

GROUNDS FOR DECLARATION OF NULLITY

The validity of Church marriage rests on three elements, namely, legal capacity, consent and canonical form. A defect in any of these renders canonical marriage null and void *ab initio*. **Legal Capacity** means freedom from any and all matrimonial diriment impediments. Diriment impediments render a person incapable of validly contracting marriage. **Consent** is the act of the will, by which a man and a woman, with an irrevocable covenant give and accept each other mutually, in order to bring into existence a marriage (can. 1057 §2). **Canonical form** refers to the complex of formalities or external solemnities prescribed by law to be followed in order that marriage might be entered into legitimately & validly.

Below is an outline of the grounds of nullity:

LEGAL CAPACITY (canons 1073-1094)

1. Age (c. 1083, §1)

- marriage contracted by parties who, at the time of marriage, is below 16 (for men) or 14 (for women).
- The requisite age for validity is 16 for men and 14 for women.
- The Episcopal conference may set a higher age for the lawful celebration of marriage (c. 1083 §2).
- May be dispensed by Local Ordinary (in danger of death and in urgent necessity with due consideration to the biological maturity necessitated by marriage, with just and proportionate reason)

2. Impotence (c. 1084 §§1-2)

- Antecedent and perpetual inability to procreate, to execute the conjugal act or to consummate the marriage
- Cannot be dispensed

3. Previous Bond (c. 1085 §§1-2)

- a person bound by a previous marriage cannot contract marriage
- Cannot be dispensed

4. Disparity of Cult (c. 1086 §1)

- A marriage between a Catholic and a non-baptized person is invalid.
- Dispensation from the impediment may be granted by the local Ordinary for a just and reasonable cause, and subject to conditions safeguarding the faith of the Catholic and the rectitude of marriage

5. Sacred Orders (c. 1087)

- Founded on the obligation of celibacy or ordained ministers
- Dispensation may be granted by the Holy for grave and truly just reasons.
- Deacons may be dispensed by the local Ordinary in danger of death.

6. Public Perpetual Vow of Chastity (c. 1088)

- A religious who has taken his/her perpetual vow of chastity cannot validly marry
- This impediment ceases with the dispensation of the vow itself by the competent Church authority

7. Abduction (c. 1089)

- A man who abducts a woman by himself or through another with the intention of marrying her cannot validly marry the same woman.
- This impediment does not exist where the woman decides to marry him after she has been separated from her abductor and established in a safe and free place.
- May be dispensed by the local Ordinary

8. Crime (c. 1090 §§1-2)

- actual killing and there should be a relationship between the killing and marriage
- Killing directly or indirectly done by one of the parties involved or by someone else or others acting in his or her behalf and irrespective of whether the intention of marriage is only on the part of the murderer while the other is ignorant thereof, or on part of both the surviving parties.
- May be dispensed by the Holy See

9. Consanguinity (c. 1091 §§1-3)

- It pertains to the relationship by blood or the descent from one person to another.
- It invalidates marriage in all degrees in the direct line and up to fourth degree collateral line
- Dispensation may be given by the local Ordinary for 3rd and 4th degree collateral line.

10. Affinity (c. 1092)

- juridical relationship arising from marriage and existing between one spouse and the blood relatives of the other spouse
- prohibits marriage between one surviving spouse and all the blood relatives of the dead spouse in the ascending or descending direct line and in all degrees.
- Admits dispensation but rarely heard of because of basic decency.

11. Public Propriety (c. 1093)

- this impediment arises when a couple live together (in an invalid marriage) or cohabited in a notorious concubinage
- prohibits marriage between the man and the blood relatives of the woman (first degree ascending or descending direct line) and vice versa
- may be dispensed by the local Ordinary

12. Legal Relationship (c. 1094)

- this impediment arises from adoption.
- Persons may not validly enter into marriage when they are related in whatever degree in the direct line or in the 2nd degree of the collateral line (by adoption)
- May be dispensed by the Local Ordinary

Consent

A. Psychosomatic Incapacity

1. Lack of Sufficient Use of Reason (c. 1095 §1)

- Does not refer to the content of the intellect but to the fundamental ability to know
- The use of reason must be sufficient so as to understand that marriage is a community of conjugal life for the good of the spouses and the generation and education of children.

2. Lack of Due Discretion of Judgment (c. 1095 §2)

- it refers to the capacity to intend and to will
- a person who has due discretion of judgment understand the duties that are to be assumed, and freely chooses to assume those understood duties.
- The lack of due discretion must be grave.

3. Lack of Psychological Capacity (Incompetence) (c. 1095 §3)

- Lack of psychological capacity to assume the essential obligations of marriage (procreation and education of children, good of the spouses, marital fidelity)
- A person may be fully capable of knowing and understanding marriage or giving matrimonial consent with due discretion and yet be radically unable to assume the objective marriage obligations.

B. Cognitive Incapacity

1. Ignorance (c. 1096 §1)

- Lack of minimal knowledge of marriage, that is, the essential elements of the object of the act or its substance
- What couples must know: marriage is a permanent consortium, it is between a man and a woman, ordered to the procreation and education of offspring and some sexual cooperation is needed

2. Error (c. 1097 §§1-2)

- Presence of wrong knowledge either about the person or about the quality of the person, which is directly and principally intended.
- An error of law which influences the will concerning unity, indissolubility or sacramental dignity of marriage

3. Fraud/Deceit (c. 1098)

- It refers to an act through which a person is misled into error (e.g. misrepresentation, lies or even silence) with the intention of securing the consent
- Deceit must concern some quality of the other party, which of its very nature seriously disrupt the partnership of conjugal life

C. Volitive Incapacity

1. Exclusion or Simulation (c. 1101 §2)

- Either or both of the parties must not exclude, by a positive act of the will, marriage or any or all of the essential properties of marriage.
- 2. Conditional Consent** (c. 1102 §1)
 - There is conditional consent when the validity of marriage is made dependent on the verification of the circumstance (future condition only)
 - 3. Force and Fear** (c. 1103)
 - One cannot validly enter marriage by force or with grave fear which seriously compromises a person's marital freedom.
 - The force exerted is irresistible and fear is grave, extrinsic and causative

Canonical Form (cc. 1108-1123)

The absence of any of the following requisites invalidates marriage

- 1. Minister:** couple who must be present in person or by proxy in very exceptional cases. They should externally and explicitly signify and exchange their mutual consent or through words or signs themselves or thru an interpreter
- 2. Ordained Official Witness:** bishop, priest or deacon who assist at the marriage. wherever there is lack of priests and deacons, the diocesan bishop can delegate lay persons to assist at marriages with the previous favorable vote of the episcopal conference and after having obtained the permission of the Holy See
- 3. Two Common Witnesses:** minimum requirements are sufficient use of reason and knowledge of the nature of marriage.

Notes:

1. Extraordinary Form: marriage without QUALIFIED WITNESS possible in two instances: (1) danger of death; (2) apart from danger of death provided that it is prudently foreseen that the same conditions will continue to prevail for a month
2. Binding Force: Binds couple, at least one of whom is baptized in the Catholic Church.
3. Dispensation from Canonical Form: may be obtained for mixed marriage and disparity of cult on the ff conditions: Local Ordinary of the intended place of marriage was consulted and that the norms of Episcopal Conference on the requisites and manner of granting a dispensation has been complied with and marriage should still be public