

## Perception *versus* Reality in Marriage Law

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The very basis of the Marriage Tribunal, when petitioned by a party and supported by witnesses under oath, is to gather the factual evidence and scrutinize it under the microscopic lenses of canonical jurisprudence for a possible declaration of nullity. There is a common perception among the Catholic Christian population that too many nullity declarations are rendered. It is simply a common error. The reality is that the Code of Canon Law mentions impediments which if proven, would discover the marriage to be no marriage at all in the first place. Since the intent of the Church is to protect the well being of the couple and the Christian community, in this way She defends the real sacrament of real marriage.

Some impediments invalidate the marriage and some forbid the marriage. Some laws may not invalidate a marriage, but if they are not followed, the marriage may be illicit (unlawful). Unlawful, however, does not equal invalid. Canons 1073-1082 speak of impediments in general and canons 1083-1094 speak of diriment impediments [invalidating factors or obstacles], that is, making the marriage impossible. The Pope is the Legislator and, in a rare case, he has the right to declare that a certain factor is an impediment. The local bishop, similarly may find it to be his pastoral duty to declare a certain factor is an impediment for his own flock, and in certain circumstances he can dispense from some impediment provided it has not been reserved by the Holy See.

There are 12 impediments listed in canon law which are: age, impotence, existence of previous bond of marriage, disparity of cult, sacred orders, those who made a public perpetual vow of chastity in a religious institute, abduction or detained for the purpose of marriage, crime: killing or contracting someone to kill a spouse to marry another, consanguinity: blood relationship, affinity: close 'in law' relationship, public honesty or propriety: person living in concubinage, one cannot marry the partner's child or parent, and legal adoption. An explanation of each impediment is intentionally omitted for lack of space.

The Code also speaks of invalidating causes: incapacity, ignorance of permanence of marriage, exclusion of procreation of offspring, conjugal non-cooperation, error of person, error in a quality of person, error induced by fraud, exclusion of the essential marital elements, conditioned consent, force or grave fear inflicted from outside to marry. These do not fall under the category of impediments.

Consent is a deliberative process – knowing, critiquing and deciding – and it sometimes can be deficient. Catholics marry for a variety of reasons – some known and some unknown – but a good number of them marry for right reasons. The Marriage Tribunal is an instrument whereby marriages are examined through a judicial process and declared null or valid.