



# The Holy See

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## **ADDRESS OF THE HOLY FATHER JOHN PAUL II TO THE TRIBUNAL OF THE ROMAN ROTA**

*Friday, 21 January 2000*

*Your Excellency the Dean,*

*Distinguished Prelate Auditors and Officials of the Roman Rota!*

1. Every year the solemn opening of the Tribunal of the Roman Rota's judicial activity offers me the welcome opportunity for a personal meeting with all of you, who form the College of Prelate Auditors, the officials and the advocates of this Tribunal. But it also gives me the occasion to tell you again of my esteem and to express my deep gratitude for the valuable work you perform with generosity and professional skill in the name and by mandate of the Apostolic See.

I greet you all with affection, extending a special welcome to the new Dean, whom I thank for the respectful words he just addressed to me in his own name and that of the Tribunal of the Roman Rota. At the same time, I wish to express my thanks and gratitude to Archbishop Mario Francesco Pompedda, recently appointed Prefect of the Supreme Tribunal of the Apostolic Signatura, for the long service he has rendered at your Tribunal with generous dedication and with remarkable preparation and competence.

2. This morning, urged as it were by the Dean's words, I would like to reflect with you on the supposed juridical effect of the current divorce mentality on a possible declaration of marital nullity, and on the doctrine of the absolute indissolubility of ratified and consummated marriage, as well as on the limit of the Roman Pontiff's power over such marriages.

In the Apostolic Exhortation *Familiaris consortio*, published on 22 November 1981, I highlighted the positive aspects of the new family reality, such as a more lively awareness of personal freedom, greater attention to personal relationships within marriage and to the advancement of women's dignity, as well as those negative aspects connected with the degradation of certain fundamental values and with the "mistaken theoretical and practical concept of the independence of the spouses in relation to each other", pointing out their impact on the "growing number of divorces" (n. 6).

At the root of these negative phenomena, I wrote, "there frequently lies a corruption of the idea and the experience of

freedom, conceived not as a capacity for realizing the truth of God's plan for marriage and the family, but as an autonomous power of self-affirmation, often against others, for one's own selfish well-being" (n. 6). For this reason I stressed that the Church's "fundamental duty" is "to reaffirm strongly, as the Synod Fathers did, the doctrine of the indissolubility of marriage" (n. 20), in order to dispel the shadow that seems to be cast over the value of the indissolubility of the conjugal bond by certain opinions stemming from theological and canonical research. I am referring to theories in favour of rejecting the absolute incompatibility of a ratified and consummated marriage (cf. [CIC, can. 1061, 1](#)) with a new marriage by one of the spouses while the other is still alive.

3. In fidelity to Christ, the Church must firmly stress "the good news of the definitive nature of that conjugal love that has in Christ its foundation and strength (cf. *Eph* 5: 25)" (*Familiaris consortio*, n. 20) to those in our day who think that it is difficult or even impossible to be bound to one person for their whole life, and to those who are unfortunately caught up in a culture that rejects the indissolubility of marriage and openly mocks the couple's commitment to fidelity.

In fact, "being rooted in the personal and total self-giving of the couple, and being required by the good of the children, the indissolubility of marriage finds its ultimate truth in the plan that God has manifested in his revelation: he wills and he communicates the indissolubility of marriage as a fruit, a sign and a requirement of the absolutely faithful love that God has for man and that the Lord Jesus has for the Church" (*Familiaris consortio*, n. 20).

The "good news of the definitive nature of conjugal love" is not a vague abstraction or a beautiful phrase reflecting the common desire of those who decide to marry. This message is rooted instead in the Christian newness that makes marriage a sacrament.

Christian spouses, who have received "the gift of the sacrament", are called by the grace of God to bear witness "to the holy will of the Lord: 'What therefore God has joined together, let not man put asunder' (*Mt* 19: 6), that is, to the inestimable value of the indissolubility ... of marriage" (*Familiaris consortio*, n. 20). For these reasons - the [Catechism of the Catholic Church](#) says - "in fidelity to the words of Christ (*Mk* 10: 11-12) ... the Church maintains that a new union cannot be recognized as valid, if the first marriage was" (n. 1650).

4. Certainly, "the Church, after an examination of the situation by the competent ecclesiastical tribunal, can declare the nullity of a marriage, i.e., that the marriage never existed", and in this case the parties "are free to marry, provided the natural obligations of a previous union are discharged" ([CCC, n. 1629](#)). However, declarations of nullity for the reasons established by the canonical norms, especially for the lack or defects of marital consent (cf. [CIC, can. 1095-1107](#)), cannot conflict with the principle of indissolubility.

No one can deny that the current mentality of the society in which we live has difficulty in accepting the indissolubility of the marital bond and the very concept of marriage as the "foedus, quo vir et mulier inter se totius vitae consortium constituunt" ([CIC, can. 1055, 1](#)), whose essential properties are "unitas et indissolubilitas, quae in matrimonio christiano ratione sacramenti peculiarem obtinent firmitatem" ([CIC, can. 1056](#)). But this real difficulty does not amount "sic et simpliciter" to a concrete rejection of Christian marriage or of its essential properties. Still less does it justify the presumption, as it is unfortunately formulated at times by some tribunals, that the predominant intention of the contracting

parties, in a secularized society pervaded by strong divorce currents, is to desire a dissoluble marriage so much that the existence of true consent must instead be proven.

In order to affirm the exclusion of an essential property or the denial of an essential end of marriage, canonical tradition and rotal jurisprudence have always required that this exclusion or denial occur through a positive act of will that goes beyond a habitual, generic will, an interpretive wish, a mistaken opinion about the goodness of divorce in some cases, or a simple intention not to respect the obligations one has really assumed.

5. In conformity with the doctrine constantly professed by the Church, therefore, we must conclude that opinions opposed to the principle of indissolubility or attitudes contrary to it, but without the formal refusal to celebrate a sacramental marriage, do not exceed the limits of simple error concerning the indissolubility of marriage, which, according to canonical tradition and current legislation, does not vitiate marital consent (cf. [CIC, can. 1099](#)).

Nevertheless, in virtue of the principle that nothing can replace marital consent (cf. [CIC, can. 1057](#)), an error concerning indissolubility, by way of exception, can have an invalidating effect on consent if it positively determines the will of the contracting party to decide against the indissolubility of marriage (cf. [CIC, can. 1099](#)).

This can only occur when the erroneous judgement about the indissolubility of the bond has a determining influence on the will's decision, because it is prompted by an inner conviction deeply rooted in the contractant's mind and is decisively and stubbornly held by him.

6. Today's meeting with you, members of the Tribunal of the Roman Rota, is an appropriate setting for also speaking to the whole Church about the limits of the Roman Pontiff's power over ratified and consummated marriage, which "cannot be dissolved by any human power or for any reason other than death" ([CIC, can. 1141](#); CCEO, can. 853). By its very nature this formulation of canon law is not only disciplinary or prudential, but corresponds to a doctrinal truth that the Church has always held.

Nevertheless, there is an increasingly widespread idea that the Roman Pontiff's power, being the vicarious exercise of Christ's divine power, is not one of those human powers referred to in the canons cited above, and thus it could be extended in some cases also to the dissolution of ratified and consummated marriages. In view of the doubts and anxieties this idea could cause, it is necessary to reaffirm that a ratified and consummated sacramental marriage can never be dissolved, not even by the power of the Roman Pontiff. The opposite assertion would imply the thesis that there is no absolutely indissoluble marriage, which would be contrary to what the Church has taught and still teaches about the indissolubility of the marital bond.

7. This doctrine that the Roman Pontiff's power does not extend to ratified and consummated marriages has been taught many times by my Predecessors (cf., for example, Pius IX, Let. *Verbis exprimere*, 15 August 1859: *Insegnamenti Pontifici*, Ed. Paoline, Rome 1957, vol. I, n. 103; Leo XIII, Encyc. Let. *Arcanum*, 10 February 1880: ASS 12 [1879-1880], 400; Pius XI, Encyc. Let. *Casti connubii*, 31 December 1930: AAS 22 [552]; Pius XII, *Address to Newlyweds*, 22 April 1942: *Discorsi e Radiomessaggi* di S.S. Pio XII, Ed. Vaticana, vol. IV, 47). I would like to quote in particular a statement of Pius XII: "A ratified and consummated marriage is by divine law indissoluble, since it cannot be dissolved by any

human authority (can. 1118); while other marriages, although intrinsically indissoluble, still do not have an absolute extrinsic indissolubility, but, under certain necessary conditions, can (it is a question, as everyone knows, of relatively rare cases) be dissolved not only by virtue of the Pauline privilege, but also by the Roman Pontiff in virtue of his ministerial power" (*Address to the Roman Rota*, 3 October 1941: AAS 33 [1941], pp. 424-425) With these words Pius XII gave an explicit interpretation of canon 1118, corresponding to the present [canon 1141](#) of the Code of Canon Law, and to canon 853 of the Code of Canons of the Eastern Churches, in the sense that the expression "human power" also includes the Pope's ministerial or vicarious power, and he presented this doctrine as being peacefully held by all experts in the matter. In this context it would also be appropriate to quote the [Catechism of the Catholic Church](#), with the great doctrinal authority conferred on it by the involvement of the whole Episcopate in its drafting and by my special approval. We read there: "Thus the marriage bond has been established by God himself in such a way that a marriage concluded and consummated between baptized persons can never be dissolved. This bond, which results from the free human act of the spouses and their consummation of the marriage, is a reality, henceforth irrevocable, and gives rise to a covenant guaranteed by God's fidelity. The Church does not have the power to contravene this disposition of divine wisdom" ([n. 1640](#)).

8. The Roman Pontiff in fact has the "sacra potestas" to teach the truth of the Gospel, administer the sacraments and pastorally govern the Church in the name and with the authority of Christ, but this power does not include per se any power over the divine law, natural or positive. Neither Scripture nor Tradition recognizes any faculty of the Roman Pontiff for dissolving a ratified and consummated marriage; on the contrary, the Church's constant practice shows the certain knowledge of Tradition that such a power does not exist. The forceful expressions of the Roman Pontiffs are only the faithful echo and authentic interpretation of the Church's permanent conviction.

It seems quite clear then that the non-extension of the Roman Pontiff's power to ratified and consummated sacramental marriages is taught by the Church's Magisterium as a doctrine to be held definitively, even if it has not been solemnly declared by a defining act. This doctrine, in fact, has been explicitly proposed by the Roman Pontiffs in categorical terms, in a constant way and over a sufficiently long period of time. It was made their own and taught by all the Bishops in communion with the See of Peter, with the knowledge that it must always be held and accepted by the faithful.

In this sense it was reaffirmed by the Catechism of the Catholic Church. Besides, it is a doctrine confirmed by the Church's centuries-old practice, maintained with full fidelity and heroism, sometimes even in the face of severe pressures from the mighty of this world.

The attitude of the Popes is highly significant; even at the time of a clearer affirmation of the Petrine primacy, they show a constant awareness that their Magisterium is at the total service of the Word of God (cf. [Dogm. Const. Dei Verbum](#), n. 10) and, in this spirit, they do not place themselves above the Lord's gift, but endeavour only to preserve and administer the good entrusted to the Church.

9. Distinguished Prelate Auditors and officials, these are the reflections that I wished to share with you on so important and serious a matter. I entrust them to your minds and hearts, in the certainty of your fidelity and adherence to the Word of God, interpreted by the Church's Magisterium, and to canon law in its most authentic and complete interpretation.

I invoke upon your difficult ecclesial service the constant protection of Mary, Regina familiae. While assuring you of my closeness, esteem and appreciation, I cordially give you a special Apostolic Blessing as a pledge of my constant affection.

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