



October 11, 2010

GROUNDS IN FORMAL CASES ¹

Lack of Sufficient Use of Reason: (canon 1095, 1^o) Defect of consent because a person lacks sufficient use of reason. A person must have reasoning ability sufficient to know and understand that, in marrying, "a man and a woman give to and receive from each other, by an irrevocable covenant to constitute a partnership of the spouses' entire life together, a partnership ordered, by its nature, to the good of the spouses and to the procreation and upbringing of children." A serious condition, such as profound mental retardation, certain personality disorders or black-out states (caused by alcoholic intoxication, drug use or seizure disorder), might have prevented a person from possessing or using reasoning ability during the marriage ceremony.

Grave Defect of Discretion of Judgment: (canon 1095, 2^o) Defect of consent due to a grave defect of discretionary judgment concerning the essential matrimonial rights and obligations to be mutually given and accepted. This would entail a grave lack of understanding of the responsibilities of marriage and/or a serious lack of knowledge of oneself or the former spouse. Severe immaturity could be involved. To enter a valid marriage, a person must have the use of sound reason and mature judgment. This means the person is making a prudent and free decision, after careful judgment, to enter marriage with a particular person, and the decision is not impulsive or without forethought.

Inability to Assume the Essential Obligations of Marriage: (canon 1095, 3^o) Defect of consent because of an inability to assume the essential obligations of marriage due to causes of a psychological nature. To enter a valid marriage, a person must have the psychological ability to take on and to live out the lifetime obligations of marriage. A person cannot consent to something that is beyond his/her psychological capacity to fulfill. Even if the condition became known or diagnosed only after marriage, if a person was afflicted at the time of marriage with a serious psychological or psychiatric condition that prevented him or her from assuming the obligations of marriage, the marriage is invalid. Often this involves a personality disorder or mental illness that prevents a person from assuming at the time of consent the essential matrimonial rights and obligations to be mutually exchanged. Proof of the condition must be provided.

Ignorance of the Nature of Marriage: (canon 1096) Defect of consent because a person was ignorant of either the object or of the subject of marriage. The person was capable of knowledge but lacked the opportunity to know that Christian marriage is a permanent, exclusive, intimate, interpersonal relationship of a special nature between a man and a woman, ordered to the procreation of children through sexual cooperation.

Error Concerning the Person: (canon 1097, §1) Defect of consent due to error concerning the other person. Marital consent is exchanged between a specific man or woman, and it is essential to have true knowledge of who that person is. If one spouse made a substantial error in judgment concerning the true identity, (not personality or behavior) of the intended spouse, or, in other words, married someone other than the person he/she intended, the marriage is invalid.

Error Concerning a Quality of the Person: (canon 1097, §2) Defect of consent due to error concerning a quality of the other person, directly and principally intended in a spouse. If one party intended to marry someone who possessed a certain quality (perhaps of a moral, social, physical, religious, psychological or legal nature), and the primary reason for entering the marriage was the erroneous belief the intended spouse possessed that quality, the marriage may be invalid. The intended quality must be of such a magnitude that, without it, the person would not have married the other, and the discovery of the truth must have had a serious effect on the nature of the marriage.

Error Concerning the Unity or Indissolubility of Marriage (Error of Law or Determining Error): (canon 1099) Defect of consent due to error concerning the unity, indissolubility of matrimony. Error about the substance of marriage can invalidate. When a person was not aware of the true nature of marriage, he/she may have chosen a model of marriage contrary to Christian marriage. The party was in error about the substance of marriage but believed that way of thinking is right. This belief must have been firmly held, or, in other words, marriage could not be conceived of in any other way than allowing for the possibility of ending or dissolving the marriage. \

Error Concerning the Sacramental Dignity of Marriage (Error of Law or Determining Error): (canon 1099) Defect of consent due to error concerning the sacred character or sacramental nature of marriage between two baptized people. A person may enter marriage validly when he or she is in simple error (holding a false opinion) about the sacramental dignity of marriage. However, if one or both spouses entered marriage with an erroneous belief that marriage is simply a civil or secular matter and it has no relation to the sacred for the baptized, the marriage may be invalid. This belief must have been firmly held, or, in other words, marriage could not be conceived of in any other way than as civil or secular in nature.

Fraud or Imposed Error: (canon 1098) Defect of consent when a person entered marriage intentionally deceived by fraud, perpetrated to obtain marital consent, concerning some quality of the other party which of its very nature can seriously disturb the partnership of conjugal life. The fraud could have been perpetrated by the other spouse or by a third party, but the end result was the same: one of the contracting parties consented because he/she was deceived into doing so.

Total Simulation of Marriage: (canon 1101) Defect of consent because a person entered marriage by a positive act of the will that excluded marriage itself. To simulate consent means to say one thing externally but to intend something quite different internally. Total simulation of marriage means one or both spouses, at the time of marriage, did not intend to enter a real marriage as taught by the Church. Instead, something quite different was intended. The person went through the motions but had no intention of entering marriage in harmony with the Church's teaching.

Partial Simulation of Marriage: (canon 1101) Defect of consent because at least one of the parties, by a positive act of the will, withheld from consent the right to an essential element of marriage such as children, fidelity or permanence. These three *bona*, or gifts, lead to a fourth, the good or wellbeing of the other spouse.

An intention against children (*prolis*) would involve withholding the right to sexual acts open to the begetting of children and/or withholding the right to the education of offspring not only academically but also religiously. This can take several forms: an outright intention to have no children in the marriage, a delay or postponement of children for illicit reasons, sterilization or consistent use of birth control to avoid pregnancy. The result usually is that no children are conceived after the wedding day or the number of

children was deliberately and intentionally limited from the beginning.

An intention against fidelity, or exclusivity (*fidei*), would involve the withholding of the right to fidelity by not recognizing that fidelity is essential to marriage and by not intending to keep the vow of fidelity. It is important to note that what invalidates the marriage is the intention, present from the beginning, to permit infidelity – not actual infidelity. Adultery itself is not a ground of nullity

An intention against the permanence (*sacramenti*) of marriage would involve withholding the right to perpetuity; that is, entering the marriage with the idea that one had the right to divorce and remarry.

An intention against the good of the spouse (*coniugum*) would involve not being mutually giving and accepting of one another, or as stated in Annulments, by Lawrence Wrenn, "... to exclude any obligation on their own part to be loving, caring spouses."

Conditioned Consent – Future Condition (c. 1101, §1): Defect of consent when a person entered marriage with a reservation or future condition. The spouses are required to give total and free consent to marry one another. If a person entered marriage while waiting to see if in the future a certain condition would be fulfilled or not (e.g., that one's spouse would change religions in the future, enter a certain profession or bear a child), the marriage was invalid. This ground can be considered if one or both of the spouses entered marriage with an expressed condition based on some event in the future. In the 1917 Code, a future condition suspended validity until it was fulfilled. In the 1983 Code, a future condition always invalidates.

Conditioned Consent – Past and Present Condition (c. 1101, §2) Defect of consent when a person entered a marriage based on a past or present condition of the existence or non-existence of a fact, typically concerning the spouse's or his/her past (e.g., citizenship, criminality) or present state (e.g., pregnancy, a medical condition, career, a character or trait). Placing such a condition on the marriage raises serious questions, and it invalidates marriage when it is proven the condition, upon which the marriage decision depended, was not fulfilled at the time of marriage. This ground may be considered when one or both spouses entered the marriage with an expressed condition based on something from the past or present.

Force or Grave Fear: (canon 1103) Defect of consent because the marriage was entered into due to force or grave fear inflicted from outside the person, even when inflicted unintentionally, which was of such a type that the person was compelled to choose matrimony in order to be freed from it.

NOTE Concerning Convalidation of Marriage: (canons 1156-1165) When considering a marriage that was convalidated, it is necessary to look at the consent at the time of convalidation, rather than the consent at the time of the attempted marriage. Therefore, any of the above grounds may be used in adjudicating a case for a convalidated marriage.

¹ Adapted from several sources, particularly www.consentmakesmarriage.com.