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a personal human tragedy,
and usually two or more human tragedies.*

Annulments in America

by Edward Peters

■ Thoughtful Americans are disturbed at the high number of divorces in the United States. But some observers look at the concomitantly sharp rise in declarations of matrimonial nullity (commonly called annulments) being granted by American diocesan tribunals and suggest, if not conclude, that U.S. tribunals are capitulating to the divorce mentality, perhaps even fanning its flames.

The criticisms made against American tribunals spring from a wide variety of sources and take many forms. Too numerous to cite here, these sources of criticism include Vatican officials, heterodox and orthodox clerics and laity, and virtually all major organs of Catholic opinion. The criticisms offered by these disparate sources include: annulments are being granted too quickly, they are not being granted quickly enough, tribunals overuse the consent canons as a basis for nullity, they are only scratching the surface of the consent canons in nullity cases, annulments are only for the rich, annulments are wasting diocesan resources, and so on.

Serving, however, as the fire which keeps this hot pot of debate boiling is the tremendous

surge in American annulment activity. In most fields, of course, raw numbers and their ratios are only used as measures of institutional activity. But in the annulment context, tribunal statistics themselves are often used, consciously or otherwise, as actual criticisms of tribunal activity. These criticisms are posed by means of what I call the "numbers stick."

The statistically-oriented "numbers stick" generally takes one of three forms: 1) the great rise in the total number of American annulments means that there is something wrong with U.S. tribunals; 2) the relatively high ratio of affirmative decisions granted in America means that there is something wrong with U.S. tribunals; and 3) the generally disproportionate tribunal activity in America means that there is something wrong with U.S. tribunals. This article will examine the "numbers stick" to see how it fares under rebuttal.

The number of annulments has increased dramatically

In the early 1960s, about 300 declarations of nullity came from the United States each

year; today that annual figure has grown to over 60,000.¹ By any measure, that is a staggering increase. But is this huge increase in annulments a sign of tribunal laxity toward marriage or complicity in its demise?

Consider: during the same decades in which declarations of matrimonial nullity were soaring in the U.S., similarly huge increases in, for example, product liability awards and successful prosecutions for child abuse were experienced in the civil arena. Are these phenomena, however, taken as proof of dysfunction in the American legal system? Not usually. Rather, they are the direct result of major changes made in the underlying civil laws governing such cases, changes which not only made some kinds of jury awards and criminal convictions more likely, but which in turn encouraged more cases to be filed under the revised laws.² Similarly, some very significant changes in canonical procedure have been made over the last 30 years, changes which facilitated both the filing of marriage nullity petitions and the chances that such petitions will be proven. But these changes, being technical in nature, tended to pass unnoticed by the average tribunal observer.

To take just one example, up until 1969, canon law basically allowed annulment petitions to be filed only in the diocese wherein the wedding was celebrated or in the diocese wherein the respondent (the other party to the marriage) currently lived. But beginning in 1970, the Holy See approved for use in the United States a modified canonical procedure which allowed petitioners to file their nullity cases in the diocese in which they currently lived, regardless of where the wedding was celebrated or where their ex-spouse now lived.³ The implications of this one canonical change in a country like America were enormous.

Recall that, not only are Americans generally prone to be mobile over the years, but marital failure accelerates and compounds that predilection in that divorcees are even more apt to change their surroundings as part of starting a new life. Since 1970, however, no longer were divorced Catholics required by canon law

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to return to the place of the wedding or the territory of their former spouse in order to have their petition for nullity heard. The petitioner, always a motivated and knowledgeable party, can now have his petition heard in the tribunal most convenient to himself.⁴

Tribunal competence was just one area in which canonical procedures were significantly revised by Rome in ways that facilitated matrimonial nullity filings and declarations. Other procedural changes included allowing a single judge to hear a case instead of requiring three judges to hear each petition, and eliminating caps on the number of qualified judges allowed to serve in a diocese; eliminating restrictions which prevented "guilty" spouses from seeking annulments, and allowing non-Catholics to file cases in diocesan tribunals; eliminating several of the more archaic regulations on the types of evidence allowed and the numbers of witnesses needed in nullity cases; and imposing new, or shortening old, time limits for the speedier treatment of marriage cases. Each of these Roman changes in procedural canon law has indisputably contributed to the dramatic increase in declarations of marriage nullity.⁵

As important as were the procedural changes above, they combined in potent fashion with the Roman decision to include in the 1983 Code a single new norm on marriage consent, namely Canon 1095. Of the 15 or 20 possible grounds upon which a marriage case can be heard (1983 CIC 1083-1105), more nullity petitions are adjudged on the basis of Canon



1095 than on all the others combined.⁶ Canon 1095 of the revised Code, without precedent in the old Code, is the single canon which most directly allows tribunals to address the canonical impact of mental, emotional, personal, psychological, psychiatric, and even chemical traumas suffered by persons attempting marriage.

Like most first attempts at legislating on complex areas, Canon 1095 suffers, I think, from certain conceptual problems and has been subject to various schools of interpretation whose analysis goes beyond the scope of this article which I have limited to the statistically-oriented complaints against U.S. tribunals. But the fundamental insight of Canon 1095 is crucial in helping the Church confront accurately the modern crises in marriage: Canon 1095, for all its flaws, is still the best tool for addressing cases in which drug and alcohol abuse, physical or sexual abuse, psy-

chological and psychiatric anomalies, and a variety of other mental and emotional conditions have seriously impacted parties prior to marriage.

Frankly, to attack American tribunals on the basis that, under Canon 1095, they are declaring null tens of thousands more marriages than they did a few decades ago is akin to attacking American hospitals on the basis that they are diagnosing tens of thousands more cases of HIV/AIDS than they did a few decades ago. That analogy might be unfair in that HIV/AIDS apparently did not exist 30 years ago, whereas fallen human nature and divorce did. Nevertheless, no credible social observer takes the position that average levels of personal maturity or individual integrity—two very important factors in Canon 1095 cases—have done anything but plummet over the last 30 years.

Consider: Most tribunal critics recognize well the profound truth of the Church teachings contained in *Humanae vitae*. Yet I see no acknowledgment by tribunal critics that the wholesale disregard for, or ignorance of, those teachings among lay Catholics (to say nothing of non-Catholics coming before diocesan tribunals) is having any significant impact on the attempts of such people to enter marriage. The use of contraceptives, even abortifacients, is not a canonical impediment to marriage (this comes as a surprise to many tribunal critics) but, whether as cause or effect, it seems highly correlative of the startling, and ultimately destructive, levels of immaturity and irresponsibility which so many people bring to marriage today. For that matter, stories of heterodox, including pro-contraceptive, ecclesiastical marriage preparation programs and sex education classes are legion. Cannot such programs (some of them in place for over 20 years now) be having exactly the kind of grave anti-family/anti-marriage effects that opponents rightly fear?

Before leaving the topic of the huge increase in the basic number of annulments declared in the U.S., one final but very impor-

tant point should be considered: namely, the effect of canonical form requirements on annulment numbers. This requirement of canonical form is what causes “Las Vegas style” weddings to be invalid for Catholics; indeed, such weddings are so obviously canonically invalid that they qualify for a faster documentary process for declaring such marriages null.⁷ But, second only to annulments based on Canon 1095, more U.S. annulments are based on violations of canonical form than on any other cause. In 1991, for example, nearly 18,700 of the 63,900 American declarations of nullity were based on violations of canonical form.⁸

Tribunal judges have virtually no discretion in the handling of canonical form cases; it is as close to an utterly objective type of case as canon law has.⁹ And yet canonical form cases consistently account for up to 25% of all the annulments being granted in America.¹⁰ Even if, therefore, one were to argue that American tribunals consistently misinterpret the psychological canons on consent, one is still left having to account for the huge number of canonical form nullity cases, which numbers, standing alone, still dwarf the total number of pre-APN [American Procedural Norms] annulments declared in the U.S.

A high percentage of petitions are granted

The second category of “numbers stick” criticism concedes the irrelevance of the increase in raw numbers of annulments, but argues that the ratio of affirmative decisions to petitions is so high as to support a suspicion of pervasive “anti-marriage/pro-nullity” biases on the part of most tribunal judges. The criticism is commonly put: American tribunals nullify 95% of the marriages that come before them.

The first time I heard this criticism, I conceded, *pro arguendo*, the accuracy of the percentage (something I would not do today, for the reasons discussed below.) But I then asked

the critic whether he considered American municipal courts generally fair in their treatment of the cases which come before them. We both agreed that such courts are generally considered fair and effective, at which point I observed that the conviction rate of defendants in such courts usually exceeds 90%. While no one wants to equate traffic tickets with broken families, the comparison does suggest a danger in forming conclusions about the fairness of courts, or tribunals, based solely on the way the majority of cases are decided in such fora.¹¹

Today, however, I would dispute the percentage of annulments which some claim are being granted. But to understand this rebuttal one must have a basic grasp of the major stages in processing a marriage case.

Virtually every nullity petition which ends up in an affirmative tribunal decision begins as an interview in a pastor’s office. This is a practically useful, but technically unofficial, part of most tribunals’ procedures, and hence is not given to close monitoring. And yet, while most pastors (or their staffs) are very willing to assist potential petitioners in drafting their forms for the tribunal, it also happens that, based on discussions with pastors or staff, some potential petitioners are dissuaded from filing their petitions, usually because the pastor has stated, or even just hinted at, his opinion that the case “probably won’t be approved by the tribunal.” My hunch (and that is all I have on this point) is that those pastors are usually right. The petition probably would have been a weak one, and it probably would not have been approved in a formal trial.

Assuming completion of the parish-based paperwork, potential petitions are forwarded to the diocesan tribunal. In a preliminary procedure, those potential petitions are examined for routine things like the presence of necessary supporting documents such as baptismal and wedding certificates, divorce decrees, etc. Here again, though, the opportunity arises, this time for tribunal personnel, to suggest either to the pastor or directly to the potential petitioner withdrawing the potential petition

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because of what appear to be factors which typically prevent an affirmative decision. Being the recommendation of canonical experts, such informal suggestions are even more likely to be on point, resulting in again more weak cases being eliminated before officially entering the tribunal system.

Even after official acceptance of a petition, however, it can happen that a petitioner loses interest in the case, or witnesses fail to come forward in a useful manner, or other factors emerge which prevent the case from moving forward. Almost invariably, a petition which "stalls" does so for the same types of reasons which would have resulted, had the case gone to sentence, in its being denied. With these major, if not always official, stages in mind, let's examine some of the statistics on apparent affirmative rates in U.S. tribunals.

In 1991 some 48,600 petitions were considered as presented to American tribunals.¹² Of those, only 43,900 were accepted for adjudication and, of those, only about 39,100 were decided by formal sentences. Assume that almost all of these sentences were affirmative. That is still only an 89% affirmative rate among cases actually accepted, and barely 80% for those cases officially presented. Moreover, the affirmative rate drops even more when one recalls that additional weak cases are weeded out at the parish level or perhaps presented only in part to the tribunal.

One could, I suppose, maintain that even this 80% affirmative rate is too high—although how one could do that without examining individual cases escapes me. What

response then? Well, it might be worth comparing the U.S. affirmative rate with Rome's, specifically the Roman Rota's.

According to Augustine Mendonca's recently published *Rotal Anthology*, during, for example, the three years surrounding the promulgation of the revised Code of Canon Law, 1982 through 1984, the Roman Rota heard 571 cases dealing with matrimonial nullity, and reached an affirmative result in 354 of them, for a 62% affirmative rate.¹³ Certainly no one I know accuses the Roman Rota of being soft on marriage cases. While Rome's apparent 62% affirmative rate is not as high as America's apparent 80% rate, neither is it as low as some might think.

Of course, any number of factors might have influenced the Rota's affirmative percentage—things like taking cases from around the world, or like its serving extensively as an appellate court—and such factors should be considered in assessing the Rota's performance. But cannot procedural or demographic factors affect American tribunal performance, too? In any event, some recognition that over half of the marriage cases handled by the Roman Rota apparently end in an affirmative sentence seems in order.¹⁴

Finally, to the degree that percentages are relevant at all, one might query what percentage of divorced Catholics in America have actually received a declaration of nullity. Speculation on this point is hampered because there do not appear to be firm figures on just how many divorced (albeit perhaps remarried) Catholics there are in America.¹⁵ But reasonable estimates on the percentage of divorced Catholics in America who have received a declaration of nullity range anywhere from 5% to 25%. I'll go with 10% and ask: is that ratio really too high?

Should we not expect the Church's teaching on marriage, which is reflected in its canon law, to shed some light on the causes of modern matrimonial collapse? In every ten failed Catholic marriages, should we be surprised that at least one of those marriages failed for

the very reasons which Church law itself tried to warn would result in invalidity?

Or are we to hold that the canon law on marriage—and the Church teaching it upholds—is so irrelevant to modern married life that its disregard by couples will have no actual impact on their lives and marriages in this world? Or, on the other hand, does a couple's demonstrable respect for the Church's marriage requirements offer no protection against the ravages of divorce? Ideally, of course, there ought to be no divorces and no annulments, but if there are to be civil divorces, canonical nullity should account for a significant percentage of those failed marriages.¹⁶

American tribunals are disproportionately active

The third category of “numbers stick” criticism prescind from the first two critiques outlined above, and focuses on the indisputably anomalous situation of American tribunals as compared to the rest of the world. This critique is often put: American Catholics make up 5% of the world's Catholic population, but they get 80% of the Catholic world's annulments.¹⁷

I frankly feel that this is the shallowest of all tribunal criticisms. Americans make up 6% of the world's population, but they account for 100% of the men on the moon. So what? America functions. Much of the rest of the world does not.

American tribunals keep sufficient and reliable office hours, their telephones work, their mail is delivered on time, and if their photocopy machine breaks down, replacement parts are not six months away. Most of the parties and witnesses in an American nullity case will be able to drive to the tribunal in their own car on a paved road without hindrance by anything from fuel shortages to partisans in civil wars. In an almost incalculable and invisible number of ways, American Catholics have the leisure—in the classical sense of the word—to worry about their juridic status in the

Church. Do we really expect a plethora of nullity cases to be processed from Catholics in communist China, Bosnia, or some third-world drug republic?

Well, one might rejoin, what about those countries where a Hobbesian hell does not hold sway? For the most part, such countries are either industrialized Pacific rim nations like Japan, with virtually no Catholic population, or they are a western European country like France or the Netherlands with what, in comparison to the U.S., can fairly be called a notably apathetic Catholic population.

Ever since De Tocqueville penned his classic study of America, historians have recognized that the average American takes religious issues much more seriously than does the average European, and, moreover, that Americans are markedly more concerned about legal procedures, rights and duties. What people of what nation, therefore, would be more inclined by desire and more able in means than Americans to use a religio-legal procedure like annulments to assess their canonical status in their Church?

Of course, if one still wishes to criticize America for *its* disproportional tribunal activity, one could just as easily, and just as misleadingly, point out that Italy, with just 5% of the world's Catholic population, accounts for at least 70% of the Roman Rota's case load; indeed, the Rota grants more annulments to Italians than it does to the rest of the world combined.¹⁸ But if one cannot take those patently disproportionate Italian figures and conclude that Rome is winking at marriage (even at Italian marriage), why should one be allowed to take America's similarly disproportionate annulment statistics and conclude that U.S. tribunals are lax in their administration of canonical justice?

I do not wish to be misunderstood: America's annulment picture—whether in terms of its raw numbers, its percentage of affirmatives decisions, or in comparison with the rest of the world—is nothing to be proud of. Like a cancer-stricken oncologist,

America might be smart enough to diagnose its own illnesses, but unable to cure itself.

Each annulment represents, without any hyperbole, a personal human tragedy, usually two human tragedies, and often several human tragedies combined. And, for those cases which involved a Catholic wedding, each annulment represents yet another example of where Canon 1066—which calls the elimination of anything which can affect the validity or liceity of a wedding before the ceremony—was honored too late.¹⁹ The news on American annulments is bad, but that bad news should be kept in context.

Most certainly, I do not take the position that American tribunals are above reproach in their handling of nullity cases, and some of the substantive, as opposed to statistical, criticisms of American tribunal practice do deserve closer attention. But I am sure I'm not alone among tribunal personnel when I feel that modern American tribunals are still being held accountable for some of the rash statements made by some American canonists during the first heady days of American Procedural Norms. In any event, it serves no purpose to attack today's tribunals for, I think, accurately "diagnosing" the extent of the divorce disease among Americans.²⁰

Certainly, I have opinions on how we might come to grips with the ongoing collapse of the American, and Catholic, family. Other people have theirs. Most of all, though, the Church has its grace and wisdom to apply. So, if this study only helps eliminate the less fruitful ideas for reform, especially the idea that there's nothing wrong with Catholic American marriages that can't be fixed by shutting down American diocesan tribunals, I shall be satisfied. ■

¹ See *The Code of Canon Law: A Text and Commentary*, (Paulist: New York, 1985), hereafter *CLSA Commentary*, at p. 1010, and 1994 *Catholic Almanac*, at p. 236, reporting for the year 1991. Throughout this article, 1991 is chosen as a typical year because its data is widely available, but it falls

several years after the promulgation of the 1983 Code of Canon Law, meaning that virtually all nullity cases heard now are being treated in light of the new law.

² Some changes in American law are the result of judicial attitudes being substituted, rightly or wrongly, for legislative intent. But in canon law, such a feat is virtually impossible. The Code of Canon Law is replete with effective restrictions on the ability of anyone beside the legislator to change substantive or procedural law (see, e.g., 1983 CIC 8, 16, 17, 19, 1404-1406 & 1417). Not even the Roman Rota can interpret canon law contrary to the Pope's intentions.

³ See "Provisional Norms for Marriage Annulment Cases in [the] United States," 28 April 1970, *Canon Law Digest* VII 950-966. The "American Procedural Norms" had been drafted by the Canon Law Society of America in the mid to late 1960s and proposed for Roman approval by the National Conference of Catholic Bishops shortly thereafter. Absent Roman authorization, the APN would have remained speculative exercises by academics; but after Roman approval, they became binding law in U.S. tribunals. Afterward, if an American tribunal judge, fearful that these new procedural norms would threaten the stability of marriage, had refused to accept a petition correctly filed under the APN, canon law itself would have threatened him with sanctions up to and including removal from office. See 1917 CIC 1625 §1 and 1983 CIC 1457. Many of the more "liberalizing" provisions of the APN were later made applicable throughout the Roman Catholic world as part of Pope Paul VI's apostolic letter *Causas matrimoniales*, 28 March 1971, *Canon Law Digest* VII 969-974, AAS 63-441.

⁴ The current law, 1983 CIC 1673, n. 3, differs from the APN only in requiring the consent of the respondent's judicial vicar, who in turn need only hear (not obtain the consent of) the respondent. Most requests for competence filed under 1673, n. 3, are approved because: A) most respondents do not in fact object to a "foreign" tribunal hearing their ex-spouse's petition; and B) the relatively few respondents who do object, usually object not to the hearing of the case in the diocese of their ex-spouse, but rather to any tribunal's hearing the case—something respondents clearly have no canonical right to assert.

⁵ The Holy See incorporated most of these APN-type provisions in the 1983 Code with full awareness of the impact such procedures were having on American nullity cases. The Canon Law Society of

America had been reporting annually the explosion in American nullity cases regularly since the mid-1970s, and arguments against continuing the APN were raised by Roman dicasteries as early as 1973. See *Canon Law Digest* VIII 1155-1157 & 1167-1169. Additional criticisms of the APN were raised by the Signatura in 1977 and in 1978, some five years before the 1983 Code took effect. See *Canon Law Digest* IX 979-987 and *Canon Law Digest* X 256-262.

For a more recent Roman acknowledgment that the 1983 Code does increase the chances of proving invalid marriages null, see Congregation for the Doctrine of the Faith, Letter on "Reception of Communion: Divorced-and-Remarried Catholics," 14 September 1994, Para. 9, which states in part "The discipline of the church, while it confirms the exclusive competence of ecclesiastical tribunals with respect to the examination of the validity of the marriage of Catholics, also offers new ways to demonstrate the nullity of a previous marriage in order to exclude as far as possible every divergence between the truth verifiable in the judicial process and the objective truth known by a correct conscience." More recently still, *Newsweek* reported (5 February 1996, p. 6) that the Pope has urged the Roman Rota "to get moving on its backlog of annulment requests."

⁶This is not entirely due to the very broad scope of Canon 1095. It is also because many of the grounds for nullity address fact situations which are very rarely encountered in America. We have, for example, hardly any 15-year-old boys attempting church weddings (c. 1083) and very few kidnapped women being forced to marry their captors (c. 1089). Likewise, "AWOL" priests and religious rarely come back and seek annulments of their marriages (cc. 1087 & 1088).

⁷See generally 1983 CIC 1108, 1127 & 1686-1688.

⁸See 1994 *Catholic Almanac* at p. 236.

⁹One could also consider so-called "ligamen" petitions, that is, cases in which nullity must be declared because at least one of the parties was shown already to be in a presumably valid marriage (1983 CIC 1085 § 1, eligible for expedited hearing under 1983 CIC 1686). In 1991, for example, over 2,200 American annulments were granted on the basis of ligamen, or prior bond, on the part of one or both parties to the impugned marriage. See "Tribunal Statistics Summary," *CLSA Proceedings*

(1992) pp. 252-268. Ironically, these annulments based on ligamen provided over 2,200 more times one could attack American tribunals for disregarding the sanctity of marriage, when in fact they were literally upholding it.

¹⁰Rome might be reconsidering the automatic nullity implications of canonical form attendant to Catholic baptism. Canon 1117 now exempts from the requirement of canonical form Catholics "who have left the Church by a formal act." Presumably, somewhat fewer marriages involving Catholics can be declared null solely on the basis of lack of canonical form. But see Congregation for the Doctrine of the Faith, Letter on "Reception of Communion: Divorced-and-Remarried Catholics," 14 September 1994, Para. 9, which states in part "Adherence to the church's judgment and observance of the existing discipline concerning the obligation of canonical form necessary for the validity of the marriage of Catholics are what truly contribute to the spiritual welfare of the faithful concerned."

¹¹The population treated in diocesan tribunals and municipal courts is obviously relevant to, though not dispositive of, their conclusions on particular cases. Take the first hundred drivers passing in front of one's house, and the first hundred drivers sitting in traffic court, and ask which group is more likely to contain a higher number of offenders. Likewise, take the first hundred families at a mall, and the first hundred arguing sets of spouses in divorce court (a civil divorce is a virtual prerequisite to filing a canonical petition for nullity), and ask which group is more likely to have more people in invalid marriages.

¹²See "Tribunal Statistics Summary," *CLSA Proceedings* (1992) pp. 252-268.

¹³See A. Mendonca, *Rotal Anthology: An Annotated Index of Rotal Decisions from 1971 to 1988*, (Washington, DC: Canon Law Society of America, 1992) pp. 755-769.

¹⁴For the entire period 1971-1988, Mendonca lists 236 Rotal cases as coming from America, 127 (52%) of which went affirmative. See Mendonca, *Rotal Anthology*, pp. 688-695. If, however, a tribunal critic were to try to take this lower figure and argue that only 50% of American annulment petitions would, after Rotal review, be considered as proven (for many reasons, this would be a difficult argument to make) that would still suggest that well over 30,000 U.S. declarations of nullity would be provable each year. While that lower figure is roughly

half the current U.S. annual formal nullity total, it remains over 100 times higher than the pre-APN numbers in America.

¹⁵ The 1994 *Catholic Almanac*, at p. 235, suggests that at least six million American Catholics have been divorced at least one time. Lawrence Wrenn estimated that, in the late 1970s, only one-half of one percent of all divorced Catholics in America were receiving annulments each year. *CLSA Commentary*, at p. 1010. V. Pospishil, "Response to Role of Law Award," *CLSA Proceedings* (1994) 270-273, at 272, suggests that over 160,000 Catholic couples (out of 1.1 million American divorces) split up each year, but that only 10% of those couples will ever file a nullity petition.

¹⁶ There is a third possibility: namely, that tens of thousands, perhaps hundreds of thousands, of American Catholics bring completely sufficient marriage skills to the altar, but then disregard natural and ecclesiastical law in divorcing each other and (usually) remarrying outside of the Church, only to then turn around and seek an ecclesiastical annulment of their first marriage for reasons unrelated, and sometimes even antithetical, to the conjugal truth of their situation. Such a perverse exercise of the free will, on such a massive scale, is, as a matter of moral theology, possible. Whether this is a plausible explanation of the American annulment avalanche, I think, remains to be seen.

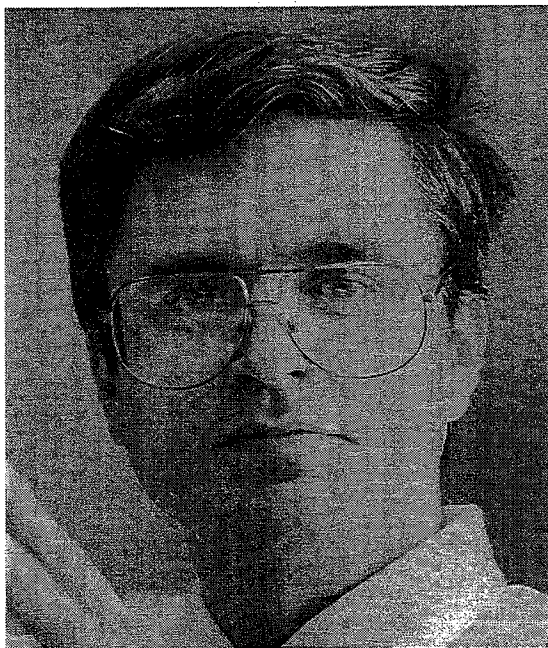
¹⁷ The statistics are basically correct. According to the 1994 *Catholic Almanac*, 59,220,000 American Catholics make up 6.2% of the world's

949,578,000 Catholic population. In 1991, the U.S. accounted for 63,900 (79%) of the world's 80,700 annulments.

¹⁸ Mendonca, *Rotal Anthology*, pp. 590-698, takes 108 pages to list, by country of origin, all Rotal marriage cases from 1971-1988. Italy alone takes up 76 of those pages (compared to America's less than 7 pages), and a sampling of the Italian pages shows an affirmative rate of at least 50%.

¹⁹ Those pastors who do try to prevent a disaster-waiting-to-happen from getting married face numerous canonical obstacles to their efforts. See, for example, 1983 CIC 18, 213, 1058, and 1077. But see 1983 CIC 1071-1072.

²⁰ Msgr. Cormac Burke, a noted jurist and judge of the Roman Rota, recently wrote: "[A certain anonymous tribunal critic] seems to limit his concern to one point: there are too many declarations of nullity, and the number must be reduced. To my mind, he is missing the real underlying problem, which is not the number of declarations of nullity but the number of failed marriages. Not all failed marriages are entitled to be declared null; but it is fairly evident that if we can reduce the number of marital failures, we are going to have fewer petitions for nullity. I wish [the critic] had sought to investigate the roots of these failures, instead of putting the blame for the problem he sees on the new Code of Canon Law." C. Burke, "Marriage, Annulment, and the Quest for Lasting Commitment," *Catholic World Report*, January 1996, 54-61, at 54.



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