

## **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°):**

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.

### **Grave Lack of Discretion of Judgment (c. 1095, 2°):**

*Because of a psychological defect* (temporary or permanent), the person could not make a sound judgment at the time of the wedding. The person's inability to discern marriage can be for one of three reasons: 1) the person was incapable to comprehend the basic meaning of marriage; 2) the person was incapable of assessing whether the other person or the marriage would be suitable; 3) the person was inwardly opposed to the marriage but could not freely choose otherwise. Poor judgment, imprudence, haste, inertia, societal expectations, etc. do not make a person incapable; however, these may suggest the presence of severe psychological problem or distress.

### **Inability to Assume the Essential Obligations of Marriage (c. 1095, 3°):**

At the time of the celebration of marriage, one of the parties was 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, and not merely difficult, to take on the essential obligations of marriage. The impossibility can be caused by a mental illness, a psychological disorder, a severe addiction, or a strong homosexual inclination.

### **Ignorance (c. 1096):**

The person simply did not know the following about marriage: that it is 1) a permanent partnership 2) between a man and a woman 3) which is ordered toward the procreation of offspring 4) by means of some sexual cooperation.

### **Error of Person (c. 1097 §1):**

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 the man's identical twin brother.

### **Error Concerning a Quality of Person (c. 1097 §2):**

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.

### **Fraud (c. 1098):**

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.

**Error Concerning Marriage (c.1099):**

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.

**Total Simulation (c. 1101 §2):**

When exchanging consent, the party did not intend to get married but was only pretending to get married for an ulterior motive. The reason for doing this must be proven (e.g., to gain American citizenship, to collect alimony, etc.). Included here is the situation in which the party had a Catholic convalidation ceremony but did not intend to create a new valid sacrament.

**Partial Simulation Against the Good of Children (c. 1101 §2):**

When stating the vows, the party intended only a marriage in which there would be no children, or having children was unlikely and was only for that person to decide.

**Partial Simulation Against the Good of Fidelity (c. 1101 §2):**

In spite of what the parties say in their marriage vows, one or both of the parties actually wills against the good of fidelity. As terrible as adultery is, it alone 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.

**Partial Simulation Against the Good of Permanence (c. 1101 §2):**

When stating the vows, the party intended only a marriage that could be ended at any time. The person reserved to him/herself the right to end or abandon the marriage. 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 the right to dissolve the marriage through divorce and potentially remarry, that party married invalidly.

**Partial Simulation Against the Good of the Spouse (c. 1101 §2):**

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 enters a marriage with intent toward the harm or corruption of the other party, the party marries invalidly.

**Conditioned Consent (c. 1102):**

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.

**Force or Fear (c. 1103):**

When stating the vows, the party was completely opposed to getting married to the other person but did so only to avoid some serious negative consequence. The force or fear was imposed by some other person, even unintentionally.