

SACRED HEART MAJOR SEMINARY
SYLLABUS
Winter, 2009

ACADEMIC YEAR: 2008-2009 TERM: II

COURSE: MNS 306: Marriage and Nullity in Canon Law

INSTRUCTOR: Mr. Timothy T. Ferguson, JCL

I. COURSE DESCRIPTION:

Building upon the foundational understandings of Canon Law this course gives an in-depth treatment of the theology of marriage contained in the Code. Canonical concerns about catechesis and preparation for marriage are addressed. The processes for the declaration of nullity and dissolution receive detailed concentration, as well as the forms and pastoral style needed to minister well to those who seek to have the status of their marriages reviewed by the Church.

II. REQUIRED TEXTS/REQUIRED READINGS APART FROM THE TEXT:

One of the following Canon Law Commentaries:

a) CANON LAW SOCIETY OF AMERICA, New Commentary on the Code of Canon Law, edited by John Beal, James Coriden, Thomas Green, Paulist Press, 2000, 1952p. (preferred)

b) CANON LAW SOCIETY OF GREAT BRITAIN AND IRELAND, The Canon Law: Letter and Spirit, The Liturgical Press, 1995, 1060p. (out of print, but an excellent, brief commentary)

c) THE UNIVERSITY OF NAVARRA/ST PAUL UNIVERSITY, Code of Canon Law Annotated, Wilson & Lafleur, Montreal, 1993, 1631p.

III. STUDENT OUTCOMES AND OBJECTIVES:

1. To seek a deeper understanding of the canonical dimensions of marriage and to show the role of theology, biblical studies and psychology in the development of the canons and pastoral practice.

2. To learn the proper questions to ask and areas to explore pastorally while serving as an initial contact for Catholics, lapsed Catholics, those from other faiths, and those with no religious faith at all, who seek the matrimonial services of the Church, in light of the New Evangelization.

3. To become familiar with procedures which are necessary for assisting those wishing to enter marriage in the Church, or who are seeking to regularize irregular marriage situations.

IV. GENERAL OUTLINE OF THE COURSE:

January 6: Introductory Canons (cc. 1055-1062)

January 13: Tribunal Procedures I: overview of personnel and first instance

January 20: Pastoral Care (cc. 1063-1072)

Diriment Impediments Specifically (cc. 1073-1094)

January 27: Consent (cc. 1095-1107)

February 3: Canonical Form (cc. 1108-1123)

Effects (cc. 1134-1140)

February 10: Mixed Marriages (cc. 1124-1129)

Secret Marriages (cc. 1130-1133)

Convalidation (cc. 1156-1165)

February 17: Separation (c. 1156-1155)

Non-consummation (c. 1697-1706)

Presumed Death (c. 1707)

February 24: Midterm Examination

March 10: Dissolution

Pauline Privilege

Favor of the Faith

March 17: Eastern Law

March 24: Tribunal procedures, Part II: appeal, abatement, policies

March 31: Parish procedures and policies

April 7: Jurisprudence

April 14: Review, Questions and Answers

Class 21: Final Examination

V. REQUIRED COURSE WORK AND DUE DATES:

1. A thorough understanding of the Church's law on marriage, and the doctrine upon which the law is based.

2. A pastoral sense of how to assist persons with canonical difficulties in their marriage; how to find answers and assistance for them.

3. Familiarity with significant periodicals and up-to-date jurisprudence.

4. Defender's Brief: Each student is to write a Defender's brief on the case presented to them complete with fact and argument sections (a law section will be provided). The brief is to demonstrate that the student can apply the law to the facts and the law and tradition of the Church to a particular marital situation. The due date will be February 17.

5. Advocate's Brief: The preparation of a well-written brief of an Advocate in a case which will be provided by the Instructor. The due date will be April 7.

6. A written mid-term exam conducted on the examination date as determined in the seminary calendar. It will consist of short answers, fill-in-the-blanks and one brief essay.

7. The final exam will demonstrate the students' understanding of terminology as well as their comprehension of practices and procedures involving marriage law. It will be focused on providing pastoral and canonical answers to practical situations.

The final grade for the course will be determined according to the following scale:

defender's brief	10%
advocate's brief	20%
mid-term exam	20%
final exam	30%
class participation	20%

VI. BIBLIOGRAPHY

Primary Resources:

MACKIN, Theodore, S.J., *Divorce and Remarriage: Marriage in the Catholic Church*, New York, Paulist Press, 1984, ix-565p.

MCAREAVEY, John, *The Canon Law of Marriage and the Family*, Dublin, Four Courts Press, 1997, 254p.

ÖRSY, Ladislav, S.J., *Marriage in Canon Law. Text and Comments. Reflections and Questions*, Wilmington, Glazier, 1986, 328p.

PETERS, Edward, *Annulments and the Catholic Church*, Westchester, PA, Ascension Press, 2004, 197p.

Among other studies of general interest, are the following:

CORIDEN, James, A., *An Introduction to Canon Law*, New York, Paulist Press, 1991, xiv-232p.

CONNOLLY, P., "Contrasts in the Western and Eastern Approaches to Marriage," in *Studia canonica*, 35(2001), pp. 357-402.

DOYLE, T.P., ed., *Marriage Studies. Reflections on Canon Law and Theology* Volume 1, Toledo, C.L.S.A., 1980, 155p.; Volume 2, C.L.S.A., 1982, 202p.; Volume 3, Washington, C.L.S.A., 1985, ix-208p.

—, *Rights and Responsibilities: A Catholic's Guide to the New Code of Canon Law*, New York, Pueblo, 1983, 54p.

FARIS, John A., "Inter-Ritual Matters in the Revised Code of Canon Law", in *Studia canonica*, 1983, pp. 239-259.

GRAMUNT, I., HERVADA, J., WAUCK, L.A., *Canons and Commentaries on Marriage*, Collegeville, The Liturgical Press, 1987, vii-198p.

HITE, J., T.O.R., WARD, D.J., O.S.B., *Readings, Cases, Materials in Canon Law: A Textbook for Ministerial Students*, Collegeville, The Liturgical Press, 1990, xi-493p.

HUELS, J.M., *The Pastoral Companion: A Canon Law Handbook for Catholic Ministry*, Chicago, The Franciscan Herald Press, 1986, xi-355p. (revised, 1995)

JOHN PAUL II, Apostolic Exhortation, *Familiaris consortio*, on the Family in the Modern World, November 11, 1981, AA, 74(1982), pp. 91-191, (English translation in A.

FLANNERY, ed., *More Post Conciliar Documents*, vol. 2, Northport, N.Y., Costello Publishing Company, 1982, pp. 829-830.

LUDDICKE, Klaus and JENKINS, Ronny, *Dignitas Connubii: Norms and Comentary*, Washington, D.C., C.L.S.A., pp. i-556.

MARTIN DE AGAR, Joseph, *A Handbook on Canon Law*, distributed by Midwest Theological Forum, Chicago, Illinois, 1999.

ÖRSY, L., "Christian Marriage: Doctrine and Law, Glossae on Canons 1012-1015", in *The Jurist*, 40(1980), pp. 282-348 with a bibliography.

—, "Faith, Sacrament, Contract, and Christian Marriage: Disputed Questions", in *Theological Studies*, 43(1982), p. 379-398.

—, "Intolerable Marriage Situations: Conflict between External and Internal Forum", in *The Jurist*, 1970, pp. 1-14.

—, "Matrimonial Consent in the New Code: Glossae on Canon 1057, 1095-1103, 1107", in *The Jurist*, 43(1983), pp. 29-68.

ROBITAILLE, L., "Consent, Culture and the Code," in *Studia canonica*, 33(1999), pp. 125-138.

SABLE, R.M., ed., *Incapacity for Marriage. Jurisprudence and Interpretation*, Rome, Pontifical Gregorian University, 1987, xxxii-272p.

SIEGLE, B.A., T.O.R., *Marriage According to the New Code of Canon Law*, New York, Alba House, 1986, xv-297.

URRUTIA, F.X., "The Internal Forum Solution", in *The Jurist*, 1980, pp. 128-140.

WOESTMAN, W., "Too Many Invalid Marriages", in *Studia canonica*, 24(1990), pp. 193-204.

—, *Special Marriage Cases: Non-Consummation, Pauline Privilege, Favor of Faith, Separation of Spouses, Validation-Sanation, Presumed Death*, 1990, Ottawa, St. Paul University, xi-237.

—, ed., *Simulation of Marriage Consent. Doctrine. Jurisprudence. Questionnaires*, Ottawa, St. Paul University, 2000, xii-388p.

WRENN, L.G., *Annulments*, Fifth Edition, Washington, D.C., C.L.S.A., 1983, v-174.

—, *The Invalid Marriage*, Washington, D.C., C.L.S.A., 1998, iii-238.

ZWACK, J.P. *Annulment: Your Chance to Remarry Within the Catholic Church*, Cambridge, Harper and Row, 1983, xiii-130p.