



The Holy See

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

27 January 1997

1. I am pleased to meet you at this annual gathering, which expresses and strengthens the close ties between your work and my apostolic ministry. I cordially greet each of you, the prelate auditors, officials and all who serve in the Tribunal of the Roman Rota, members of the *Studio Rotale* and rotal advocates. I particularly thank Monsignor Dean for your kind words to me and for the remarks you have just made so succinctly.

2. Continuing my custom on these occasions of offering you some reflections on a topic regarding the Church's law and, in particular, the exercise of the judicial function, I wish to discuss a theme you know well, that of the *juridical consequences of the personalist aspects of marriage*. Without entering into particular problems regarding the various grounds of marital nullity, I will limit *myself* to recalling a few main points to be kept in mind for a more in-depth study of the topic.

Since the time of the Second Vatican Council, we have been asked what juridical consequences flow from the view of marriage found in the pastoral constitution *Gaudium et spes* (nos. 47-52). In fact, the new codification of canon law in this area has made ample use of the Council's vision, while avoiding some extreme interpretations which, for example, have considered the "*intima communitas vitæ et amoris coniugalis*" (intimate sharing of married life and love) (*ibid.*, no. 48) as a reality that does not involve a "*vinculum sacrum*" (sacred bond) (*ibid.*) with a specific juridical dimension.

In the 1983 *Code* formulations taken from the Council, such as that concerning the object of consent (see c. [1057, §2](#)), and that regarding the twofold natural ordering of marriage (c. [1055, §1](#)), in which the persons entering marriage are themselves given explicit prominence, are harmoniously blended with principles of traditional teaching, such as the "favor matrimonii"

[marriage enjoys the favor of the law] (c. 1060). Nevertheless, there still exist symptoms which show a tendency to oppose the personalist aspects to those more properly juridical, without the possibility of a harmonious synthesis: thus, on the one hand, the concept of marriage as a reciprocal gift of the persons would seem to justify a vague doctrinal and jurisprudential tendency to broaden the requirements for capacity or psychological maturity and for the freedom and awareness necessary to contract marriage validly; on the other hand, certain applications of this tendency, by bringing out its inherent ambiguities, are rightly perceived as conflicting with the principle of indissolubility, no less firmly stressed by the magisterium.

3. To deal with the problem in a clear and balanced way, it is necessary to bear in mind the principle that *juridical significance* is not juxtaposed as something foreign to the *interpersonal reality* of marriage, but constitutes *a truly intrinsic dimension* of it. Relations between the spouses, in fact, like those between parents and children, are constitutively *relations of justice*, and for that reason have in themselves juridical significance. Married and parent-child love is not merely an instinctive inclination, nor an arbitrary and reversible choice, but *is rather a love that is due*. Therefore, putting the person at the center of the civility of love does not exclude the law, but instead demands it, leading to a rediscovery of law as an interpersonal reality and to a vision of juridical institutions that highlights their constitutive link with persons themselves, which is so essential in the case of marriage and the family.

On these subjects the magisterium goes well beyond the mere juridical dimension, but it does keep it constantly in mind. As a result, a preeminent source for understanding and correctly applying canonical marriage law is the Church's same magisterium, which is responsible for authentically interpreting the word of God concerning this reality (see *Dei Verbum*, no. 10), including its juridical aspects. The canonical norms are only the *juridical expression* of an underlying *anthropological and theological reality*, and we must be in constant touch with this reality if we are to avoid the risk of facile interpretations. The guarantee of certitude, in the structure of the People of God as communion, is offered by the living Magisterium of the Pastors.

4. In a vision of authentic personalism, the Church's teaching implies the affirmation that marriage can be established as *an indissoluble bond* between the persons of the spouses, a bond essentially ordered to the good of the spouses themselves and of their children. Consequently, that conception of the conjugal union which would put this possibility in doubt and lead to a denial of the existence of marriage whenever problems arise in the shared life of the spouses, would clash with a true personalist dimension. At the root of such an attitude we see an *individualistic culture*, which is antithetical to a true personalism. "Individualism presupposes a use of freedom in which the subject does what he wants, in which he himself is the one to 'establish the truth' of whatever he finds pleasing or useful. He does not tolerate the fact that someone else 'wants' or demands something from him in the name of an objective truth. He does not want to 'give' to another on the basis of truth; he does not want to become a 'sincere gift'" (*Letter to Families*, no.14).

The personalist aspect of Christian marriage implies *an integral vision of man* which, in the light of faith, takes up and confirms whatever we can know by our natural powers. It is characterized by a sound realism in its conception of personal freedom, placed between the limits and influences of a human nature burdened by sin and the always sufficient help of divine grace. This view proper to Christian anthropology also includes an awareness of the need for sacrifice, for the acceptance of suffering and the struggle as indispensable realities for being faithful to one's duties. In the handling of marriage cases, it would be a mistake to have a too "idealized" notion, so to speak, of the marital relationship, which would lead one to interpret the normal difficulties that can occur as the couple progress towards full and reciprocal emotional integration as though there were a genuine incapacity to assume the obligations of marriage.

5. A correct evaluation of the personalist elements also requires that we keep in mind the *essential nature of the person* and, concretely, the essential nature of his conjugal dimension and the resulting natural inclination to marriage. A personalist conception based on pure subjectivism and, as such, unmindful of the *nature of the human person*—obviously taking the word "nature" in the metaphysical sense— would lend itself to every sort of ambiguity, even in the canonical domain. *Marriage* certainly has an *essential nature*, described in [canon 1055](#), which pervades the entire teaching concerning marriage, as can be seen in the concepts of "essential property," "essential element," "essential rights and obligations of marriage," etc. This essential reality is a possibility open in principle to every man and woman; indeed, it represents a true vocation for the great majority of the human race. Consequently, in assessing the capacity or the act of consent necessary for the celebration of a valid marriage, one cannot demand what it is not possible to require of the majority of people. It is not a question of a pragmatic or convenient minimalism, but of a *realistic view of the human person*, as a being always growing, called to make responsible choices with his inborn abilities, continuously enriching them by his own efforts and the help of grace.

From this perspective, the *favor matrimonii* and the presumption of the validity of marriage (see c. 1060) can be seen not only as the application of a general principle of law, but as consequences perfectly in keeping with the specific reality of matrimony. However, there remains the difficult task, as you well know, of including with the help of sciences, that minimum without which one cannot speak of the capacity or of sufficient consent for a true marriage.

6. All this clearly shows how exacting and demanding is the task entrusted to the Roman Rota. Its skilled jurisprudence not only sees that the defense of the rights of individual *christifideles* is secured, but at the same time makes a significant contribution to acceptance of God's plan for the family in the ecclesial and, indirectly, in the entire human community.

Therefore, in expressing my gratitude to you who, directly or indirectly, collaborate in this service and urging you to persevere with renewed responsibility, which is so important for the Church's life, I cordially impart to you my blessing and gladly extend it to all who work in ecclesiastical

tribunals throughout the world.

© Copyright 1997 - Libreria Editrice Vaticana

Copyright © Dicastero per la Comunicazione - Libreria Editrice Vaticana