore, the seven watchmen signify those people who govern and pronounce sentences in judicious matters. In other words, just as the scribes of old were legal counselors to interpret, judge and apply the Mosaic law in specific matters for the king and the Hebrew faithful, the vocation of the Tribunal is the same in our day: that is, to interpret, judge and apply canon law to specific pastoral situations for the bishop as well as to each individual who seeks the pastoral assistance of the Tribunal through wisdom. The Metropolitan Tribunal of Atlanta is primarily a marriage court, assisting those persons who wish to contest the validity of their consent to the sacrament of marriage. Just as Sirach composed a manual to help interpret and apply the Mosaic law in his day through wisdom, so too has the Tribunal a manual or process to help interpret and apply the canon law regarding marriage in our day. This process is called the **annulment** process.

Because of the existence of broken relationships that result in civil divorce, the church seeks out wisdom to cope with our broken lives, trying to ask God to sanctify our lives and to make sense of ourselves amid an increasingly secular world that only seemingly tacitly supports the integrity of the sacramental marriage. The ministry of canon law has always been one of service of wisdom to help bring out structure amid the Catholic Church and define what is truly holy in our lives, while at the same time protecting the rights of all the Christian faithful. In other words, canon law seeks to structure the teachings of the church, the validity of the sacraments and the organic union of the church as a leaven in society. Unfortunately, many people know little of the existence of canon law and of its quintessential service to the church; and even if the average Catholic has utilized the services of a canonist, he or she may be tempted to view the canonist as one of "seven watchmen in a lofty tower" who cares only for canonical procedure and not for personal conscience.

The church's law (canon law) and the canonical procedures are meant to be a type of guide to assist each and every Catholic in living out the basic call of Jesus Christ to proclaim the Gospel to the world. The vocation of a canon lawyer and the professional

personnel who work in the Tribunal, therefore, is not to dwell in a lofty tower, issuing edicts; but rather, the vocation of the Tribunal personnel is to help secure and protect your fundamental Christian rights as well as to provide a forum to help offer pastoral healing to broken relationships. Among the basic rights that each Christian has are: 1) the right to a just name and privacy (c.220) and 2) the right to petition the validity of the sacrament (i.e., the consent to the sacrament of marriage) (c.213), the right to due process (c.221, §1), and if summoned to trial, to be judged according to the precepts of the law applied with equity (c.221, §2). When an individual discerns to petition the validity of the consent to marriage, one is exercising his or her canonical right to do so; therefore, in the Court, only the validity of the consent to the sacramental marriage is being challenged, not the validity of the children. Many persons believe that one has to “pay” or “purchase” an **annulment**; this is not true. While it is true that like any civil court, all ecclesiastical courts incur fees for services, this Metropolitan Court is subsidized, in part, by the Archdiocesan Annual Appeal. Each case is reviewed individually by certain Tribunal personnel, and fees may be reduced in part or waived in total due to the financial status of the petitioner.

Even though the Metropolitan Tribunal has moved recently to the southside of the city, this court is not remote but is just as easily accessible.

As of now, the Tribunal is in the process of updating procedures to expedite cases more judiciously and pastorally. It is the aim of this ecclesiastical court to provide a forum for those persons who wish to exercise their canonical right to petition the validity of their consent to the sacrament of marriage; in doing so, it is the primary aim of this court to assist the petitioner and indeed the respondent, to ascertain the truth of the relationship as best can be done. It is not the aim of this court to cast aspersions or blame on either party.

This court takes seriously its aim to provide a very confidential forum to help those persons who seek to find the virtues of truth and charity by assisting them to find healing and peace while placing the broken pieces of their lives back in proper perspective. Recall one of the supreme fundamental Christian rights, “No one is permitted to harm illegitimately the good reputation which a person possesses or to injure the right of any person to protect his or her own privacy” (c.220). In petitioning the validity of or the invalidity of the marriage, this court is not harming the good reputation of any party; rather, the church is upholding the sanctity of the dignity of the sacrament of marriage while at the same time offering a forum whereby individuals may be able to pastorally find healing of the brokenness suffered in their said unions.

Sometimes, it may be the will of the respondent not to participate in the canonical proceedings; this is his or her right to choose to do so—a right that the court respects and upholds. When this occurs, it is up to the petitioner to provide the proofs necessary to ascertain the truthfulness of the marriage; in other words, the court will try to help the petitioner find quality witnesses who will attest truthfully to the situation at hand. This court, therefore, is not a divorce court; it is a court of law that seeks to ascertain

the truth of a given relationship and in doing so, to ascertain the validity of one's consent to the sacrament of marriage. When the respondent fails to participate, the rights of the respondent are always upheld in the court. Just as it takes three persons to get married in the Catholic Church—the bride, the groom and the Lord—so too should it be three persons who are present in the examination of the consent to marriage. In other words, the Tribunal understands clearly that the ministry of Jesus Christ is central in this court since He exercises His compassion and justice through the ministry bestowed on the sacred pastors in this court who have the mandate to bind and loose legitimately. As Jesus is central to the ministry of the Tribunal in ascertaining the truth and the validity of the consent to the sacrament of marriage, so too is the participation and cooperation of both the petitioner and the respondent essential to aid the court in coming to the truth of the bond. When both the petitioner and the respondent participate and cooperate in these court proceedings, the court can glean a clear understanding of the union as well as provide for them a forum to receive pastoral guidance and healing through the inward reflection that is required in these proceedings.

Procurator/advocates are available to each of the parties to assist them in exercising their canonical rights as well as to defend their contentions in the court of law throughout the canonical process. As with procurator/advocates, a case sponsor and/or your parish priest or deacon is always available to help you with questions about the process, and they are present to you in a pastoral level in your local parish to offer you assistance in sorting out the thoughts and feelings that you may have because of the process. It is the Tribunal's certain hope that the **annulment** process is a process of incredible healing, whereby you can obtain peace of mind and clarity of heart, letting go of painful memories and past hurts.

And so, back to the original question, is one person's conscience equal to seven watchmen from a lofty tower? The Church takes seriously the contentions and feelings expressed in a person's conscience. The sanctity of one human conscience is valued equally to that of the integrity of the institutional Church, perceived as the seven watchmen. When discussing the nature of Christian marriage, the essence of a sacramental marriage is both personal in expressing love and public and life giving to the Church and our society at large. According to canon law and Church teaching, marriage is a sacrament that is shared between a Christian male and a Christian female who give to each other love in an exclusive and perpetual partnership for the whole of life that is ordered for their good and the good of children. Because marriage is personal, it affects deeply the heart and mind of both spouses (the conscience), and in turn, the memories of both the petitioner and the respondent. Because marriage is a sacrament, it is an external sign that affects grace personally and to the Church and society; in other words, marriage is a public institution that serves as a micro-cell to the Body of Christ and as an essential thread to the tapestry of our American society. As a public entity, the Church provides a forum for both the celebration of marriage as a sacrament of love as well as a forum for persons to sort out the reality of a broken

relationship. In this way, the Church serves as a vigilant watchman that guards the integrity of the sacrament. As a vigilant watchman, the Church in our age today does not dwell in lofty towers, but as proclaimed by the Second Vatican Council Fathers, the Church is a pilgrim church that journeys with you from this life to the next (Lumen Gentium). While upholding the sanctity of one's individual conscience in marriage, the Church who journeys with you, seeks to help the individual conscience grow in holiness of life through the aid of the pastoral ministry offered by the Tribunal, and in doing so, the Church offers the society a conscience that is a light to the nations.