



The Holy See

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

10 February 1995

1. I am deeply grateful to you Monsignor the Dean for expressing the best wishes of the College of Prelate Auditors and the officials of the Tribunal of the Roman Rota, as well as of the members of the *Studio Rotale* and the rotal advocates. I greet everyone with affection.

I am always very pleased to welcome you at the opening of the judicial year, which affords me the welcome opportunity first to meet you and express to you my grateful appreciation, and then to encourage you in your particular ecclesial service.

The reflections developed in your address prompt me to dwell, almost as a continuation of what I said last year, on *two topics* that are in some ways complementary. I am referring, on the one hand, to the urgent need to *put the human person at the center of your office*, more properly, of your “*ministerium iustitiæ*”; and on the other, to the duty to keep in mind the demands stemming from *a unified vision that embraces both justice and the individual conscience*.

2. Without doubt, the Church’s whole work of evangelization, and thus canonical legislation itself, is directed towards human beings, created in the image of God, redeemed by the sacrifice of Christ and made his brothers and sisters. Rightly then in affirming their noble calling, the Second Vatican Council did not hesitate to recognize “the existence within humans of a divine seed” (*Gaudium et Spes*, 3). The *Catechism of the Catholic Church* also reminds us: “The divine image is present in every man. It shines forth in the communion of persons, in the likeness of the union of the divine, persons themselves” (*Catechism of the Catholic Church*, n. 1702; cf. nn. 27, 1701, 1703), so that—to return to the Council’s teaching “everything on earth is to be referred to humanity as its center and culmination” (*Gaudium et Spes*, 12).

“But what is humanity itself?” the Council immediately asks. The question is not an idle one. There are, in fact, divergent opinions on the nature of the human being. Aware of this fact, the Council took pains to offer an answer in which “the true state of man may be outlined, his weakness explained, in such a way that at the same time his dignity and his vocation

may be perceived in their true light” (*Gaudium et Spes*, 12).

3. It is not enough, then, to appeal to the human person and the person’s dignity without first endeavoring to form *an adequate anthropological vision*, which, on the basis of reliable scientific findings, remains anchored in the fundamental, principles of the perennial philosophy and is illumined by the vivid light of Christian Revelation.

This is why at a previous meeting with this Tribunal I referred to “a truly complete vision of the person.” and warned against certain trends of contemporary psychology that, “going beyond their own specific competence, are carried into such territory and are introduced under the thrust of anthropological presuppositions which cannot be reconciled with Christian anthropology” (John Paul II, *Address to the Tribunal of the Roman Rota*, 2 [5 Feb. 1987]). These presuppositions, in fact, offer a view of nature and human existence that is “closed to values and meaning which transcend the immanent factor and which allow human beings to tend towards the love of God and of their neighbor as their final vocation (*Ibid.*, 4).

4. Thus it is helpful once again to call the attention of ecclesiastical tribunals to *the unacceptable consequences resulting from*—erroneous doctrinal approaches, which have negative repercussions on the administration of justice and, in a particular and even more serious way, on the handling of cases of marital nullity. Moreover, for many years specific canonical legislation dealing with the consultation of medical specialists and experts in psychiatric science and practice has expressly warned that “care must be taken to exclude those who do not adhere to sound [Catholic] teaching in this matter” (Pius XI, *Provida Mater Ecclesia*, 15 Aug. 1936, in *AAS*, 28 [1936], p. 343, art. 151).

Only a Christian anthropology, enriched by the contribution of indisputable scientific data, including that of modern psychology and psychiatry, can offer a complete and thus realistic vision of humans. Ignorance of the fact that they “have a wounded nature inclined to evil,” the *Catechism of the Catholic Church* warns, “gives rise to serious errors in the areas of education, politics, social action and morals” (*Catechism of the Catholic Church*, 407; cf. no. 410 ff.). It would be equally misleading to forget that human beings have been gratuitously redeemed by the sacrifice of Christ and enabled, despite the influences of the world outside and within him, to do good and to, make life-long commitments.

5. All this can only lead to *an ever greater esteem for humans’ sublime nobility*, their inviolable rights, the respect owed to them even when their actions and behavior become the object of judicial investigation on the part of legitimate authority in general or of ecclesial authority in particular.

Everyone knows of the contribution that the development of the Roman Rota’s jurisprudence has made, particularly in recent decades, to, an ever more satisfactory knowledge of that *interior homo*

which is the origin as their driving force, of conscious and free acts. Here recourse to the humanities in the broad sense and to the medical-biological and even psychiatric-psychological disciplines in the strict sense is altogether praiseworthy. However, a purely experimental psychology, unaided by metaphysics, and unenlightened by Christian moral teaching, would lead to a reductive concept of humans that would ultimately expose them to decidedly degrading treatment.

Humans, aided and strengthened by supernatural grace, are in fact *capable of surpassing themselves*, hence certain demands of the Gospel, which from a purely earthly and temporal viewpoint could seem too hard, are not only possible but can even result in bringing essential benefits to their personal growth in Christ.

6. This attitude of reverent respect for man must be maintained *even in the conduct of trials*. To this end the Apostolic See has not failed, in accordance with the times and circumstances, to issue appropriate directives. This was the case, for example, when it was a question of having to make use of the investigations of experts, which in some ways could have impaired a sense of understandable and necessary confidentiality (cf. Holy Office, *Response*, 2 Aug. 1929, AAS 21 [1929], p. 490; Pius XI, *Provida Mater Ecclesia*, in AAS, [1936], p. 343, art. 150; Holy Office, *Decree*, 12 June 1942, in AAS, 34 [1942], pp. 200–202; Pius XII, *Allocution*, 8 Oct. 1953, in AAS, 45 [1953], pp. 673–679).

Likewise, when the mental condition of one party does not allow for his or her responsible, valid participation in the trial, canon law provides for that party to be represented by a guardian or a procurator (cf. [Code of Canon Law \[CIC\], cc. 1478–1479](#); *Code of Canons of the Eastern Churches [CCEO]*, cc. 1136–1137).

This is also true for the laws *regarding defense*. The effective presence of the latter is first of all guaranteed by both the personal choice and the *ex officio* appointment of competent legal representatives (cf. [CIC, c. 1481](#); *CCEO*, c. 1139); furthermore, its free exercise is safeguarded even to the point of providing for the possible nullity of judicial decisions in which this freedom was impaired (cf. [CIC, c. 1620](#); *CCEO*, c. 1303). All this goes to show the concrete respect for human dignity that pervades canonical discipline.

7. In this regard, I would like to call your attention to a procedural issue: it concerns the discipline in force regarding *the criteria for evaluating declarations made in a trial by the parties* (cf. [CIC, cc. 1536–1538, 1679](#); *CCEO*, cc. 1217–1219).

Undoubtedly, the chief demands of true justice, which are certainty of the law and the attainment of truth, must be reflected in procedural norms that provide protection from the arbitrariness and carelessness which cannot be allowed in any juridical system, much less in canonical legislation. However, the fact that Church law places the ultimate criterion and the decisive element of the

judgment itself precisely in the judge's conscience, i.e., thus in his free conviction, albeit derived from the acts and proofs (*CIC, c. 1608, §3; CCEO, c. 1291, §3*), demonstrates that a useless and unjustified formalism should never prevail to the point of suppressing the clear dictates of the natural law.

8. This brings us to a direct discussion of the other topic I referred to at the beginning: *the relationship between true justice and the individual conscience*.

In the encyclical *Veritatis Splendor* I wrote: "The way in which one conceives the relationship between freedom and law is thus intimately bound up with one's understanding of the moral conscience" (John Paul II, *Veritatis Splendor, 54*).

If this is true with regard to the so-called "internal forum," doubtless a correlation also exists between canon law and the subject's conscience with regard to the "external forum." Here the relationship is established between the judgment of someone who authentically and legitimately interprets the law, even in an individual, concrete case, and the conscience of someone who has appealed to canonical authority: that is between the ecclesiastical judge and the parties to a case in the canonical process.

In this regard I wrote in the encyclical letter *Dominum et Vivificantem*: "Conscience therefore is not an independent and exclusive capacity to decide what is good and what is evil. Rather there is profoundly imprinted upon it a principle of obedience vis-a-vis the objective norm which establishes and conditions the correspondence of its decisions, with the commands and prohibitions which are the basis of human behavior" (John Paul II, *Dominum et Vivificantem, 43*). And in the encyclical *Veritatis Splendor* I added: "The authority of the Church, when she pronounces on moral questions, in no way undermines the freedom of conscience of Christians ... also because the Magisterium does not bring to the Christian conscience truths which are extraneous to it; rather it brings to fight the truths which it ought already to possess, developing them from the starting point of the primordial act of faith. The Church puts herself always and only at the service of conscience, helping it to avoid being tossed to and fro by every wind of doctrine proposed by human deceit (cf. Eph 4:14), and helping it not to swerve from the truth about the good of man, but rather, especially in more difficult questions, to attain the truth with certainty and to abide in it" (John Paul II, *Veritatis Splendor, 64*).

An action deviating from the objective norm or law is thus morally reprehensible and must be considered as such: while it is true that humans must act in conformity with the judgment of their own conscience, it is equally true that the judgment of conscience cannot claim to establish the law it can only recognize it and make it its own.

9. While maintaining the distinction between the magisterial and jurisdictional functions, certainly in ecclesial society *the judicial power also emanates from the more general "potestas regiminis,"*

which in fact belongs to the Church by divine institution” (*CIC, c. 129, §1*), and is divided into three, namely, the “legislative, executive and judicial” (*CIC, c. 135, §1*). Therefore, whenever doubts arise as to the conformity of an act—for example, in the specific case of a marriage—with the objective norm, and consequently, the lawfulness or even the validity itself of such an act is called into question, reference must be made to the judgment correctly emanating from legitimate authority (cf. *CIC, c. 135, §3*), and not to an alleged private judgment, and still less to the individual’s arbitrary conviction. This principle, also formally safeguarded by canon law, establishes: “Even though the previous marriage is invalid or for any reason dissolved, it is not thereby lawful to contract another marriage before the nullity or the dissolution of the previous one has been established lawfully and with certainty” (*CIC, c. 1085, §2*).

Whoever would presume to transgress the legislative provisions concerning the declaration of marital nullity would thus put himself outside, and indeed in a position antithetical to the Church’s authentic magisterium and to canonical legislation itself—a unifying and in some ways irreplaceable element for the unity of the Church. This principle applies to whatever involves not only substantive law, but also procedural legislation. This fact must be kept in mind in concrete cases and care should be taken to avoid answers and solutions “in foro interno,” as it were, to situations that are perhaps difficult but which can be dealt with and resolved only by respecting the canonical norms in force. This must be kept in mind particularly by pastors who may be tempted to distance themselves in substance from the established and approved procedures of the *Code*. Everyone should be reminded of the principle that, although the diocesan bishop has been granted the faculty to dispense, under specific conditions, from disciplinary laws, he is not permitted however to dispense “from procedural laws” (*CIC, c. 87, §1*).

10. These are the doctrinal points I wish to recall today. By working in the juridical field thus outlined, judges on ecclesiastical tribunals, and first of all you, the Prelate Auditors of this apostolic forum, will succeed in bringing great benefit to the People of God. I urge you to carry out your work with that precise knowledge of human beings and with that attitude of proper respect for their dignity which I have discussed with you today.

Trusting in your sincere openness to the guidance of the magisterium and convinced of your great sense of responsibility in fulfilling the lofty role entrusted to you for the good of ecclesial and human society, I warmly extend to you my best wishes and cordially impart my apostolic blessing.