## TABLE OF CONTENTS

- Foreword ............................................. 9
- Preface ........................................... 11
- Introduction ...................................... 13

### Chapter One

**DISSOLUTION OF NON-CONSUMMATED MARRIAGE** ..................................... 15

1.0 The Substantive Law (can. 1142) .................................................. 16
  - 1.1 Consummation ............................................. 16
  - 1.1.1 *Humano modo* consummation ........................................ 17
    - (a) Contribution of Vatican Council II .................................... 18
    - (b) Redaction of canon 1061 § 1 ............................................ 22
    - (c) Meaning of *humano modo* ............................................. 26
  - 1.1.2 Conjugal act in itself apt for the generation of offspring ........ 28
  - 1.2 Limitations of the provision ............................................ 29
  - 1.3 The power to dissolve ................................................... 30

2.0 The Procedure .................................................. 31
  - 2.1 Petition [can. 1697] ............................................. 32
  - 2.2 The competent authority [can. 1698] .................................... 33
  - 2.3 The diocesan phase ................................................ 34
    - 2.3.1 The competent bishop [can. 1699] .................................... 34
    - 2.3.2 The responsibilities of the bishop .................................... 35
    - 2.3.3 Constitution of a commission (1700-1701 § 1) ....................... 36
    - 2.3.4 Advocates (1701 § 2) .................................................. 37
    - 2.3.5 The investigation proper ............................................. 38
      - (a) Moral argument .................................................. 38
      - (b) Physical argument .................................................. 40
      - (c) Questions to the parties ............................................. 41
    - 2.3.6 Absence of a party ............................................... 42
    - 2.3.7 Conclusion of the instruction [can. 1703] ......................... 42
    - 2.3.8 Report of the instructor ............................................. 43
    - 2.3.9 Observations of the defender of the bond ......................... 44
    - 2.3.10 Bishop's votum [can. 1704] ........................................ 44
    - 2.3.11 Transfer of the case to the Apostolic See [can. 1705 §1] ....... 46
  - 2.4 Response from the Apostolic See [can. 1705 §§ 2-3 - 1706] ............ 47
    - 2.4.1 Supplementary instruction ........................................... 48
    - 2.4.2 Negative reply ................................................ 49
    - 2.4.3 Affirmative reply ................................................ 49
Chapter Two

PRIVILEGE OF THE FAITH

1.0 Pauline Privilege

1.1 The requisites necessary for the application of pauline privilege (can. 1143)

1.1.1 The marriage contracted between two non-baptised

1.1.2 Only one party be baptised

1.1.3 The non-baptised party must depart

1.1.4 The baptised party should not have given the other party a just cause to depart

1.2 Conditions for the valid application of pauline privilege (can. 1144 § 1)

1.3 Who is to interpellate? (can. 1145)

1.4 The new partner (cann. 1146-1147)

1.5 The procedure

1.5.1 The petition

1.5.2 The documents to be attached to the petition

1.5.3 Competent local Ordinary

1.5.4 Admission of the petition

1.5.5 Oath of the ministers

1.5.6 Citation of parties and instruction of the case

1.5.7 Summary of the instructor

1.5.8 Intervention of the defender of the bond

1.5.9 Duty of the notary

1.5.10 Decree of the local Ordinary

2.0 Polygamy and Polyandry

2.1 The origin of the discipline

2.2 The discipline today (can. 1148)

2.2.1 Simultaneous wives

2.2.2 Unbaptised wives

2.2.3 Inability to remain with the legitimate wife

2.2.4 Dismissal of other wives

2.2.5 Marriage form

2.2.6 The provisions of mixed marriage

2.2.7 Provision of the dismissed wives

2.2.8 Some doubts

3.0 Captivity or Persecution

3.1 The substantive law and its application (can. 1149)

3.2 The limitations

4.0 In the Case of Doubt (can. 1150)
Chapter Three

IN FAVOUR OF THE FAITH .................................................. 81

1.0 The Substantive Norms .............................................. 82
1.1 Ambit of the procedure and competent authority (art. 1) .... 82
1.2 Competent authority to examine individual cases (art. 2) ... 83
1.3 Competent authority to instruct the case (art. 3) ............ 84
1.4 Essential conditions (art. 4) ...................................... 85
1.5 Declaration regarding faith (art. 5) .............................. 87
1.6 Negation of a second favour of dissolution (art. 6) ......... 88
1.7 Marriage contracted with dispensation from the impediment of disparity of cult (art. 7) ...................... 89
1.8 Marriage of a catechumen (art. 8) ............................... 90
1.9 Cases of special difficulties (art. 9) ......................... 92
1.10 Doubt on the validity of marriage (art. 10) ............... 92

2.0 Procedural Norms ..................................................... 94
2.1 Constitution of the commission (art. 11) ................... 94
2.2 Gathering proofs (art. 12) ....................................... 95
2.3 Authentication of the documents (art. 13) ................. 97
2.4 The examination of the parties and witnesses (art. 14) ...... 98
2.5 Refusal or inability to appear before the instructor and absence from the process (art. 15) ............... 99
2.6 Absence of baptism (art. 16) .................................... 101
2.7 Absence of consummation after the other party is baptised (art. 17) ..................................................... 103
2.8 State of the other party and the cause of marriage breakdown (art. 18) ......................................................... 104
2.9 Divorce decree and canonical nullity sentence (art. 19) .... 105
2.10 Obligation toward the previous spouse and children (art. 20) ................................................................. 106
2.11 Intention regarding baptism (art. 21) ........................ 107
2.12 Religious practice of the petitioner and the intended spouse (art. 22) .......................................................... 108
2.13 Intervention of the defender of the bond (art. 23) ........ 109
2.14 Votum of the bishop (art. 24) .................................. 110
2.15 Transmission of the acts to the Congregation (art. 25) ... 112

3.0 The Procedure Step by Step ........................................ 113
3.1 The petition .......................................................... 113
3.2 The documents to be attached ................................ 114
3.3 Acceptance of the petition ...................................... 114
3.4 Oath of office ...................................................... 115
3.5 The citation of parties and witnesses ...................... 115
3.6 The questions for the interrogation ...................... 115
3.7 Deposition outside the tribunal .............................. 116
3.8 Absence from the process .................................... 116
3.9 The conclusion of the instruction ......................... 116
3.10 The report of the instructor ................................ 117
3.11 Observations of the defender of the bond ........... 117
3.12 The votum of the bishop ..................................... 117
3.13 Summary, index and page numbers ..................... 118
3.14 The response from the Congregation .................. 118
3.15 New marriage of the respondent ....................... 119
### TABLE OF CONTENTS

**Appendices to Chapter Three**

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>An exemplar of petition</td>
<td>123</td>
</tr>
<tr>
<td>II</td>
<td>An exemplar of the decree of the constitution of the commission</td>
<td>124</td>
</tr>
<tr>
<td>III</td>
<td>An exemplar of the decree of citation</td>
<td>125</td>
</tr>
<tr>
<td>IV (A)</td>
<td>Cases of dissolution according to <em>Potestas Ecclesiae</em></td>
<td>126</td>
</tr>
<tr>
<td>IV (B)</td>
<td>Cases of dissolution according to <em>Potestas Ecclesiae</em></td>
<td>127</td>
</tr>
<tr>
<td>V</td>
<td>Questions for the instruction</td>
<td>129</td>
</tr>
<tr>
<td>VI</td>
<td>Notes regarding documentary and procedural aspects of favour of the faith cases</td>
<td>137</td>
</tr>
<tr>
<td>VII</td>
<td>Caution format</td>
<td>141</td>
</tr>
<tr>
<td>VIII</td>
<td>Summary format</td>
<td>142</td>
</tr>
</tbody>
</table>

**Bibliography**                                                      | 145  |
**List of Canons**                                                    | 149  |
**Index of Persons and Places**                                        | 153  |