

# Church Legislation on Marriage

**Elective  
Past  
Papers**

LL.B. III



# **GĦAQDA STUDENTI TAL-LIĠI**

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2020/2021

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## ABOUT GħSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GħSL Online Law Journal*.

Moreover, GħSL boasts its own Thesis Library, located at the GħSL office in the Faculty of Laws. Additionally, GħSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at [resources@ghsl.org](mailto:resources@ghsl.org).



RESOURCES

# Church Legislation on Marriage

ELECTIVE PAST PAPERS

LL.B III





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## **THE GHSL TEAM**



## Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

### 1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

### 2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

### *3. Organisational Skills*

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

### *4. Taking your own class notes*

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

### *5. Participation*

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

### *6. Practice is the key to success*

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.

UNIVERSITY OF MALTA  
FACULTY OF LAW  
LL.B. II  
JANUARY 2009  
PLC3230 – CHURCH LEGISLATION ON MARRIAGE

MONDAY, 26<sup>TH</sup> JANUARY, 2009

4.45PM – 5.45PM

*Students may make use of the Code of Canon Law WITHOUT commentaries.*

**ONE question to be answered**

1. Compare the importance attributed to the consent of the parties as a constitutive element of marriage in Malta's Marriage Act with that attributed in Canonical legislation.
2. Compare and contrast the provisions of section 19(1) of the Marriage Act with those of Canon Law as regards the following elements as possible grounds for declaration of nullity of marriage:
  - [a] consent vitiated by positive exclusion of marriage or of certain rights, properties or elements connected with marriage;
  - [b] consent fraudulently obtained;
  - [c] consent subject to a condition.
3. Give a brief but clear explanation of the following as used in the Code of Canon law:
  - [a] "Marriage enjoys the favour of the law"
  - [b] "Ratified and consummated marriage"
  - [c] "Convalidation"

UNIVERSITY OF MALTA  
FACULTY OF LAWS  
LL.B. II  
SEPTEMBER 2009  
PLC3230 – CHURCH LEGISLATION ON MARRIAGE

WEDNESDAY, 9<sup>TH</sup> SEPTEMBER, 2009

9.15AM – 10.15AM

*Students may make use of the Code of Canon Law WITHOUT commentaries.*

Answer ONE Question

[1] Explain and compare the provisions of the Marriage Act with those of Canon law as regards:

- (1) Lack of discretion of judgment
- (2) Simulation

as possible grounds for a declaration of nullity of marriage.

[2] For therapeutic reasons, Jane had to have both her ovaries removed. It was only after her marriage, which was celebrated in May 1990, that she eventually informed her husband Paul about the operation she had undergone. Discuss the validity or otherwise of this couple's marriage in Maltese Civil Law and in Canon Law. What legal provisions, if any, are made in both legal systems for this marriage to be declared null?

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.B. III YEARS**  
**JANUARY 2011**  
**PLC 3230: Church Legislation on Marriage**

Monday 24th January 2011

8.00AM – 10.00AM

*The Code of Canon Law (without commentaries) may be introduced and consulted by students.*

**TWO questions to be answered**

1. Compare the importance attributed to the consent of the parties as a constitutive element of marriage in Malta's Marriage Act with that attributed to it in Canonical legislation.
2. In present-day Church tribunal practice, most petitions for a declaration of nullity are based on the alleged incapacity of either or both spouses. Elaborate on the meaning, interpretation and application of this ground of nullity according to present-day canonical legislation, doctrine and jurisprudence.
3. Compare the provisions of the Marriage Act with those of Canon Law as clarified by canonical jurisprudence and doctrine as regards:
  - a) Error
  - b) Deceit
  - c) Conditionas grounds for declaration of nullity of marriage
4. Write short notes on **TWO** of the following impediments, comparing the Civil Law position with that obtaining under Canon Law:
  - i. Impotence
  - ii. Previous Bond
  - iii. Consanguinity

**UNIVERSITY OF MALTA**  
**FACULTY OF LAW**  
**LLB III/LLD QUALIFYING**  
**JANUARY 2012**  
**PLC 3230: Church Legislation on Marriage**

Monday 6th February 2012

9.15AM – 11.15AM

*The Code of Canon Law (without commentaries) may be introduced and consulted by students.*

**TWO questions to be answered. All questions (including parts of questions) carry equal marks**

1. Compare the importance attributed to the consent of the parties as a constitutive element of marriage in Malta's Marriage Act with that attributed to it in Canonical legislation.
2. In present-day Church tribunal practice, most petitions for a declaration of nullity are based on the alleged incapacity of either or both spouses. Elaborate on the meaning, interpretation and application of this ground of nullity according to present-day canonical legislation, doctrine and jurisprudence.
3. Compare the provisions of the Marriage Act with those of Canon Law as clarified by canonical jurisprudence and doctrine as regards **TWO** of the following:
  - a) Error
  - b) Deceit
  - c) Conditionas grounds for declaration of nullity of marriage
4. Write short notes on **TWO** of the following impediments, comparing the Civil Law position with that obtaining under Canon Law:
  - i. Impotence
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UNIVERSITY OF MALTA  
FACULTY OF THEOLOGY  
RE-SIT EXAMINATIONS SESSION SEPTEMBER 2012  
PLC3230: CHURCH LEGISLATION ON MARRIAGE

Thursday, 13<sup>th</sup> September 2012

Time: 9.15 – 11.15am

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*The Code of Canon Law (without commentaries) may be introduced and consulted by students.*

Choose **TWO** of the following:

1. "The free consent of the parties stands out more clearly as the basic constitutive element of marriage in Canon law than it does in the Marriage Act". Discuss. (50%)
  
2. Comment on the following canonical provisions: "*Except in case of necessity, no one is to assist without the permission of the local Ordinary at: ... 3° a marriage of a person bound by natural obligations towards another party or children, arising from a previous union; ... 6° a marriage of a minor whose parents are either unaware of it or are reasonably opposed to it*" (canon 1071 §1). (50%)
  
3. Write short notes on **TWO** of the following impediments (AND where applicable, compare with the provisions of the Marriage Act):
  - i. Consanguinity (25%)
  - ii. Impotence (25%)
  - iii. Disparity of cult (25%)
  
4. Discuss briefly (AND compare with Marriage Act provisions, if any) what effect any **TWO** of the following circumstances may have on the validity of marriage according to present-day canonical legislation and jurisprudence:
  - (a) Lack of canonical form (25%)
  - (b) Simulation of consent (25%)
  - (c) Deceit (25%)
  - (d) Grave fear (25%)