

INVALIDITY OF CANON MARRIAGE “EX PARTE CONSENSUS”: CAN. 1095, N. 2

“The following are incapable of contracting marriage:

1. those who lack the sufficient use of reason;
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;
3. those who are not able to assume the essential obligations of marriage for causes of a psychic nature.

_Can. 1095 CJC

We will continue our analysis of the hypotheses of invalidity of marriage that refer to the ability to consent to an act of desire suitable to create a marriage.

This is a special case of inability to get married that affects the natural capacity of man towards marriage.

Of psychic faculties, implementing a suitable act of desire to give life to marriage.

This is a special case of inability towards marriage that, as such, may be classified in the field of matrimonial impediments, the circumstances that have an effect on the natural capacity of man towards marriage.

The Code of Canon Law has outlined, through the canon 1095, from numbers 1 to 3, three typical figures that are attributable to the more general hypothesis of invalidity of marriage.

The *defectus discretionis iudicii* (can. 1095, n. 2).

The psychic anomalies or those of a character related nature take on an invalidating nature that are not considered as real psychotic affections (or also known as “mental illnesses”) and the ones that do not affect the general capacity to understand and desire.

They are individuals who do not have any clear deficiencies in normal relational activities that are often inserted into social and professional life but do not have a sufficient level of awareness and freedom when faced with the vital obligations of marriage.



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In this way the following personalities are created: psychopathic, neurotic, psychasthenia, hysteria, psychic or affective

Can. 1095, no. 2 deal not with incapacity for any human choice (no. 1), but with an incapacity relating to the essential rights/ obligations of marriage; with consensual incapacity which is rooted in the estimative powers of the subject.

immaturity or also contingent situations that may generate conditions of intimate conflict in individuals, of serious indecision, of extreme anxiety that does not work

well with the responsible awareness, with the balance of psychic faculties necessary to express a truly suitable matrimonial consent to create a commitment destined to last a lifetime and to deeply involve individual existence.

From a probationary point of view, through expert reports, it is important to prove the existence of specific morbid conditions or conditions of a psychic nature that may have had a negative effect on the normal independence of desire, making the individual unable to resist to internal stress and maintain a sufficient level of freedom of self-determination. ■



STUDIO LEGALE AVVOCATO
GIOSUE MARIGLIANO

00193 roma IT
via muzio clementi, 68

T +39 06 3701537
F +39 06 32506980
info@studiolegalemarigliano.it
studiolegalemarigliano.it