



Concerning Issues: The Formal Process - The Grounds for Invalidity

The Grounds Used in Formal Cases with a Brief Description

Insufficient Use of Reason (C 1095, 1°)

To enter a valid marriage, a person must have the degree of reasoning ability sufficient to know and understand what marriage is and what he or she is doing at the time of the marriage. Serious conditions such as certain personality disorders, profound mental retardation or black-out states (caused by alcoholic intoxication, drug use, or seizure disorder), might prevent a person from using adequate reasoning ability at the time of the marriage ceremony.

Grave Lack of Discretion of Judgment (C 1095, 2°)

To enter a valid marriage, a person must have use of sound and mature judgment. This means that the person is making a prudent and free decision, after careful consideration, to enter marriage with a particular person, and that the decision is not impulsive or without forethought.

Incapacity to Assume the Essential Obligations of Marriage (C 1095, 3°)

To enter a valid marriage, a person must have the psychological ability to take on and to live out the lifetime obligations of marriage. Persons cannot consent to something that is beyond their psychological capacity to fulfill.

Ignorance of the Nature of Marriage (C 1096)

To enter a valid marriage, a person must have some basic knowledge (i.e., not be ignorant) of what marriage is all about. A necessary element of that knowledge is to know that marriage by its nature involves openness to children by means of sexual cooperation between the spouses. This ignorance is not presumed after puberty and is not commonly found.

Error of Person (C 1097, §1)

If a spouse made a substantial error concerning the true identity of the intended spouse, in other words, married the wrong person, this ground could be considered. The error in question is not about personality, but a serious error about the identity of the intended spouse.

Error of Quality of Person (C 1097, §2)

If a person was mistaken about a quality of the other person that was directly and principally intended, this ground could be considered. The intended quality must be of such a magnitude that the person would not have married if it was known the other person did not possess it.

Fraud or Deceit (C. 1098)

Fraud is the intentional act of deception. It can be perpetrated by the other spouse or by a third party, but the end result is the same: one of the contracting parties consents because he or she was deceived into doing so.

Error of Law (C. 1099)

If one or both parties entered the marriage with an erroneous belief concerning either the unity, the indissolubility, or the sacramental dignity of marriage, this ground might be considered. The belief must be firmly held so that the person could not conceive of entering into marriage without the erroneous understanding.

Unity — The parties must understand that they are to be absolutely faithful to one another. An erroneous belief that infidelity or polygamy is possible would invalidate consent.

Indissolubility — Both spouses must agree to the absolute permanence of marriage. If one or both spouses entered the marriage with an erroneous belief that divorce was an option that could dissolve the bond of marriage, consent would be invalid.

Sacramental Dignity — If one or both parties entered marriage with an erroneous belief that marriage is simply a civil or secular matter and that it has no relation to the sacred for those who are baptized, this ground might apply.

Future Condition (C 1102, §1)

To enter a valid marriage, a person must have no reservation but give total and free consent. If a person enters marriage while waiting to see if in the future a certain condition will be fulfilled or not, the marriage is invalid; e.g., "I'll marry you on condition that you finish medical school."

Simulation (C 1101)

Persons simulate consent when they say one thing externally but intend something else quite different internally.

Total Simulation — One or both spouses, at the time of the marriage, did not intend to enter into a real marriage; e.g., a person who goes through a wedding ceremony for the sole purpose of acquiring a green card to stay in the country.

Exclusion of the Good of Permanence — One or both spouses, at the time of the marriage, did not intend to enter the marriage for life. Rather, they reserved the right to end the union at will.

Exclusion of the Good of Children — One or both spouses, at the time of the marriage, intended to exclude or restrict the number of children.

Exclusion of the Good of Fidelity — One or both spouses, at the time of the marriage, excluded absolute fidelity. In other words, from the very beginning of the marriage, the person was open to the possibility of having other sexual partners.

Force and Fear (C 1103)

A person must freely choose to enter marriage or the marriage is invalid. Force is a grave threat from outside the person, and may be inflicted intentionally or unintentionally, even by a well-meaning person. Fear is the internal result of the external force. The force and fear must be grave and compelling so that the person chooses to marry to escape from the force and fear.

Reverential Fear — If one or both of the spouses chose to enter marriage principally because of a grave fear of displeasing a person who was an important authority figure, this ground might apply. One chooses to marry because failure to do so would greatly displease a person, or even an ideology, which is subjectively important.



Elected to ERCC Coordinating Committee

Barbara A. Bettwy, Director of the Office of Matrimonial Concerns and the Tribunal, was elected as a member of the Coordinating Committee of the Eastern Regional Conference of Canonists at the annual meeting in May. The association exists to promote dialog, to encourage research, and to share ideas, proposals and insights in canon law for the mutual assistance of its members. An annual conference is held in the spring of each year.