

CANON LAW AND CATHOLIC MARRIAGE

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- We are speaking today of “Canon Law,” what can basically be said to be the administrative code of the Catholic Church.
- The current Code of Canon Law for the “Western” (often called “Latin”) Church dates from 1983, and it is this code we will be referencing throughout our entire presentation.
- Canon 1056 makes clear that in Catholicism, the main elements of marriage are “unity” and “indissolubility.”
- Canon 1057 makes clear that in marriage, consent of both parties to be married is required, and that no human authority aside from those being married can supply this consent.
- Canon 1061 makes clear that consummation of a marriage in Catholicism is presumed if the spouses live together after marriage; this is a refutable presumption.
- The validity of a marriage can be challenged by either spouse, or the “Promoter of Justice,” a canonical official of each of the church’s local dioceses.
- The validity of a marriage cannot be challenged after the death of one spouse.
- The Code of Canon Law extensively discusses grounds on which the validity of a marriage can be challenged, or upon which its validity is presumed absent evidence to the contrary.
- A mistake regarding the identity of the person a spouse is marrying is grounds automatically for the invalidation of the marriage. A mistake as to a quality the potential spouse possessed is not.
- Force cannot be used to compel someone to marry; in the case that it is, the marriage is deemed to be automatically invalid.
- Once married validly, Canon 1151 states that spouses have the right and duty to preserve conjugal living unless a legitimate cause excuses them from doing so. Mental or physical danger to a spouse or offspring of the marriage can constitute such a cause.
- Each local diocese is required to have a canonical tribunal established within it to adjudicate questions of the validity of marriages.
- Tribunals must contain at least one judge who is a Catholic cleric and are supposed to hear cases concerning the validity of marriages in panels of three judges. Two of the three judges can be lay persons.
- If a spouse files a petition to contest the validity of their marriage, it first goes to the “judicial vicar” of the local diocese. This is the chief canonical official in a diocese.
- The judicial vicar determines if the case has merit, and in the event it does, he orders a copy of it to be sent to the other spouse, who is considered to be the respondent in the matter.
- The respondent spouse has 15 days following the receipt of the petition to declare their marriage invalid to respond to it.
- In the event both spouses file the petition jointly, the previous step is waived.
- The judicial vicar then issues a decree, communicated to both spouses, setting out the grounds on which the judges who will hear the case will determine if the marriage is in fact invalid.
- The court will then conduct proceedings to answer whether the marriage is or is not valid on the grounds they were charged specifically to investigate.
- If the court finds a defect causes the marriage to be invalid, it will deliver a declaration of invalidity. This can be appealed to a locally higher tribunal, and then to Rome.