



The Holy See

***ADDRESS OF HIS HOLINESS BENEDICT XVI
TO THE MEMBERS OF THE TRIBUNAL OF THE ROMAN ROTA***

Clementine Hall

Saturday, 27 January 2007

*Dear Prelate Auditors,
Officials and Collaborators of the Tribunal of the Roman Rota,*

I am particularly pleased to meet you once again on the occasion of the inauguration of the judicial year.

I cordially greet the College of Prelate Auditors, starting with the Dean, Bishop Antoni Stankiewicz, whom I thank for his words introducing our meeting. I then greet the Officials, the Advocates and the other Collaborators of this Tribunal, as well as the Members of the *Studio Rotale* and all those present. I willingly take this opportunity to renew to you the expression of my esteem and, at the same time, to reaffirm the importance of your ecclesial ministry in as vital a sector as judicial activity. I am very mindful of the valuable work you are required to carry out diligently and scrupulously on behalf of this Apostolic See and with its mandate. Your sensitive task of service to the truth in justice is supported by the illustrious traditions of this Tribunal, which each one of you must feel bound to respect.

Last year, at my first meeting with you, I sought to explore ways to overcome the apparent antithesis between the institution of causes of the nullity of marriage and genuine pastoral concern. In this perspective, the love of truth emerges as a point of convergence between processual research and the pastoral service of the person. We must not forget, however, that in causes of the nullity of marriage, the legal truth presupposes the "truth of the marriage" itself. Yet the expression "truth of the marriage" loses its existential importance in a cultural context that is marked by relativism and juridical positivism, which regard marriage as a mere social formalization of emotional ties.

Consequently, not only is it becoming incidental, as human sentiments can be, but it is also presented as a legal superstructure of the human will that can be arbitrarily manipulated and even deprived of its heterosexual character.

This crisis of the meaning of marriage is also influencing the attitude of many of the faithful. The practical effects of what I have called "the hermeneutic of discontinuity and rupture" with regard to the teaching of the Second Vatican Council, (cf. *Address to the Roman Curia*, 22 December 2005; *L'Osservatore Romano* English edition [ORE], 4 January 2006, p. 4), is felt especially acutely in the sphere of marriage and the family.

Indeed, it seems to some that the conciliar teaching on marriage, and in particular, the description of this institution as "*intima communitas vitae et amoris*" [*the intimate partnership of life and love*] (Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, n. 48), must lead to a denial of the existence of an indissoluble conjugal bond because this would be a question of an "ideal" to which "normal Christians" cannot be "constrained".

In fact, the conviction that the pastoral good of the person in an irregular marital situation requires a sort of canonical regularization, independently of the validity or nullity of his/her marriage, independently, that is, of the "truth" of his/her personal status, has also spread in certain ecclesiastical milieus. The process of the declaration of matrimonial nullity is actually considered as a legal means for achieving this objective, according to a logic in which the law becomes the formalization of subjective claims. In this regard, it should first be pointed out that the Council certainly described marriage as *intima communitas vitae et amoris*, but this partnership is determined, in accordance with the tradition of the Church, by a whole set of principles of the divine law which establish its true and permanent anthropological meaning (cf. *ibid.*).

Furthermore, the Magisteriums of Paul VI and John Paul II, as well as the legislative action of both the Latin and Eastern Codes, have followed up the Council in faithful hermeneutical continuity with regard to both the doctrine and the discipline of marriage and indeed, persevered in its effort for "reform" or "renewal in continuity" (cf. *Address to the Roman Curia*, *op. cit.*). This development was based on the indisputable presupposition that marriage has a truth of its own - that is, the human knowledge, illumined by the Word of God, of the sexually different reality of the man and of the woman with their profound needs for complementarity, definitive self-giving and exclusivity - to whose discovery and deepening reason and faith harmoniously contribute.

The *anthropological and saving truth of marriage* - also in its juridical dimension - is already presented in Sacred Scripture. Jesus' response to those Pharisees who asked his opinion about the lawfulness of repudiation is well known: "Have you not read that he who made them from the beginning *made them male and female*, and said, "For this reason *a man shall leave his father and mother and be joined to his wife, and the two shall become one*'? So they are no longer two but one. What therefore God has joined together, let no man put asunder" (Mt 19: 4-6).

The citations of Genesis (1: 27; 2: 24) propose the matrimonial truth of the "principle", that truth whose fullness is found in connection with Christ's union with the Church (cf. Eph 5: 30-31) and was the object of such broad and deep reflections on the part of Pope John Paul II in his cycles of catecheses on human love in the divine design.

On the basis of this dual unity of the human couple, it is possible to work out an authentic *juridical anthropology of marriage*. In this sense, Jesus' conclusive words are especially enlightening: "What therefore God has joined together, let no man put asunder". Every marriage is of course the result of the free consent of the man and the woman, but in practice their freedom expresses the natural capacity inherent in their masculinity and femininity.

The union takes place by virtue of the very plan of God who created them male and female and gives them the power to unite for ever those natural and complementary dimensions of their persons.

The indissolubility of marriage does not derive from the definitive commitment of those who contract it but is intrinsic in the nature of the "powerful bond established by the Creator" (John Paul II, *Catechesis*, General Audience 21 November 1979, n. 2; *ORE*, 26 November 1979, p, 1).

People who contract marriage must be definitively committed to it because marriage is such in the plan of creation and of redemption. And the essential juridical character of marriage is inherent precisely in this bond which represents for the man and for the woman a requirement of justice and love from which, for their good and for the good of all, they may not withdraw without contradicting what God himself has wrought within them.

It is necessary to study this aspect further, not only in consideration of your role as canon lawyers, but also because the overall understanding of the institution of marriage must also include clarity with regard to its juridical dimension. However, conceptions of the nature of this relationship can be radically divergent. For positivism, the legality of the conjugal bond would be solely the result of the application of a formally valid and effective human norm. In this way, the human reality of life and conjugal love remains extrinsic to the "juridical" institution of marriage. A hiatus is created between law and human existence which radically denies the possibility of an anthropological foundation of the law.

The traditional role of the Church is quite different in the understanding of the juridical dimension of the conjugal union following the teachings of Jesus, of the Apostles and of the Holy Fathers. St Augustine, for instance, in citing St Paul, forcefully affirms: "*Cui fidei [coniugali] tantum iuris tribuit Apostolus, ut eam potestatem appellaret, dicens: Mulier non habet potestatem corporis sui, sed vir; similiter autem et vir non habet potestatem corporis sui, sed mulier (1 Cor 7: 4)*" (*De Bono Coniugali*, 4, 4).

St Paul who so profoundly explains in his Letter to the Ephesians the "mysterion mega" of conjugal love in relation to Christ's union with the Church (5: 22-31), did not hesitate to apply to marriage the strongest legal terms to designate the juridical bond by which spouses are united in their sexual dimension. So too, for St Augustine, lawfulness is essential in each one of the three goods (*proles, fides, sacramentum*) that form the backbone of his doctrinal exposition on marriage.

With regard to the subjective and libertarian relativization of the sexual experience, the Church's tradition clearly affirms the natural juridical character of marriage, that is, the fact that it belongs by nature to the context of justice in interpersonal relations.

In this perspective, the law is truly interwoven with life and love as one of the intrinsic obligations of its existence. Therefore, as I wrote in my first Encyclical, "From the standpoint of creation, *eros* directs man towards marriage, to a bond which is unique and definitive; thus, and only thus, does it fulfil its deepest purpose" (*Deus Caritas Est*, n. 11).

Thus, love and law can be united to the point of ensuring that husband and wife *mutually owe to one another* the love *with which they spontaneously love one another*: the love in them is the fruit of their free desire for the good of one another and of their children; which, moreover, is also a requirement of love for one's own true good.

All the activity of the Church and of the faithful in the context of the family, must be based on this *truth about marriage and its intrinsic juridical dimension*. In spite of this, as I recalled earlier, the relativistic mindset, in more or less open or subtle ways, can also insinuate itself into the ecclesial community.

You are well aware that this is a risk of our time which is sometimes expressed in a distorted interpretation of the canonical norms in force. One must react to this tendency with courage and faith, constantly applying the *hermeneutic of renewal in continuity* and not allowing oneself to be seduced by forms of interpretation that involve a break with the Church's tradition.

These paths lead away from the true essence of marriage, as well as from its intrinsic juridical dimension and, under various more or less attractive names, seek to conceal a false conjugal reality.

So it is that the point is sometimes reached of maintaining that nothing is right or wrong in a couple's relationship, provided it corresponds with the achievement of the subjective aspirations of each party. In this perspective, the idea of marriage "*in facto esse*" oscillates between merely factual relations and the juridical-positivistic aspect, overlooking its essence as an intrinsic bond of justice between the persons of the man and of the woman.

The contribution of ecclesiastical tribunals to overcoming the crisis of the meaning of marriage, in the Church and in civil society, could seem to some people of somewhat secondary or minor

importance.

However, precisely because marriage has an intrinsically juridical dimension, being wise and convinced servants of justice in this sensitive and most important sector has the significant value of witness and is of deep reassurance to all. Dear Prelate Auditors, you are committed on a front in which responsibility for the truth makes itself felt in a special way in our times.

In being faithful to your task, make sure that your action fits harmoniously into an overall rediscovery of the beauty of that "truth about marriage", the truth of the "principle", which Jesus fully taught us and of which the Holy Spirit continually reminds us in the Church today.

Dear Prelate Auditors, Officials and collaborators, these are the considerations to which I felt impelled to call your attention, in the certainty that I would find in you judges and magistrates ready to share and make your own so important and serious a doctrine.

To each and every one I express in particular my pleasure and my total confidence that the Apostolic Tribunal of the Roman Rota, an effective and authoritative manifestation of the juridical wisdom of the Church, will continue to carry out consistently its own, far from easy *munus*, at the service of the divine plan followed by the Creator and the Redeemer in the institution of marriage. As I invoke divine help upon your work, I cordially impart a special Apostolic Blessing to you all.

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