



The Holy See

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

Friday, 29 January 1993

*Monsignor Dean,
Most reverend prelate auditors,
Dear officials of the Sacred Roman Rota!*

1. I offer my respectful and cordial greetings to all. I thank His Excellency the Dean for the noble words he addressed to me in the name of the College of Prelate Auditors and of the whole Tribunal of the Roman Rota, and I congratulate him for the generous service he has given over many years marked by diligent and faithful devotion.

I am very pleased at the beginning of each judicial year to meet with those who perform praiseworthy work in this apostolic tribunal. Indeed, as His Excellency the Dean pointed out, there is an important relationship between this Chair of Peter and the serious office entrusted to it of judging in the name and with the authority of the Roman Pontiff.

Like my venerable predecessors, I am happy to take this opportunity year after year to bring to your attention, and through you to all those in the Church who work in the specific area of administering justice, what my apostolic concern suggests to me.

2. With the recent [prayer meeting in Assisi](#) still resounding, a meeting attended by many brethren of the Churches and Christian Communities of Europe, as well as by other believers sincerely involved in the cause of peace, I cannot but emphasize that the principal fruit of your work too must always be to strengthen and restore peace in ecclesial society.

The reason for this is not only, as the Angelic Doctor says following St. Augustine all things desire peace (*omnia appetunt pacem*), in fact: "it follows of necessity that everyone desiring anything desires peace, insofar as one who desires anything, desires to attain, with tranquillity and without hindrance, to that which one desires: and this is what is meant by peace, which Augustine defines as the 'tranquillity of order' " (*Summa theologiæ*, II-II, q. 29, a. 2), but also because law, justice, and peace relate to one another, form one whole and are mutually complementary.

The distinguished jurist, Francesco Carnelutti, wrote in this regard: “Law and justice are not the same thing. They are related as a means to an end; law is the means, justice the end. . . . But what is this end? People above all need to live in peace. Justice is the condition for peace . . . People reach this state of mind when there is order in and around them. Justice is conformity to the order of the universe. Law is just when it really serves to put order into society” (F. Carnelutti, *Come nasce il diritto*, 1954, p. 53).

3. These reflections are sufficient to prevent any yielding to inappropriate forms of an anti-judicial mentality. Law in the Church, as well as in states, is a guarantee of peace and a tool for preserving unity, although not in the sense of inflexibility; legislative activity and the work of jurisprudence actually help to ensure a necessary updating and to allow for a unified response to changing circumstances and evolving situations.

It is with this intent—which transcends the Church’s external aspect in order to reach the innermost dimension of her supernatural life—that canonical laws are enacted: thus, in particular, the Pio-Benedictine Code was promulgated in 1917 for the Latin Church, and followed by the 1983 Code, prepared with lengthy, laborious study, in which the episcopates of the entire world, the Catholic universities, the dicasteries of the Roman Curia and many experts of canon law had a hand. In this regard I also had the joy in 1990 of finally promulgating the *Code of Canons of the Eastern Churches*.

Nevertheless, the supreme goal of this legislative effort would ultimately have been in vain not only if the canons were not observed —“by their very nature canonical laws are to be observed”—I wrote in the Constitution promulgating the Latin Code, but also, and with no less serious consequences, if their interpretation and, hence, their application, were left to the arbitrary will of individuals or of those who have been entrusted with the task of seeing that they are observed.

4. We should not be surprised by the fact that sometimes—due to imperfections natural to human efforts—the text of the law may give rise and in fact does give rise, particularly when a Code first goes into force, to problems of interpretation. The legislator himself foresaw this possibility and consequently laid down precise norms of interpretation, even going so far as to anticipate situations taking the form of lacunae of law (*Code of Canon Law, c. 19*) and to indicate the appropriate criteria to supply for them.

In order to avoid arbitrary interpretations of the Code’s text, I followed the similar provisions of my predecessors and on January 2, 1984 with the *motu proprio, Recognito Iuris Canonici Codice*, established the Pontifical Commission for the Authentic Interpretation of the Code, which I then changed with the apostolic constitution *Pastor bonus* to the Pontifical Council for the Interpretation of Legislative Texts, and broadened its area of competence.

It is certain, however, that quite often situations arise in which the interpretation and application of canon law is entrusted to those who exercise either executive or legislative power in the Church. The office entrusted to tribunals is situated within this framework of the Church’s legal system (cf. *Code of Canon Law, c. 16, §3*) and, in a particular way and for a specific purpose, it is entrusted to the Roman Rota, inasmuch as the latter “fosters unity of jurisprudence, and, by virtue of its own decisions, provides assistance to lower tribunals” (John Paul II, *Pastor bonus*, 126).

5. In this regard it seems appropriate here to recall some hermeneutical principles. When they are disregarded, canon law disintegrates and ceases to be such, with dangerous results for the Church’s life, for the good of souls, and

particularly, for the inviolability of the sacraments instituted by Christ.

If ecclesiastical laws are to be understood first of all “according to the proper meaning of the words considered in their text and context,” it would as a result, be totally arbitrary even patently illegitimate and gravely culpable (*gravemente colposo*), to attribute to the words used by the legislator, not their “proper” meaning, but one suggested by disciplines different from the canonical one.

Moreover, in interpreting the present Code one cannot hypothesize about a break with the past, as if in 1983 there had been a leap into a totally new reality. In fact, the legislator positively recognizes and unambiguously asserts the continuity of canonical tradition, particularly where his canons refer to the old law (cf. [Code of Canon Law, c. 6, §2](#)).

Certainly, many innovations were introduced into the present Code. However, it is one thing to note that innovations were made regarding a number of canonical institutes, and another to try to attribute unusual meanings to the language in which the canons are formulated. In truth, the constant concern of the interpreter and of the one applying canon law must be to understand the words used by the legislator in accord with the meaning that long-standing tradition attributes to them in the Church’s juridical system, using well-established doctrine and jurisprudence. Each term, then, must be considered in the text and context of the norm, in a vision of canonical legislation which allows for its uniform evaluation.

6. Specifically in matrimonial matters, the attempt at a none-too-well defined *humanization* of canon law must not depart from these principles that have also been sanctioned, as we have seen, by the same positive norm. With this line of reasoning, in fact, there is frequently an intention to endorse its excessive relativization, as if to impose, so as to safeguard alleged human needs, an interpretation and application of the law that thus ultimately pervert its characteristic features.

Correlating the majesty of canon law with those to whom it is directed is certainly not to be omitted or underestimated as I recalled in last year’s allocution; however, this entails the need for a proper knowledge of the Church’s legislation, but without forgetting, in the light of a correct Christian anthropology, the reality of human beings for whom it is intended. Subjecting canon law to capricious or contrived interpretations, in the name of an ambiguous and indefinite *humanitarian principle*, would mean destroying the very dignity of the humans, even before the norm.

7. Thus, to give an example, it would could cause serious harm to the stability of marriage and so to its sacred nature, if the fact of simulation was not formulated concretely on the part of the alleged simulator in a “positive act of will” (*actus positivus voluntatis*, cf. [Code of Canon Law, c. 1101, §2](#)); or if the so-called *error of law* (*error iuris*) regarding an essential property of marriage or its sacramental dignity did not acquire such intensity as to condition the act of will, thus causing the consent to be null (cf. [Ibid., c. 1099](#)). However, in the matter of *error of fact* (*error facti*) too, specifically when it is a question of “error of person” (*error in persona*, cf. [Ibid., c. 1097, §1](#)), one may not attribute to the terms used by the legislator a meaning alien to canonical tradition; even as “error about a quality of the person” can impugn the consent only when a quality, neither frivolous nor trivial, was “directly and principally intended” (cf. [Ibid., c. 1097, §2](#)), that is, as Rotal jurisprudence has effectively asserted: “when the quality is intended before the person” (*quando qualitas præ persona intendatur*).

This is what I wanted to call to your attention today, my dear auditors, officials, and advocates of the Roman Rota, in the certainty of this tribunal's constant fidelity to what is demanded by the seriousness and the authentic study of canon law, in the specific field proper to it.

In extending my cordial best wishes for tranquil and productive work, I impart to you all, as a sign of sincere esteem and as a pledge of God's constant assistance, the propitious Apostolic Blessing.

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