

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

Clementine Hall
Saturday, 26 January 2008

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

The occurrence of the first centenary of the restoration of the Apostolic Tribunal of the Roman Rota, ratified by St Pius X in 1908 with his Apostolic Constitution *Sapienti Consilio*, has just been recalled in the cordial words of your Dean, Bishop Antoni Stankiewicz. This circumstance enhances the sense of appreciation and gratitude with which I am meeting you, already for the third time. I offer my cordial greeting to each and every one of you. I see personified in you, esteemed Prelate Auditors, and in all those who take part in various capacities in the work of this Tribunal, an institution of the Apostolic See whose roots, embedded in canonical tradition, have proven an inexhaustible source of vitality. It is your task to keep this tradition alive, in the conviction that you are thereby rendering an ever timely service to the overall administration of justice in the Church.

This centenary is a favourable opportunity for reflecting on a fundamental aspect of the Rota's activity: the value of rotal jurisprudence in the ensemble of the administration of justice in the Church. It is a dimension highlighted in the very description of the Rota given by the Apostolic Constitution *Pastor Bonus*: "The Roman Rota is a court of higher instance at the Apostolic See, usually at the appellate stage, with the purpose of safeguarding rights within the Church; it fosters unity of jurisprudence, and, by virtue of its own decisions, provides assistance to lower tribunals" (art. 126). In their annual Discourses, my beloved Predecessors frequently spoke with appreciation and trust of the Roman Rota's jurisprudence, both in general and with reference to practical matters and especially matrimonial topics.

If it is only right and proper to remember the ministry of justice exercised by the Rota during its centuries-old existence - and especially in the last 100 years - it is also appropriate on this occasion to endeavour to examine the meaning of this service, the annual volume of whose decisions demonstrate that it is a practical instrument. We might wonder in particular why rotal sentences possess a juridical importance that exceeds the immediate context of the causes in which they are issued. Regardless of the formal value that every ordinary juridical process can attribute to previous proceedings, there is no doubt that in a certain way, its individual decisions concern the whole of society. Indeed, they continue to determine what all can expect from the tribunals, which undoubtedly

influences the tenor of social life. Any legal system must seek to offer solutions in which, as well as the prudential evaluation of individual cases, the same principles and general norms of justice are applied. Only in this way is a trusting atmosphere created in the tribunals' activity and the arbitrary nature of subjective criteria avoided. Furthermore, within each judicial organization the hierarchy that exists between the various tribunals is such that possible recourse to higher tribunals in itself provides for the unity of jurisprudence.

The above-mentioned considerations are also perfectly applicable to ecclesiastical tribunals. Indeed, since canonical processes concern the juridical aspects of salvific goods or of other temporal goods which serve the Church's mission, the requirement of unity in the essential criteria of justice and the need to be able to reasonably foresee the direction that judicial decisions will take becomes a public ecclesial good of particular importance for the People of God's internal life and its institutional witness in the world. In addition to the intrinsic value of reasonableness inherent in the work of a Tribunal that usually decides cases in the last instance, it is clear that the value of the Roman Rota's jurisprudence is dependent upon its nature as a higher instance which can appeal to the Apostolic See. The legal measures which recognize this value (cf. can. 19, Code of Canon Law; Apostolic Constitution *Pastor Bonus*, art. 126) do not create, but rather, declare this value. It derives ultimately from the need to administer justice in accordance with equal parameters in all that is precisely in itself essentially equal.

As a result, the value of rotal jurisprudence is not a factual sociological issue since it has a properly juridical character, placed at the service of substantial justice. It would therefore be improper to admit to any opposition between rotal jurisprudence and the decisions of local tribunals that are called to play an indispensable role in rendering the administration of justice immediately accessible, and in being able to investigate and resolve practical cases at times linked to peoples' culture and mentality. In any case, all rulings must always be based on the principles and common norms of justice. This requirement, common to any juridical order, has specific significance in the Church to the extent that the requirements of communion are at stake. This involves the protection of what is common to the universal Church, entrusted in a particular way to the Supreme Authority and to the bodies that participate *ad normam iuris* in its sacred authority.

In the matrimonial context, rotal jurisprudence has carried out very conspicuous work in the past 100 years. In particular, it has made significant contributions that are expressed in the codification in force. In this light, one cannot think that the importance of the jurisprudential interpretation of law by the Rota has diminished. Indeed, the application of current canon law requires precisely that it reflect the true sense of justice, linked first of all to marriage's very essence. The Roman Rota is constantly called to carry out an arduous task which has a strong influence on the work of all tribunals: that of understanding the existence or non-existence of the matrimonial reality, which is intrinsically anthropological, theological and juridical. For a better understanding of the role of jurisprudence, I would like to insist on what I said to you last year concerning the "intrinsic juridical dimension of marriage" (cf. Address to Roman Rota, 27 January 2007). Law cannot be reduced to a mere collection of positive rules that tribunals are

required to apply. The only way to give a solid foundation to the jurisprudential task is to conceive of it as a true exercise of *prudentia iuris*. This prudence is quite the opposite of arbitrariness or relativism, for it permits events to reveal the presence or absence of the specific relationship of justice which marriage is, with its real human and saving meaning. Only in this way do jurisprudential maxims acquire their true value without becoming a compilation of abstract and repetitive rules, exposed to the risk of subjective or arbitrary interpretations.

The objective assessment of the facts in the light of the Magisterium and the law of the Church thus constitutes a very important aspect of the Roman Rota's activity and exercises great influence on ministers of justice of the tribunals of local Churches. Rotal jurisprudence should be seen as exemplary juridical wisdom carried out with the authority of the Tribunal permanently constituted by the Successor of Peter for the good of the whole Church. Thanks to this work, the concrete reality in causes of matrimonial nullity is objectively judged in light of criteria that constantly reaffirm the reality of matrimonial indissolubility, open to every man and woman in accordance with the plan of God, Creator and Saviour. Constant effort is needed to attain that unity of the criteria of justice which essentially characterizes the notion of jurisprudence itself and is a fundamental presupposition for its activity. In the Church, precisely because of her universality and the diversity of the juridical cultures in which she is called to operate, there is always a risk that "local forms of jurisprudence" develop, *sensim sine sensu*, ever more distant from the common interpretation of positive law and also from the Church's teaching on matrimony. I hope that appropriate means may be studied to make rotal jurisprudence more and more manifestly unitive as well as effectively accessible to all who exercise justice, in order to ensure its uniform application in all Church tribunals.

The value of interventions of the Ecclesiastical Magisterium on matrimonial and juridical issues, including the Roman Pontiff's Discourses to the Roman Rota, should also be seen in this realistic perspective. They are a ready guide for the work of all Church tribunals, since they authoritatively teach the essential aspects of the reality of marriage. In his last Address to the Rota, my venerable Predecessor John Paul II put people on guard against the positivistic mentality in the understanding of law, which tends to make a distinction between laws and jurisprudential approaches and the Church's doctrine. He affirmed: "In fact, the authentic interpretation of God's Word, exercised by the Magisterium of the Church, has juridical value to the extent that it concerns the context of law, without requiring any further formal procedure to become juridically and morally binding. "For a healthy juridical interpretation, it is indispensable to understand the whole body of the Church's teachings and to place every affirmation systematically in the flow of tradition. It will thus be possible to avoid selective and distorted interpretations and useless criticisms at every step" (John Paul II, Address to Roman Rota, 29 January 2005).

This centenary is destined to go beyond the formal commemoration. It will become an opportunity for a reflection that must temper your commitment, enlivening it with an ever deeper ecclesial sense of justice which is a true service to saving communion. I encourage you to pray daily for the Roman Rota and for all who work in the sector of the administration of justice in the Church, with recourse to the motherly intercession of

Mary Most Holy, *Speculum iustitiae*. This invitation might seem merely devotional and somewhat extrinsic to your ministry; but we must not forget that everything in the Church is brought about through the force of prayer, which transforms our entire existence and fills us with the hope that Jesus brings to us. This prayer, inseparable from daily commitment that is serious and competent, will bring light and strength, faithfulness and authentic renewal to the life of this venerable Institution through which, *ad normam iuris*, the Bishop of Rome exercises his primary solicitude for the administration of justice throughout the People of God. Therefore, may my Blessing today, full of affection and gratitude, embrace both you who are present here and all those worldwide who serve the Church and all the faithful in this field.