



The Holy See

**ADDRESS OF HIS HOLINESS BENEDICT XVI
FOR THE INAUGURATION OF THE JUDICIAL YEAR
OF THE TRIBUNAL OF THE ROMAN ROTA**

*Clementine Hall
Saturday, 21 January 2012*

Dear Members of the Tribunal of the Roman Rota,

It is cause of joy for me to receive you today in this annual encounter, on the occasion of the inauguration of the judicial year. I extend my greetings to the College of Prelate Auditors, starting with the Dean, Bishop Stankiewicz, whom I thank for his words. Cordial greetings also to the Officials, the [Rotal] Advocates, and other collaborators, and to all those who are present. On this occasion, I renew my esteem for the delicate and precious ministry which you carry out in the Church and which requires an ever-renewed effort, account taken of the impact it has on the *salus animarum* of the People of God.

In the appointment of this year, I would like to begin with one of the most important ecclesial events which we will experience in a few months. I am referring to the *Year of Faith*, which, following in the footsteps of my Venerable Predecessor, the Servant of God [Paul VI](#), I wanted to proclaim upon the 50th anniversary of the opening of the Second Ecumenical Vatican Council. That great Pontiff — as I wrote in the Apostolic Letter of Indiction — established for the first time that period of reflection “fully conscious of the grave difficulties of the time, especially with regard to the profession of the True Faith and its correct interpretation”.¹

Following a similar exigency, segueing to the subject matter which more directly concerns your service to the Church, today I would like to reflect upon a primary aspect of the judicial ministry, namely the interpretation of canonical law with respect to its application.² The connection to the theme just touched upon — the right interpretation of the Faith — certainly cannot be reduced to a mere semantic assonance, considering that Canon Law grounds its foundation and its very

meaning in the Truths of the Faith, and that the *Lex Agendi* cannot but mirror the *Lex Credendi*. The question of the interpretation of canonical law, moreover, constitutes a rather vast and complex subject, in front of which I will limit myself to making some observations.

All things considered, the hermeneutics of canonical laws is most closely tied to the very understanding of the law of the Church. Were one to tend to identify Canon Law with the system of the laws of the canons, the understanding of that which is juridical in the Church would essentially consist in the comprehending of that which the legal texts establish. At first glance, this approach would appear to hold Human Law entirely in value. However the impoverishment which this conception would bring about becomes manifest: with the practical oblivion of the Natural Law and of the Divine Positive Law, as well as the vital relationship of every Law with the communion and the mission of the Church, the work of the interpreter becomes deprived of vital contact with ecclesial reality.

In most recent times, some currents of thought have warned against an excessive attachment to the laws of the Church, starting with the Codes, judging them, as a case in point, to be a manifestation of Legalism. As a consequence, hermeneutical paths had been proposed which grant an approach more consonant with the theological foundations and goals, also pastoral, of the canonical norm, leading to a juridical creativity in which a singular situation would become the decisive factor to ascertain the authentic meaning of the legal precept in a concrete case. Mercy, Equity, the *Oikonomia* so dear to the Oriental Tradition, are some of the concepts invoked in such interpretative operations. It is immediately appropriate to note that this framework does not overcome the Positivism which it denounces, limiting itself to substituting it [Positivism] with another in which interpretive human work rises to the level of protagonist in establishing that which is juridical. It lacks the meaning of an objective law which one is to seek, because it remains at the mercy of considerations which claim to be theological or pastoral, but in the end are exposed to the risk of arbitrariness. In such a manner, legal hermeneutics becomes emptied: in the end, it does not take interest in understanding the provision of law, from the moment that it can be dynamically adapted to any whichever solution, even that which is opposed to its letter. Certainly there is in this case a reference to living phenomena, of which, however, one does not grasp the intrinsic juridical dimension.

There exists another way in which the proper understanding of canonical law opens the road to an interpretative work which inserts itself into the search for the truth about the Law and justice in the Church. As I wanted to highlight to the Federal Parliament of my Country, in the *Reichstag* of Berlin,³ true law is inseparable from justice. The principle is obviously valid also to the Canon Law, in the sense that it [Canon Law] cannot be shuttered within a merely human system of norms, but must be connected to a just order of the Church, in which a higher law is in effect. Seen through this lens, Human Positive Law loses the primacy which one would want to attribute to it, since law is no longer simply identified with it; in this, however, Human Law is held in value inasmuch as it is an expression of justice, above all for how much it declares as Divine Law, but also for that which

it presents as a legitimate determination of Human Law.

In such a manner, a legal hermeneutics which may be authentically juridical is rendered possible, in the sense that, by placing itself in syntony with the very signification of the law, the crucial question can be posed as to what is just in each case. It would be appropriate to observe, in this respect, that in order to grasp the true meaning of the law one must always seize the very reality that is being disciplined, and that not only when the law is primarily declarative of the Divine Law, but also when it constitutively introduces human rules. These are, in fact, to be interpreted also in the light of the reality being regulated, which always contains a nucleus of the Natural Law and the Divine Positive Law, with which every norm must be in harmony in order to be rational and truly juridical.

In such realistic prospectiveness, the interpretative undertaking, at times arduous, takes on meaning and purpose. The use of the interpretive means foreseen by the [Code of Canon Law in can. 17](#), beginning with “the proper meaning of the words considered in their text and context”, is no longer a mere logical exercise. It has to do with an assignment that is vivified by an authentic contact with the comprehensive reality of the Church, which allows one to penetrate the true meaning of the letter of the law. Something then occurs, similar to what I said about the inner process of St Augustine in biblical hermeneutics: “the transcending of the letter has rendered the letter itself credible”.⁴ In such a manner, also in the hermeneutics of the law is it confirmed that the authentic horizon is that of the juridical truth to love, to seek out and to serve.

It follows that the interpretation of canonical law must take place within the Church. This is not a matter of mere external circumstance, subject to the environs: it is a calling to the same *humus* of Canon Law and the reality regulated by it. *Sentire cum Ecclesia* takes on meaning also within the discipline, by reason of the doctrinal foundations that are always present and operative within the legal norms of the Church. In this manner, is also applied to Canon Law that hermeneutics of renewal in continuity of which I spoke in reference to the [Second Vatican Council 5](#), so closely bound to the current canonical legislation. Christian maturity leads one to love the law ever more and want to understand it and to apply it faithfully.

These foundational approaches are to be applied to all categories of interpretation: from scientific research on Canon Law, to the work of those who labour in the juridical sector in judicial or administrative seats, all the way to the quotidian seeking of just solutions in the lives of the faithful and of communities. A spirit of docility in welcoming laws is needed, seeking to study with honesty and dedication the juridical tradition of the Church in order to enable oneself to identify with it and also with the legal provisions enacted by Pastors, especially pontifical laws as well as the legal dispositions issued by Pastors, not to mention the Magisterium on canonical questions, which is *per se* binding concerning that which it teaches regarding the Law.⁶ Only in this manner may cases be identified in which concrete circumstances require an equitable solution in order to obtain the justice which the general human norm was not able to foresee, and may one be able to exhibit

in a spirit of communion what may serve to improve the legislative system.

These reflections acquire a special relevance in the area of laws regarding the constitutive act of Matrimony and its consummation, and the reception of Holy Orders, and of those [laws] pertaining to the respective Processes. Here syntony with the true meaning of the law of the Church becomes a question of broad and profound practical impact on the lives of persons and communities, and it requires special attention. In particular, also to be applied are all juridically binding means which tend to ensure that unity in the interpretation and in the application of laws which is asked for by Justice: the Pontifical Magisterium specifically concerning this area, contained above all within the Allocutions to the Roman Rota; the jurisprudence of the Roman Rota, upon which relevance I have already had the opportunity to speak to you⁷; the Norms and the Declarations issued by other Dicasteries of the Roman Curia. Such hermeneutical unity in that which is essential does not diminish in importance in any way the functions of local tribunals, the first ones called to address complex real situations that are found in every cultural context. Each one of these, in fact, is obliged to proceed with a sense of true reverence in the presence of the truth regarding the Law, striving to practice in an exemplary manner, in the application of judicial and administrative institutes, communion in discipline, the essential aspect of the unity of the Church.

Bringing myself to the conclusion of this moment of encounter and reflection, I would like to recall the recent innovation — which Monsignor Stankiewicz referred to — by virtue of which were transferred to an Office located at this [Apostolic Tribunal](#) the competencies for procedures of dispensation from ratified and non-consummated Matrimony and cases concerning the nullity of Sacred Ordination.⁸ I am certain that there will be a generous response to this new ecclesial effort.

Encouraging your precious work, which requires faithful, quotidian and strong commitment, I entrust you to the intercession of the Blessed Virgin Mary, *Speculum Iustitiae*, and willingly do I impart my Apostolic Blessing.

Notes

¹ Motu Proprio [Porta Fidei](#), 11 October 2011, 5: *L'Osservatore Romano*, 17-18 October 2011, p. 4.

² Cf. can. 16, § 3 cic; can. 1498, § 3 cceo.

³ Cf. [Discourse to Federal Parliament in the Federal Republic of Germany](#), 22 September 2011: *L'Osservatore Romano*, 24 September 2011, pp. 6-7.

⁴ Cf. Post-Synodal Apostolic Exhortation [Verbum Domini](#), 30 September 2010, 38: AAS 102

(2010), p. 718, n. 38.

5 Cf. [Discourse to the Roman Curia](#), 22 December 2005: AAS 98 (2006), pp. 40-53.

6 Cf. John Paul II, [Allocution to the Roman Rota](#), 29 January 2005, 6: AAS 97 (2005), pp. 165-166.

7 Cf. [Allocution to the Roman Rota](#), 26 January 2008: AAS 100 (2008), pp. 84-88.

8 Cf. Motu Proprio, [Querit Semper](#), 30 August 2011: *L'Osservatore Romano*, 28 September 2011, p. 7.