

MARRIAGE: DOCTRINE AND LAW

Quotes from the 1983 *Code of Canon Law* are from the Vatican website.

Quotes from the *Code of Canons of the Eastern Churches* translated by Msgr. Jason Grey are from his website.

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CHURCHES *SUI IURIS*

- Latin/Roman
- Coptic Catholic Church
- Eritrean Catholic Church
- Ethiopian Catholic Church
- Armenian Catholic Church
- Albanian Greek Catholic Church
- Belarusian Greek Catholic Church
- Bulgarian Greek Catholic Church
- Greek Catholic Church of Croatia and Serbia
- Slovak Greek Catholic Church
- Ukrainian Greek Catholic Church
- Russian Greek Catholic Church
- Chaldean Catholic Church
- Syro-Malabar Catholic Church
- Maronite Catholic Church
- Syriac Catholic Church
- Syro-Malankara Catholic Church
- Greek Byzantine Catholic Church
- Hungarian Greek Catholic Church
- Italo-Albanian Catholic Church
- Macedonian Greek Catholic Church
- Melkite Greek Catholic Church
- Romanian Greek Catholic Church
- Ruthenian Greek Catholic Church

CHURCHES *SUI IURIS*

- CCEO Canon 17 - The Christian faithful have the right to worship God according to the prescriptions of their own Church *sui iuris*, and to follow their own form of spiritual life consonant with the teaching of the Church.
- CCEO Canon 27 - A group of Christian faithful united by a hierarchy according to the norm of law which the supreme authority of the Church expressly or tacitly recognizes as *sui iuris* is called in this Code a Church *sui iuris*.
- CCEO Canon 28 - §1. A rite is the liturgical, theological, spiritual and disciplinary patrimony, culture and circumstances of history of a distinct people, by which its own manner of living the faith is manifested in each Church *sui iuris*.
§2. The rites treated in this code, unless otherwise stated, are those which arise from the Alexandrian, Antiochene, Armenian, Chaldean and Constantinopolitan traditions.
- CCEO Canon 35 - Baptized non-Catholics coming into full communion with the Catholic Church should retain and practice their own rite everywhere in the world and should observe it as much as humanly possible. Thus, they are to be enrolled in the Church *sui iuris* of the same rite with due regard for the right of approaching the Apostolic See in special cases of persons, communities or regions.

CHURCHES *SUI IURIS*

- CCEO Canon 36 - The transfer to another Church *sui iuris* takes effect at the moment a declaration is made before the local hierarch or the proper pastor of the same Church or a priest delegated by either of them and two witnesses, unless the rescript of the Apostolic See provides otherwise.
- CCEO Canon 37 - Every enrollment in a certain Church *sui iuris* or transfer to another Church *sui iuris* should be recorded in the baptismal register of the parish where the baptism was celebrated, even, as the case may be, in a Latin parish; if this cannot be done, it is to be kept by the proper pastor in another document in the archive of the parish of the Church *sui iuris* of enrollment.
- CCEO Canon 38 - Christian faithful of Eastern Churches even if committed to the care of a hierarch or pastor of another Church *sui iuris*, nevertheless remain enrolled in their own Church.

RESPECT FOR EASTERN CHURCHES

- CCEO Canon 39 - The rites of the Eastern Churches, as the patrimony of the entire Church of Christ, in which there is clearly evident the tradition which has come from the Apostles through the Fathers and which affirm the divine unity in diversity of the Catholic faith, are to be religiously preserved and fostered.
- CCEO Canon 41 - The Christian faithful of any Church *sui iuris*, even the Latin Church, who have frequent relations with the Christian faithful of another Church *sui iuris* by reason of their office, ministry, or function, are to be accurately instructed in the knowledge and practice of the rite of that Church in keeping with the seriousness of the office, ministry or function which they fulfill.

TWO CODES OF CANON LAW

- Codex Iuris Canonici (Code of Canon Law)
 - Promulgated by St. John Paul II in 1983
- Codex Canonum Ecclesiarum Orientalium (Code of Canons of the Eastern Churches)
 - Promulgated by St. John Paul II in 1990

INTRODUCTORY CANONS

- Canon 1—The canons of this code concern only the Latin church.
- CCEO Canon 1—The canons of this Code affect all and solely the Eastern Catholic Churches, unless, with regard to relations with the Latin Church, it is expressly stated otherwise.

INTRODUCTORY CANONS

- Canon 9—Laws regard the future, not the past, unless they expressly provide for the past.
- Canon 10—Only those laws must be considered invalidating or disqualifying which expressly establish that an act is null or that a person is effected.

DIVINE LAW VS ECCLESIASTICAL LAW

• Divine Law

- Natural Law
- Divine Positive Law

• Ecclesiastical Law

- Positive Law
- Customary Law

- Natural law: God's law written in nature and applicable to every human being
- Divine positive law: formulated law given by God
- Positive law: law that has been formulated and issued by a legislator
- Customary law: a practice that has been in continuous use, such that it becomes law

DIVINE OR MERELY ECCLESIASTICAL

Divine Law in the Code

- Sometimes ecclesiastical laws articulate precepts of divine law (natural or positive)
- They are binding on everyone

Merely Ecclesiastical Law

- Sometimes ecclesiastical laws are not based directly on law given by God
- They are only binding on Catholics, unless otherwise stated.

MERELY ECCLESIASTICAL LAWS

- Canon 11—Merely ecclesiastical laws bind those who have been baptized in the Catholic Church or received into it, possess the efficient use of reason, and, unless the law expressly provides otherwise, have completed seven years of age.

POWER OF GOVERNANCE

Canon 135 §1—The power of governance is distinguished as legislative, executive, and judicial.

Legislators

- Supreme Pontiff (Pope)
- College of Bishops
- Diocesan Bishop

Executive Authorities

- Supreme Pontiff (Pope)
- Congregations of the Roman Curia
- Diocesan Bishop
- Vicar General
- Episcopal Vicars
- Major Superiors

Judicial Authorities

- Supreme Pontiff (Pope)
- Tribunals of the Roman Curia
- Diocesan Bishop
- Judicial Vicars
- Adjutant Judicial Vicars

TRIBUNALS OF THE HOLY SEE

Supreme Tribunal of the Apostolic Signatura

- Highest court in the Church
- Exercises authority in the name of the Supreme Pontiff
- Administrative and procedural matters
- No further recourse

Apostolic Tribunal of the Roman Rota

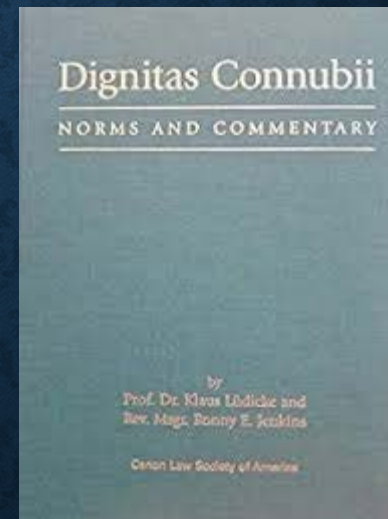
- Exercises judicial authority in the name of the Roman Pontiff
- Highest appeal court for judicial matters

Apostolic Penitentiary

- Exercises authority in the name of the Roman Pontiff
- Internal Forum
- Remits penalties in the internal forum
- Grants indulgences

GENERAL NORMS: INSTRUCTIONS

- Can. 34 §1. Instructions clarify the prescripts of laws and elaborate on and determine the methods to be observed in fulfilling them. They are given for the use of those whose duty it is to see that laws are executed and oblige them in the execution of the laws. Those who possess executive power legitimately issue such instructions within the limits of their competence.
- Instruction to be observed by diocesan and interdiocesan tribunals in handling causes of the nullity of marriage
Dignitas connubii



GENERAL NORMS: DISPENSATIONS

- Can. 85 A dispensation, or the relaxation of a merely ecclesiastical law in a particular case, can be granted by those who possess executive power within the limits of their competence, as well as by those who have the power to dispense explicitly or implicitly either by the law itself or by legitimate delegation.
- Can. 86 Laws are not subject to dispensation to the extent that they define those things which are essentially constitutive of juridic institutes or acts.
- Can. 87 §1. A diocesan bishop, whenever he judges that it contributes to their spiritual good, is able to dispense the faithful from universal and particular disciplinary laws issued for his territory or his subjects by the supreme authority of the Church. He is not able to dispense, however, from procedural or penal laws nor from those whose dispensation is specially reserved to the Apostolic See or some other authority.

GENERAL NORMS: DISPENSATIONS

- Can. 88 A local ordinary is able to dispense from diocesan laws and, whenever he judges that it contributes to the good of the faithful, from laws issued by a plenary or provincial council or by the conference of bishops.
- Can. 89 A pastor and other presbyters or deacons are not able to dispense from universal and particular law unless this power has been expressly granted to them.
- Can. 90 §1. One is not to be dispensed from an ecclesiastical law without a just and reasonable cause, after taking into account the circumstances of the case and the gravity of the law from which dispensation is given; otherwise the dispensation is illicit and, unless it is given by the legislator himself or his superior, also invalid.
- §2. In a case of doubt concerning the sufficiency of the cause, a dispensation is granted validly and licitly.

GENERAL NORMS: DISPENSATIONS

- Can. 91 Even when outside his territory, one who possesses the power to dispense is able to exercise it with respect to his subjects even though they are absent from the territory, and, unless the contrary is expressly established, also with respect to travelers actually present in the territory, as well as with respect to himself.
- Can. 92 A dispensation is subject to a strict interpretation according to the norm of can. 36, §1, as is the very power to dispense granted for a particular case.

POWER OF GOVERNANCE

- Can. 129 §1. Those who have received sacred orders are qualified, according to the norm of the prescripts of the law, for the power of governance, which exists in the Church by divine institution and is also called the power of jurisdiction.
- §2. Lay members of the Christian faithful can cooperate in the exercise of this same power according to the norm of law.
- Can. 130 Of itself, the power of governance is exercised for the external forum; sometimes, however, it is exercised for the internal forum alone, so that the effects which its exercise is meant to have for the external forum are not recognized there, except insofar as the law establishes it in determined cases.

POWER OF GOVERNANCE

- Can. 131 §1. The ordinary power of governance is that which is joined to a certain office by the law itself; delegated, that which is granted to a person but not by means of an office.
- §2. The ordinary power of governance can be either proper or vicarious.
- §3. The burden of proving delegation rests on the one who claims to have been delegated.

POWER OF GOVERNANCE

- Can. 134 §1. In addition to the Roman Pontiff, by the title of ordinary are understood in the law diocesan bishops and others who, even if only temporarily, are placed over some particular church or a community equivalent to it according to the norm of can. 368 as well as those who possess general ordinary executive power in them, namely, vicars general and episcopal vicars; likewise, for their own members, major superiors of clerical religious institutes of pontifical right and of clerical societies of apostolic life of pontifical right who at least possess ordinary executive power.
- §2. By the title of local ordinary are understood all those mentioned in §1 except the superiors of religious institutes and of societies of apostolic life.
- §3. Within the context of executive power, those things which in the canons are attributed by name to the diocesan bishop are understood to belong only to a diocesan bishop and to the others made equivalent to him in can. 381, §2, excluding the vicar general and episcopal vicar except by special mandate.

WHO'S MY ORDINARY???

- Roman Pontiff
 - Proper
 - Executive
 - Judicial
 - Legislative
- Diocesan Bishop
 - Proper
 - Executive
 - Judicial
 - Legislative
- Vicar General
 - Vicarious
 - Executive
- Episcopal Vicars (within their competence)
 - Vicarious
 - Executive
- Judicial Vicar
 - Vicarious
 - Judicial
- N.b.—The Chancellor is NOT an ordinary.

LOCAL ORDINARY

Local Ordinaries

- Supreme Pontiff (Pope)
- Diocesan Bishop (and those equivalent in law)
- Vicar General
- Episcopal Vicar

Other Ordinaries (some examples)

- Major Superior of Male Religious
- Abbot
- Prior
- Ordinary of an Ordinariate for former Anglicans
- Prelate of Opus Dei

CANONICAL TIME

- Can. 200 Unless the law expressly provides otherwise, time is to be computed according to the norm of the following canons.
- Can. 201 §1. **Continuous time** is understood as that which undergoes no interruption.
- §2. **Useful time** is understood as that which a person has to exercise or to pursue a right, so that it does not run for a person who is unaware or unable to act.
- Can. 202 §1. In law, a **day** is understood as a period consisting of 24 continuous hours and begins at midnight unless other provision is expressly made; a **week** is a period of 7 days; a **month** is a period of 30 days, and a **year** is a period of 365 days unless a month and a year are said to be taken as they are in the calendar.
- §2. If time is continuous, a month and a year must always be taken as they are in the calendar.
- Can. 203 §1. The initial day (*a quo*) is not computed in the total unless its beginning coincides with the beginning of the day or the law expressly provides otherwise.
- §2. Unless the contrary is established, the final day (*ad quem*) is computed in the total which, if the time consists of one or more months or years, or one or more weeks, is reached at the end of the last day of the same number or, if a month lacks a day of the same number, at the end of the last day of the month.

SACRAMENTS

- A sacrament is a visible sign instituted by Christ to give grace.
- Matter: the sign/symbol
- Form: the words that give meaning to the symbol
- Minister: the one who makes the sacrament happen
- Recipient: the one who receives the grace of the sacrament

THE SEVEN SACRAMENTS

Sacraments of
Initiation

Baptism*

Confirmation*

Eucharist

Sacraments of
Healing

Penance

Anointing of the

Sick

Sacraments of Service

Holy Orders*

Matrimony

* Sacramental Character/Indelible Mark

ILLICIT VS. INVALID

Illicit

- Illegal
- May or may not be sinful
- Example: changing the words of the Liturgy
- Example: omitting the rite of a sacrament, except for the essential form
 - Can. 846 §1. In celebrating the sacraments the liturgical books approved by competent authority are to be observed faithfully; accordingly, no one is to add, omit, or alter anything in them on one's own authority.
 - §2. The minister is to celebrate the sacraments according to the minister's own rite.

Invalid

- Did not work; ineffective
- Invalid sacrament=No grace conferred
- Sinful, if done knowingly
- Example: "I baptize you in the Name of the Creator, and of the Redeemer, and of the Sanctifier."
- Example: omitting the essential form of a sacrament

THE SACRAMENT OF BAPTISM

- Matter: Immersion in or pouring of water
- Form: Trinitarian formula
 - Latin Rite: “I baptize you in the Name of the Father and of the Son and of the Holy Spirit.”
 - Byzantine: “The servant of God N. is baptized in the Name of the Father and of the Son and of the Holy Spirit.”
- Minister:
 - Ordinary Minister: bishop, priest, deacon
 - Extraordinary Minister: anyone
- Recipient: any human being who has not yet been baptized

THE SACRAMENT OF CONFIRMATION

- **Matter:** The Laying on of Hands with the Anointing with Chrism (Holy Myron)
- **Form:**
 - Latin (Ordinary Form): “N., be sealed with the gift of the Holy Spirit.”
 - Latin (Extraordinary Form): “I sign you with the sign of the cross and anoint you with the chrism of salvation in the Name of the Father and of the Son and of the Holy Spirit.”
 - Byzantine: “The gift of the Holy Spirit.”
- **Minister:**
 - Ordinary: bishop
 - Extraordinary: priest
- **Recipient:** any baptized person who has not yet been confirmed

THE SACRAMENT OF THE EUCHARIST

- Matter: wheat bread and grape wine
- Form: Words of Institution, esp. “This is my Body...” and “This is the chalice of my blood.”
- Minister:
 - Ordinary: bishop or priest
 - Extraordinary: none
- Recipient: a baptized person

THE SACRAMENT OF HOLY ORDERS

- Three Degrees of Holy Orders
 - Bishop
 - Priest
 - Deacon
- Matter: a baptized male
- Form: Prayer of Ordination
- Minister
 - Ordinary: bishop
 - [Extraordinary: priest (controversial, illicit, only for priests and deacons)]

THE SACRAMENT OF MATRIMONY

- Matter: a baptized man and a baptized woman
- Form: vows
- Minister: bride and groom
- Recipients: bride and groom

Two more things required for a Catholic marriage (ONLY FOR CATHOLIC MARRIAGES)

- *Assistens* (person delegated to receive the vows on behalf of the Church)
- Two witnesses

MATRIMONY

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

ESSENTIAL PROPERTIES OF MATRIMONY

- Can. 1056 The essential properties of marriage are unity and indissolubility, which in Christian marriage obtain a special firmness by reason of the sacrament.

Unity

Indissolubility

CONSENT MAKES MARRIAGE

- Can. 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.

§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.

- Can. 1058 All persons who are not prohibited by law can contract marriage.

CATHOLIC MARRIAGE

- Can. 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.

What makes a marriage a “Catholic marriage”? At least one of the parties is Catholic.

FAVOR OF LAW & PRESUMPTION OF LAW

- **Can. 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.**

RATUM ET CONSUMMATUM **RATIFIED AND CONSUMMATED**

- Can. 1061

§1. A valid marriage between the baptized is called *ratum tantum* [only ratified] if it has not been consummated; it is called *ratum et consummatum* [ratified and consummated] if the spouses have performed between themselves in a human fashion a conjugal act which is suitable in itself for the procreation of offspring, to which marriage is ordered by its nature and by which the spouses become one flesh.

§2. After a marriage has been celebrated, if the spouses have lived together consummation is presumed until the contrary is proven.
(*presumptio iuris*)

- Can. 1141 A marriage that is *ratum et consummatum* can be dissolved by no human power and by no cause, except death.

PUTATIVE MARRIAGE

- Can. 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.

SACRAMENTAL PREPARATION FOR MARRIAGE

- Can. 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.
- §2. To receive the sacrament of marriage fruitfully, spouses are urged especially to approach the sacraments of penance and of the Most Holy Eucharist.

NIHIL OBSTAT **(NOTHING STANDS IN THE WAY)**

- Can. 1066 Before a marriage is celebrated, it must be evident that nothing stands in the way of its valid and licit celebration.
- Can. 1067 The conference of bishops is to establish norms about the examination of spouses and about the marriage banns or other opportune means to accomplish the investigations necessary before marriage. After these norms have been diligently observed, the pastor can proceed to assist at the marriage.

EFFECTS OF MARRIAGE

- Can. 1134 From a valid marriage there arises between the spouses a bond which by its nature is perpetual and exclusive. Moreover, a special sacrament strengthens and, as it were, consecrates the spouses in a Christian marriage for the duties and dignity of their state.
- Can. 1135 Each spouse has an equal duty and right to those things which belong to the partnership of conjugal life.
- Can. 1136 Parents have the most grave duty and the primary right to take care as best they can for the physical, social, cultural, moral, and religious education of their offspring.

EFFECTS OF MARRIAGE: LEGITIMACY

- Can. 1137 The children conceived or born of a valid or putative marriage are legitimate.
- Can. 1138 §1. The father is he whom a lawful marriage indicates unless clear evidence proves the contrary.
- §2. Children born at least 180 days after the day when the marriage was celebrated or within 300 days from the day of the dissolution of conjugal life are presumed to be legitimate.
- Can. 1139 Illegitimate children are legitimated by the subsequent valid or putative marriage of their parents or by a rescript of the Holy See.
- Can. 1140 As regards canonical effects, legitimated children are equal in all things to legitimate ones unless the law has expressly provided otherwise.

CANONICAL FORM

- Council of Trent, decree *Tametsi* (1563)
- Current law on canonical form:

Can. 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 according to the rules expressed in the following canons and without prejudice to the exceptions mentioned in cann. 144, 1112, §1, 1116, and 1127, §§1-2.

§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.

CANONICAL FORM: *ASSISTENS*

- **Can. 1109** Unless the local ordinary and pastor have been excommunicated, interdicted, or suspended from office or declared such through a sentence or decree, by virtue of their office and within the confines of their territory they assist validly at the marriages not only of their subjects but also of those who are not their subjects provided that one of them is of the Latin rite.
- **Can. 1110** By virtue of office, a personal ordinary and a personal pastor assist validly only at marriages where at least one of the parties is a subject within the confines of their jurisdiction.
- **Can. 1111 §1.** As long as they hold office validly, the local ordinary and the pastor can delegate to priests and deacons the faculty, even a general one, of assisting at marriages within the limits of their territory.
- **§2.** To be valid, the delegation of the faculty to assist at marriages must be given to specific persons expressly.
- If it concerns special delegation, it must be given for a specific marriage; if it concerns general delegation, it must be given in writing.

CANONICAL FORM: LAY ASSISTENS

- **Can. 1112 §1.** Where there is a lack of priests and deacons, the diocesan bishop can delegate lay persons to assist at marriages, with the previous favorable vote of the conference of bishops and after he has obtained the permission of the Holy See.
- §2. A suitable lay person is to be selected, who is capable of giving instruction to those preparing to be married and able to perform the matrimonial liturgy properly.
- **Can. 1113** Before special delegation is granted, all those things which the law has established to prove free status are to be fulfilled.

CANONICAL FORM: *ASSISTENS*

- Can. 1114 The person assisting at marriage acts illicitly unless the person has made certain of the free status of the contracting parties according to the norm of law and, if possible, of the permission of the pastor whenever the person assists in virtue of general delegation.
- Can. 1115 Marriages are to be celebrated in a parish where either of the contracting parties has a domicile, quasidomicile, or month long residence or, if it concerns transients, in the parish where they actually reside. With the permission of the proper ordinary or proper pastor, marriages can be celebrated elsewhere.

CANONICAL FORM

- Can. 1117 The form prescribed above must be observed if at least one of the parties contracting the marriage was baptized in the Catholic Church or received into it, without prejudice to the provisions of can. 1127 § 2.
- Can. 1118 §1. A marriage between Catholics or between a Catholic party and a non-Catholic baptized party is to be celebrated in a parish church. It can be celebrated in another church or oratory with the permission of the local ordinary or pastor.
- §2. The local ordinary can permit a marriage to be celebrated in another suitable place.
- §3. A marriage between a Catholic party and a non-baptized party can be celebrated in a church or in another suitable place.
- Can. 1119 Outside the case of necessity, the rites prescribed in the liturgical books approved by the Church or received by legitimate customs are to be observed in the celebration of a marriage.

PROPER RECORDING OF THE MARRIAGE

- Can. 1121

§1. After a marriage has been celebrated, the pastor of the place of the celebration or the person who takes his place, even if neither assisted at the marriage, is to note as soon as possible in the marriage register the names of the spouses, the person who assisted, and the witnesses, and the place and date of the celebration of the marriage according to the method prescribed by the conference of bishops or the diocesan bishop.

§3. For a marriage contracted with a dispensation from canonical form, the local ordinary who granted the dispensation is to take care that the dispensation and celebration are inscribed in the marriage registers of both the curia and the proper parish of the Catholic party whose pastor conducted the investigation about the free status. The Catholic spouse is bound to notify as soon as possible the same ordinary and pastor about the marriage celebrated and also to indicate the place of the celebration and the public form observed.

- Can. 1122

§1. The contracted marriage is to be noted also in the baptismal registers in which the baptism of the spouses has been recorded.

§2. If a spouse did not contract marriage in the parish in which the person was baptized, the pastor of the place of the celebration is to send notice of the marriage which has been entered into as soon as possible to the pastor of the place of the conferral of baptism.

- Can. 1123 Whenever a marriage is either convalidated in the external forum, declared null, or legitimately dissolved other than by death, the pastor of the place of the celebration of the marriage must be informed so that a notation is properly made in the marriage and baptismal registers.

(DIRIMENT) IMPEDIMENTS

- Can. 1073 A diriment impediment renders a person unqualified to contract marriage validly.
- Can. 1074 An impediment which can be proven in the external forum is considered to be public; otherwise it is occult.
- Can. 1075
 - §1. It is only for the supreme authority of the Church to declare authentically when divine law prohibits or nullifies marriage.
 - §2. Only the supreme authority has the right to establish other impediments for the baptized.
- Can. 1076 A custom which introduces a new impediment or is contrary to existing impediments is reprobated.

MARRIAGE PROHIBITION (*VETITUM*)

- Can. 1077 §1. In a special case, the local ordinary can prohibit marriage for his own subjects residing anywhere and for all actually present in his own territory but only for a time, for a grave cause, and for as long as the cause continues.
- §2. Only the supreme authority of the Church can add a nullifying clause to a prohibition.

DISPENSING IMPEDIMENTS

- Can. 1078 §1. The local ordinary can dispense his own subjects residing anywhere and all actually present in his own territory from all impediments of ecclesiastical law except those whose dispensation is reserved to the Apostolic See.
- §2. Impediments whose dispensation is reserved to the Apostolic See are:
 - 1/ the impediment arising from sacred orders or from a public perpetual vow of chastity in a religious institute of pontifical right;
 - 2/ the impediment of crime mentioned in can. 1090.
- §3. A dispensation is never given from the impediment of consanguinity in the direct line or in the second degree of the collateral line.

DISPENSING IMPEDIMENTS

- Can. 1079 §1. In urgent danger of death, the local ordinary can dispense his own subjects residing anywhere and all actually present in his territory both from the form to be observed in the celebration of marriage and from each and every impediment of ecclesiastical law, whether public or occult, except the impediment arising from the sacred order of presbyterate.
- §2. In the same circumstances mentioned in §1, but only for cases in which the local ordinary cannot be reached, the pastor, the properly delegated sacred minister, and the priest or deacon who assists at marriage according to the norm of can. 1116, §2 possess the same power of dispensing.

DISPENSING IMPEDIMENTS

- Can. 1080 §1. Whenever an impediment is discovered after everything has already been prepared for the wedding, and the marriage cannot be delayed without probable danger of grave harm until a dispensation is obtained from the competent authority, the local ordinary and, provided that the case is occult, all those mentioned in can. 1079, §§2-3 when the conditions prescribed therein have been observed possess the power of dispensing from all impediments except those mentioned in can. 1078, §2, n. 1.

DISPENSING IMPEDIMENTS

- Can. 1081 The pastor or the priest or deacon mentioned in can. 1079, §2 is to notify the local ordinary immediately about a dispensation granted for the external forum; it is also to be noted in the marriage register.

IMPEDIMENT: LACK OF AGE

- **Can. 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.**
- **§2. The conference of bishops is free to establish a higher age for the licit celebration of marriage.**
- **Divine law impediment: before puberty**
- **Ecclesiastical law impediment: groom: 16 & bride: 14**

IMPEDIMENT: IMPOTENCE

- Can. 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.
- §2. If the impediment of impotence is doubtful, whether by a doubt about the law or a doubt about a fact, a marriage must not be impeded nor, while the doubt remains, declared null.
- §3. Sterility neither prohibits nor nullifies marriage, without prejudice to the prescript of can. 1098.
- **Divine Law Impediment**

IMPEDIMENT: *LIGAMEN* (PRIOR BOND)

- Can. 1085 §1. A person bound by the bond of a prior marriage, even if it was not consummated, invalidly attempts marriage.
- §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.
- Divine law impediment

IMPEDIMENT: DISPARITY OF CULT (WORSHIP)

- **Can. 1086 §1.** A marriage between two persons, one of whom was baptized in the Catholic Church or received into it, and the other of whom is not baptized, is invalid.
- §2. A person is not to be dispensed from this impediment unless the conditions mentioned in cann. 1125 and 1126 have been fulfilled.
- §3. If at the time the marriage was contracted one party was commonly held to have been baptized or the baptism was doubtful, the validity of the marriage must be presumed according to the norm of can. 1060 until it is proven with certainty that one party was baptized but the other was not.
- **Ecclesiastical law impediment**

IMPEDIMENT: SACRED ORDERS

- **Can. 1087 Those in sacred orders invalidly attempt marriage.**
 - Sacred Orders: bishop, priest, deacon
- **Ecclesiastical law impediment**

IMPEDIMENT: PERPETUAL VOW OF CHASTITY

- **Can. 1088 Those bound by a public perpetual vow of chastity in a religious institute invalidly attempt marriage.**
- **Ecclesiastical law impediment**

IMPEDIMENT: ABDUCTION

- Can. 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.
- Ecclesiastical law impediments

IMPEDIMENT: *CRIMEN* (CRIME)

- Can. 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.
- §2. Those who have brought about the death of a spouse by mutual physical or moral cooperation also invalidly attempt a marriage together.
- Ecclesiastical law impediment

IMPEDIMENT: CONSANGUINITY

- Can. 1091 §1. In the direct line of consanguinity marriage is invalid between all ancestors and descendants, both legitimate and natural.
- §2. In the collateral line marriage is invalid up to and including the fourth degree.
- §3. The impediment of consanguinity is not multiplied.
- §4. A marriage is never permitted if doubt exists whether the partners are related by consanguinity in any degree of the direct line or in the second degree of the collateral line.
- **Divine law impediment: direct line & brother/sister**
- **Ecclesiastical law impediment: uncle/niece, aunt/nephew & first cousins**

IMPEDIMENT: AFFINITY

- **Can. 1092 Affinity in the direct line in any degree invalidates a marriage.**
- **Relatives by marriage**
 - **Direct line only**
- **Ecclesiastical law impediment**

IMPEDIMENT: PUBLIC PROPRIETY

- **Can. 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.
- **Ecclesiastical law impediment**

IMPEDIMENT: ADOPTION

- **Can. 1094** Those who are related in the direct line or in the second degree of the collateral line by a legal relationship arising from adoption cannot contract marriage together validly.
- **Ecclesiastical law impediment**

IMPEDIMENT: SPIRITUAL RELATIONSHIP

- CCEO Canon 811

§1. From baptism there arises a spiritual relationship between a sponsor and the baptized person and the parents of the same that invalidates marriage.

§2. If a baptism is repeated under condition, a spiritual relationship does not arise, unless the same sponsor was employed for the second ceremony.

- Ecclesiastical law impediment

Only applies to Eastern Catholics

DEFECTS OF CONSENT: LACK OF REASON (C. 1095 1°)

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

1° those who lack the sufficient use of reason [...]

- Natural law

DEFECTS OF CONSENT: GRAVE DEFECT OF DISCRETIONARY JUDGMENT CONCERNING THE ESSENTIAL RIGHTS AND DUTIES TO BE HANDED OVER (C. 1095 2°)

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

[...]

2° 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;

[...]

- Natural Law

DEFECTS OF CONSENT: PSYCHIC INCAPACITY (C. 1095 3°)

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

[...]

3° those who are not able to assume the essential obligations of marriage for causes of a psychic nature.

- **Natural law**

DEFECTS OF CONSENT: IGNORANCE (C. 1096)

- 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.

- Natural law

DEFECTS OF CONSENT: ERROR OF PERSON (C. 1097 §1)

- Can. 1097

§1. Error concerning the person renders a marriage invalid.

- Natural law

**DEFECTS OF CONSENT:
ERROR OF QUALITY OF PERSON (C. 1097 §2)**

- **Can. 1097**

§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.

- **Ecclesiastical law impediment**

DEFECTS OF CONSENT: *DOLUS (FRAUD) (C. 1098)*

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

DEFECTS OF CONSENT: DETERMINING ERROR (C. 1099)

- Can. 1098 A person contracts invalidly who enters into a marriage deceived by malice, perpetrated to obtain consent, concerning some quality of the other partner which by its very nature can gravely disturb the partnership of conjugal life.
- Three Invalidating Errors
 - Error Concerning Indissolubility
 - Error Concerning Fidelity
 - Error Concerning Sacramentality

WARNING

- **Can. 1100 The knowledge or opinion of the nullity of a marriage does not necessarily exclude matrimonial consent.**

WORDS AND INTENT

- Can. 1101

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

DEFECTS OF CONSENT: SIMULATION (C. 1101 §2)

- Can. 1101

§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.

- Simulation=a lie
- Always in bad faith
- Natural law

**DEFECTS OF CONSENT:
PARTIAL SIMULATION
*CONTRA BONUM SACRAMENTI***

- Exclusion of indissolubility
- “I want to marry, but I reserve the right to dissolve this marriage and marry someone else if I’m not happy.”

DEFECTS OF CONSENT: PARTIAL SIMULATION *CONTRA BONUM PROLIS*

- Exclusion of the procreation and education of offspring (Exclusion of children)
- Withholding the right to acts *per se* capable of producing children
- Refusing the right to the body
- Not the same as delaying children
- “I intend to get married, but we are absolutely not going to have children.”
- “I intend to get married, but I will decide when we have sex or not.”
- “I intend to get married, but I will decide when we are going to have children.”

DEFECTS OF CONSENT: PARTIAL SIMULATION *CONTRA BONUM FIDEI*

- Exclusion of fidelity
- “I intend to get married, but I reserve the right to have sex with other people (opposite sex or same sex) if I so choose.”
- “I intend to get married, but I will maintain my relationship with my mistress.”
- Not the same as committing adultery

DEFECTS OF CONSENT: PARTIAL SIMULATION *CONTRA BONUM CONIUGUM*

- Exclusion of the good of the spouses
- “I intend to get married, but I also intend to beat her regularly because it gives me a thrill.”
- “I intend to marry her. I will be faithful to her and have children with her, but I will be cruel to her just to get back at her family.”
- “I may have to marry her because she’s pregnant, but I’m not going to share my life with her. I’m only doing this because I have to.”
- “I am marrying you because I have to inherit my grandmother’s estate, but you can do your thing and I’ll do mine. Don’t expect me to love you.”

DEFECTS OF CONSENT: TOTAL SIMULATION AGAINST SACRAMENTALITY

- Excluding the sacramental nature of marriage
- “I know that marriage between baptized persons is a sacrament, but I consciously exclude the sacramentality of marriage because I only want a natural marriage.”
- “I know that the Church believes that marriage is a sacrament, but I don’t want a sacrament because I hate the Church. I’m only going through with this ceremony to please my grandmother.”

DEFECTS OF CONSENT: TOTAL SIMULATION DUE TO DEFECTIVE VALIDATION

- Going through the motions of a Catholic ceremony while insisting that you are already married
- Going through with a wedding ceremony (convalidation) but thinking that it's just a renewal of vows or getting the marriage blessed.
- “I don't know why have to get married in the Church. We got married by the judge and that's all we needed, but she's Catholic and that's what she thinks she needs to do. It's really just renewing our vows anyway.”
- “The priest told me that since I am a Catholic and I did not get married in a Catholic Church that I have to get my marriage blessed. So we're going to have a little ceremony at the Church to bless our marriage. It will make our marriage even better than it already is.”

DEFECTS OF CONSENT: FUTURE CONDITION (C. 1102.1)

- Can. 1102 §1. A marriage subject to a condition about the future cannot be contracted validly.
- “I have to marry a doctor so that I can fit in with my friends. I’m choosing you over Steve because you’re in med school and I have to marry a doctor.”
- “I will marry you on the condition that you get into law school within the first year of our marriage.”

DEFECTS OF CONSENT: PAST OR PRESENT CONDITION (C. 1102.2)

- Can. 1102

§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.

- “I will only marry a virgin. You told me you are a virgin, so I’ll marry you.” (But she actually is not a virgin.)
- “I tell you I’m in love with you for your good looks, but I really want to marry you because my friend says that you were a successful athlete.” (But he/she never played any sports.)

DEFECTS OF CONSENT: FORCE OR FEAR (C. 1103)

- 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.
- “I don’t want to marry her, but I can feel the barrel of the shotgun against my back.”
- “If you don’t marry my daughter, I’ll have my cousin Vinny put a shiv between your ribs for breaking her heart.”
- “I’m pregnant out of wedlock, but if I don’t find some guy that will marry me, my father will force me to get an abortion.”
- **Natural law**

MARRIAGE BY PROXY

- Can. 1104

§1. To contract a marriage validly the contracting parties must be present together, either in person or by proxy.

§2. Those being married are to express matrimonial consent in words or, if they cannot speak, through equivalent signs.

- Can. 1105

§1. To enter into a marriage validly by proxy it is required that:

1° there is a special mandate to contract with a specific person;

2° the proxy is designated by the one mandating and fulfills this function personally.

§2. To be valid the mandate must be signed by the one mandating and by the pastor or ordinary of the place where the mandate is given, or by a priest delegated by either of them, or at least by two witnesses, or it must be made by means of a document which is authentic according to the norm of civil law.

§3. If the one mandating cannot write, this is to be noted in the mandate itself and another witness is to be added who also signs the document; otherwise, the mandate is invalid.

§4. If the one mandating revokes the mandate or develops amentia before the proxy contracts in his or her name, the marriage is invalid even if the proxy or the other contracting party does not know this.

CASES

- Barbie marries Ken, but doesn't realize that they are siblings separated at birth. After getting married, they get a DNA test from Ancestry.com and find out that they had the same birth mother who put them both up for adoption.
- Joe and Susie are recent graduates of CBU and want to get married at Stritch Chapel. So they ask the pastor of the Cathedral Parish to do the wedding.
- Barbara married Tom because he's a cardiologist. She always wanted to marry a doctor from her father's area of specialization. A few days into the honeymoon, Tom mentions that he's actually an internist who took some extra class on cardiology. She leaves the honeymoon and files for divorce the next week.

CASES

- Sally is so happy to be marrying Bob because he's got natural blonde hair that she adores. But it turns out that Bob dyes his hair blonde very frequently to hide his brown roots. One day Sally finds out that he's not a natural blond. She's upset for days because she couldn't understand how she could have been so wrong. But she stays with him because they keep falling more and more in love.
- Hansel and Gretel are about to get married and they can't wait to have a family. Hansel and Gretel can't wait to begin having children. They want 10 of them! They discuss this with Hansel's parents who wish them the very best. But Hansel's mother says to her husband: "We never told Hansel that he had mumps as a child and the mumps descended and sterilized him." But her husband insists: "Keep your mouth shut, woman! They can adopt if they want kids that badly." After the wedding, Hansel and Gretel go to a fertility doctor and discover that Hansel is sterile. Gretel immediately files for divorce.

CASES

- Edgar was ordained a priest 10 years ago, but he abandoned ministry soon after because he was so lonely. After womanizing for several years to catch up on everything he missed out on, he finally settles down with Melissa and they decide to get married. So he contacts his bishop, whom he hasn't contacted in several years and says that he wants to get married. The bishop tells him: "I'm sorry that you're leaving Ed, but it's better for you to settle down with a good woman like Melissa rather than going around scandalizing the town. I'll give you a dispensation from your promise of celibacy and priestly life so you can marry. In fact, I'll do the ceremony if you'd like." They have a beautiful wedding at the Cathedral and Edgar's ordination classmates celebrate the Mass.

CASES

- Carmen married John because he's a bit of a bad boy and looks virile and muscular. Things go well for a while and they've got a couple of kids, but she just can't get over the fact that he can never satisfy her in bed. She tries to get him to go to the doctor to get a prescription for blue pills to see if he can increase his "stamina", but he's offended by the very idea. "If you don't think I'm man enough to please you," he says, "then maybe you should take the kids and leave!" So she leaves and finds a much younger man.
- Derrick, a lapsed Catholic, was living with Diana for 10 years. He had moved in with her, even though she was 20 years older than he was. She liked having a young man to make her feel beautiful. But one day, he sleeps with her daughter Bonnie because he can't resist how beautiful she has gotten over the years. Now that Bonnie is 18, he decides to hatch a plot with Bonnie to leave Diana and get married. So they find a gullible priest and convince him that they're so embarrassed because Bonnie's pregnant and they have to get married in less than the usual 6 months. So Fr. Chuck celebrates a private wedding for them after only three months and they move out of Diana's house the next day.

CASES

- Chuck and Lisa grew up in the same little town. Chuck had been raised Baptist and he fell in love with a Catholic girl in town. After dating for about a year, he decided to propose marriage. When Lisa accepted, they went to Deacon Bob for marriage prep. Deacon Bob filled out the prenuptial questionnaire with them at the first meeting. Chuck told Deacon Bob that he was baptized very young because he had a great love of Jesus. Chuck has no reason to lie, so Deacon Bob doesn't make him produce a certificate or witnesses to verify the baptism. Five years after the wedding, Chuck and Lisa, still madly in love, are about to welcome their third child. Everyone in the town admires the deep love that they have from one another. One day, when Chuck was talking to his mother about how they got all their kids baptized as infants, that he didn't think infant baptism was so bad after all. After all, he got baptized when he was only 8 because he loved Jesus so much. Chuck's mom says: "Honey, you got saved when you were 8, but the next week when you were gonna get baptized, you were so afraid of the water that you wouldn't stay in the pool long enough for the preacher to dunk you. The preacher figured it was no big deal. He said to wait a few more years till you were older to get baptized, but your Dad and I never got around to doing it."

CASES

- Joseph and Jenny are young doctors who have been going out since they were undergrads. After graduating medical school, they decide it's time to get married before going into residency. They both decide before the wedding that they will always use condoms during sex until they finish their residencies. After they finish residency and start a new job, they decide that it's time to start trying for a child and they stop contracepting. They welcome a healthy baby girl about a year later.
- Ken married Barbie and things were great for 20 years of marriage, but after their son graduated from high school and Barbie was lonely with no kid around the house to take care of, she decided that she would go out and meet some new people. She meets a nice guy named Mike at the Waffle House and they start to get together several days a week for lunch. Ken doesn't even know about it because he's at work all day. Eventually as Barbie and Mike start sharing more and more about their common interests, they start to fall in love and, in a moment of weakness they commit adultery. Barbie is so ashamed. She gets up the nerve to tell Ken about Mike and that she had been unfaithful with him. She promises with all her heart to never do it again. She even blocked Mike's number on her phone because she would never talk to her again. Ken is crushed. He goes to Fr. Blake for advice. He says that he could never trust Barbie again. Fr. Blake was recently reading his Canon Law commentary a few days ago and he says: "You know, if you want to leave Barbie and get divorced, it would be easy to get the annulment. You never would have married Barbie if you had known that she would cheat on you like that. That means your marriage is invalid due to a future condition."

CASES

- Katie has never felt very secure about her relationship with Tommy, but she knows that her biological clock is ticking and he's the best shot that she has at getting married and having a child. She tells her friend Lisa about her plans and Lisa tries to warn her that she "shouldn't settle for Tommy." But Katie tells her: "Look, I love Tommy and I think we could make a marriage work. If I'm wrong, we can go our separate ways and I'll find a different husband."
- Demetrius and Aphrodite were passionately in love when they were in college and they got married and had several children. As they got more and more busy with work and taking care of the kids, they gradually grew apart. Eventually, after the kids graduated and went off to college, one morning Aphrodite wakes up and looks at Demetrius lying next to her in the bed and says to herself: "I don't even know this guy anymore." She and Demetrius discuss that their lives have gone in different directions and they've drifted apart. They agree that they made a pretty good team and raised some great children. "Perhaps it's just best that we have an amicable divorce and pursue other romantic relationships," Aphrodite says. So they have an amicable divorce and go their separate ways, but they still get together with the kids for special events. At family events they get along just like old friends, but they've both remarried. The kids don't seem to mind. They've got their own families now and they're just happy that mom and dad have found people that make them happy.

CASES

- Jessica and Joseph are newlyweds. Jessica made very clear to Joseph that they would not have any kids until after she finished law school. Joseph was fine with that. One night when they were making love, the condom broke. A few weeks later, Jessica gets a pregnancy test because she's been feeling upset to her stomach every morning. She finds out that she pregnant. She frets about what she's going to do. She only has one more year left before she can sit for the bar exam. Jessica and Joseph agree that this is just not the right time for a child, so Jessica gets an abortion. Later on in life, after Jessica gets a new job at one of New York's most successful law firms, she and Joseph decide to have children. Eventually, they have five children.