Grounds

FOR A DECLARATION OF INVALIDITY

INTRO ADVOCATE TRAINING 2021

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INCAPACITY

Can. 1095. The following are incapable of contracting marriage:

1º those who lack the sufficient use of reason;

2º those who suffer from a grave defect of discretion of judgment concerning the essential matrimonial rights and duties mutually to be handed over and accepted;

3º those who are not able to assume the essential obligations of marriage for causes of a psychic nature.
Canon 1095, 1º

Lack of Due Reason

Inability to make use of human intellect and will

May be temporary or permanent

Dementia
Lack of Due Discretion

Inability to evaluate circumstances in order to make prudential judgment concerning intended spouse or marriage itself due to a psychic anomaly.
Lack of Due Competence

Incapacity to assume responsibilities of marriage due to psychological causes.
Canon 1095

Incapacity

Required Proof:

- Impossibility, not difficulty
- Psychic anomaly
- Expert Opinion
Time for questions
SIMULATION

Can. 1101 §1. The internal consent of the mind is presumed to conform to the words and signs used in celebrating the marriage.

§2. If, however, either or both of the parties by a positive act of the will exclude marriage itself, some essential element of marriage, or some essential property of marriage, the party contracts invalidly.
Consent makes marriage

The law presumes that the external manifestation of consent is in complete harmony with the person’s real internal intention.
Summary

A PERSON CAN SIMULATE:

Totally: Marriage itself

Partially:
Children, Fidelity, Perpetuity, Good of the Spouses, Sacramentality
Canon 1101 §2

Total Simulation

No internal consent to marry

Participates in ceremony for some other external reason (e.g., to obtain citizenship)
PARTIAL SIMULATION

(1) **Intention Against Children** (Contra Bonum Prolis)

(2) **Intention Against Fidelity** (Contra Bonum Fidei)

(3) **Intention Against Perpetuity** (Contra Bonum Sacramenti)

(4) **Intention Against the Good of the Spouses**
    (Contra Bonum Coniugum)

(5) **Intention Against Sacramentality**
    (Contra Bonum Sacramentalitatis)
Canon 1101 §2

*Contra bonum Prolis*

Intention against Openness to Children

The person intends to marry in a fashion, but excludes the intention to engage in acts which are *per se* apt for the procreation of children.
Contra bonum Fidei

Intention Against Fidelity

The person intends to marry, but reserves the right to sexual relations with a third party.
The person intends to marry but reserves right to dissolve the marriage if difficulties arise.
Contra bonum Coniugum

Intention against the Good of the Spouses

The person intends to marry, but for purely selfish reasons with no regard for the good of the other party.
The person intends to marry, but does not recognize marriage as a sacrament.
Canon 1101

Simulation

Proof Required:

- Confession (direct or indirect)
- Motive
- Personality
- Confirmation by witness
Time for questions
Ignorance

Can. 1096, §1. For matrimonial consent to exist, the contracting parties must be at least not ignorant that marriage is a permanent partnership between a man and a woman ordered to the procreation of offspring by means of some sexual cooperation.

  §2. This ignorance is not presumed after puberty.
What is ignorance?

The law presumes that after puberty, a person knows that marriage entails:

- A permanent Partnership
- Heterosexual
- Procreation through sexual cooperation
Canon 1096

Ignorance

Proof required:

- Reason for post-pubescent ignorance
- Reason for marriage
Time for questions
Force and Fear

Can. 1103. A marriage is invalid if entered into because of force or grave fear from without, even if unintentionally inflicted, so that a person is compelled to choose marriage in order to be free from it.
Canon 1103

Force and Fear

Force (external)

Fear (internal)
  ◦ Reverential fear

Grave

Extrinsic

Causative of marriage
Force and Fear

Proof required:

◦ Threat: direct or indirect
  ◦ Physical harm, moral pressure

◦ Aversion to marriage or partner

◦ Inescapable except through marriage

◦ Reverential fear: relationship, circumstances
Time for questions
Error of Person and Quality

Can. 1097, §1. Error concerning the person renders a marriage invalid.

§2. Error concerning a quality of the person does not render a marriage invalid even if it is the cause for the contract, unless this quality is directly and principally intended.
What is error?
Summary

Error of: Person Quality
Canon 1096, §1

Error of Person

This ground is rarely used
Regards actual physical person

Required Proof:
- Actual person one intended to marry was not the person with whom the ceremony was celebrated.
Canon 1096, §2

Error of Quality

Quality (e.g., moral, physical, social, religious, legal)

Directly and principally intended

Quality overshadows person

Required Proof:

◦ Principal reason to marry was presumed existence or absence of particular quality, yet was erroneous.
◦ Evidence of influence on decision to marry
◦ Reaction to discovery
Time for questions
Dolus
(Fraud or Deceit)

Can. 1098. A person contracts invalidly who enters marriage deceived by malice, perpetrated to obtain consent, concerning some quality of the other person which by its very nature can gravely disturb the partnership of conjugal life.
Canon 1098

*Dolus* (Fraud or Deceit)

- Imposed error, fraud
- Manipulates the will
- Deceit deliberate to obtain consent
- Quality objectively serious
- Disruptive of consortium
- Real and present
Canon 1098

*Dolus* (Fraud or Deceit)

Proof required:

- Seriousness of quality (e.g., disease, children, homosexuality, criminal record, drug use, etc.)
- Motive of deceiver
- Weight of fraud on the one deceived
- Reaction when discovered
- Connection to disruption of consortium
- Fraud concerning grave quality successfully perpetrated to obtain consent
Time for questions
Error of Law

Can. 1099. Error concerning the unity or indissolubility or sacramental dignity of marriage does not vitiate matrimonial consent provided that it does not determine the will.
Canon 1099

Error of Law

Error must determine the will
Not simple error or prevailing error; but determining error
Marriage cannot be conceived of in any other way
Substantially irreconcilable with true marriage
Unity (e.g., polygamy, infidelity)
Indissolubility (e.g., divorce mentality)
Sacramental dignity (e.g., civil matter only)
Canon 1099

Error of Law

Proof required:

- Confession
- Circumstances of life
- Depth of error
- Influence on will
- Compelled by erroneous beliefs
Time for questions
Conditioned Consent

Can. 1102, §1. A marriage subject to a condition about the future cannot be contracted validly.

§2. A marriage entered into subject to a condition about the past or the present is valid or not insofar as that which is subject to the condition exists or not.

§3. The condition mentioned in §2, however, cannot be placed licitly without the written permission of the local ordinary.
Canon 1102

Condition

Marriages celebrated prior to November 27, 1983 (1917 Code of Canon Law)

◦ A licitly placed future condition would invalidate that marriage only if the condition were not fulfilled.


◦ A future condition invalidates marriage whether or not that condition is fulfilled.
Canon 1102

Condition

Proofs required:

◦ Relationship to decision to marry

◦ Would marriage have occurred without condition?

◦ Reason for the agreement

◦ Real condition or only a mode?
Time for questions