



The Holy See

ADDRESS OF JOHN PAUL II TO THE TRIBUNAL OF THE ROMAN ROTA

18 January 1990

1. The solemn inauguration of the Roman Rota's judicial year gives me the recurring and pleasant opportunity to express my heartfelt appreciation and encouragement for the work you are engaged in, dear brothers, both as judges and in other roles connected with the administration of justice in this apostolic tribunal. In greeting you with affection, I wish you to share in my concern as pastor of the universal Church for the jurisdictional activity of ecclesiastical tribunals, since I know well the hard work of those dedicated *ex professo* to this service for the People of God.

Using as a starting point the lucid words of the dean on the role of the judge in the Church, I feel it is opportune to discuss more thoroughly a theme topic which, since the Second Vatican Council, has been at the center of legislative activity, jurisprudence, and canonical doctrine. This topic is the pastoral aspect of canon law or, to put it in other terms, the relationship between pastoral ministry and law in the Church.

2. The pastoral spirit, which the Second Vatican Council strongly insisted on in the context of the theology of the Church as communion, was set forth especially in the dogmatic constitution *Lumen gentium*. This spirit characterizes every aspect of the Church's being and activity. The Council itself in the decree on priestly formation expressly directed that in teaching canon law attention is to be paid to the mystery of the Church, according to the dogmatic constitution on the Church (*OT*, no. 16). This applies *a fortiori* to its formulation, as well as to its interpretation and application. The pastoral nature of this law, that is, its function within the salvific mission of the pastors of the Church and the entire People of God, thus finds a solid basis in conciliar ecclesiology according to which the visible aspects of the Church are linked inseparably to the invisible ones—forming a single unified whole—comparable to the mystery of the incarnate Word (*LG*, no. 8). On the other hand, the Council did not fail to draw many practical consequences from this pastoral character of canon law, by taking concrete measures to ensure that canonical laws and structures might always be more suited to the welfare of souls (cf. *CD*, *passim*).

3. From this vantage point, it is opportune to pause to reflect on a mistaken idea. Perhaps it is an understandable one, but not thereby less harmful, for unfortunately it often conditions one's view of the pastoral nature of Church

law. This distortion lies in attributing pastoral importance and intent only to those aspects of moderation and humanness in the law which are linked immediately with canonical equity (*æquitas canonica*)—that is, holding that only the exceptions to the law, the potential non-recourse to canonical procedures and sanctions, and the streamlining of judicial formalities have any real pastoral relevance. One thus forgets that justice and law in the strict sense—and consequently general norms, proceedings, sanctions and other typical juridical expressions, should they become necessary—are required in the Church for the good of souls and are therefore intrinsically pastoral.

The third principle in that sort of decalogue of principles approved by the first assembly of the Synod of Bishops in 1967, and afterwards adopted by the legislator to serve as a guide in the work of drafting the new Code, did not begin merely by chance with these evocative statements: “The sacred and organically structured nature of the Church community makes it clear that the juridical character of the Church and all her institutions are ordered to foster supernatural life. Thus the juridical order of the Church, the laws and precepts, the rights and duties that flow from it, must contribute to the supernatural end” (*Principia quæ Codicis Iuris Canonici recognitionem dirigant, in Communicationes*, 1 [1969] pp. 79-80). Addressing again that principle, my esteemed predecessor Paul VI, in the course of his broad and profound teaching on the meaning and value of law in the Church, expressed the link between life and law in the Mystical Body of Christ in this way: “The ecclesial life cannot exist without juridical structure, since, as you well know, the Church—a society instituted by Christ, spiritual but visible, is built up by means of word and sacrament, and whose purpose is to bring salvation to humanity—needs this sacred law, in conformity with the Apostle’s words: ‘But all things should be done decently and in order’ (1 Cor 14:40)” (allocution to the members of the Pontifical Commission for the Revision of the Code of Canon Law, May 27, 1977, in *Communicationes*, 9 (1977), pp. 81–82).

4. The juridical and the pastoral dimensions are united inseparably in the Church, pilgrim on this earth. Above all, they are in harmony because of their common goal—the salvation of souls. But there is more. In effect, juridical-canonical activity is pastoral by its very nature. It constitutes a special participation in the mission of Christ, the shepherd (*pastore*), and consists in bringing into reality the order of intra-ecclesial justice willed by Christ himself. Pastoral work, in its turn, while extending far beyond juridical aspects alone, always includes a dimension of justice. In fact, it would be impossible to lead souls toward the kingdom of heaven without that minimum of love and prudence that is found in the commitment to seeing to it that the law and the rights of all in the Church are observed faithfully.

It follows from this that any opposition between the pastoral and the juridical dimensions is deceptive. It is not true that, to be more pastoral, the law should become less juridical. Surely, the very many expressions of that flexibility that have always marked canon law, precisely for pastoral reasons, must be kept in mind and applied. But the demands of justice must be respected also; they may be superseded because of that flexibility, but never denied. In the Church, true justice,

enlivened by charity and tempered by equity, always merits the descriptive adjective pastoral. There can be no exercise of pastoral charity that does not take account, first of all, of pastoral justice.

5. It is necessary to try to understand better the harmony between justice and mercy, a theme very dear to both the theological and canonical traditions. “One judging justly serves mercy with justice” (*Iuste iudicans misericordiam cum iustitia servat*, D. 45, c. 10), states one of the summary headings of Master Gratian’s *Decree*. St. Thomas Aquinas, after having explained that divine mercy in forgiving offenses does not undermine justice, but rather goes above and beyond it, concludes: “From this it is evident that mercy does not weaken justice, but is the perfection of justice” (*Ex quo patet quo misericordia non tollit iustitiam, sed est quædam iustitiæ plenitudo*, *Summa Theologiæ*, I, q. 21, a. 3 ad 2).

Convinced of that, ecclesiastical authority is attentive that its actions conform to the principles of justice and mercy, even when it treats cases concerning the validity of a matrimonial bond. It thus takes note, on the one hand of the great difficulties facing persons and families involved in unhappy conjugal living situations and recognizes their right to be objects of special pastoral concern. But it does not forget, on the other hand, that these people also have the right not to be deceived by a judgment of nullity which is in conflict with the existence of a true marriage. Such an unjust declaration of nullity would find no legitimate support in appealing to love or mercy. Love and mercy cannot put aside the demands of truth. A valid marriage, even one marked by serious difficulties, could not be considered invalid without doing violence to the truth and undermining thereby the only solid foundation which can support personal, marital, and social life. A judge, therefore, must always be on guard against the risk of false compassion that would degenerate into sentimentality, and would be pastoral appearance alone. The roads leading away from justice and truth end up in serving to distance people from God, thus yielding the opposite result from that which was sought in good faith.

6. Contrariwise, the work of defending a valid marriage represents the protection of God’s irrevocable gift to the spouses, to their children, to the Church, and to civil society. Only by respecting this gift is it possible to find eternal happiness and its foretaste in time. It is granted to those who conform with God’s grace to God’s will, which is always kind, although at times it can seem to be exacting. It must be kept in mind, then, that the Lord Jesus did not hesitate to speak of a “yoke,” inviting us to take it up, and comforting us with this merciful assurance: “For my yoke is easy, and my burden is light” (*Mt 11:30*).

What’s more, c. 1676, a norm which is not to be taken as a mere formality, is to be applied faithfully as a very important expression of pastoral concern for spouses experiencing difficulties: “Before he accepts a case and whenever there appears to be hope of success, the judge is to use pastoral means to persuade the spouses that, if it is possible, they should perhaps validate their marriage and resume their conjugal life.”

Canonical procedural law also shares the pastoral character of Church law. In this regard, the words of Paul VI in his last discourse to the Roman Rota remain as contemporary and effective as ever: “You are well aware that canon law as such and consequently procedural law of which it is a component in its inspiration is part of the plan of the economy of salvation—since the salvation of souls (*salus animarum*) is the supreme law of the Church” (January 28, 1978, *supra* p. 145).

The institutionalization of that instrument of justice called the trial represents a gradual victory for civilization and for respect of human dignity. The Church herself has contributed to this in no small way through the canonical trial. In so doing, the Church has not denied her mission of love and peace; rather she has merely set up an adequate means for ascertaining the truth which is an indispensable condition for justice enlivened by love, and thus also for true peace. It is true that, if possible, trials are to be avoided. Still, in determined cases, they are required by law as the most suitable way to resolve issues of great importance to the Church, such as those regarding the existence of a marriage.

A fair trial is a right of the faithful (see c. 221), and at the same time it is required for the public good of the Church. Canonical procedural norms are thus to be observed by all involved in a trial as means of justice leading to substantive justice.

Last year I had the opportunity to speak to you about the right to defense in the canonical trial, and I stressed its direct relationship to the basic requirements regarding the procedural contention (*contraddittorio*) (January 26, 1989, *supra* p. 205). Other specific norms regarding marriage cases have their own juridical-pastoral importance. I would like to call special attention to those concerning the competence of ecclesiastical tribunals. The new Code, in c. 1673, has regulated the matter, taking into account very recent positive and negative experiences, and balancing a legitimate broadening of the competence of tribunals with certain precise safeguards—which must be respected carefully—for protecting the contention (*contraddittorio*), for the benefit of the parties and for the public good. The observance of these safeguards, therefore, becomes a duty in justice and arises also out of a correctly understood pastoral sense.

8. I conclude these reflections on certain aspects of the vast topic of the relationship between pastoral ministry and canon law with a wish—and I direct it not only to you, but to all pastors in the Church—that there be an ever clearer understanding and ever more working realization of the pastoral value of Church law, for the sake of better serving souls. Entrusting this intention to the intercession of Our Lady, the Mirror of Justice (*Speculum iustitiæ*), I impart to you a special apostolic blessing, as a pledge of constant divine help in your demanding work in the Church.

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