



# The Holy See

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**ADDRESS OF HIS HOLINESS POPE BENEDICT XVI  
ON THE OCCASION OF THE INAUGURATION OF THE JUDICIAL YEAR  
OF THE TRIBUNAL OF THE ROMAN ROTA**

*Clementine Hall*

*Saturday, 22 January 2011*

*Dear Members of the Tribunal of the Roman Rota,*

I am glad to meet you at this annual event on the occasion of the inauguration of the Judicial Year. I address a cordial greeting to the College of Prelate Auditors, starting with the Bishop Antoni Stankiewicz, the Dean, whom I thank for his courteous words. I greet the Officials, the Advocates and the other collaborators of this Tribunal, as well as all those present. This moment offers me an opportunity to express once again my appreciation of the work you are carrying out in the service of the Church and to encourage you to an ever greater commitment in such a delicate and important sector for pastoral care and for the *salus animarum*.

The post-conciliar discussion on canon law was centred on the relationship between law and pastoral care. The well-known assertion of the Venerable Servant of God, John Paul II, whose opinion was that “it is not true that, to be more pastoral, the law should be less juridical” (*cf. Address to the Roman Rota*, 18 January 1990, n. 4), expresses the radical surmounting of an apparent antithesis.

“The juridical and the pastoral dimensions”, John Paul II, said, “are united inseparably in the Church, a pilgrim on this earth. Above all, one aspect of their harmony emerges from their common goal: the salvation of souls” (*ibid.*). At my first meeting with you in 2006 I tried to highlight the authentic pastoral meaning of causes of the nullity of marriage founded on love for the truth (*cf. Address to the Roman Rota*, 28 January 2006). Today I would like to pause to consider the juridical dimension that is inherent in the pastoral activity of preparation and admission to marriage, to seek to shed light on the connection between this work and the judicial matrimonial process.

The canonical dimension of preparation for marriage may not be an element that is immediately apparent. In fact, on the one hand one observes that in courses for the preparation of marriage canonical issues have a rather modest — if not insignificant — place since there is a tendency to think that the future spouses have little interest in problems reserved for experts.

On the other hand, although the need for the juridical work that precedes marriage and that aim to ascertain that “nothing stands in the way of its valid and licit celebration” (*Code of Canon Law, can. 1066*), escapes no one, there is a widespread view which holds that the examination of the parties engaged to be married and the publication of marriage banns or other appropriate means for carrying out the necessary inquiries which are to precede marriage (*cf. ibid., can. 1067*) — including courses for the preparation of marriage — are exclusively formal requirements. In fact it is often maintained that in admitting couples to marriage pastors must have a broad-minded approach, since people’s natural right to marry is at stake.

It is right in this regard to reflect on the juridical dimension of marriage itself. It is a subject that I mentioned in the context of a reflection on the truth about marriage, in which I said, among other things: “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” (*Address to the Roman Rota, 27 January 2007*). Thus, there is no such thing as one marriage according to life and another according to law: marriage is one thing alone, it constitutes a real legal bond between the man and the woman, a bond which sustains the authentic conjugal dynamic of life and love.

The marriage celebrated by the spouses, with which pastoral care is concerned and which is the focus of canonical doctrine, is a single, natural and salvific reality whose richness certainly gives rise to a variety of approaches yet without losing its essential identity. The juridical aspect is intrinsically linked to the essence of marriage. This is understood in the light of a non-positivistic notion of law, but considered in the perspective of relationality in accordance with justice.

The right to marry, *ius connubii*, must be seen in this perspective. In other words it is not a subjective claim that pastors must fulfil through a merely formal recognition independent of the effective content of the union. The right to contract marriage presupposes that the person can and intends to celebrate it truly, that is, in the truth of its essence as the Church teaches it. No one can claim the right to a nuptial ceremony. Indeed the *ius connubii* refers to the right to celebrate an authentic marriage.

The *ius connubii* would not, therefore, be denied where it was evident that the fundamental requirements for its exercise were lacking, namely, if the required capacity for marriage were patently lacking or the person intended to choose something which was incompatible with the natural reality of marriage.

I would like to reaffirm in this regard what I wrote after the Synod of Bishops on the Eucharist: “Given the complex cultural context which the Church today encounters in many countries, the Synod also recommended devoting maximum pastoral attention to training couples preparing for marriage and to ascertaining beforehand their convictions regarding the obligations required for the validity of the sacrament of Matrimony. Serious discernment in this matter will help to avoid situations where impulsive decisions or superficial reasons lead two young people to take on responsibilities that they are then incapable of honouring (*cf. Propositio*, n. 40) The good that the Church and society as a whole expect from marriage and from the family founded upon marriage is so great as to call for full pastoral commitment to this particular area. Marriage and the family are institutions that must be promoted and defended from every possible misrepresentation of their true nature, since whatever is injurious to them is injurious to society itself” (Post-Synodal Apostolic Exhortation, *Sacramentum Caritatis*, 22 February 2007, n. 29).

Preparation for marriage, in its various phases described by Pope John Paul II in the Apostolic Exhortation *Familiaris Consortio* (22 November 1981), certainly has aims that transcend the juridical dimension because its horizon is constituted by the integral, human and Christian, good of the married couple and of their future children (*cf. n. 66*), aimed definitively at the holiness of their life (*cf. CIC, can. 1063, 2°*).

It should never be forgotten, however, that the immediate objective of this preparation is to promote the free celebration of a true marriage, that is, the constitution of a bond of justice and love between the spouses, characterized by unity and indissolubility, ordained for the good of the spouses and for the procreation and upbringing of their offspring, and which among baptized people constitutes one of the sacraments of the New Covenant. This preparation does not address an extrinsic ideological message to the couple, nor, still less, does it impose a cultural model; rather, the engaged couple are put in a position to discover the truth of a natural inclination and a capacity for committing themselves which they bear inscribed in their relational entity as man-woman. From this derives the law, as an essential component of the marital relationship, rooted in a natural potential of the spouses that the consensual gift of self actualizes.

Reason and faith compete to illumine this truth of life, however, although it must remain clear that, as Venerable John Paul II taught further, “the Church does not refuse to celebrate a marriage for the person who is *bene dispositus*, even if he is imperfectly prepared from the supernatural point of view, provided the person has the right intention to marry according to the natural reality of marriage” (*Address to the Roman Rota*, 30 January 2003, n. 8).

In this perspective particular care must be given to following through the preparation for marriage, whether it is remote preparation, proximate preparation or immediate preparation (*cf. John Paul II, Apostolic Exhortation Familiaris Consortio*, 22 November 1981, n. 66).

Among the means for ascertaining whether the project of the engaged couple is truly conjugal the

prematrimonial examination stands out. This examination has a mainly juridical purpose: to ascertain that nothing impedes the valid and licit celebration of the wedding. However juridical does not mean formal, as though it were a bureaucratic step, like filling up a form based on set questions. Instead it is a unique pastoral opportunity — one to be made the most of with the full seriousness and attention that it requires — in which, through a dialogue full of respect and cordiality, the pastor seeks to help the person to face seriously the truth about himself or herself and about his or her own human and Christian vocation for marriage.

In this sense the dialogue, always conducted separately with each of the engaged pair without lessening the possibility of further conversations with the couple — requires an atmosphere of full sincerity in which stress should be put on the fact that the contracting parties themselves are those first concerned and first obliged in conscience to celebrate a valid marriage.

In this way, with the various means available for a careful preparation and verification, an effective pastoral action can be developed which seeks to prevent the nullity of marriage. It is necessary to make every effort to interrupt, as far as possible, the vicious circle that often exists between a predictable admission to marriage, without an adequate preparation and a serious examination of the prerequisites for its celebration, and a legal declaration sometimes equally facile but of a contrary nature, in which the marriage itself is considered null solely on the basis of the observation of its failure.

It is true that not all the causes of an eventual declaration of nullity can be identified or expressed in the preparation for marriage; yet likewise it would not be right to hinder admission to marriage on the basis of unfounded presumptions, such as that of considering that, in this day and age, people would generally be incapable of marriage or would only appear to have a desire for it. In this perspective it seems important that there should be an even more incisive awareness concerning the responsibility in this matter of those entrusted with the care of souls. Canon Law in general, and especially matrimonial and procedural law, certainly require a special preparation but the knowledge of the basic aspects and of the immediately practical aspects of canon law, relative to its functions, constitute a formative requirement of primary importance for all pastoral workers, particularly those who are active in the pastoral care of families.

In addition, all this requires that the work of ecclesiastical tribunals transmit a univocal message on what is essential in marriage, in harmony with the Magisterium and with canon law and speaking unanimously. Given the need for the unity of jurisprudence, entrusted to the care of this Tribunal, the other ecclesiastical tribunals must conform to the rotal jurisprudence (*cf.* John Paul II, [\*Address to the Roman Rota\*](#), 17 January 1998, n. 4). I recently insisted on the need to judge correctly causes relative to consensual incapacity (*cf.* [\*Address to the Roman Rota\*](#), 29 January 2009).

This question continues to be very timely. Unfortunately incorrect positions still endure, such as that of identifying the discretion of judgement required for the marriage (*cf.* [\*CIC, can. 1095, n. 2\*](#))

with the hoped for prudence in the decision to get married, thus confusing an issue of capacity with another which does not undermine the validity since it concerns the level of practical wisdom with which a decision is taken which is, in any case, truly matrimonial. The misunderstanding would be yet more serious were there a wish to assign an invalidating effect to rash decisions made in married life.

In the context of nullity because of the exclusion of an essential property of marriage (*cf. [ibid., can. 1101 § 2](#)*), a serious commitment is likewise necessary so that the judiciary pronouncements reflect the truth about marriage, the same truth that must illumine the moment of admission to marriage. I am thinking in particular of the question of the exclusion of the *bonum coniugum*. In relation to this exclusion the same danger that threatens the correct application of the norms on incapacity seems to be repeated, and that is, the search for causes of nullity in behaviour that do not concern the constitution of the conjugal bond but rather its realization in life. It is necessary to resist the temptation to transform the simple shortcomings of the spouses in their conjugal existence into defects of consent.

Real exclusion can occur in fact only when the ordination toward the good of the spouses is harmed (*cf. [ibid. can. 1055 § 1](#)*), excluded by a positive act of will. Cases in which there is failure to recognize the other as spouse or in which the essential ordering of the community of conjugal life to the good of the other is excluded are quite exceptional. The clarification of these hypotheses of exclusion of the *bonum coniugum* must be attentively assessed by the jurisprudence of the Roman Rota.

In concluding my reflections, I return to considering the relationship between the law and pastoral ministry. It is often the object of misunderstandings, to the detriment of law, but also of pastoral care.

Instead, it is necessary to encourage in all sectors, and in a particular way in the field of marriage and of the family, a positive dynamic, sign of profound harmony between the pastoral and the juridical which will certainly prove fruitful in the service rendered to those who are approaching marriage.

Dear Members of the Tribunal of the Roman Rota, I entrust you all to the powerful intercession of the Blessed Virgin Mary, so that you may never lack divine help in carrying out your daily work with faithfulness, in a spirit of fruitful service and I very willingly impart to you all a special Apostolic Blessing.