

## Psychological Factors Involved in Ecclesiastical Annulments

Leo Alex McCandlish, Ph.D

Follow this and additional works at: <https://scholarship.law.stjohns.edu/tcl>



Part of the [Psychology Commons](#)

---

This Article is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in The Catholic Lawyer by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact [selbyc@stjohns.edu](mailto:selbyc@stjohns.edu).

# PSYCHOLOGICAL FACTORS INVOLVED IN ECCLESIASTICAL ANNULMENTS†

LEO ALEX McCANDLISH, PH.D.\*

## INTRODUCTION

For Catholics whose concept of marriage was “set in concrete” by the revision of the Code of Canon Law in 1917, the documents of the Second Vatican Council require a complete rethinking of the dynamics of marriage. The Code of Canon Law of 1917 was primarily a legalistic approach to what is involved in marriage. In 1965, the Second Vatican Council issued its very insightful document entitled “The Pastoral Constitution of the Church in the Modern World” (*Gaudium et spes*).<sup>1</sup> The discussions and conclusions that came out of this document broadened the Church’s approach to marriage. Marriage could no longer be addressed purely in the legalistic terms of the 1917 Code, but had to include the underlying psychological dimensions of the human personality. Therefore, the basis for annulment today is such that no matrimonial court would be considered complete unless it had at least ready access to a psychological “peritus” or expert. Canons 1792 through 1803 of the 1917 Code contained directions for the use of experts, but, in fact, they were primarily used for deciding medical aspects of matrimonial cases, such as impotency. The thinking and writing of the Fathers of the Second Vatican Council gave a new perspective that enhanced the jurisprudence of marriage. One of the results of this was the development of procedural norms that indirectly encouraged a greater use of psychological experts.<sup>2</sup>

---

† This Article is adapted from a talk given to the Permanent Deacons of the Diocese of Dallas on October 22, 1983.

\* Dr. McCandlish is the “peritus” of the Marriage Tribunal of the Diocese of Dallas, Texas.

<sup>1</sup> See THE DOCUMENTS OF VATICAN II 183 (W. Abbott ed. 1966) (*Gaudium et spes* “rank[s] as perhaps the most characteristic achievement” of Vatican II).

<sup>2</sup> See L. WRENN, ANNULMENTS 136-40 (4th ed. 1983) (listing norms that “are declared the conditions for a grant of dissolution of marriage”).

Before discussing the actual role or input of the psychologist into the Matrimonial Tribunal, it might be good to review briefly the two major documents involved in our modern conceptual framework of marriage. The following is a diagrammatic look at marriage as it is defined in the 1917 code.

### *Marriage as a Contract*

Compare this conceptual framework with that presented in *Gaudium et spes*. According to *Gaudium et spes*:

- 1) Marriage is an intimate sharing of life and love that is formed by a marital covenant whose nature is one of irrevocable personal consent. (Note: Webster defines a "covenant" as a sacred trust: whereas a contract is an agreement enforceable by law).
- 2) This covenant requires a mutual giving and accepting one another. This covenant is endowed with various goods and ends, which, when realized, serve (a) for the continuation of the human race; (b) for personal growth and eternal salvation; (c) for the dignity, peace, and prosperity of both the families and the whole human race.<sup>3</sup>

These diagrams are intended to portray the fact that the 1917 Code stressed contractual consent and therefore left little room to tackle the marriage except on the ground of intellectual incapacity—e.g., lack of the use of reason—and a few mental reasons—e.g., schizophrenia—but *Gaudium et spes* and the revised code go far beyond describing marriage in a contractual sense. *Gaudium et spes* goes into the very *dynamics of the marital process* and refers to marriage as a covenantal commitment. This sacred vow, this living covenant, this irrevocable commitment to one another, involves the totality of personalities of the couple. It is a full giving and accepting of one another, and it involves an "intimate sharing of life and love" ("intima communicatio vitae"). If the couple is incapable of realizing this "intimate sharing of life and love" by reason of psychological defects that are inherent in their personalities at the time of marital consent, the marriage may be declared null. Thus, it can easily be seen what a broad scope of psychological factors could be introduced to assist the matrimonial court in establishing the nullity of a marriage.<sup>4</sup>

### MATRIMONIAL CONSENT

For a declaration of nullity, the focus has to be on the matrimonial

---

<sup>3</sup> See T. MACKIN, WHAT IS MARRIAGE? 15-16 (1982).

<sup>4</sup> For an in-depth discussion of the broadened concept of marriage following *Gaudium et spes*, see generally Fellhauer, *The Consortium Omnis Vitae as a Juridical Element of Marriage*, 13 *STUDIA CANONICA* 3 (1979).

consent; if the matrimonial consent is fully valid, the marriage is valid forever. But if the consent is seriously or grievously flawed, even though the deficit does not show up until a much later time, nullity can be declared.

Matrimonial consent can be determined by factors that are obvious at the time of marriage—e.g., perpetual impotency or extreme force or fear. If such factors can be proved to have been present at the time of marriage, the matrimonial judges can weigh their influence on the validity of the consent. However, with the new approach, emphasizing the “intimate community of life and love” as an essential part of marriage, there is a much broader aspect in the matrimonial consent that has to be given serious consideration. One cannot give consent to do something that he is either mentally, physically, or psychologically incapable of fulfilling. Certain personality deficits can prevent the fulfillment of the marriage covenant. They may not be *obviously* lacking at the time of the marriage but, as the marriage progresses, it may become evident that one or both partners have such personality deficits that they are unable to fulfill the essential obligations of marriage. It is in these instances when the psychological “peritus” can be of great help to the matrimonial court. It is the responsibility of the psychologist or psychiatrist, first, to evaluate the mental or emotional deficit in the spouse, and, second, to indicate whether this deficit was present—even though not recognized at the time of marital consent. There are a number of psychological deficits that have their origin early in life and do not appear in any serious way until much later in life.

It should be noted that the two disciplines involved, Canon Law and psychology, use different conceptual frameworks in referring to the inability to give true marital consent. Perhaps we might graph their respective approaches in this way:

As the remainder of this Article will address personality disorders, the terminology of the court with respect to personality disorders should be considered at this point. The interesting aspect is that judges base their legal definitions on the report of the behavioral aspects of the individual. For example, a psychologist may indicate an individual has all the characteristics of a “dependent personality.” As the psychologist spells out these behavioral characteristics from the evidence submitted to him, the court is able to say whether this individual was too “immature” to give fully valid marital consent. On the other hand, as a result of the psychological personality description, the court may be inclined to say that the individual “lacked due discretion” in forming such an important decision as marriage. Thus, there is not a rigid or automatic nexus between psychological factors and canonical decisions.

## SOCIOPATHIC PERSONALITY

Perhaps no other deficit can interfere with the "intimate communication of life and marital love" more than the deeply ingrained characteristics of the sociopathic personality.<sup>5</sup> Whether one calls the mental phenomenon involved "anti-social personality" or "narcissistic personality" or "sociopathic personality," the characteristics are the same. There has been a great deal of literature written on this particular abnormality because it is very prevalent in our society today. Often, it does not impair an individual's functioning to the point that he necessarily would be excluded from society by being imprisoned or placed in a mental hospital. The aspect of the sociopathic personality that is of primary interest to us in this discussion is brought out best in a work written by psychologists William and Joan McCord.<sup>6</sup> They did a lengthy study of this psychological phenomenon over many years and clearly defined a great number of characteristics that are found in a sociopath—such as constant lying and extreme self-centeredness. The most important characteristic of the sociopath is what all authors consider to be at the very core of the sociopathic personality, namely, the inability to give and receive love. The sociopath sets his rules solely for his own satisfaction and is actually incapable of entering into the life of another human being, either to give or to receive love as an ordinary person knows it. The characteristics of a sociopath usually start early in life, frequently in childhood, when the sociopath begins to manipulate important people in his or her environment—such as parents and grandparents. This manipulative behavior becomes very satisfying for them and very deeply ingrained in their personalities. It slowly attains mammoth proportions so that they are unable to respect or love another human being. They are not even capable of receiving the love of another human being, because this would make demands upon them.

Without going into an in-depth study of a sociopath, it can be seen that a person possessing these personality characteristics would be incapable of giving consent to a relationship that involves the demands of "the intimacy of life and marital love." Although this inability may not be obvious at the time of the marriage, it certainly will appear later in the marriage, particularly when children become involved and more and more responsibility and demands are made on the sociopath. The important part, as far as the judges are concerned, is that this personality deficit actually existed at the time the matrimonial consent was given to such a degree that it vitiated that consent.

---

<sup>5</sup> For an extensive treatment of the sociopathic personality, see generally Mendonca, *Anti-social Personality and Nullity of Marriage*, 16 *STUDIA CANONICA* 4 (1982).

<sup>6</sup> See generally W. McCORD & J. McCORD, *PSYCHOPATHY AND DELINQUENCY* (1956).

## INCAPACITY

Let us now return to the canonical concept "incapacity." This term very simply means that one or both partners have such personality deficits that they cannot live together in an "intimate community of life and conjugal love." Therefore, the emphasis is on the fact that *mutually* they cannot fulfill this obligation. However, it may be that if one or the other partner was married to someone else, who did not have these characteristics, they could fulfill the obligations of a Christian marriage. Certainly, it would take an heroic effort to live an intimate conjugal life with a true sociopath. The demands that the sociopath makes upon all persons who come within the scope of his or her life are so great, most people have to "get out from under." This is particularly true in a marriage relationship. The sociopath lives an extremely self-centered life with no respect for the duties and obligations of marriage and frequently makes a mockery of all attempts to get him to enter into a marital community of life and love. Thus, the other partner simply has to withdraw from the marriage—often to protect themselves and their children, and to ensure that the children will be raised in a Christian manner. However, if the marriage is declared null by the Matrimonial Tribunal, the non-sociopathic partner may very well possess all the good personality characteristics that one would like to see brought to a marriage union. Therefore, although they cannot fulfill their marriage responsibilities with a sociopath, they are quite capable of fulfilling a marital contract with someone else. This is what is meant by "relative incapacity." This aspect of the marriage relationship needs to be kept in mind as we discuss other types of mental disorders, because certain people, with certain types of personality deficits, cannot form an "intimate community of life and love" with another person who has deficits that are completely antagonistic to their personality characteristics. For example, two paranoids could never live together under the same roof for any length of time without mentally tormenting one another, and perhaps even physically assaulting one another. There are many such personality deficits that, by their very nature, cause such a conflict of personalities that it would be impossible for the two people ever to reach a "community of life and love" that is required in a Christian marriage.<sup>7</sup>

## THE HISTRIONIC PERSONALITY

In the case of the sociopathic personality, generally, the Tribunal has little difficulty in the declaration of nullity. Another personality deficit, the histrionic personality, can be as deleterious to a marriage as a soci-

---

<sup>7</sup> For a further discussion of the important canonical concept of relative incapacity, see CANON LAW SOCIETY OF AMERICA, PROCEEDINGS OF THE FORTY-FOURTH ANNUAL CONVENTION 154-80 (1982).

opathic personality. The great difficulty for the Tribunal, however, is to determine to what degree the person possesses this personality deficit. For example, almost all actors, salesmen, and politicians possess a great deal of the characteristics of the histrionic personality. In general, most people with these characteristics control them, at least to the point that they do not seriously interfere with their total life functioning. The histrionic personality becomes a deficit when these personality characteristics so seriously affect the marital union that one or the other party is unable to realize an intimate union of life and love. The *Diagnostic and Statistical Manual of Mental Disorders*, published by the American Psychiatric Association, describes the histrionic personality as follows:

- 1) self-dramatization, e.g., exaggerated expressions of emotion;
- 2) incessant drawing of attention to oneself;
- 3) craving for activity and excitement;
- 4) overreaction to minor events;
- 5) irrational, angry outbursts or tantrums.<sup>9</sup>

The description of the histrionic personality also includes characteristic disturbances in interpersonal relationships, which are indicated by at least two of the following:

- 1) perceived by others as shallow and lacking genuineness, even if superficially warm and charming;
- 2) egocentric, self-indulgent, and inconsiderate of others;
- 3) vain and demanding;
- 4) dependent, helpless, and constantly seeking reassurance;
- 5) prone to manipulative suicidal threats, gestures, or attempts.

This type of personality disorder is usually found in women, but also exists in men. Hysterical characteristics have an extremely disturbing influence on the close interpersonal relationships involved in marriage. If, at the beginning of marriage, the individual did not realize that the other party possessed a full-blown histrionic personality, they are in for a great shock when they enter the marriage. Most young couples would in all likelihood not be able to make the adjustments necessary to handle this all-pervasive personality abnormality in their marriage.

The question in dealing with a histrionic personality focuses on two aspects: one, the degree of the abnormality of the histrionic personality; and, two, the capability of the other partner to sustain this type of abnormal personality. These questions clearly demonstrate the difficulties involved in a matrimonial decision, both on the part of the court and on the part of the psychological "peritus" in regard to his recommendations to the court.

---

<sup>9</sup> See AMERICAN PSYCHIATRIC ASSOCIATION, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS* 315 (1980).

### DEPENDENT PERSONALITY

As defined in the *Diagnostic and Statistical Manual of Mental Disorders*, "the dependent personality disorder" is one in which the "individual passively allows others to assume responsibility for major areas of his or her life because of . . . an inability to function independently."<sup>9</sup> For example, such a person might allow his or her spouse to decide what kind of job he or she should have, and may subordinate his or her own needs to those of persons on whom he or she depends in order to avoid any possibility of having to rely on him or herself. In this vein, the dependent personality might tolerate abuse by a spouse, might completely lack self-confidence, and might see him or herself as helpless or stupid.

The characteristics of the dependent personality generally are not perceived during the period of courtship. In fact, one or the other partner may feel very exhilarated because the other partner depends upon them to make decisions. This particularly happens if the woman is the dependent personality and the man feels very "macho" because the woman depends on him for all decisions. However, later in the marriage this "macho" man may be unable to sustain the complete dependency that is thrown upon him by his spouse. This becomes all the more difficult when it is the female who is carrying the burden.

### PASSIVE-AGGRESSIVE PERSONALITY

Every psychologist has their own particular thorny issue that they find most difficult to address. Mine is the passive-aggressive personality. The passive-aggressive personality is defined in the *Diagnostic and Statistical Manual of Mental Disorders* as an individual who simply "resist[s] adequate performance in both occupational and social functioning."<sup>10</sup> He does not rebel. He does not scream or yell. He simply does not perform. This resistance to performance is characterized by procrastination, doddling, stubbornness, intentional inefficiency, and forgetfulness. The incredible part of this type of performance is that it persists consistently throughout life and frequently results in loss of job, loss of respect by all those who deal with the individual, and eventually a life very unsatisfactory to themselves and to others.

What happens with the passive-aggressive marriage is that he or she does not do anything to offend the other partner. However, they constantly get their own way by not doing anything. They neither yell nor scream nor do they do a single offensive act. Nevertheless, you can see the little screaming child wanting his own way in the fact that they do not do

---

<sup>9</sup> *Id.* at 324.

<sup>10</sup> *Id.* at 328.

anything. Their very indolence, refusal or inability to cooperate in any way with another human being, unless they are getting their own way, is absolutely exasperating to anyone who is working with them. When this personality disorder becomes full-blown in a marriage, it generally has been going on as a life pattern ever since babyhood and it has been an effective tool for getting what they want. Generally, when a partner enters a marriage with a complete passive-aggressive personality, the first year or two will be idealistic, but, after that, it will be perfect hell for the other spouse to understand what is happening.

#### SCHIZOID PERSONALITY

The *Diagnostic and Statistical Manual of Mental Disorders* defines a schizoid personality disorder as one in which an individual: (a) has emotional coldness and aloofness and absence of warm, tender feelings for others; (b) is indifferent to praise or criticism or the feelings of others; and (c) has close friendships with no more than one or two people, including family members.<sup>11</sup> Thus, we have an individual who can show apparent regard for another human being, but, as the relationship develops, demonstrates an aloofness that is impenetrable. Therefore, if the other partner has a warm, congenial personality, they may admire the other partner during courtship; but, when the time comes for an intimate relationship, they suddenly find that the other partner is completely incapable of any type of warm, loving relationship.

This type of mental disorder is followed in the manual by another that is fairly similar, called Schizotypal Personality Disorder, for which the following criteria are indicated:

- 1) current and long-term functioning are not limited to episodes of illness but indicate significant impairment in social and occupational functioning. The manual notes that such people frequently refer to magical thinking—for instance, superstitions, clairvoyance, telepathy, “sixth-sense,” “others can feel my feelings”;
- 2) social isolation—having no close friends and having no desire for close friends;
- 3) recurrent delusions, sensing the presence of a force from a person not actually present.<sup>12</sup>

#### CONCLUSION

There are many other personality deficits that simply cannot be covered in this brief Article. In fact, Theodore Millon gives an in-depth description of eleven personality disorders,<sup>13</sup> while Edward Hudson cov-

---

<sup>11</sup> *Id.* at 311.

<sup>12</sup> *Id.* at 313.

<sup>13</sup> See T. MILLON, *DISORDERS OF PERSONALITY* — (1981).

ers eighteen.<sup>14</sup> Nevertheless, this Article has succeeded in reviewing the general framework of psychological factors involved in marital consent.

We must constantly keep in mind that a marriage is presumed valid unless it can be demonstrated that the marriage is invalid by showing lack of true form (defect of form), failure to assume certain obligations of marriage at the time of consent, or the inability of the person to give consent to such obligations. The review contained in this Article of the revision of the Code of Canon Law in 1917 and the broadening of the concept of marriage as portrayed by the Fathers of the Second Vatican Council and incorporated into the 1983 Revised Code of Canon Law should be kept in mind by the Permanent Deacon as he fulfills his important role as Advocate to the Tribunal. It is hoped that the presentation of these enhanced concepts of marriage will be of assistance in explaining the role of annulments in the Catholic teaching on marriage to the faithful.

---

<sup>14</sup> See E. HUDSON, *HANDBOOK II FOR MARRIAGE NULLITY CASES* — (1980).