



The Holy See

ADDRESS OF HIS HOLINESS BENEDICT XVI TO THE MEMBERS OF THE TRIBUNAL OF THE ROMAN ROTA

*Clementine Hall
Saturday, 28 January 2006*

*Distinguished Prelate Auditors,
Officials and Collaborators of the
Apostolic Tribunal of the Roman Rota,*

Almost a year has passed since your Tribunal's last meeting with my beloved Predecessor, John Paul II. It was the last in a long series of meetings. Of the great legacy of canon law that he has also bequeathed to us, I would like in particular to focus on the Instruction *Dignitas Connubii*, on the procedures to follow in handling causes of the nullity of marriage. It was intended to set out a sort of *vademecum* which not only contains the respective norms in force on this subject but enriches them with further, relevant measures necessary for their correct application.

The greatest contribution of this Instruction, which I hope will be applied in its entirety by those who work in the ecclesiastical tribunals, consists in pointing out, in the causes of matrimonial nullity, the extent and manner in which to apply the norms contained in the canons concerning ordinary contentious judgment, as well as the observance of the special norms dictated for causes on the state of persons and for the public good.

As you well know, the attention dedicated to trials of the nullity of marriage increasingly transcends the context of experts. In fact, for many of the faithful, ecclesiastical sentences in this sector bear upon whether or not they may receive Eucharistic Communion.

It is this very aspect, so crucial from the viewpoint of Christian life, which explains why the subject of the nullity of marriage arose again and again at the recent Synod on the Eucharist. It might seem at first glance that there is a great divergence between the pastoral concern shown during the Synod's work and the spirit of the collection of juridical norms in *Dignitas Connubii*, almost to

the point of their being in opposition.

On the one hand, it would appear that the Synod Fathers were asking the ecclesiastical tribunals to strive to ensure that members of the faithful who are not canonically married regularize their marital situation as soon as possible and return to the Eucharistic Banquet.

On the other, canonical legislation and the recent Instruction would seem instead to limit this pastoral thrust, as though the main concern were rather to proceed with the foreseen juridical formalities at the risk of forgetting the pastoral aim of the process.

This approach conceals a false opposition between law and pastoral ministry in general. Here, I do not intend to go deeply into this issue which John Paul II already treated on several occasions, especially in his Address to the Roman Rota in 1990 (cf. 18 January 1990; *L'Osservatore Romano* English edition, [ORE], 29 January 1990, p. 6).

At this first meeting with you, I prefer to concentrate on love for the truth, which is the fundamental meeting point between canon law and pastoral ministry. With this affirmation, moreover, I associate myself in spirit with precisely what my venerable Predecessor said to you in his Address last year (29 January 2005; *ORE*, 2 February, p. 3).

The canonical proceedings for the nullity of marriage are essentially a means of ascertaining the truth about the conjugal bond. Thus, their constitutive aim is not to complicate the life of the faithful uselessly, nor far less to exacerbate their litigation, but rather to render a service to the truth. Moreover, the institution of a trial in general is not in itself a means of satisfying any kind of interest but rather a qualified instrument to comply with the duty of justice to give each person what he or she deserves.

Precisely in its essential structure, the trial is instituted in the name of justice and peace. In fact, the purpose of the proceedings is the declaration of the truth by an impartial third party, after the parties have been given equal opportunities to support their arguments and proof with adequate room for discussion. This exchange of opinions is normally necessary if the judge is to discover the truth, and consequently, to give the case a just verdict. Every system of trial must therefore endeavour to guarantee the objectivity, speed and efficacy of the judges' decisions.

In this area too, the relationship between faith and reason is of fundamental importance. If the case corresponds with right reason, the fact that the Church has recourse to legal proceedings to resolve interecclesial matters of a juridical kind cannot come as a surprise. A tradition has thus taken shape which is now centuries old and has been preserved in our day in ecclesiastical tribunals throughout the world.

It is well to keep in mind, moreover, that in the age of classical Medieval law, canon law made an

important contribution to perfecting the institutional structure of the trial itself.

Its application in the Church concerns first and foremost cases in which, since the matter remains to be resolved, the parties could reach an agreement that would settle their litigation but for various reasons this does not happen.

In seeking to determine what is right, not only does recourse to proceedings not aim to exacerbate conflicts, but it seeks to make them more humane by finding objectively adequate solutions to the requirements of justice.

Of course, this solution on its own does not suffice, for people need love, but when it is inevitable, it is an important step in the right direction.

Indeed, trials may also revolve around matters whose settlement is beyond the competence of the parties involved since they concern the rights of the entire Ecclesial Community. The process of declaring the nullity of a marriage fits precisely into this context: in fact, in its twofold natural and sacramental dimension, marriage is not a good that spouses can dispose of nor, given its social and public nature, can any kind of self-declaration be conjectured.

At this point the second observation spontaneously arises: no trial is *against* the other party, as though it were a question of inflicting unjust damage. The purpose is not to take a good away from anyone but rather to establish and protect the possession of goods by people and institutions.

In addition to this point, valid in every trial, there is another, more specific point in the hypothesis of matrimonial nullity. Here, the parties are not contending for some possession that must be attributed to one or the other. The trial's aim is rather to declare the truth about the validity or invalidity of an actual marriage, in other words, about a reality that establishes the institution of the family and deeply concerns the Church and civil society.

Consequently, it can be said that in this type of trial the Church herself is the one to whom the request for the declaration is addressed. Given the natural presumption of the validity of a marriage that has been formally contracted, my Predecessor, Benedict XIV, an outstanding canon lawyer, conceived of and made obligatory in such proceedings the participation of the defender of the bond at the said trial (cf. Apostolic Constitution *Dei Miseratione*, 3 November 1741). Thus, the dialectic of the proceedings whose aim was to ascertain the truth was better guaranteed.

Just as the dialectic of the proceedings leads us to understand the criterion of the search for the truth, so it can help us grasp the other aspect of the question: its pastoral value, which cannot be separated from love for the truth.

Indeed, pastoral love can sometimes be contaminated by complacent attitudes towards the

parties. Such attitudes can seem pastoral, but in fact they do not correspond with the good of the parties and of the Ecclesial Community itself; by avoiding confrontation with the truth that saves, they can even turn out to be counterproductive with regard to each person's saving encounter with Christ.

The principle of the indissolubility of marriage forcefully reaffirmed here by John Paul II (cf. Addresses: 21 January 2000, in *ORE*, 26 January 2000, p. 1; 28 January 2002, in *ibid.*, 6 February 2002, p. 6) pertains to the integrity of the Christian mystery.

Today, unfortunately, we may observe that this truth is sometimes obscured in the consciences of Christians and of people of good will. For this very reason, the service that can be offered to the faithful and to non-Christian spouses in difficulty is deceptive: it reinforces in them, if only implicitly, the tendency to forget the indissolubility of their union.

Thus, the possible intervention of the ecclesiastical institution in causes of nullity risks merely registering a failure.

However, the truth sought in processes of the nullity of marriage is not an abstract truth, cut off from the good of the people involved. It is a truth integrated in the human and Christian journey of every member of the faithful. It is very important, therefore, that the declaration of the truth is reached in reasonable time.

Divine Providence certainly knows how to draw good from evil, even when the ecclesiastical institutions neglect their duty or commit errors.

It is nonetheless a grave obligation to bring the Church's institutional action in her tribunals ever closer to the faithful. Besides, pastoral sensitivity must be directed to avoiding matrimonial nullity when the couple seeks to marry and to striving to help the spouses solve their possible problems and find the path to reconciliation. That same pastoral sensitivity to the real situations of individuals must nonetheless lead to safeguarding the truth and applying the norms prescribed to protect it during the trial.

I hope that these reflections will serve to help people understand better that love of the truth links the institution of canonical causes of the nullity of marriage with the authentic pastoral sense that must motivate these processes. With this key to interpretation, the Instruction *Dignitas Connubii* and the concerns expressed during the last Synod can be seen to converge.

Dear friends, the Ecclesial Community is deeply grateful to you for your discreet approach to the arduous and fascinating task of bringing about this harmony. With the sincere hope that your judicial activity will contribute to the good of all who turn to you and will encourage them in their personal encounter with the Truth that is Christ, I bless you with gratitude and affection.

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