



**PRESUMPTION IS
9/10THS OF THE LAW
(in marriage)**

To be just, the law must apply to everyone equally, but that doesn't mean that the law is indifferent. Laws exist to protect what is good. Marriage is good. It is the foundation of God's plan for the family, which is the basic building block of society. Marriage law exists to protect the good of marriage. When we speak of the good of marriage, we mean the institution of marriage, into which men and women enter to establish a particular marriage. Obviously, to everyone with half a brain, not all particular marriages are good. How do we help people when their particular marriages fail while protecting the good of the institution of marriage?

Enter the annulment process. The law governing this process walks a tightrope between protecting the rights of the people involved and protecting the institution of marriage. Fundamental to this

tightrope is the legal presumption of the validity of marriage: "Marriage possesses the favor of law; therefore, in a case of doubt, the validity of a marriage must be upheld until the contrary is proven" (canon 1060). The law is unbiased, but it is not indifferent. Marriage nullity law applies to both parties in a case equally; both parties have the same chance to offer testimony and witnesses, for example. However, the law does not apply equally to the question of the validity of a marriage. The law favors a marriage's validity, meaning that validity is presumed by the law and need not be proven. When a Petitioner alleges a marriage's invalidity, he or she must prove it.

This is how the law protects the institution of marriage while protecting the right of people to challenge particular marriages. But what is the institution of marriage? It is the "covenant, by which a man and woman establish between themselves a partnership of the whole life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, [and] has been raised by Christ the Lord to the dignity of a sacrament between the

baptized" (canon 1055). The institution of marriage precedes and goes beyond sacramental marriage between Christians. This means that canon law recognizes, *and presumes the validity of*, non-sacramental, non-Christian marriages. Even non-Christians who have a prior marriage must therefore prove that marriage's invalidity through the annulment process before being free to marry in the Catholic Church.

Bottom line, *anyone* with a prior marriage of any kind who wants to marry in the Catholic Church, whatever religion that person is or even none at all, and whose prior spouse is still living, needs an annulment first. We ask (implore, beg) pastoral ministers to keep this in mind and make some of the first questions you ask people seeking marriage: Have you ever been married before in any way, and, if so, is your former spouse still living? That's it for now. Until next time, keep the faith, love God's people, and always honor the code!

