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**JCL Thesis Proposal
Catholic University of America
School of Canon Law**

Name: Rev. Christopher J. Singer
Date: July 22, 2009
Proposed Title: "Marriage Preparation Law and its Practice in the Diocese of Erie"

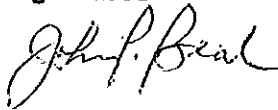
Brief Outline of Major Points to be Investigated:

- Briefly trace the historical development of universal law regarding marriage preparation from the 1917 Code to the Second Vatican Council.
- Provide a more detailed analysis of universal marriage preparation law and particular law for the United States from the Second Vatican Council to the present.
- Provide an analysis of the *Common Policy for Marriage in the Diocese of Erie* currently in force.
- Provide an analysis of the proposed *Revised Common Policy for Marriage* and comment on its congruency to properly implement current marriage preparation law.
- Offer observations and suggestions on how the proposed revised policy can be canonically improved before promulgation in the Diocese of Erie.

Methodology: Analysis of pertinent canons in both the 1917 and 1983 Codes of Canon Law. Analysis of other pertinent magisterial and episcopal conference documents. Comparing and contrasting canonical outline for marriage preparation with current and proposed policy in the Diocese of Erie.

Doctoral Pursuit: Not at this time.

Signatures





Proposed Outline:

Chapter I: The Current Law

A. 1917 Code of Canon Law

1. analysis of canons
2. subsequent universal legislation through 1962
3. particular law for the United States through 1962

B. 1983 Code of Canon Law

1. developments from 1962 to promulgation of 1983 Code
2. analysis of pertinent canons from the 1983 Code
3. Subsequent universal legislation post 1983
4. Subsequent particular legislation post 1983

C. Combined sketch of current canonical requirements for marriage preparation

Chapter II: Policy Analysis

A. Canonical summary of 1980 *Common Policy for Marriage in the Diocese of Erie*. Comparison to current canonical requirements.

B. Canonical summary of newly proposed *Common Policy for Marriage*.

Chapter III: Observations and Recommendations:

A. Canonical analysis of proposed policy. Observations of strengths and weaknesses in comparison to canonical requirements.

B. Considerations for strengthening proposed policy.

1. Contributions of National Pastoral Initiative for Marriage
2. Debate on mandatory Natural Family Planning training and canon 1101 § 1.

C. Suggestions for proposed policy and conclusion.

Preliminary Bibliography:

- Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV Auctoritate promulgatus* (Rome: Typis Polyglottis Vaticanis, 1917).
- Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (Vatican City: Libreria Editrice Vaticana, 1983).
- Diocese of Erie, *Common Policy for Marriage in the Diocese of Erie*. Unpublished policy statement. September 28, 1980.
- Beal, John P., et al., eds. *New Commentary on the Code of Canon Law*. New York/Mahwah, NJ: Paulist Press, 2000.
- Coriden, James A., et al., eds. *The Code of Canon Law: A Text and Commentary*. New York/Mahwah, NJ: Paulist Press, 1985.
- NCCB, Decree of Promulgation of complimentary legislation for canon 1067. October 20, 2000.
- NCCB, Bishops' Committee for Pastoral Research and Practices. *Faithful to Each Other Forever: A Catholic Handbook of Pastoral Help for Marriage Preparation*. October 27, 1988. Washington DC: USCC Publications, 1988.
- Pontifical Council for the Family. *Preparation for the Sacrament of Marriage*. May 27, 1996.
- Pontifical Council for Promoting Christian Unity. *Directory for the Application of Principles and Norms on Ecumenism*. March 25, 1993.
- Pope John Paul II. *Familiaris consortio*. November 22, 1981.
- Pope Pius XI, *Casti connubii* December 31, 1930.

The Catholic University of America
School of Canon Law

Fr. Richard F. Reidy
November 11, 2009

Proposed Title: The Gravity of the Defect of Discretion of Judgment Necessary to Establish the Invalidity of Marriage under Canon 1095, 2^o

Thesis Statement: The canonical concept of “discretion of judgment” has roots in natural law, Roman Law and Scholastic philosophy. It connotes a minimal ability, using the intellect and will, to make a free, rational, mature choice to marry. Discretion of judgment is a capacity presumed of all persons not prohibited by law from marrying. That presumption can only be overturned by a grave defect of discretion grounded in a severe form of psychopathology which causes a true incapacity to give consent.

Outline of Major Points to be Investigated:

- I. Introduction
- II. Chapter I: Discretion of Judgment – Canonical Roots and Content
 - A. Pre-Scholastic Roots
 1. Natural Law
 2. Roman Law
 3. Ecclesiastical Law
 - B. Scholastic Philosophy to the 1917 Code of Canon Law
 1. Thomas Sanchez (mortal sin norm)
 2. Thomas Aquinas (puberty norm)
 3. 1917 Code of Canon Law
 - C. Discretion of Judgment since the 1917 Code of Canon Law
 1. Pre-1983 Code Developments
 2. 1983 Code of Canon Law, canon 1095, 2^o
- III. Chapter II: What constitutes a “grave defect”?
 - A. How can discretion of judgment be defective?
 - B. Discussion of gravity
 - C. Incapacity to consent
- IV. Conclusion

Methodology: Chapter I will involve an historical survey of the roots of “lack of discretion” in the broader topic of mental capacity. Chapter II will be an analysis of select canonical jurisprudence and literature and papal allocutions concerning canon 1095, 2^o under the 1983 code.

Sources:

Preliminary and Partial Working Bibliography

PRIMARY SOURCES

Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV. Rome: Typus Polyglottis Vaticanis, 1917.

Codex Iuris Canonici auctoritate Ioannis Pauli PP. II. Promulgatus. Vatican City: Libreria Editrice Woestmann, William H., O.M.I., ed. *Papal Allocutions to the Roman Rota: 1939- 2002.* Ottawa: Saint Paul University, 2002.

SECONDARY SOURCES

Burke, Raymond L. *Incapacity for Marriage: Jurisprudence and Interpretation.* Rome: Gregorian University Press, 1987.

———. "Lack of Discretion of Judgment: Canonical Doctrine and Legislation." *The Jurist* 45 (1985) 171-209.

Burke, Raymond L., and David Fellhauer. "Canon 1095: Canonical Doctrine and Jurisprudence." *CLSA Proceedings* (1986) 94-117.

Dermond, John K. *Canon 1095, 2°: Lack of Discretion of Judgment in Rotal Decisions Under the 1983 Code of Canon Law.* JCL thesis, the Catholic University of America, 1990.

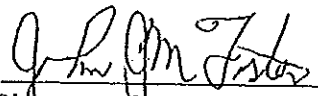
Keating, John R. *The Bearing of Mental Impairment on the Validity of Marriage: An Analysis of Rotal Jurisprudence.* Rome: Gregorian University Press, 1964.

Mendonça, Augustine. "The Incapacity to Contract Marriage: Canon 1095." *Studia Canonica* 19 (1985) 259-325.

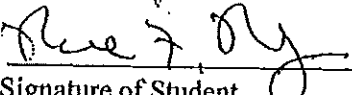
Pompedda, Mario F. "Canon 1095, 2° Seen From Its Sources." *The Jurist* 56 (1997) 824-874.

Read, Gordon. "1969-1994: Twenty-Five years of Lack of Due Discretion." *CLSGBI Newsletter* 100 (December 1994), 42-48.

Further Studies: While I am interested, it is unlikely that I would immediately be pursuing a JCD.



Signature of Faculty Member



Signature of Student