

15-01-2026

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**To cite this article:** Wicaksono, E. N. (2026). Normative analysis of the legal status of Catholic church annulment in the national legal system: A comparison of the concepts of annulment and divorce. *Priviet Social Sciences Journal*, 6(1), 390-399.

<https://doi.org/10.55942/pssj.v6i1.1329>

**To link to this article:** <https://doi.org/10.55942/pssj.v6i1.1329>



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## Normative analysis of the legal status of Catholic church annulment in the national legal system: A comparison of the concepts of annulment and divorce

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*Received 10 December 2025*

*Revised 14 January 2026*

*Accepted 15 January 2026*

### ABSTRACT

This study normatively analyzes the legal status of the Catholic Church's annulment within the Indonesian national legal system by comparing the concepts of annulment and divorce. This study is normative legal research that employs statutory and conceptual approaches. The results indicate that annulment in Catholic Church Law is declarative and based on the principle of the indissolubility of marriage, thus being conceptually distinct from divorce in national law. Although annulment shares similarities with marriage annulment, the decisions of ecclesiastical tribunals do not have binding legal force in the national legal system because they are not explicitly regulated by Law Number 1 of 1974 concerning Marriage. This lack of synchronization between canon and national laws creates legal uncertainty and has implications for the protection of Catholic citizens' rights. This research affirms the necessity of harmonizing legal norms within the framework of legal pluralism to achieve legal certainty and justice in the regulation of marital status in Indonesia

**Keywords:** Annulment; Catholic Church Law; Marriage Law; Marriage Annulment; Divorce; Legal Pluralism.

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## 1. INTRODUCTION

Marriage is a fundamental institution that possesses not only social and cultural dimensions but also intertwined legal and religious dimensions. In the context of a pluralistic rule-of-law nation like Indonesia, the regulation of marriage cannot be separated from the influence of recognized religious norms, whose existence is guaranteed by the Constitution. Law Number 1 of 1974 concerning Marriage affirms that the validity of a marriage is determined by the religious law of each party, while the state plays a role in regulating the legal consequences. The consequence of this legal construction is the emergence of various coexisting normative regimes, including the marriage law of the Catholic Church, which has distinct characteristics, particularly concerning the principle of indissolubility, or the impossibility of dissolving a sacramental marriage (Harahap, 2020).

In Catholic Church law, divorce, in the sense of terminating a marital bond, is not recognized. Instead, the concept of annulment or ecclesiastical declaration of nullity is used. This is a declaration that a marriage was never valid from the beginning because certain essential requirements stipulated in the *Codex Iuris Canonici* were not met. From a national legal perspective, marriage annulment and divorce are two distinct legal institutions, both conceptually and legally. Annulment in the Marriage Law and the Compilation of Islamic Law is defined as the invalidity of a marriage *ab initio* (from the start) due to defects in requirements or certain legal prohibitions, whereas divorce is the termination of a valid marriage through judicial procedure (Rubiyatmoko, 2019; Putra et al., 2025).

Several normative legal studies have reviewed this distinction within the framework of Indonesia's positive law; however, they generally remain focused on the Islamic legal regime or Western civil law. Studies that specifically position Catholic Church annulments within a systemic relationship with national law are still limited. Several previous normative legal research projects have addressed the issues of marriage, annulment, and divorce from various perspectives. Cicha (2019), in her research on Catholic marriage law, asserts that the principle of indissolubility is the fundamental basis of canon law, meaning that divorce is not recognized in the Catholic Church; instead, it is replaced by the annulment mechanism as an instrument for evaluating the marriage's validity *ab initio* (from the start). Another study by Putra (2024) highlights the problem of marriage law pluralism in Indonesia, demonstrating the tension between state and religious law in judicial practice, particularly concerning the recognition of marital status and its legal consequences. Furthermore, normative research by Adrian and Sanjaya (2025) on the relationship between church and state law concluded that ecclesiastical tribunals' decisions, including annulments, still lack a clear position in the national legal system due to the absence of explicit regulation in statutory laws.

Although these studies make important contributions to understanding marriage law and legal pluralism, most still discuss the issues partially and have not comprehensively examined the legal status of Catholic Church annulment through a conceptual comparison between annulment and divorce within a single, holistic, normative analysis framework. Furthermore, annulment is often viewed solely as an internal church legal phenomenon, without an in-depth analysis of its legal status in the national legal system and its juridical implications for Catholic citizens. In practice, Catholics who obtain annulment decisions often face legal uncertainties regarding civil registration, previous marital statuses, and possibilities of remarrying under state law. This research gap indicates a significant lack of literature, particularly in understanding the conceptual and normative differences between marriage annulment according to canon law and divorce according to national law, and how these two concepts interact within the framework of a rule of law that guarantees religious freedom in Indonesia.

Based on the aforementioned background, this study aims to normatively analyze the legal status of the Catholic Church annulment within the Indonesian national legal system by positioning it within a conceptual comparison between marriage annulment and divorce. The research focuses on the study of relevant statutory regulations, legal doctrines, and fundamental concepts in marriage and religious law. Theoretically, this study is expected to enrich the domain of legal science, especially in developing the

theory of legal pluralism and the relationship between state and religious law. Practically, this research is hoped to contribute to policymakers, law enforcement officials, and religious institutions in formulating a clearer and more equitable approach to the legal status of Catholic marriages in the national legal system.

## 2. METHOD

This normative legal research analyzes the legal status of the Catholic Church annulment within the Indonesian national legal system using a juridical-dogmatic approach. This approach was chosen because the research focus lies on legal norms, principles, and doctrines, rather than behavior or empirical data. This study utilizes a statutory approach to examine relevant positive law rules, including Law Number 1 of 1974 concerning Marriage, its implementing regulations, and the Catholic Church's canon law provisions found in the *Codex Iuris Canonici*. Simultaneously, a conceptual approach is employed to examine fundamental concepts such as marriage, annulment, divorce, ecclesiastical declaration of nullity, and the principle of indissolubility, by referencing legal doctrines, academic literature, and the theory of legal pluralism (Marzuki, 2017). Legal sources consist of primary materials (statutory regulations, court decisions, and canonical documents), secondary materials (textbooks, national and international journals, and academic articles), and tertiary materials (legal dictionaries and encyclopedias). Data were collected through library research and classified based on the relevance and authority of the sources. The analysis was performed qualitatively using a prescriptive and argumentative method, applying grammatical, systematic, and conceptual legal interpretation techniques. A conceptual comparison was then conducted among marriage annulment (national), divorce, and ecclesiastical annulment to identify similarities, differences, and juridical implications. The results of the analysis are presented logically and systematically to address the research objectives and provide relevant normative recommendations (Marzuki, 2017; Sugiyono, 2022).

## 3. RESULT AND DISCUSSION

### 3.1. The Concept of Annulment in Catholic Church Law and Its Normative Basis

In Catholic Church Law, marriage is understood as a sacramental covenant (*foedus matrimoniale*) that is inherently monogamous and indissoluble (*indissolubilis*). This principle is explicitly affirmed in the 1983 *Codex Iuris Canonici* (CIC), particularly in Canons 1055 and 1056, which position marriage not merely as a legal relationship between two individuals but as a sacramental bond with both theological and juridical dimensions. Consequently, the Catholic Church does not recognize divorce as the termination of a valid and fully consummated (*ratum et consummatum*) marital bond. The concept of annulment, or ecclesiastical declaration of nullity, arises from this understanding. Annulment is not the dissolution of a marriage; rather, it is an authoritative declaration by an ecclesiastical tribunal that a valid marriage never existed from the very beginning because certain essential requirements were not fulfilled. The normative basis for annulment is detailed in Book VII of the 1983 CIC, specifically provisions concerning defects in consent (Canons 1095–1107), legal incapacity to marry (*impedimenta dirimentia*), and violation of the canonical form of marriage (Rubiyatmoko, 2019; Vasco, 2025). Thus, annulment is declarative, not constitutive, as it merely states the legal condition that existed from the moment the marriage took place.

The fundamental difference between annulment and divorce from a canonical perspective lies in their objects and legal consequences. Divorce, as known in state legal systems, presupposes the existence of a valid marriage that is subsequently terminated for specific reasons. Conversely, annulment asserts that the marital bond was never valid in the eyes of the Church's law. Therefore, annulment does not contradict the principle of indissolubility, as that principle only applies to valid and complete marriages. Within this framework, annulment is positioned as an instrument to protect the sanctity and integrity of the sacrament of matrimony. Theoretically, annulment reflects the Catholic Church's legal approach, which

places the free will and personal capacity of the parties as fundamental elements in forming the marital bond. The canonical legal doctrine emphasizes that marital consent is the *causa efficiens* (efficient cause) of marriage itself. If that consent is defective, whether due to psychological incapacity, fraud, coercion, or a fundamental error regarding the nature of marriage, then the legal bond was never validly formed. This approach shows that canon law is not purely formalistic but is also oriented toward substantive justice (*aequitas canonica*) (Robinson, 2000; Bzdyrak, 2016; Komoniewska, 2017).

In the context of conceptual comparison, annulment is often misunderstood as a form of religious divorce, especially in national legal systems that have not fully grasped the characteristics of the canon law. However, annulment and divorce belong to two distinct conceptual regimes from a normative standpoint. Divorce operates from a positivistic logic that recognizes the state's authority to terminate a valid legal relationship, while annulment operates from a sacramental theological logic that rejects the possibility of dissolving a valid marital bond. This difference in paradigms confirms that annulment cannot be equated with divorce, neither in terms of the normative basis, purpose, nor legal implications (Adrian & Sanjaya, 2025).

### **3.2. Regulation of Marriage Annulment and Divorce in the National Legal System**

In the Indonesian national legal system, marriage is regulated as a physical and spiritual bond between a man and a woman, aiming to form a happy and perpetual family based on Belief in the One Supreme God. This conception, as formulated in Article 1 of Law Number 1 of 1974 concerning Marriage, reflects a synthesis of religious, social, and legal values. Nonetheless, despite the ideal of marriage being based on the principle of permanence, national law still provides legal mechanisms to address certain conditions that make a marriage unsustainable, namely, through the institutions of marriage annulment and divorce. These two institutions are regulated separately and have distinct normative characteristics in terms of legal basis, requirements, and legal consequences (Adrian & Sanjaya, 2025).

Marriage annulment in national law is regulated by Articles 22 to 28 of Law Number 1 of 1974. Annulment is defined as the invalidity of a marriage because it fails to meet the requirements specified by law, whether material or formal. Normatively, marriage annulment operates on the assumption that a marriage legally never existed or was deemed invalid from the start, even if it was factually performed. This provision aligns with civil law theory regarding defects in consent and violations of the essential requirements for a legal act, which renders the act null and void or voidable. Furthermore, the Marriage Law asserts that marriage annulment can only be decided by the court, with specific parties having legal standing, such as the husband or wife, ascendant relatives, and authorized officials. This regulation is further elaborated in Government Regulation Number 9 of 1975 as the implementing regulation, which governs the procedure for filing annulments and their legal consequences. From a normative perspective, marriage annulment has a limited retroactive effect, where the legal consequences of the marriage are deemed never to have existed, except for the children born from that marriage, whose legal status remains recognized to protect their rights (Intihani, 2025; Wardani et al., 2025).

Meanwhile, divorce in the national legal system is regulated in Articles 38 to 41 of Law Number 1 of 1974 and is positioned as a mechanism for terminating a valid marriage, as follows: Divorce can only be granted before a court hearing after the court has attempted to reconcile the two parties but failed. This norm reflects the state's cautious principle in terminating the marital bond while also indicating that divorce is the *ultimum remedium* (last resort). The grounds for divorce are further regulated in implementing regulations and are limitative, such as continuous disputes, violation of marital obligations, or certain circumstances that make the continuation of the household unsustainable (Atmoko & Baihaki, 2022).

Conceptually, the fundamental difference between marriage annulment and divorce in national law lies in the marriage's initial validity status. Annulment relates to a normative defect at the time of marriage, whereas divorce concerns factual and juridical conditions that arise after a valid marriage has taken place.

This difference has significant legal implications, affecting the status of the parties, joint property, and the possibility of remarriage (Atmoko & Baihaki, 2022). Thus, annulment and divorce cannot be conceptually or normatively interchanged.

In the context of legal pluralism, the regulation of annulment and divorce in national law demonstrates the state's attempt to accommodate religious values while guaranteeing legal certainty. However, this regulation has not explicitly anticipated the existence of marriage annulment mechanisms based on specific religious laws, such as annulment within the Catholic Church. This normative void creates ambiguity in practice, particularly when an ecclesiastical annulment decision confronts the national legal regime, which strictly differentiates between state law annulment and divorce.

### **3.3. Normative Comparison between Catholic Church Annulment, Marriage Annulment, and Divorce in Indonesian National Law**

Normatively, the Catholic Church's annulment, marriage annulment, and divorce in Indonesian national law are three legal institutions that share similar terminology in practice but are built on distinct conceptual and philosophical foundations. These differences extend beyond procedures and authorizing authorities to the fundamental paradigm of the nature of marriage itself. Catholic Church Law positions marriage as an indissoluble sacrament, whereas Indonesian national law views marriage as a civil legal act legitimized by religion, with its legal consequences regulated by the state. From the perspective of canon law, annulment functions as a declarative mechanism to pronounce the invalidity of a marriage *ab initio* due to the failure to meet essential requirements, particularly the lack of marital consent. This principle is rooted in the doctrine of indissolubility, which rejects the possibility of divorce for valid and consummated marriages. Therefore, annulment does not terminate a marriage bond; instead, it asserts that the bond was never juridically formed. Conversely, Indonesian national law strictly differentiates between marriage annulment and divorce as two standalone legal institutions with different legal consequences (Winaga & Rupi, 2024).

Marriage annulment in national law, as stipulated in Law Number 1 of 1974, is conceptually close to the annulment in the Catholic Church because both start from the assumption that the marriage was invalid from the beginning. Both are based on a normative defect present when the marriage took place, whether it was a violation of legal requirements, incapacity of the legal subjects, or a defect in consent. However, the fundamental difference lies in the normative source and regulatory purpose. Marriage annulment in national law is sourced from the state's positive law and aims to ensure legal order and certainty, while annulment is sourced from canon law and aims to preserve the integrity of the marriage sacrament (Rubiyatmoko, 2019; Intihani, 2025).

Divorce in Indonesian national law has a completely different normative character from that of the Catholic Church's annulment. Divorce presupposes a valid marriage that is subsequently terminated through a court decision for specific reasons, which are restrictively regulated by law. Within this framework, the state recognizes the possibility of ending the marital bond in response to social dynamics and protecting individual rights. This paradigm is conceptually opposed to canon law, which rejects the dissolution of a valid marital bond, meaning that divorce has no normative equivalent in the Catholic Church's legal system (Jegaut & Fernandes, 2023).

From the perspective of legal pluralism theory, the normative differences between *annulment*, national annulment, and divorce reflect the coexistence of various legal systems operating within the same social sphere. The state recognizes religious law as the basis for the validity of marriage but maintains its legal positivist autonomy in regulating legal consequences and dispute resolution. Normative tension arises when an ecclesiastical annulment decision confronts the national legal regime, which only recognizes annulment and divorce through the state's judicial mechanism (Madera, 2022). In this situation, annulment

does not automatically have an effect within the national legal system, even though it possesses full religious legitimacy.

Comparatively, it can be concluded that the Catholic Church's annulment is conceptually closer to national marriage annulment than to divorce, yet it is not fully identical to either annulment. Annulment has a declarative, sacramental nature; national marriage annulment is juridical-administrative within the state's legal framework; and divorce is constitutive and prospective. This difference confirms that equating annulment with divorce is a mistaken simplification that potentially leads to legal uncertainty.

### **3.4. Legal Status of the Catholic Church Annulment Outcome in the Indonesian National Legal System**

In the Indonesian national legal system, the legal status of a marriage and its legal consequences are determined by state legal norms, even though the validity of the marriage is based on the respective religious laws of the parties involved. This normative construction places religious law as the basis for the religious validity of marriage, while its recognition and legal consequences fall within the state's authority. In this context, the Catholic Church's annulment decision poses a juridical problem because it originates from a religious legal authority that is not explicitly integrated into the state's legal mechanisms, particularly within the regime of marriage annulment and divorce as regulated by Law Number 1 of 1974 concerning Marriage (Hadikusuma, 2022).

Normatively, the Marriage Law only recognizes marriage annulment and divorce decided by a state court as the basis for changing a marriage's legal status. Article 22 of Law Number 1 of 1974 affirms that a marriage can be annulled if the parties do not meet the requirements for conducting the marriage, and this annulment must be decided by a court. This provision indicates that the state requires a decision from a state judicial body to produce civil legal consequences (Atmoko & Baihaki, 2022). Consequently, an annulment decision issued by an ecclesiastical tribunal does not automatically possess binding legal force in the national legal system.

This inconsistency reflects the differences in normative paradigms between canon and national law. In Catholic Church law, annulment is declarative and states that the marriage was never valid from the beginning, based on canon law. However, from the national law perspective, marriage remains valid as long as it meets civil registration requirements and has not been annulled or terminated through state judicial mechanisms. The result is a dualism of legal status, where a marriage may be declared religiously invalid but remains legally valid under state law (Rubiyatmoko, 2019; Atmoko & Baihaki, 2022).

From the perspective of the theory of normative hierarchy, national law holds a dominant position in determining civil legal consequences for citizens. The decisions of ecclesiastical tribunals are not included in the structure of state judicial institutions as regulated by the Constitution and statutory laws, thus lacking direct juridical efficacy. This suggests that the Catholic Church's annulment only possesses internal legal validity within the ecclesiastical community, without external legal consequences, unless adopted or recognized through a state legal mechanism. Nevertheless, when viewed from the perspective of legal pluralism, the Catholic Church's *annulment* is part of a non-state legal system that is lived and adhered to by a specific community. Legal pluralism asserts that in a pluralistic society, various legal systems can coexist, even if they are not formally integrated. Within this framework, *annulment* holds strong social and religious legitimacy for Catholics, even if it is not recognized by the state. This tension between socio-religious and juridical legitimacy is the primary source of legal uncertainty (Winaga & Rupi, 2024).

The practical implications of this inconsistency are evident in civil registration issues and the possibility of remarriage. According to Church law, a Catholic who has obtained a canonical *annulment* is considered free to remarry; however, they remain bound by their previous marital status under state law. Without a decision of annulment or divorce from the state court, the marital status remains recorded, creating administrative and judicial obstacles. This condition indicates a normative void in national law that

has not adequately accommodated decisions from non-state religious law (Rubiyatmoko, 2019; Adrian & Sanjaya, 2025),

### **3.5. The Juridical Implications of the Inconsistency and Alignment between Canon Law and National Law on the Protection of Catholic Citizens' Rights**

The lack of synchronization between the Catholic Church's canon law and Indonesian national law in regulating marital status has significant juridical implications for the protection of the rights of Catholic citizens. Normatively, national law positions the state as the sole authority competent to determine the civil legal consequences of a marriage, while canon law governs the validity of marriage in its religious and sacramental dimensions. This difference in jurisdictional scope creates a condition where an individual can simultaneously hold two different legal statuses: unbound by marriage according to church law, yet still bound according to state law (Larantukan & Latumahina, 2025).

The first juridical implication of this inconsistency is the emergence of legal uncertainty for Catholic citizens in the military. The principle of legal certainty is one of the pillars of a rule-of-law state guaranteed by the constitution, but in this context, it is not fully realized. A canonically valid annulment decision is not followed by state legal recognition, preventing the concerned individual from obtaining clarity regarding their civil status. This uncertainty directly affects the right to remarry, the right to civil registration, and the legal protection of any new family relationship (Winaga & Rupi, 2024).

Beyond legal uncertainty, the inconsistency between canon law and national law also implies a potential violation of the right to freedom of religion. The constitution guarantees the freedom of every citizen to practice their religion, including in matters of marriage. However, when national law does not provide a mechanism that aligns with the annulment decision, Catholic citizens are placed in a dilemma: obeying church law but facing state legal obstacles, or vice versa. This situation indicates that the protection of religious rights has not been fully integrated into national marriage law regulation. Another juridical implication relates to the principle of equality before the law. The absence of explicit regulation concerning the Catholic Church's annulment potentially leads to unequal treatment compared to citizens subject to other religious legal regimes that have marriage annulment mechanisms more accommodated by national law. This disparity can be viewed as a form of indirect discrimination, as religious differences imply differences in the level of legal protection for marital status and civil rights (Putra, 2024).

Conversely, alignment between canon law and national law, if achieved through a mechanism of limited recognition or integration, has the potential to strengthen the protection of Catholic citizens' rights. From the perspective of legal pluralism theory, this alignment need not take the form of full recognition of ecclesiastical tribunal decisions, but could be realized through a mechanism for harmonizing norms or a procedure for converting the decision into the state judicial system. This approach allows the state to maintain its legal sovereignty while simultaneously respecting the religious legal norms alive within society (Winaga & Rupi, 2024). The positive juridical implications of such alignment are the creation of legal certainty and substantive justice. Catholic citizens who obtain an annulment would no longer be in a situation of dual legal status, thereby ensuring that the right to form a family, obtain legal recognition for a new marriage, and administrative protection can be optimally fulfilled. Furthermore, this alignment also reinforces the legitimacy of national law as a system responsive to diversity and the religious values of the community.

## **4. CONCLUSION**

The annulment in Catholic Church Law is a declarative mechanism that pronounces the invalidity of a marriage *ab initio* based on canon law, and is conceptually closer to marriage annulment than to divorce in Indonesian national law. Nevertheless, the annulment lacks binding legal force within the national legal system because it is not included in the annulment or divorce mechanisms regulated by Law Number 1 of

1974 concerning Marriage and its implementing regulations. This lack of synchronization between canon law and national law results in a dualism of marital status, legal uncertainty, and potentially hinders the protection of the rights of Catholic citizens, particularly concerning the certainty of their civil status and the exercise of religious freedom. This condition indicates a normative void in the national marriage law, which is not yet fully responsive to legal pluralism and the diversity of religious legal systems alive within society. There is a need for harmonization efforts between national law and religious law through systematic interpretation or regulatory reform that accommodates the Catholic Church's annulment decision in a limited and proportional manner. The State can formulate a mechanism for conversion or administrative recognition of ecclesiastical tribunal decisions through the state judiciary, without diminishing the principle of national legal sovereignty. Furthermore, policymakers and law enforcement officials need to develop a more sensitive approach to legal pluralism to ensure legal certainty, equality before the law, and the protection of citizens' rights in resolving marital status issues.

### **Ethical Approval**

Not applicable

### **Informed Consent Statement**

Not applicable

### **Disclosure Statement**

The authors declare no potential conflict of interest.

### **Data Availability Statement**

The data presented in this study are available on request from the corresponding author due to privacy reasons.

### **Funding**

This research received no external funding.

### **Notes on Contributors**

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