



EXPLANATIONS OF THE GROUNDS OF NULLITY

Tribunal of the Diocese of Toledo in America

By petitioning for a declaration of nullity, you are making an accusation that your marriage was invalid due to some factor present on the day you exchanged marital consent. Consequently, a petition for a declaration of nullity must include the reason for petitioning, that is, the ground or grounds of nullity on which the marriage is being challenged. There are three major causes of nullity, each of which can be further classified into several distinct grounds. A marriage can be invalid when there is **(1) a defect in consent**, **(2) the presence of an impediment** that rendered one or both of the parties unqualified for marriage, or **(3) a defect in the form of celebration**. Below is a list of the grounds of nullity, a brief description of each ground, and examples that help illustrate the ground. Please note that **the examples are not exhaustive** and that the grounds may be applicable in a wide variety of circumstances.

This document is a review of the grounds of nullity for both Latin and Eastern Catholics, but please note that the grounds of nullity are slightly different between the two Churches. Any differences will be explicitly noted in the text of this document. Please be sure that you understand the grounds as they apply to you based on your affiliation with either the Latin Catholic Church or an Eastern Catholic Church. In this document, *CIC* refers to the Latin Code of Canon Law, and *CCEO* refers to the Eastern Code of Canon Law.

DEFECTS OF CONSENT

Consent is what makes a marriage. However, certain people are not capable of truly giving consent because of some psychological obstacle, error, or lack of freedom. Others are capable of giving consent, but they purposefully withhold something essential from their consent or attach their consent to some external factor.

Lack of Sufficient Use of Reason (c. 1095, 1° *CIC*; c. 818, 1° *CCEO*)

Permanent or temporary lack of the use of reason due to a severe disability, mental illness, psychological disturbance, or intoxication at the time of the celebration of marriage prevents a person from making an act of consent.

Example 1: The bride is so intoxicated during the wedding that she is only partially aware of what is happening around her. Afterwards, she barely remembers the ceremony.

Example 2: The groom suffers from advanced Alzheimer's disease and is very disoriented and confused throughout the wedding ceremony. He repeats the vows but does not seem to understand what is happening. He does not remember the wedding after the fact.

Grave Lack of Discretion of Judgment Regarding Essential Matrimonial Duties (c. 1095, 2° *CIC*; c. 818, 2° *CCEO*)

In order to be able to consent to marriage, a person must possess at least a minimal ability to make a concrete judgment about the essential rights and duties of the marital covenant (i.e. permanence, fidelity, and openness to children). Substance abuse, psychological disorders, severe emotional imbalance, trauma, pathological immaturity, and other similar factors present at the time of consent can deprive a person of the

ability to reason about the decision to marry. Factors like youth, immaturity, pregnancy, or moderate pressure do not typically result in a grave lack of discretion of judgment on their own.

Example 1: On account of traumatic events that occurred in her childhood, namely physical abuse at the hands of her father, the bride suffered for many years from a severe case of anorexia nervosa, which not only affected her eating habits but also her psychic state. The psychologist who had been treating her attests to her serious psychological disturbances especially in her psycho-sexual identity and fear of motherhood.

Example 2: The groom suffers from a severe heroin addiction that started in college and persisted throughout the couple's courtship and engagement. Though he was sober on the wedding day, he used heroin the night before at his bachelor party and later missed the flight to the honeymoon because he was strung out on heroin. His addiction is so severe that he has no conception of a permanent commitment and abandons the marriage just a few years into it.

Incapacity to Assume the Essential Obligations of Marriage (c. 1095, 3° CIC; c. 818, 3° CCEO)

At the time of the celebration of marriage, one of the parties is altogether incapable of taking on the essential obligations of marriage (i.e. permanence, fidelity, and openness to children) for reasons of a psychological nature. The psychological problem must be so severe that it makes it humanly impossible, not merely difficult, to take on the essential obligations of marriage. This impossibility can be caused by a mental illness, a psychological disorder, a severe addiction, or a strong homosexual inclination.

Example 1: From years of chronic alcohol abuse, the bride has so substantially impaired her psyche as to render her incapable of assuming the essential obligations of marriage at the time of consent.

Example 2: As a child the groom was sexually assaulted by a relative, and in his adolescence he developed a severe addiction to pornography, which led to the consumption of more explicit and demeaning forms of pornography as time passed. During the courtship and engagement, the groom was repeatedly unfaithful, engaging in indiscriminate sexual relationships. Even though he is firmly intent on being faithful to his spouse, his severe sexual addiction makes it humanly impossible for him to remain faithful, and as a result, he is repeatedly unfaithful throughout the married life.

Ignorance of the Conjugal Act (c. 1096 CIC; c. 819 CCEO)

For matrimonial consent to be valid, it is necessary that the parties at least be not ignorant that marriage is a permanent partnership between a man and a woman that is ordered toward the procreation of offspring by means of some sexual cooperation. This ground addresses the basic knowledge needed to marry, and thus, the Church presumes that those who have reached the age of puberty have the necessary knowledge to marry.

Example: The bride has lived an unusually sheltered life, and she believes that babies are brought by the stork. On the wedding night, she is shocked and disgusted to learn what the marriage act entails.

Error of Person (c. 1097 §1 CIC; c. 820 §1 CCEO)

At the time of the marriage, one of the parties believes he/she is marrying one person, when in fact, it is someone else.

Example: The bride believes she is marrying the man she loves, when in fact, the person to whom she states her vows is that man's identical twin brother.

Error Concerning a Quality of Person (c. 1097 §2 CIC; c. 820 §2 CCEO)

Error about a certain quality of a person, such as a personality trait or some fact in the person's history, does not make a marriage invalid unless that quality is directly and principally intended. In other words, the quality is desired more than the actual person.

Example 1: The bride is pregnant. She wants to marry the father of the child. Whoever the father of the child is, that is who she wants to marry. Her only reason for getting married is to be married to the father of her child. She marries the groom, believing him to be the father, but a paternity test later reveals the father to be someone else. The bride leaves the groom shortly after this discovery.

Example 2: In an arranged marriage, the groom wants to marry a virgin, a characteristic which he and his family prizes above all others. He chooses to marry a woman he has only met once, believing her to be a virgin. After the marriage, it is discovered that she was not a virgin, and the groom departs immediately.

Fraud (c. 1098 CIC; c. 821 CCEO)¹

A person's consent is invalid if it is given as a result of being deceived by fraud that (1) is intentionally inflicted in order to get that person to give consent and (2) concerns some quality of the other party which of its very nature can seriously disturb the partnership of marriage. The deceit can be perpetrated by the other party or even by some third party, such as a parent.

Example 1: The bride has extensive debts. She knows that the groom would not marry her if he knew about the debts, so she purposely conceals them from him in order to get him to marry her. The groom does not find out about the debts until after the marriage. When the debts are discovered, they cause a serious disturbance in their married life.

Example 2: The groom had polio as a child, which rendered him incapable of having children. Knowing that the bride desires a large family, prior to the marriage, the groom lied to her by telling her that he is also looking forward to having biological children of his own someday. When the bride discovers this fact after the marriage, she promptly leaves.

Error Concerning Marriage (c. 1099 CIC; c. 822 CCEO)

Normally, error about the unity (i.e. marriage to one person), indissolubility (i.e. marriage is for life), or sacramental dignity (i.e. marriage between the baptized is a sacrament) of marriage does not make a marriage invalid. Error of this kind only invalidates when it determines the will. In other words, the error is so deeply held that, in the person's mind, the only kind of marriage that exists is unfaithful marriage, or dissoluble marriage, or non-sacramental marriage. The alternative never seriously enters his/her mind.

Example 1: The groom's parents were divorced when he was very young. Both his parents have since been married several times, with each marriage ending in divorce. All of his aunts, uncles, siblings, and close friends have been married several times to several different people. In his mind, marriage can end whenever the spouses are ready to move on, and he has never really considered the possibility of an indissoluble

¹ **Please note:** this ground is set on the person who has been deceived and not on the person who intentionally deceived the other. In Example 1, the ground would be set on the groom. In Example 2, the ground would be set on the bride.

marriage. When he promises to stay with his wife “until death do us part,” he thinks it is just a nice figure of speech.

Example 2: The groom comes from a culture where polygamy is the norm. He intends to “marry” more women at some point after this first marriage to the bride. He genuinely thinks that this is what marriage is about, and never seriously considered the possibility of having only one wife.

Total Simulation (c. 1101 §2 CIC; c. 824 §2 CCEO)

One or both parties has no intention to establish any kind of marital partnership, but has some totally unrelated goal that can be achieved through the appearance of marriage. The ceremony itself is essentially a sham.

Example: The groom wants a green card in order to be able to remain in the United States. He convinces the bride to marry him solely for that purpose. They have no intention to cohabit or establish any kind of married life, except as necessary to convince immigration officials. The day the green card arrives in the mail, the parties separate, just as they had intended to do all along.

Partial Simulation Against the Good of Children (c. 1101 §2 CIC; c. 824 §2 CCEO)

In spite of what the parties say in their marriage vows, one or both of the parties actually wills against one of the essential elements of marriage, in this case, the good of children. By its nature, marriage is directed toward bearing and raising children. By marrying, spouses give each other the right to procreative acts, even if those acts cannot or do not end up resulting in pregnancy due to infertility, age, etc. If, at the time of marriage, a party excludes this right, the party marries invalidly.

Example: The bride and the groom agree before the wedding that they will never have any children under any circumstance. They consistently use contraception throughout the course of their marriage. When they conceive a child despite using contraception, they choose to have an abortion.

Partial Simulation Against the Good of Fidelity (c. 1101 §2 CIC; c. 824 §2 CCEO)

In spite of what the parties say in their marriage vows, one or both of the parties actually wills against one of the essential elements of marriage, in this case, the good of fidelity. As terrible as adultery is, it does not make a marriage invalid. But, if a party enters marriage while intending to be unfaithful, that intention makes the marriage invalid. In other words, the party must consider bigamy or adultery to be a right.

Example: The groom has a girlfriend on the side throughout the courtship and during the engagement. He intends to keep his mistress even after the marriage. Even though he does not want to be found out, he has no remorse whatsoever about this arrangement.

Partial Simulation Against the Good of Permanence (c. 1101 §2 CIC; c. 824 §2 CCEO)

In spite of what the parties say in their marriage vows, one or both of the parties actually wills against one of the essential elements of marriage, in this case, the good of permanence. Marriage lasts until death. No matter how bad things get, even if the parties have to separate, the bond of marriage remains, making a second marriage impossible. However, if a party enters marriage while reserving a right to dissolve the marriage through divorce and potentially remarry, that party marries invalidly.

Example: The groom cheats on the bride during their engagement. The groom seems sincerely contrite, though, so the bride agrees to go ahead with the wedding, but she also decides then and there that she will not commit to him unconditionally. So, she reserves the

right to dissolve the marriage if the groom ever cheats again. Five years into the marriage, the groom cheats, and the bride leaves him immediately.

Partial Simulation Against the Good of the Spouse (c. 1101 §2 CIC; c. 824 §2 CCEO)

In spite of what the parties say in their marriage vows, one or both of the parties actually wills against one of the essential elements of marriage, in this case, the good of the spouse. By its nature, marriage is directed to the good of the spouses. When spouses marry, they agree to enter a partnership that is ordered towards their mutual good. If one of the parties actually intends to enter a marriage that is ordered toward the harm or corruption of the other party, the party marries invalidly.

Example: The groom is an intensely selfish person. He decides to ask the bride to marry him so that he can have a live-in maid. The bride is also very wealthy, and the groom intends to spend her money on himself and leave her penniless. In his mind, the marriage is solely for his own benefit, and has no concern for the wellbeing of the bride.

Conditioned Consent (c. 1102 CIC; c. 826 CCEO)

Latin Catholics: One or both parties consent to marriage if and only if a certain condition is fulfilled. If the condition is not fulfilled at the time of the marriage, or if the condition relates to the future, the marriage is invalid.

Eastern Catholics: One or both parties consent to marriage if and only if a certain condition is fulfilled. Any condition at all is invalidating, including conditions which concern the past, present, and/or future, regardless of whether they are fulfilled or not at the time of marriage.

Example 1: The bride is pregnant at the time of the wedding, and the groom is uncertain if the baby is his. When he consents to the marriage, he consents strictly under the condition that he is the father. That is the only circumstance under which he is willing to enter marriage. In his mind, the marriage only exists if he is the father. When the baby is born, a paternity test determines that the groom is not the father, and he leaves immediately.

Force or Fear (c. 1103 CIC; c. 825 CCEO)

When a person experiences force or grave fear inflicted even unintentionally by some other person(s), and this force is so great that the person feels compelled to choose an otherwise undesired marriage to be rid of the force or fear, then the marriage is invalid.

Example: The bride is pregnant. She does not want to marry the child's father, but her parents have threatened that if she does not they will cut her off financially and never speak to her again. She has no income other than her parents' financial support, and her parents' love and approval mean everything to her. She is afraid to lose them and afraid of ending up on the streets with a baby, and so she chooses to marry because it is the only possible alternative to avoid her parents' rejection and poverty.

IMPEDIMENTS

Impediments disqualify one or both parties from entering marriage. In general, the Church is extremely diligent about discovering impediments before marriage, but sometimes they can remain undiscovered until after the marriage. Note that certain impediments only apply to marriages in which at least one party is Catholic.

If someone desires to petition for a declaration of nullity via the documentary process because of one of the following impediments, that person must be able to furnish every document listed beneath the impediment. Otherwise, a petition via the ordinary process is necessary. Please note that the document lists may not be exhaustive.

Age (c. 1083 CIC; c. 800 CCEO)

A woman under 14 years of age and a man less than 16 years of age cannot validly marry if one of them is Catholic. If neither party is Catholic, then civil law determines the minimum age for a valid marriage, but never below the age of puberty. The following documents may be required in the documentary process to prove the existence of this impediment prior to the attempted marriage:

- Certified birth certificates for one or both of the parties;
- A **recent (last 6 months)** baptismal certificate **with all notations** for each Catholic party;
- A copy of the *Application for Marriage License* with the attached *Certificate of Marriage*;
- Any Catholic marriage certificate (if applicable);

Antecedent and Perpetual Impotence (c. 1084 CIC; c. 801 CCEO)

A person who is permanently, medically incapable of performing the sexual act cannot validly marry. This is not to be confused with simple infertility or even total sterility, which do not make a marriage invalid. The following documents may be required to prove the existence of this impediment prior to the attempted marriage:

- Some sort of certified document(s) proving at least one party's impotence and the fact that it **both**:
 - Existed prior to the marriage, and
 - Was determined to be perpetual;
- A **recent (last 6 months)** baptismal certificate **with all notations** for each Catholic party;
- A copy of the *Application for Marriage License* with the attached *Certificate of Marriage*;
- Any Catholic marriage certificate (if applicable).
- **Please note that this impediment may only rarely be alleged in a documentary process.**

Prior Marriage - Ligamen (c. 1085 CIC; c. 802 CCEO)

Marriage is for life. If either of the parties has previously been validly married, and the previous spouse is still living, there can be no second marriage. **Note, however, that if the first marriage is later discovered to have been invalid, there was never any impediment to the second marriage.** The following documents may be required to prove the existence of this impediment prior to the attempted marriage:

- A **recent (last 6 months)** baptismal certificate **with all notations** for each and every party who is Catholic, including the Respondent and co-Respondent (Respondent's first spouse);
- A copy of the *Application for Marriage License* with the attached *Certificate of Marriage* for the marriage in question;
- A copy of the *Application for Marriage License* with the attached *Certificate of Marriage* for the Respondent (former spouse)'s previous marriage.

Disparity of Worship/Cult (c. 1086 CIC; c. 803 CCEO)

Without a dispensation from the Church, a Catholic cannot validly marry a person who has never been baptized. This impediment is often dispensed, but sometimes the need for dispensation is overlooked. Note that this impediment only applies to marriages between Catholics and non-baptized persons, and not to (1) marriages between baptized non-Catholics and non-baptized persons, nor to (2) marriages between Catholics and baptized non-Catholics. The following documents may be required to prove the existence of this impediment prior to the attempted marriage:

- A **recent (last 6 months)** baptismal certificate with **all notations** for the Catholic party;
- A copy of the *Application for Marriage License* with the attached *Certificate of Marriage*;
- The Catholic marriage certificate;
- The prenuptial file for the Catholic wedding.
- ***Please note that this impediment may only rarely be alleged in a documentary process.***

Sacred Orders/Vow (cc. 1087-1088 CIC; cc. 804-805 CCEO)

A man who has been ordained to the diaconate or the priesthood cannot validly marry. A man or woman who has taken a public, perpetual vow of chastity in a religious institute cannot validly marry. The following documents may be required to prove the existence of this impediment prior to the attempted marriage:

- A **recent (last 6 months)** baptismal certificate with **all notations** for the Catholic party/parties;
- A copy of the *Application for Marriage License* with the attached *Certificate of Marriage*;
- The Catholic marriage certificate.

Abduction (c. 1089 CIC; c. 806 CCEO)

Latin Catholics: A man cannot validly marry a woman whom he has kidnapped with the intention of marrying her.

Eastern Catholics: A person cannot validly marry another person whom he or she has kidnapped with the intention of marrying him or her.

- ***Please note that this impediment may not be alleged in a documentary process.***

Crime (c. 1090 CIC; c. 807 CCEO)

A person who brings about the death of his or her own spouse or somebody else's spouse in order to marry is impeded from getting married.

- ***Please note that this impediment may not be alleged in a documentary process.***

Consanguinity, Affinity, Spiritual Relationship, or Adoption (cc. 1091-1094 CIC; cc. 808-812 CCEO)

Latin Catholics: Canon law prohibits marriages between certain close blood relatives (consanguinity), as well as certain in-laws (affinity). It also prohibits marriage between a person and the parent or child of someone with whom that person has publicly cohabited, even if they were not married or were only invalidly married (public propriety). Finally, it prohibits marriage between certain people related by adoption.

Eastern Catholics: Canon law prohibits marriages between certain close blood relatives (consanguinity), as well as certain in-laws (affinity). It also prohibits marriage between a person and his or her baptismal sponsor (spiritual relationship; the sponsor also cannot marry the parents of the baptized person). It also prohibits marriage between a person and the parent or child of someone with whom that person has publicly cohabited, even if they were not married or were only invalidly married (public propriety). Finally, it prohibits marriage between certain people related by adoption.

The following documents may be required to prove the existence of this impediment prior to the attempted marriage:

- Certified birth certificates for both of the parties;
- Any adoption papers (if applicable);
- Any documentary proof of the consanguinity/affinity of the parties (if applicable);
- Any documentary proof of the spiritual relationship of the parties (if applicable);
- A **recent (last 6 months)** baptismal certificate with **all notations** for any Catholic party;
- A copy of the *Application for Marriage License* with the attached *Certificate of Marriage*;
- Any Catholic marriage certificate (if applicable).

DEFECTS OF FORM

Latin Catholics are required to marry according to the form specified by the Church, namely, the presence of a priest or deacon who asks for and receives a manifestation of consent, and in the presence of at least two additional witnesses. Often, the Church authority grants a dispensation allowing for some other form of celebration, such as marriage by a Protestant minister. But when there has been no dispensation, Catholics do not marry validly unless they marry according to the required form.

Eastern Catholics are required to marry according to the sacred rite specified by the Church, namely, the presence of a priest or the local hierarch, who has been given the faculty of blessing the marriage, and in the presence of at least two additional witnesses. Sometimes, for a grave cause, the Church authority (the Apostolic See or the patriarch) will grant a dispensation allowing for some other form of celebration. But when there has been no dispensation, Eastern Catholics do not marry validly unless they marry according to the required form.

Lack of Form (cc. 1108 CIC; cc. 834-838 CCEO)

Latin Catholics: When a Catholic, even a non-practicing Catholic, attempts to get married outside of the Church (e.g. before a justice of the peace) without a dispensation, the marriage is invalid. If this is the case, please use the PETITION FOR A DECREE OF ABSENCE OF FORM paperwork.

Eastern Catholics please contact the Chaldean Catholic Diocese of St. Thomas the Apostle at 248-351-0440 to discuss this matter.

Defective Form (c. 1688 CIC – *Mitis Iudex Dominus Iesus*; 1374 CCEO – *Mitis et Misericors Iesus*)

When the form of marriage is generally observed, but some required element is missing, the marriage is invalid. The following documents may be required to prove the existence of this defect of form:

- A recent (last 6 months) baptismal certificate with **all notations** for the Catholic party;
- A copy of the *Application for Marriage License* with the attached *Certificate of Marriage*;
- The Catholic marriage certificate;
- The prenuptial file for the Catholic wedding.
- ***Please note that this ground may only rarely be alleged in a documentary process.***

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