

# Marriage

Rev. Mark Richards, JCL

## Marriage

### Marriage: Covenant and Sacrament

Canon 1055 § 1

The matrimonial **covenant**, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a **sacrament** between the baptized.

## Marriage

Canon 1055 § 2

For this reason, a valid matrimonial contract cannot exist **between the baptized** without it being by that fact a **sacrament**.

(See *Gaudium et spes*, n. 48 – Vatican II)

## Marriage

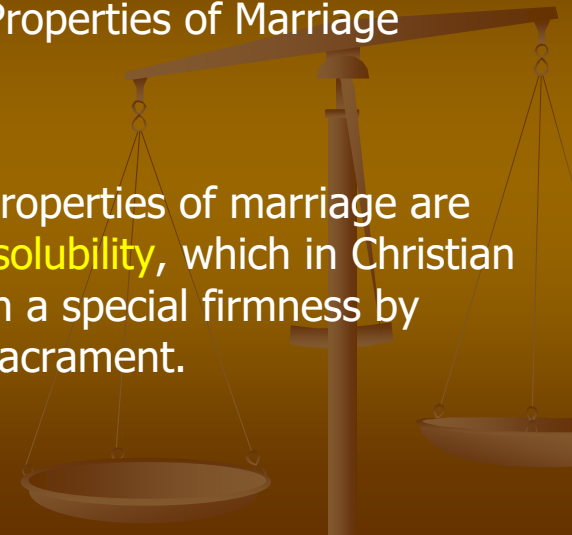
- One man, one woman
- Covenant
- Partnership of the Whole of Life
- Good of the Spouses (unitive) AND
- Procreation and Education of Children (procreative)
- Raised by Christ to the dignity of a Sacrament

## Marriage

### Essential Properties of Marriage

#### Canon 1056

The essential properties of marriage are **unity and indissolubility**, which in Christian marriage obtain a special firmness by reason of the sacrament.

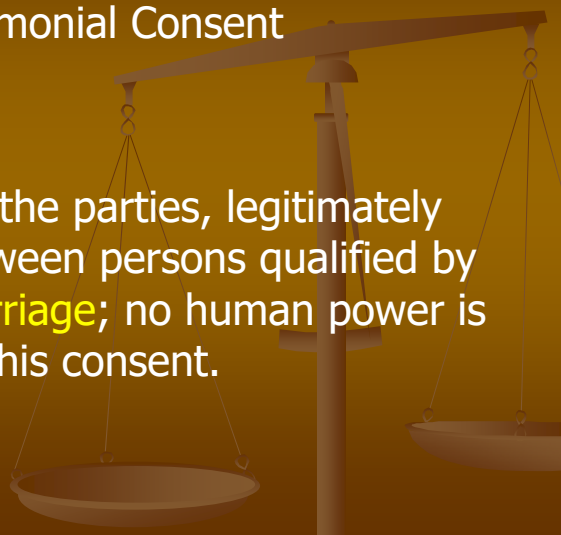


## Marriage

### Matrimonial Consent

#### Canon 1057 § 1

The **consent** of the parties, legitimately manifested between persons qualified by law, **makes marriage**; no human power is able to supply this consent.



## Marriage

Canon 1057 § 2

Matrimonial **consent is an act of the will** by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage.

## Marriage

### The Right to Marry

Canon 1058

All persons who are **not** prohibited by law can contract marriage.

- \* All who have the **physical and mental capacity** and are **not restricted by divine or ecclesiastical impediments** are not to be hindered in any manner from marrying.

## Marriage

- Canon 1059  
Even if only one party is Catholic, the marriage of Catholics is governed not only by divine law, but also by canon law, without prejudice to the competence of civil authority concerning the merely civil effects of the same marriage.

## Marriage

- Divine Law
  - Binds everyone, baptized or not
  - Applies to all marriages

## Marriage

### ■ Ecclesiastical Law (Canon 11):

“merely ecclesiastical laws bind those who have been baptized in the Catholic Church or received into it.”

## Marriage

### Regarding Non Catholics

Marriages in which BOTH parties are non-Catholic, parties are NOT bound by:

- Canonical Form (c. 1108)
- Impediments which are purely ecclesiastical laws (e.g., cc. 1083, 1093)

## Marriage

### Legal Presumption

#### Canon 1060

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.

## Marriage

### Putative Marriage

#### Canon 1061 § 3

An invalid marriage is called putative if at least one party celebrated it in good faith, until both parties become certain of its nullity.

## Marriage

### Types of Marriage

- **Natural Bond**
  - All marriages including Jews, Hindus, Muslims, etc. In a natural marriage, at least one party is un-baptized or is invalidly baptized.
- **Sacramental Bond**
  - Two baptized Christians
- **Catholic Sacramental Bond**
  - Married according to Canonical Form

## Marriage

### Case Studies

### Marriage Bond

Natural, Sacramental, or Catholic?



## Marriage Preparation

- Remote Preparation (c. 1063, 1° )
  - Catechesis
  - Preaching
  - Social Communication

## Marriage Preparation

- Proximate Preparation (c. 1063, 2° )
  - Diocesan Marriage Preparation Policy (rev 2014)
    - Six month process
      - Hospitality
      - Catechesis
      - Assessment
      - Documents
      - Liturgy
      - Special Circumstances

## Marriage Preparation

- Confirmation
- Canon 1065, § 1. "Catholics who have not yet received the sacrament of confirmation are to receive it before they are admitted to marriage if it can be done without grave inconvenience."
- Exception
- Penance and Eucharist (c. 1065, § 2)

## Marriage Preparation

- Canon 1066: "Before a marriage is celebrated, it must be evident that nothing stands in the way of its valid and licit celebration."

## Marriage Preparation

### Validity vs. Liceity

**Validity** refers to those explicit things required by law for an act to occur.

**Licity** refers to those things required by law to be observed for an act to occur legitimately or legally.

## Marriage Preparation

- One cannot dispense from divine law.
- Merely ecclesiastical laws which are invalidating can be dispensed in some cases for a just cause.
- Some situations may require permission for liceity.

## Marriage Preparation

- A look at:
  - Form A (Tab 10, p. 18)
  - Form B (Tab 10, p. 23)
  - Dispensation of Permission (Tab 10, p. 15)
  - Dispensation from Canonical Form

## Marriage Preparation

- Marriage File
  - Form A
  - Form B
  - Dispensations/Permissions
  - Sacramental Certificates
  - Certificate of Completion of Catechesis
  - Assessment Instrument
  - Pastoral Notes
  - (Decrees of Invalidity/Death Certificate)
  - Civil License/Certificate

## Marriage Preparation

- Questions, comments, concerns?

## Invalid Marriage

### Declaring a Marriage Invalid

- In granting a **declaration of invalidity**, the Church is saying that there was a marriage that appeared valid (a putative marriage), but from the beginning the marital consent was lacking or invalid.
- An annulment does **not** deny that a marital relationship, that appeared valid, existed.
- The declaration of invalidity states that the putative marriage was in fact an **invalid marriage**.

## Invalid Marriage

Are the Children Illegitimate?

Canon 1137

The children conceived or born of a valid or putative marriage are **legitimate**.

## Invalid Marriage

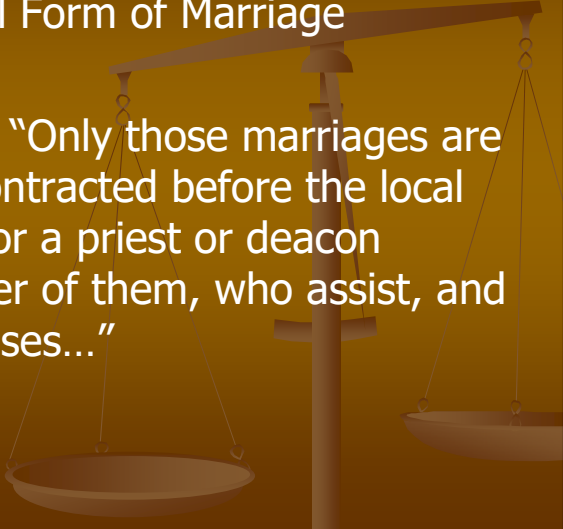
### Factors That Invalidate Marriage

- Existence of an Impediment (cc. 1083-1094)
- Defect of Consent (cc. 1095-1103)
- Defect of Form (cc. 1108-1127)

## Marriage

### Canonical Form of Marriage

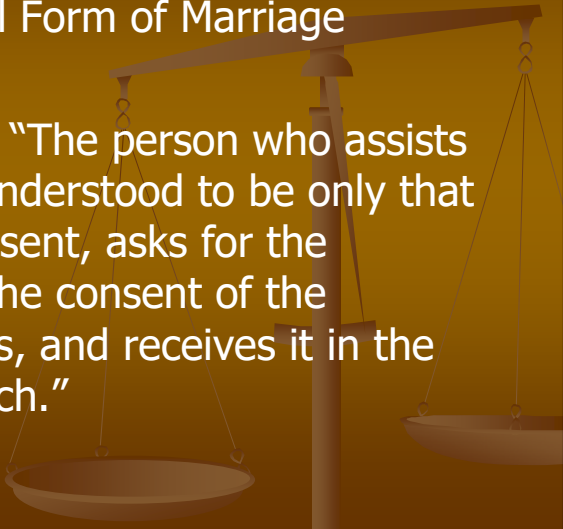
Canon 1108 § 1: "Only those marriages are valid which are contracted before the local ordinary, pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses..."



## Marriage

### Canonical Form of Marriage

Canon 1108 § 2: "The person who assists at a marriage is understood to be only that person who is present, asks for the manifestation of the consent of the contracting parties, and receives it in the name of the Church."



## Marriage

- Canonical Form of Marriage
  - Local Ordinary
  - Pastor
  - Delegate
  - Two Witnesses
  - Present, asks for and receives consent in the name of the Church

## Marriage

### Impediments

Canon 1073

A diriment impediment renders a person unqualified to contract marriage **validly**.



## Marriage

### Impediment of Age

#### Canon 1083

§ 1. A man before he has completed his sixteenth year of age and a woman before she has completed her fourteenth year of age cannot enter into a valid marriage.

## Marriage

### Impediment of Impotence

#### Canon 1084

§ 1. Antecedent and perpetual impotence to have intercourse, whether on the part of the man or the woman, whether absolute or relative, nullifies marriage by its very nature.

## Marriage

### Impediment of *Ligamen* (Prior Bond)

#### Canon 1085

§ 1. A person bound by the bond of a prior marriage, even if it was not consummated, invalidly attempts marriage.

## Marriage

### Impediment of *Ligamen* (Prior Bond)

#### Canon 1085

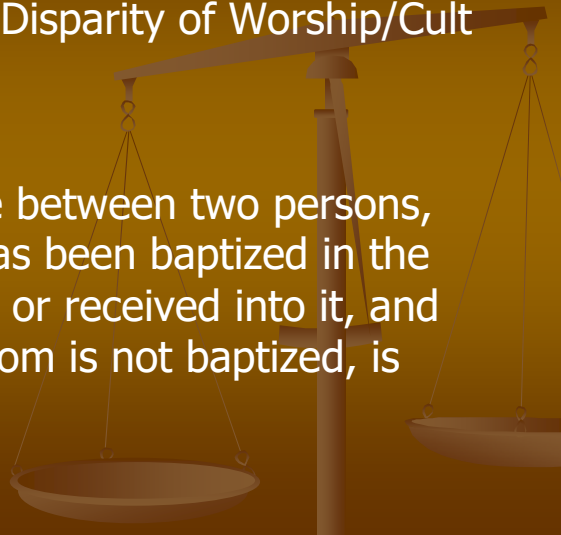
§ 2. Even if the prior marriage is invalid or dissolved for any reason, it is not on that account permitted to contract another before the nullity or dissolution of the prior marriage is established legitimately and certainly.

## Marriage

### Impediment of Disparity of Worship/Cult

#### Canon 1086

§ 1. A marriage between two persons, one of whom has been baptized in the Catholic Church or received into it, and the other of whom is not baptized, is invalid.



## Marriage

### Impediment of Sacred Orders

#### Canon 1087

Those in sacred orders invalidly attempt marriage.

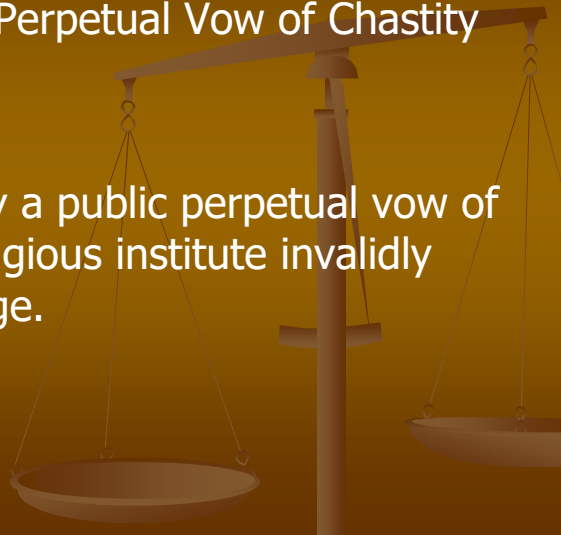


## Marriage

### Impediment of Perpetual Vow of Chastity

#### Canon 1088

Those bound by a public perpetual vow of chastity in a religious institute invalidly attempt marriage.

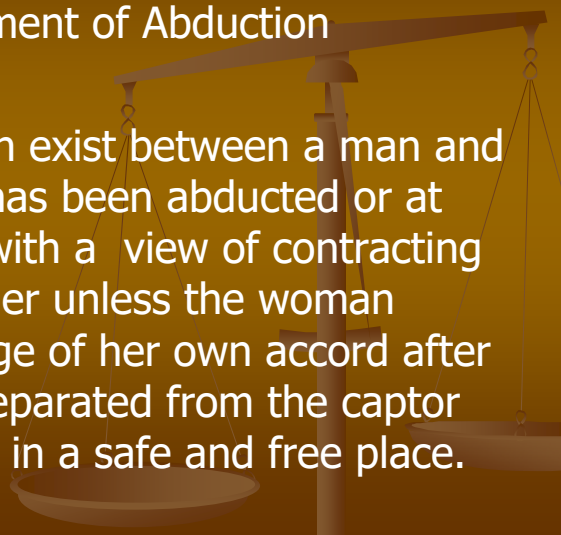


## Marriage

### Impediment of Abduction

#### Canon 1089

No marriage can exist between a man and a woman who has been abducted or at least detained with a view of contracting marriage with her unless the woman chooses marriage of her own accord after she has been separated from the captor and established in a safe and free place.



## Marriage

### Impediment of *Crimen*

#### Canon 1090

§ 1. Anyone who with a view to entering marriage with a certain person has brought about the death of that person's spouse or of one's own spouse invalidly attempts this marriage.

## Marriage

### Impediment of Consanguinity

#### Canon 1091

§ 1. In the direct line of consanguinity marriage is invalid between all ancestors and descendants, both legitimate and natural.

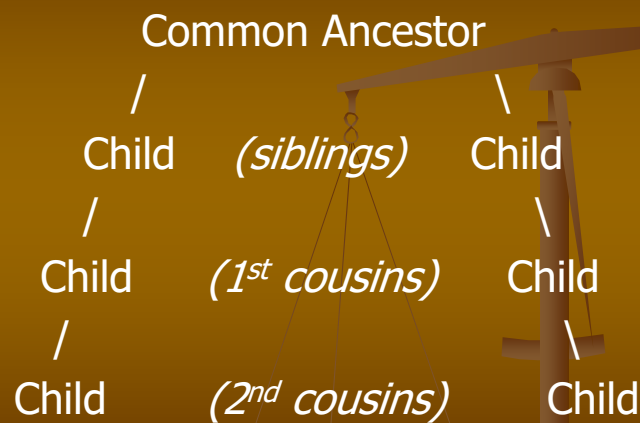
## Marriage

### Impediment of Consanguinity

Canon 1091

§ 2. In the collateral line marriage is invalid up to and including the fourth degree.

### Consanguinity in the Collateral Line

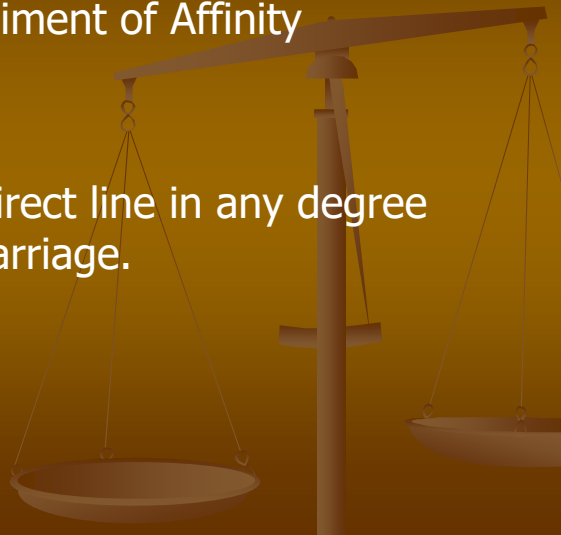


## Marriage

### Impediment of Affinity

Canon 1092

Affinity in the direct line in any degree invalidates a marriage.

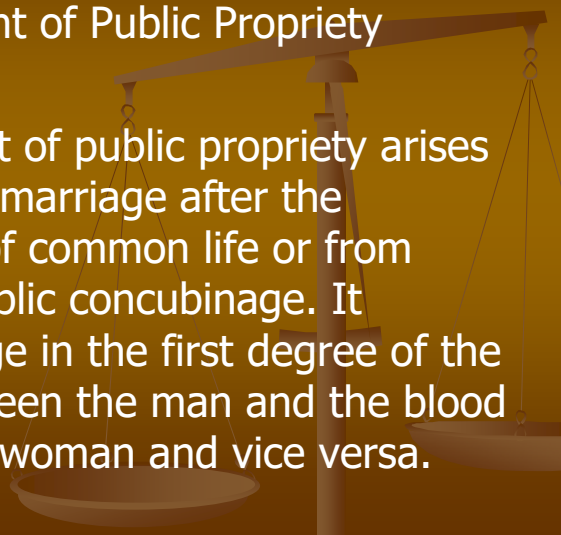


## Marriage

### Impediment of Public Propriety

Canon 1093

The impediment of public propriety arises from an invalid marriage after the establishment of common life or from notorious or public concubinage. It nullifies marriage in the first degree of the direct line between the man and the blood relatives of the woman and vice versa.



## Marriage

### Impediment of Legal Adoption

Canon 1094

Those who are legally related by reason of adoption cannot validly marry each other if their relationship is in the direct line or in the second degree of the collateral line.

## Marriage

### Impediment of Spiritual Relationship (Prior to November 27, 1983)

1917 *CIC*, c. 1079

The only spiritual relationship which invalidates marriage is [with the person baptizing and the sponsor].



## Canon Law of Marriage

- Questions, comments, concerns so far?

