



Original Article

Psycho-affective immaturity as a cause for marriage nullity: an interdisciplinary analysis of law, sociology and emotions

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Abstract

In the context of post-modern socio-relational and affective dynamics, marriage emerges as an institution that is still fundamental to social and family organization. However, the recent news that psycho-affective immaturity is considered the main cause of nullity of marriages in the regions of Abruzzo and Molise (*Tribunale Ecclesiastico Interdiocesano Abruzzese-Molisano* - TEIAM, 2025) raising important questions regarding the sociological and legal implications of this emerging interpretation. The essay, focuses, therefore, on the concept of "psycho-affective immaturity" not only from a legal point of view, but also and especially from an emotional macro sociological point of view to understand the reasons that influence the stability and legitimacy of marriage unions. The connections between socio-psycho-affective immaturity and the sociology of emotions will be explored more specifically, with reference to consistent legal developments.

Keywords: Psycho-affective immaturity; marriage nullity; law; sociology; emotions.

1. The European context: the role of the ECtHR and EU Regulations in the Italian legal framework

The European context has played a fundamental role in shaping the protection of individual rights, including those related to marriage. The European Court of Human Rights (ECtHR) has had a significant impact - despite not issuing binding legislation in the manner of a supranational legislator - on various legal matters, contributing to the definition and

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safeguarding of individual rights, especially in cases concerning the validity of marriage, including those grounded in psycho-affective immaturity.

The ECtHR has addressed the issue of freedom and awareness in matrimonial consent, particularly in relation to Article 12 of the *European Convention on Human Rights*, which protects the right to marry. The article enshrines the right to marry and to found a family, recognizing individuals' freedom to choose their spouse. The article states: "Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right".

This provision constitutes a fundamental element in safeguarding the freedom and protection of private and family life for citizens of the EU Member States (European Court of Human Rights, CoE – Council of Europe)¹.

European jurisprudence has underscored that, although States enjoy a wide margin of appreciation in regulating marriage, they must ensure that consent reflects a genuine and informed decision².

The ECtHR's case has thus recognized the importance of ensuring that individuals possess the necessary awareness, will, and maturity to decide as significant as marriage, failing which the act may be deemed null and void.

It should be noted that European Union law does not directly regulate marriage nullity, leaving this matter to national legal systems (the criteria for the validity of marriage remain under the competence of individual States). However, Regulation (EU) No. 2201/2003 (Brussels II bis)³, now replaced by Regulation (EU) 2019/1111 (Brussels II ter)⁴, establishes rules for the recognition of decisions on marriage nullity among Member States, thereby promoting a degree of harmonization in the evaluation of valid consent.

Within the broader European legal framework, Italian jurisprudence has progressively refined the criteria for assessing psycho-affective immaturity as grounds for marriage nullity.

Article 122 of the *Italian Civil Code (Chapter on Marriage)* already establishes that a marriage is null if consent is vitiated by error, coercion, fraud, or if one party is incapable of understanding or willing⁵.

Furthermore, Law No. 218 of 1995 (*Reform of the System of Private International Law*) introduced specific rules for handling marriage nullity in cases involving international elements, thus fostering cohesion between domestic law and European legal standards.

In addition, the Italian Court of Cassation has issued rulings emphasizing the necessity of psychological assessments in cases of suspected psycho-affective immaturity, which are often decisive in determining the invalidity of a marriage.

These assessments aim to establish whether either party could exercise full and informed consent at the time of the marriage.

¹ In https://www.echr.coe.int/documents/d/echr/convention_ita, p. 13. See also the judgment of the European Court of Human Rights – Application no. 34848/07, *O'Donoghue v. the United Kingdom* (2010).

² See the Sentence - Application no. 34848/07, *O'Donoghue vs United Kingdom* (2010).

³ Regulation (EC) No 2201/2003 (Brussels II bis) governs jurisdiction, recognition, and enforcement of decisions, as well as the protection of minors. It was later amended by Regulation (EU) No 1259/2010 to cover divorce and legal separation for couples of different Member State nationalities.

⁴ Regulation (EU) 2019/1111 (Brussels II ter) is a revision of the previous Brussels II bis and concerns jurisdiction, recognition, and enforcement of decisions in matters of parental responsibility and maintenance obligations.

⁵ *Psycho-affective immaturity* is not explicitly defined in law but has emerged through case law. Notably, the *Italian Supreme Court* clarified this in *Cass. Civ. No. 25730/2013*, emphasizing that a spouse's capacity for self-determination is essential for valid matrimonial consent.

It is crucial to highlight that, in line with European principles, the balance between individual autonomy and the protection of the vulnerable spouse has been a guiding thread in the decisions of the Court of Cassation, which has consistently emphasized the right of every individual to be protected from potential abuse and situations of vulnerability.

2. The underpinnings of psycho-affective immaturity in marriage nullity: a legal, multi-, inter-, and transdisciplinary reading

The “issue” of psycho-affective immaturity as a ground for marriage nullity represents an interdisciplinary field of analysis involving law, general sociology, the sociology of emotions and the family, as well as psychological sciences.

In an era marked by profound transformations in family relationships and affective models (Donati, 1994, 1998; Saraceno, 1975, 2017, 2025; Scabini & Cigoli, 2012), the very concept of emotional maturity appears elusive and subject to contextual redefinition.

It is important to clarify that the notion of the “natural family” does not exist in an absolute sense (Saraceno, 2025), but is rather the result of social, historical, and cultural constructions: there is no single, universally valid family model, as the structures and functions of the family vary according to socio-economic contexts and historical periods. Family forms have always been in flux, influenced by factors such as economic conditions, changes in gender roles, social (and welfare) policies, and legal norms. The increasing pluralization of family configurations (cohabitation, blended families, same-sex couples with children, single-parent families) further demonstrates that the concept of family is evolving (ibid.).

In this sense, society’s role should not be to defend a single ideal model - whether based on a secular or religious marital contract - but rather to ensure rights and protection for all family configurations, recognizing their dignity and social value.

Marriage, according to the Italian Civil code, is effectively defined as a conjugal contract that requires the free and informed consent of the parties and includes specific conditions that may lead to annulment.

In Italy, marriage is a legally recognized institution safeguarded by the Civil Code and the Constitution, which acknowledges its social importance (Art. 29). It may be celebrated as a civil marriage under state law or as a religious marriage with civil effects, provided it follows rites recognized by the State under the Concordat with the Catholic Church. According to Article 119 of the Civil Code, a marriage can be annulled if one of the spouses lacks the capacity to consent due to “insufficient discernment” or “mental infirmity”.

In particular, the article 119 allows the annulment of marriages involving individuals legally incapacitated due to mental illness. Challenges may be brought by the guardian, the public prosecutor, or any party with a legitimate interest if the incapacity existed at the time of marriage, even if formal interdiction was pronounced later. After interdiction is revoked, the formerly incapacitated individual may also contest the marriage, unless the couple has cohabited for at least one year following revocation.

More specifically, the inability to assume marital responsibilities may be equated with the natural inability to act, as outlined in Article 428 of the Civil code, and may therefore constitute grounds for annulment.

Jurisprudence, by integrating principles of personal autonomy and individual protection, has progressively recognized that the ability to understand and to will (*capacità di intendere e di volere*) is a fundamental prerequisite for the validity of the marital bond.

Marriage nullity due to psycho-affective immaturity also finds foundation in Canon 1095 of the *Code of Canon Law* (Pontifical Council for Legislative Texts, 1983), which states: «are incapable to contract marriage those who lack sufficient use of reason, those who suffer from a grave defect of discretion of judgment concerning the essential rights and duties of marriage, and those who, due to psychological causes, are unable to assume the essential marriage obligations, are incapable of contracting marriage»⁶.

This canonical provision reflects the Church's awareness of the need for an adequate level of maturity to ensure the stability and validity of the conjugal union (Amati, 2009).

Within this framework, psycho-affective immaturity may be considered a form of incapacity to manage personal and intimate relationships, arising from a lack of awareness and constituting, in effect, a ground for relative nullity of marriage. For these reasons, the courts have often relied on social and psychological assessments and expert testimonies to evaluate the extent to which the emotional and cognitive state of one of the spouses at the time of giving consent may have compromised full awareness of the meaning and implications of the marital bond.

The absence of such capacity, as evidenced by expert evaluation, justifies the intervention of the legislator through the rigorous application of principles aimed at protecting the individual, recognizing the imperative of shielding individuals from decisions that, due to their psycho-affective condition, are not fully autonomous.

Psycho-affective immaturity, therefore, entails a lack of emotional and relational maturity, and may be viewed as a form of incapacity in managing personal and intimate relationships, interpreted as a lack of awareness or an inability to adequately fulfill conjugal responsibilities—responsibilities that are fundamental to the institution of marriage (*Tribunale Ecclesiastico Interdiocesano Abruzzese-Molisano* – TEIAM, 2025).

The trend toward recognizing this type of immaturity as grounds for nullity fits within a complex legal context striving to adapt to contemporary social changes and affective-relational dynamics (Beck & Beck-Gernsheim, 1995; Giddens, 1995; Bauman, 2003; Saraceno, 2003).

3. Sociology and the reflection on psycho-affective maturity within the couple and family. Changes in relational dynamics and new social implications.

The value of a family does not depend on its form but rather on the quality of effective and caregiving relationships developed within it. This critical sociological perspective encourages moving beyond ideological and naturalistic interpretations of the family to grasp its complexity and ongoing evolution (Ibidem). Accordingly, the issue of psycho-affective maturity should be addressed through an integrated approach - ideally preliminary to the marital contract - engaging legal, sociological, and psychological perspectives to understand the real implications of affective immaturity on conjugal relationships as well as the broader social consequences.

The assessment of psycho-affective maturity is, unsurprisingly, a highly complex undertaking, necessitating contributions from diverse disciplines, including psychology, psychiatry (Llobell, 2007), and sociology. The concept of psycho-affective maturity is shaped from the earliest stages of social development, evolving in parallel with

⁶ See: https://www.vatican.va/archive/cod-iuris-canonicus/ita/documents/cic_libroIV_1095-1107_it.html

contemporary societal and family-relational models marked by complex and often contradictory transitions into adulthood (Arnett, 2000; 2015).

Traditionally, marriage has played a central role in family formation and stability, regulating sexual and reproductive relationships and contributing to social order. However, in the twenty-first century, factors such as gender equality, growing acceptance of non-traditional families - including single-parent and LGBTQI+ families - economic and social changes, evolving emotional and affective expectations, and increased social mobility have contributed to further transformations of family models. The so-called "family of choice" (Giddens, 1992) has emerged as a new paradigm in which personal satisfaction and self-realization have become primary criteria for forming and sustaining familial relationships.

Marriage is thus no longer conceived solely as a traditional, collective institution but rather as a relational contract embodying personal fulfillment, emancipation, and individual growth. It is no longer perceived as a mandatory rite of passage into adulthood but as a flexible, personal choice, subject to contextual and subjective changes (Beck & Beck-Gernsheim, 1995). Today, young people and young adults are often engaged in identity construction processes characterized by prolonged adolescence (Arnett, 2000; Ammaniti, 2015), which can influence their ability to establish mature and enduring affective relationships.

Therefore, the evaluation of emotional and psychological capacity at the time of consent cannot be reduced to a purely technical analysis but must be situated within a broader discourse on "emotional socialization" and the relational and individual development trajectories demanded by (post)modernity.

Affective immaturity in couples and families manifests as difficulties in managing emotions, relational dynamics, and constructing stable, satisfying bonds. So, socialization plays a pivotal role: family of origin, peer groups, digital media, and personal experiences shape individuals' relational expectations and skills. In societies marked by instability and crisis, as well as extensive exposure to idealized affective models, dysfunctional relational patterns may be internalized, fostering passive-aggressive behaviors, lack of empathy, irresponsibility, and an inability to adequately address problems (Gottman, 1999).

Consider the growing difficulty in deploying emotional intelligence (Goleman, 1995) - the ability to recognize, understand, and manage one's own emotions as well as those of others - which is an essential tool for analyzing how emotional dynamics within families affect the stability and quality of family relationships. Social intelligence (Goleman, 2006) also appears threatened: a diminished capacity to comprehend, manage, and effectively influence interpersonal relations, including efforts to achieve emotional harmony, can lead to misunderstandings, impulsive reactions, and difficulties in crisis management.

Narcissism - as both a societal trait and an individual personality disorder (or cluster of character traits)⁷ - alongside difficulties in recognizing or responding to the emotional needs of others, may further impair empathic resonance (APA, 2013)⁸.

Within conjugal (and other) relationships, this lack of empathic attunement obstructs healthy affective communication and reciprocal listening, creating an emotional

⁷ The social narcissism describes the collective tendency of groups or societies to develop an exaggerated sense of superiority, uniqueness, and centrality compared to other groups (Golec de Zavala et al., 2019; Federico, et al., 2021; Lyons, et al., 2021).

⁸ Narcissism is a personality trait characterized by grandiosity, a need for admiration, and deficits in empathy (American Psychiatric Association, 2013).

void and provoking difficulties in showing vulnerability, which may manifest as psycho-affective immaturity.

Moreover, it is not uncommon to observe a deficiency in the sense of responsibility toward one's commitments and roles. In some cases, this is accompanied by uncertainty, defensive mechanisms, doubts, difficulty in making crucial decisions, and a reliance on external support and validation.

Thus, one can describe narcissistic relationships in which one or both partners instrumentalize the other for personal gain, characterized by avoidance of intimacy, fear of commitment, and reluctance to assume long-term responsibilities, all alongside pervasive vulnerability. An affectively immature individual may avoid conflict or respond excessively and impulsively to emotional stress, lacking the capacity for a more reflective and mature approach. Emotional dependency combined with volatility can trap couples in cycles of need and rejection, with affective immaturity hindering the development of relational balance.

Regarding commitment, Hirschi's (1969) social bond theory - applied to affective immaturity - can offer a useful framework. Psycho-affective immaturity, manifested as difficulties in managing emotions, empathy, and emotional responsibility, can be seen as a weakening of the affective bonds between partners. When one or both members of a couple cannot form mature bonds or adequately respond to the partner's emotional needs, the social connection weakens, rendering the relationship more vulnerable.

Specifically, attachment involves forming affective ties to family and others that create a sense of responsibility and care; commitment entails investing time and resources in productive and meaningful activities, which is also reflected in the construction of solid relationships; involvement refers to active participation in shared activities; and belief pertains to the sharing of values and norms that bind individuals within society—both as partners and as parents.

Conversely, psycho-affective awareness within the couple and family system enables healthy and constructive management of daily challenges, alongside emotional self-regulation, which is fundamental for handling frustrations and conflicts that may arise within the couple and between parents and children.

Emotional management in conjugal relationships, therefore, cannot be reduced to a private matter but must also be understood as a response to ongoing social and cultural transformations that continuously reshape expectations and meanings attributed to intimacy and affection. Thus, affective immaturity in couples is a socially embedded phenomenon.

4. The sociology of emotions and the exploration of psycho-affective maturity as a social construction

From a sociological perspective, psycho-affective immaturity can be understood as a social construct because emotions themselves are not exclusively individual phenomena but are influenced and shaped by the social context in which they develop (Hochschild, 1983; 2013). In fact, emotions are shaped by social norms and expectations that regulate not only how they should be expressed but also how they are expected to be experienced. When one spouse lacks emotional maturity or struggles to regulate and interpret their own feelings, the relationship may become unstable not solely because of individual psychological vulnerabilities, but also because of broader social pressures that prescribe normative models of what it means to "properly" live marriage and intimacy.

The historical transformation of romantic love into an intimate and personalized good - rather than a primarily strategic or institutional alliance - presupposes a high level of emotional competence. Individuals are increasingly expected to recognize, manage, and make sense of the complexity of their emotional lives, thereby turning emotional self-regulation into a central condition for relational stability.

Many individuals today enter couple relationships with immature emotional management, exhibiting difficulties in emotion regulation, communication, and the construction of a stable bond, especially when emotional socialization has not been adequately shared (Turner & Stets, 2005). These are increasingly *emotionalized* modern relationships (Illouz, 1997), based on a constant pursuit of intense emotional experiences rather than long-term commitment, which in turn reduces tolerance for dissatisfaction or frustration.

In other words, through *emotional labor* - including within family and couple contexts - individuals are socially called upon to regulate their emotions in accordance with the demands of social relationships, including marriage. Hence, emotions are not merely natural or spontaneous reactions but are also the outcome of a socialization process that prescribes socially acceptable ways of expressing - and consequently experiencing - them. The concept of *emotional labor* (Hochschild, 1983) refers specifically to the management and regulation of emotions in line with social expectations and relational norms. Although originally developed to analyze workplace dynamics, the concept has subsequently been extended to intimate and private spheres, including couple and family relationships (Ibidem).

In romantic relationships, emotional labor involves the modulation of emotional expressions and the adjustment of affective responses to maintain relational harmony and stability (Erickson, 2005).

Nevertheless, the asymmetric distribution of emotional labor and the challenges posed by modernity call for critical reflection on how emotions are socially constructed and regulated. A more balanced and conscious socio-affective education could certainly foster more stable and satisfying relationships, reducing tensions related to emotional management within couples (Duncombe & Marsden, 1993).

So, incapacity or “immaturity” refers to difficulties in recognizing and regulating one’s emotional states in relation to social expectations and conjugal roles, creating a cycle of misunderstanding and frustration that undermines the stability of the couple. Within marriage, therefore, consent is not simply a formal act but the expression of the capacity to engage in a relationship that requires a delicate balance between reason and emotion.

The decision to declare a marriage null due to psycho-affective immaturity thus represents not only the application of legal norms but also a socio-cultural signal reaffirming the importance of emotional well-being and commitment within interpersonal relationships (Hirschi, 1969).

5. Law, society and emotions: provisional concluding reflections

Psycho-affective immaturity as a ground for marriage nullity represents a significant evolution in family law and social dynamics, warranting critical reflection. The sociological implications of this phenomenon suggest that the growth and management of emotions within a relationship, particularly a marital one, depend not solely on individual capacities but also on social norms and the emotional socialization received, especially during childhood.

When emotional and affective maturity is lacking, as appears increasingly common in contemporary society, it becomes crucial to understand how the law, in harmony with evolving social expectations, can protect individuals' intimate spheres while simultaneously ensuring the autonomy and overall well-being of the couple.

Furthermore, it calls for exploring how individuals come to understand themselves and others within social and emotional dimensions - as a comprehensive expression of relationships, behaviors, and actions aimed at engagement and, when possible, at profound sharing.

Couple and family relational contexts operate as interacting and interdependent systems within broader social systems, implying that any change in one may affect the others. The judicial decision in question does not merely constitute a normative exception but marks a significant shift in how society conceives of couple and marital commitment.

It emphasizes the centrality of the emotional socialization process and the capacity to regulate one's own and others' emotions in a society characterized by deeply dissonant and ever-changing traits.

Authors contributions

The article is the result of a joint effort by the authors. However, paragraphs 1 and 2 were written by Professor Davide Barba, while paragraphs 3 and 4 are attributed to Dr. Mariangela D'Ambrosio. The conclusions (paragraph 5) were co-authored.

Declaration of conflicting interests

The author(s) declare no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) report there is no funding associated with the work featured in the article.

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Received: April 10, 2025

Reviewed date: June 19, 2025

Accepted for Publication: October 15, 2025