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Homosexuality and the Validity of Marriage – The Developing Jurisprudence

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Church tribunals are increasingly dealing with cases of alleged marital nullity because of homosexuality. This article will explore the state of the question regarding the evolving jurisprudence in such cases. The author presupposes his readers’ familiarity with the medical literature and will concentrate on the decisions of Church courts on the marital capacity of homosexuals.

How do canonists understand homosexuality? Tobin defines it as “... that condition of psychosexual immaturity characterized by a predominant erotic attraction for a sexual object of the same sex.”

The Rotal judge Anne states: “Generically homosexuality is described as a deviation of the sexual instinct whereby an individual opts exclusively or prevalently in his dealings and erotic encounters for a partner of the same sex; this is often manifest unconsciously in sexual fantasies and dreams.”

Church courts are primarily concerned with the psychosexual inversion characteristic of homosexuality rather than with homosexual behavior as such. One is not a homosexual merely because he engages in sexual relations with a person of the same sex. This may indicate a psychosexual tendency, but it is not necessarily a conclusive proof of homosexuality. The real legal issue is the deeply rooted character disorder, the psychosexual inversion, the homoerotic attraction and conversion and heterosexual repulsion or withdrawal. The courts have generally focused attention on the genuine homosexual, i.e. “... people who are always homosexual” as opposed to pseudo or situational homosexuals, i.e. “... people who in normal conditions would be heterosexual but who turn to persons of the same sex as a means of satisfying sexual tension produced by stress of particular circumstances ...”

A key issue is whether homosexuality as such, apart from other considerations, is a separate ground of nullity. This was not true in the past, and there still does not seem to be any jurisprudential consensus. However, recently three Rotal decisions have viewed homosexuality as a relatively autonomous basis of nullity. First of all it would be well to consider briefly the tradi-
tional grounds for nullity in such cases.

The marriage of the homosexual might be null for reasons not unique to the homosexual (indirect approach). Homosexuality might be symptomatic of an underlying mental illness. Or it might render intercourse impossible. Or the homosexual may marry only to create a facade of respectability. Hence he might exclude Christian marriage totally or perhaps rule out an essential property: children, fidelity or perpetuity.

The homosexual's spouse might suspect the heterosexuality of the prospective partner and make it a condition sine qua non for marital validity. Or the homosexual's partner might be unaware of the condition and subsequently challenge the validity of the marriage because of a substantial error about the spouse.

Homosexuality itself might be the basis for the nullity (direct approach). Homosexuality might be viewed as such a compulsive reality that a person would be irresistibly drawn to such behavior and hence not free to enter a heterosexual union. Or homosexuality might be comparable to impotence since such a person is substantially unable to assume and fulfill marital rights and duties permanently.

Indirect Approach to Invalidity of Marriage of Homosexual

1. On part of homosexual.
  a) Underlying mental illness.
  Homosexuality may be symptomatic of or related to numerous mental or personality disorders. It cuts across many known diagnostic categories although obsessive neuroses, behavioral or character disorders and schizophrenic reactions are reported most frequently.\(^7\) Such factors may invalidate a marriage from two standpoints. An individual may lack the minimal theoretical knowledge of marriage because of an affective disturbance influencing his intellectual capacity.\(^8\) Or such theoretical knowledge may be practically ineffective since an affective disturbance may preclude the will from operating freely in accord with said knowledge. Hence the homosexual's marriage may be null not because of homosexuality as such but because of inadequate knowledge or due freedom in expressing consent.\(^9\)

  b) Psychic impotence.

  Canonical impotence is the antecedent and perpetual incapacity of a man or woman to perform acts apt for generation.\(^10\) Physicians and canonists may differ on the meaning of impotence.\(^11\) Here male impotence means the inability to have an erection, penetrate and seminate within the vagina. Female impotence is an inability to receive the male member and the depositing ejaculate.\(^12\) Organic impotence refers to a physical, anatomical or organic deficiency of the sexual organs. Functional or psychic impotence refers to the imperfect functioning of organically perfect organs. Generally jurisprudence has con-
sidered homosexuals organically capable of heterosexual intercourse. However the homosexual inversion may make one psychologically impotent for such intercourse, e.g., Rotal decision of Sabbatani of December 20, 1963. However a Rotal decision of Canals of October 24, 1967 noted that an uncertainty regarding the possible "cure" of the homosexuality posed questions about the perpetuity of the alleged impotence required by traditional jurisprudence and canon 1068.\(^\text{13}\)

At times a petition is submitted to the Holy See seeking the dissolution of a homosexual's marriage because it was not consummated. This is not a nullity action, which would have to establish the incapacity for intercourse. The non-consummation process clarifies the factual failure of the couple to consummate the marriage, whatever the reason(s).\(^\text{14}\)

c) Simulation

Individuals presumably marry without basic reservations vitiating marital consent. Yet occasionally people may externally consent while internally rejecting marriage entirely or one of its essential properties.\(^\text{15}\) Homosexuals may marry for various reasons, e.g. hope for a cure, social benefits and protection, family pressure, etc.\(^\text{16}\) Apprehensions about a successful marriage may prompt them to propose a trial marriage (intention against perpetuity) especially if they wish to create a facade of respectability.\(^\text{17}\)

Ambiguous feelings or a positive aversion to children might motivate an exclusion of children from the marriage (intention against children).\(^\text{18}\) These grounds may be connected since "when marriage is entered on a trial basis frequently children will be excluded also lest they exercise a hindering effect upon a future, hypothetical attempt at dissolution of the bond."\(^\text{19}\)

Canonists have disputed the implications of homosexual behavior for marital fidelity. Canonically this has meant the exclusive mutual commitment of the parties for generative acts. The crucial issue is the degree to which homosexual behavior intrinsically limits that exclusive commitment. Although questioned by some canonists today, the traditional view has been that an intention to continue homosexual practices after marriage does not substantially vitiate marital fidelity, which is specifically related to heterosexual acts. While homosexual behavior might be grounds for an ecclesiastical separation, it has not been the basis for a nullity action (intention against fidelity).\(^\text{20}\)

2. On part of homosexual's spouse.

a) Condition.

Traditionally Western canon law has permitted conditional marriages. Accordingly a circumstance may be attached to the marital commitment; if not verified a nullity action may be instituted.\(^\text{21}\) The prospective part-
ner might suspect the homosexuality of his spouse and make heterosexuality a condition *sine qua non* for marriage. Without entering into various evidentiary issues, "... the quicker a person declares the marriage null because of the unfulfilled condition and effects a separation, the easier it is to conclude to the presence of a true condition." 22

b) Error.
Perhaps relatively few marriages are entered conditionally. More often the homosexual's spouse may be unaware of his condition. Such a person may subsequently allege that the homosexual spouse was substantially different from the person she intended to marry. Today Church courts are expanding the notion of error about personal qualities amounting to a substantial error about the person. 23 This may include error about the homosexuality of a prospective spouse. Traditionally the courts differentiated between substantial error which invalidated a marriage and accidental error which did not. If one physical person were mistaken for another, it was substantial error. The so-called error of quality was substantial only if it involved a particular feature of a person setting him apart from all others. Other qualities such as homosexuality were generally considered accidental and non-invalidating. It was felt that a more broad interpretation would undermine the stability of marriage. However in recent years a concern for personal rights and the quality of the marriage relationship has suggested a reevaluation of the traditional notion of substantial error. 24 Accordingly a developing jurisprudence considers invalidating an error about a true quality of the other party, present at the time of the marriage, objectively or subjectively serious, unknown to the marriage partner, fraudulently concealed in view of marital consent 25 and leading to a relational crisis upon discovery. Jurisprudential developments have also prompted reformulation of statutory law. 26

At times the difference between error and condition seems slight. The following guideline seems helpful: when deceit is high and awareness is low, error is the likely basis of nullity. Where awareness is high and deceit is low, a condition is more likely. 27

**Direct Approach to Invalidity of Marriage of Homosexual**
Jurisprudence has generally not considered homosexuality as an autonomous basis of nullity. 28 However two approaches move in this direction.

1. Irresistible impulse.
On March 15, 1956 the Rotal judge Lamas rejected a lower court's viewing homosexuality as an autonomous basis of nullity because of the homosexual's allegedly irresistible impulses. None of the traditional bases for adjudicating the marriage of a homosexual were present. In fact the homosexual partner apparently did not experience any noteworthy repugnance for heterosex-
ual intercourse. Lamas repudiated any suggestion that the homosexual's irresistible inclination to engage in such behavior precluded his freedom to consent to marriage. This would have implied a determinism apparently minimizing imputability for actions affected under the influence of passion.29

2. Incapacity of fulfilling marital obligations.

The most significant development in this area is the post-conciliar jurisprudential shift from focusing on a person's ability to give consent to his capacity to fulfill the obligations of that heterosexual union which is marriage. Even before the close of the Council, Keating foreshadowed such a development.30 He notes the traditional difficulties in adjudicating the marriages of homosexuals. Then he suggests changing the court's concern from the act of marital consent to the parties' capacity of realizing the obligations flowing from such a commitment. The real basis of the nullity of the marriage of the homosexual is not to be discerned primarily in the components of the act of consent but rather in the person's incapacity of binding himself seriously to the essential obligations of the relationship.31 Whether or not a person (e.g. homosexual) has sufficient discretion to consent to marriage is not really the radical jurisprudential issue. Rather it's the individual's ability to assume and fulfill the rights and obligations flowing from such consent.32 Particularly helpful to the courts in this connection is the aid of professional expertise concerning the dynamics of human behavior. The key issue here for the courts is not: “does the person understand the nature and essential properties of marriage?” (due discretion) but rather “does the person have the ability to assume the obligations and burdens of married life?” (due competence)33

Three Rotal decisions illustrate this development well. Two consider both due discretion and due competence. One deals entirely with due competence.

The first decision of Lefebvre of December 2, 1967 involved a male homosexual physician who married a female philosophy professor. The marriage ended after three months when the physician was arrested for sexual offense involving young men and sentenced to prison.34

For Lefebvre the homosexual is often so disturbed by interior conflicts that he is immature in apprehension and will and lacks sufficient marital discretion. Marrying validly requires the possession of a critical faculty, the ability to judge, which implies a coordination of the higher faculties of intellect and will. The above-mentioned physician was nervous, depressed, constantly afflicted with guilt feelings and regularly engaged in bizarre behavior. His homosexual acting out was apparently independent of his will and somewhat uncon-
ciously caused. A judgment of nullity was rendered because of a lack of due discretion.

Furthermore, for Lefebvre the homosexual cannot give and receive that perpetual and exclusive right to procreative acts at the heart of marital consent. No one can contract for obligations he is incapable of fulfilling. The issue is not the positive exclusion of the object of marriage (which presupposes the capacity of fulfilling marital commitments) but a more basic personal inability to exchange the above-mentioned right. The physician in question was opposed to conjugal relations, married for intellectual reasons, experienced difficulties in consummating the union and regularly engaged in sexual relations with young men. Nullity was also declared because this homosexual propensity rendered him incapable of undertaking marital obligations.15

A second more significant decision was issued by Anne on February 25, 1969.16 A woman had engaged in homosexual activity from adolescence until shortly before her marriage, ceased such activity for four years during which she bore three children and then began to engage in homosexual activity after a chance meeting with another female homosexual. The marriage ended after ten years. The husband sought an annulment because his wife’s lesbianism made her incapable of fulfilling her role as a wife and mother. After two contradictory decisions in Montreal, the case was submitted to the Rota.

The decision is particularly noteworthy since it explores the juridical implications of Vatican II’s theological-pastoral insights on marriage.17 It is especially significant in emphasizing the object of marital consent as a right to a communion of life and love. This transcends the more narrow pre-conciliar stress on the right to the body for procreative acts.18

Anne states that canon 1081 on the indispensability of marital consent has to be interpreted in light of paragraph 48 of the Pastoral Constitution.19 This latter text speaks of married life as a partnership and covenant rooted in the irrevocable commitment of the parties to each other. Technically canon 1081 covers all possible defects of marital consent. However frequently the issue is not so much the quality of consent (e.g. exclusion of a given property of marriage) but rather a deficiency of the formal object of consent, i.e. the inability to give and receive the object of marital consent, perhaps because of certain overpowering sexual impulses.20

He refers to the above-mentioned decision of Lefebvre and to an earlier decision he rendered on January 17, 1967 in the case of a nymphomaniac, both of which stressed that no one can contract obligations who is incapable of fulfilling them.21 He then asks: can homosexuality as such be considered an autonomous
basis for nullity above and beyond the traditional ways of approaching invalidity in this area? Can one say that homosexuals are radically incapable of assuming and fulfilling marital obligations? It is also noteworthy that Anné takes as his example for jurisprudential development the truly inverse homosexual condition which excludes all sexual ambivalence.

In discussing canon 1081, 2 Anné observes that in light of Vatican II the formal object of marital consent must be viewed differently:

"The formal substantial object of marriage, therefore, is not only the *ius in corpus* that is perpetual and exclusive for the purpose of acts for the procreation of children, excluding every other formal element, but comprises even the *ius ad vitae consortium* or *communitatem vitae* (right to life partnership or community of life) which is properly called matrimonial with its correlative obligations or the right to the intimate union of persons and works by which they perfect one another so that they unite with God in procreating and educating new living persons (*Humanae vitae*)."

Anné thereby stresses the intimate relationship between conjugal companionship and sexual intercourse not always uppermost in earlier jurisprudence. While it is not always easy to clarify the components of such a community of life in practice, the ability to live a common life is certainly crucial to marital validity. In practice it may be easier to demonstrate that a given individual is deprived of those elements necessary to establish a community of life existentially. The courts cannot merely consider the intellectual-volitional status of the parties at the time of the marriage. Rather they must be equally attentive to the relational abilities of individuals inasmuch as marriage is preeminently an ongoing personal commitment with biological, psychological and spiritual dimensions. In dealing with particular cases, Anné stresses the importance of the court's considering marriage in light of the exigencies of the natural law, the cultural forces that shape marriage differently in various societies and the psychic strengths and weaknesses of the individual couple. Some elements may be essential to marriage everywhere prescinding from cultural differences, whereas other elements might be important to the success of marriage but not absolutely indispensable for a canonically valid union.

Subsequently Anné deals with the case in question and the implications of homosexuality for marital validity in light of the community of life and love which is a crucial part of the formal object of marriage. He is cautious in enumerating those psychic disturbances that would vitiate a commitment to a common life. Yet he clearly states that serious perversions of the heterosexual instinct, as in truly inverse homosexuality, preclude the establishment of the community of life we
call marriage. He does not further elaborate on the issue. However, what is important is that the basis has been laid for further jurisprudential developments. Jurists continue to reflect on the legal implications of marriage as a community of life and love and their applicability to various disorders—not merely cases involving alleged homosexuals. Interestingly enough in the above case, Anne did not annul the union since the woman was capable of living a married life, had three children, didn't deny her husband sexual relations and could have been helped with a greater measure of understanding on his part. Despite clear evidence of bisexual tendencies, the court judged that her incapacity for marriage had not been clearly established.

It is appropriate to note a difference in the way the courts have approached male and female homosexuality in its impact on marital validity. Lesage notes a fairly established jurisprudence stating that for the male homosexual a truly heterosexual community is practically impossible. However that is not necessarily the case for a female homosexual, who does not always find conjugal life repugnant and whose sexual propensities do not always quench her maternal instinct. It may be easier for the female homosexual to lead a reasonably satisfactory conjugal life through sublimating her homosexual drives in various ways.

Conclusion

In general it can be said that the possibilities for dealing canonically with the alleged nullity of marriages of homosexuals have been enhanced considerably in recent years. This is particularly true in light of the growing tendency to appreciate the legal implications of the conciliar teaching on marriage as a lifelong commitment of life and love. There is no jurisprudential consensus as yet. However, the nullity of the marriages of homosexuals is increasingly being considered on the basis of their incapacity to fulfill the basic heterosexual obligations of marriage. The shift away from a nearly exclusive concentration on the status of mind and will of the contracting party at the time of the marriage and the tendency to assess the parties’ capacity for a lifelong relationship has enabled Church courts to offer a more enlightened jurisprudence. Likewise the expansion of the concept of substantial error about the quality of a person has also aided individuals trapped in particularly destructive marital situations and seeking the Church’s ministry to begin life anew within the community. However, as a final note, it is important to avoid easy generalizations. Fairness to persons and a responsible judicial practice make this imperative.

“In reaching a decision in a given case, attention must be paid especially to the predominate etiology, to the chronological point of origin, to the exclusivity of the attraction,
...to the motives for marriage, to the post nuptial adjustment and to the length of cohabitation ... the ever present question will be: is this person, because of homosexuality, incurably incapable of fulfilling the basic spiritual, affectional and emotional needs of the partner and the children on a long term basis? If so, that person is morally impotent. 48

REFERENCES

1. A particularly noteworthy work in this area is W. Tobin, Homosexuality and Marriage (Rome: Catholic Book Agency, 1964.) For other canonical works on homosexuality and the nullity of marriage see:


2. Tobin, op. cit., p. 22. The pronoun ‘he’ is used throughout the article and is to be understood as applying to female and male homosexuals. Where there are specific canonical differences in dealing with female and male homosexuals, it will be so stated.


5. Wrenn, op. cit., p. 52.


7. See Tobin, op. cit., pp. 25-31; 305.

8. On the minimal knowledge for marriage in the Code of Canon Law (henceforth Code) see canon 1082: paragraph 1: “In order that matrimonial consent may be possible, it is necessary that the contracting parties be at least not ignorant that marriage is a permanent society between man and woman for the procreation of children;” paragraph 2: “This ignorance is not presumed after puberty.”


10. Canon 1068 of the Code reads as follows: paragraph 1: “Antecedent and perpetual impotence whether on the part of the man or of the woman, whether known to the other party or not, whether absolute or relative, vitiates marriage by the very law of nature.”; paragraph 2: “If the impediment of impotence is dubious, whether it be a doubt of law or of fact, the marriage ought not to be impeded.”; paragraph 3: “Sterility neither invalidates marriage nor makes marriage unlawful.”
11. See Wrenn, op. cit., pp. 6-7; 13-14.

12. It is impossible to go into detail here on such disputed jurisprudential issues as the nature of 'true semen,' the transmitting function of the vagina vis-a-vis the passage of 'true semen' to the uterus, etc. See among other works Arza, art. cit., pp. 35-39, Lesage-Morrissey, op. cit., pp. 2-17 and Wrenn, op. cit., pp. 6-20.

13. For citations from the Sabbatani and Canals decisions see Lesage-Morrissey, op. cit., p. 185; on the ambiguity of the term 'cure' in this context see Tobin, op. cit., p. 305 and Wrenn, op. cit., pp. 52-53.

14. Canon 1119 of the Code reads as follows: “Non-consommated marriage between baptized persons or between a baptized and a non-baptized person is dissolved both ipso iure by solemn religious profession, and through a dispensation granted for just cause by the Apostolic See, at the request of both parties or either party, even though the other be unwilling.”

15. Canon 1086 of the Code reads as follows: paragraph 1: “The internal consent of the mind is always presumed to be in agreement with the words or signs which are used in the celebration of the marriage;” paragraph 2: “But if either party or both parties by a positive act of the will exclude marriage itself, or all right to the conjugal act, or any essential property of marriage, the marriage contract is invalid.” Canon 1013, 2 of the Code reads: “The essential properties of marriage are unity and indissolubility, which acquire a peculiar firmness in Christian marriage by reason of its sacramental character.”


21. Canon 1092 of the Code reads as follows: “A condition once placed and not revoked:

1. If it is a condition regarding a future event which is necessary or impossible or immoral but not contrary to the substance of marriage, is to be considered as not having been made.

2. If it concerns the future and is contrary to the substance of marriage, it makes the marriage invalid.

3. If it concerns the future and is licit, it suspends the validity of marriage.

4. If it concerns the past or present, the marriage will be valid or not according as the matter concerning which the condition is made exists or not.” See Wrenn, op. cit., pp. 92-98.


23. See canon 1083 of the Code which reads as follows: paragraph 1: “Error regarding the person makes marriage invalid.” paragraph 2: “Error regarding a quality of the person, even though it is the cause of the contract, invalidates marriage in the following cases only: 1. If the error regarding the quality amounts to an error regarding the person. 2. If a free person contracts marriage with a person whom he or she believes to be free but who is on the contrary in a condition of slavery in the proper.” Also canon 104 which reads as follows: “Error annuls an action when the error concerns the substance of the action or amounts to a condition sine qua non, otherwise the action is valid.
unless the law states the contrary; in contracts, however, error may give the person contracting under such error the right to an action in court for the rescinding of the contract." On recent jurisprudential developments see M. Reinhardt, "Error qualitatis in errorem personae redundans," in Proceedings of the 35th Annual Convention of the Canon Law Society of America (1973): 55-69. See also Le­ sage-Morrissey, op. cit., pp. 108-113; Wrenn, op. cit., pp. 99-102 and Arza, art. cit., pp. 55-58.


25. There is a dispute among jurists about the necessity of fraud or deceit vis-a-vis marital invalidity. Some such as Wrenn would hold that deceit is of the essence of the invalidity. Others such as Reinhardt and Canals in the above-titled decision would not require this. For the text of the Canals decision see Il Diritto Ecclesiastico 81 (1970): 3-22.

26. Canon 300 of the proposed revision of marriage law reads as follows: "The person who enters into matrimony deceived by fraud, perpetrated to obtain consent, on some quality of the other party, which could seriously disrupt the community of conjugal life, contracts invalidly." For a discussion of some of the pertinent issues see the official journal of the Pontifical Commission for the Revision of the Code entitled Communicationes 3 (1971): 76-77. See also Tobin, op. cit., p. 307.

27. See Wrenn, op. cit., p. 102.


31. Ibid., pp. 199-200.

32. See Kenny, art. cit., p. 110.

33. See Wrenn, op. cit., p. 23.

34. For a fuller description of the case see Kenny, art. cit., pp. 117-118. For a text of parts of the decision see Monitor Ecclesiasticus 93 (1968): 467-469. See also Arza, art. cit., p. 65 ff.

35. Interestingly enough another Rotal decision in the same case reversed the decision for nullity on the ground of lack of due discretion but confirmed the decision for nullity on the ground of an incapacity for marital obligations. This decision by Pompedda on October 6, 1969 may be found in Il Diritto Ecclesiastico 80 (1969): 146-159. An English summary may be found in Kenny, art. cit., pp. 119-121. Pompedda judged that there was insufficient proof that the physician was volitionally or cognitively impaired in any significant way as regards his assessment of marriage. However, his connatural and invincible inclination towards the same sex and his aversion to the other sex rendered him incapable of fulfilling the object of marital consent. Homosexuality is not simply opposed to the physical/biological end of marriage but also against its psychological and social ends, i.e. self-giving, mutual perfection, mutual enrichment, fulfillment in children, etc. One might well wonder to what extent Pompedda is influenced by the earlier Anne decision to be discussed next.


37. See especially the Pastoral Constitution on the Church in the Modern

Linacre Quarterly
38. A key canon of the Code is canon 1081, 2 describing the object of marital consent: "Matrimonial consent is an act of the will by which each party gives and accepts a perpetual exclusive right over the body, for acts which are of themselves suitable for the generation of children."

39. See canon 1081, 1 of the Code which reads as follows: "Marriage is effected by the consent of the parties lawfully expressed between persons who are capable according to law; and this consent no human power can supply."


41. For the January 17, 1967 decision see Il Diritto Ecclesiastico 79 (1968): 3-12.

42. It is clear that Anné is not focusing attention on the incapacity of choosing the conjugal state with sufficient discretion of judgment and internal freedom as was true in earlier cases including Lefebvre.

43. Kenny, op. cit., p. 116. The definition of marital consent is reformulated accordingly.


45. The implications of Vatican's II's teaching on marriage may be seen in three canons in the proposed revision of the Code. The canons will simply be cited without any critical comments. For such a critique see T. Green et al., "Report of a Special Committee of the Task Force on the Marriage Canons of the Proposed Schema Documenti Pontificii quo disciplina Canonica de Sacramentis Recognoscitur," forthcoming in Proceedings of the Thirty-Seventh Annual Convention of the Canon Law Society of America (1975). In describing marriage the proposed canon 243, 1 reads as follows: "Marriage, which comes into existence by mutual consent as described in canons 295 and the following, is an (intimate) partnership of the whole of life between a man and woman, which by its very nature is ordered to the procreation and education of children."

46. See decision of Lesage in Montreal Appellate Court (AM 7/72) in Lesage-Morrissey, op. cit., pp. 187-189 especially citing comments of Dr. Marcel Eck on female homosexuals on page 189.


48. Wrenn, op. cit., p. 56. By 'morally impotent' Wrenn is referring to a type of marital incapacity comparable to the inability to have intercourse but of a relational character existing in the order of rights and obligations. Some authors would prefer to avoid using the term because of the possibility of confusion with the traditional canonical notion of impotence as the incapacity for intercourse, whether it be for organic or psychic reasons.