



The Holy See

**ADDRESS OF THE HOLY FATHER
POPE JOHN PAUL II
TO THE BISHOPS OF THE EPISCOPAL CONFERENCE
OF THE UNITED STATES OF AMERICA
(COLORADO, WYOMING, UTAH, ARIZONA AND NEW MEXICO)**

17 October 1998

Dear Brother Bishops,

1. With great joy I greet you, the Pastors of the Church in the States of Colorado, Wyoming, Utah, Arizona and New Mexico. Your *ad Limina* visit, by bringing you to "see Peter" (cf. Gal 1:18) is meant to be, in the life of the particular Churches over which you preside, an opportunity "to strengthen unity in the same faith, hope and charity, and more and more recognize and treasure that immense heritage of spiritual and moral wealth that the whole Church, joined with the Bishop of Rome by the bond of communion, has spread throughout the world" (*Pastor Bonus*, Appendix I, No. 3).

In this series of meetings with the Bishops of the United States, I have emphasized that the faithful and committed implementation of the teachings of the Second Vatican Council is the path indicated by the Holy Spirit for the whole Church to prepare for the Great Jubilee of the Year 2000 and the beginning of the new Millennium. The renewal of Christian life which was at the forefront of the Council's work is the same goal which guided Pope John XXIII to advocate a revision of the Code of Canon Law (cf. *Address to Roman Cardinals*, January 25, 1959), a desire reaffirmed by the Council Fathers (cf. *Christus Dominus*, 44). After much labor this revision bore fruit in the new *Code of Canon Law* promulgated in 1983 and the Code of Canons of the Eastern Churches promulgated in 1990. Today I wish to reflect on some aspects of your ministry in relation to the place of law in the Church.

2. The immediate purpose of the revision of the Code was to ensure that it embodied the

ecclesiology of the Second Vatican Council. And, given that the Council's teaching aimed at stirring new energies for a new evangelization, it is clear that the revision of the Code belongs to that series of graces and gifts which the Holy Spirit has poured out so abundantly on the ecclesial community so that, in fidelity to Christ, it will enter the next Millennium seeking to give witness to the truth, to rescue and not to sit in judgment, to serve and not to be served (cf. *Tertio Millennio Adveniente*, 56).

To understand more of the link between law and evangelization we need to consider the biblical roots of law in the Church. The Old Testament insists that the Torah is the greatest of God's gifts to Israel, and each year the Jewish people still celebrate the feast called the Rejoicing of the Torah. The Torah is a great gift because it opens to people in every time and place the path of an ever new Exodus. For us, just as for Israel, the question is this: long ago our ancestors came forth from the slavery of Egypt, but how are we now to come forth from the slavery which afflicts us, from the Egypt of our own time and place? The biblical answer is: you will find freedom if you obey this divine Law. At the heart of biblical revelation, therefore, there lies the mystery of a liberating obedience, which reaches its supreme expression in the Crucified Christ who was "obedient unto death" (Phil 2:8). Ultimate obedience made possible the definitive liberation of Easter.

In the Church, then, the purpose of law is the defense and promotion of the "glorious liberty of the children of God" (Rom 8:21); this is the Good News which Christ sends us to bring to the world. To see the law as spiritually liberating runs against the grain of a certain understanding of law in Western culture, which tends to view law as a necessary evil, a kind of control required to guard fragile human rights and restrain wayward human passions, but which would disappear in the best of all possible worlds. This is not the biblical view; nor can it be the Church's view.

Authority in the Church, being a sacred ministry at the service of the proclamation of God's word and the sanctification of the faithful, can only be understood as a means for the development of the Christian life in accordance with the radical demands of the Gospel. Ecclesiastical law gives form to the community or social body of the Church, always with a view to that supreme objective which is the salvation of souls (cf. *Canons* 747, 978, 1752). Since this ultimate end is attained above all through the newness of life in the Spirit, the provisions of the law aim at safeguarding and fostering Christian life by regulating the exercise of faith, the sacraments, charity and ecclesiastical government.

3. The common good which the law protects and promotes is not a mere external order, but the sum of those conditions which make possible the spiritual and internal reality of communion with God and communion between the members of the Church. Consequently, as a basic rule, ecclesiastical laws bind in conscience. In other words, obedience to the law is not a mere external submission to authority but a means of growing in faith, charity and holiness, under the guidance and by the grace of the Holy Spirit. In this sense canon law has particular features which distinguish it from civil law and which preclude the application of the legal structures of civil society

to the Church without the necessary modifications. Appreciation of these particularities is necessary in order to overcome some of the difficulties which have arisen in recent times regarding the understanding, interpretation and application of canon law.

Among these particularities is the pastoral character of law and of the exercise of justice in the Church. In fact, the pastoral character of canon law is the key to the correct understanding of canonical equity, that attitude of mind and spirit which tempers the rigor of the law in order to foster a higher good. In the Church, equity is an expression of charity in the truth, aiming at a higher justice which coincides with the supernatural good of the individual and of the community. Equity, then, should characterize the work of the pastor and the judge, who must continually model themselves on the Good Shepherd, "consoling those who have been struck down, guiding those who have erred, recognizing the rights of those who have been injured, calumniated or unjustly humiliated" (Paul VI, *Address to the Roman Rota*, February 8, 1973). Elements such as dispensation, tolerance, exempting or excusing causes, and *epikeia*, are to be understood not as diminishing the force of law but as complementing it, since they actually guarantee that the law's fundamental purpose is secured. Likewise, ecclesiastical censures are not vindictive but medicinal, inasmuch as they aim at bringing about the conversion of the sinner. All law in the Church has truth and charity as its constitutive elements and its primary motivating principles.

4. The Code specifies the duties of Bishops regarding the setting up of tribunals, and their activity. It is not enough to ensure that diocesan tribunals have the personnel and means to function properly. Your responsibility as Bishops - about which I encourage you to be especially vigilant - is to ensure that diocesan tribunals exercise faithfully the ministry of truth and justice. In my own ministry I have always felt the weight of this particular responsibility. As the Successor of Peter I have reason to be deeply grateful to my collaborators in the various tribunals of the Apostolic See: especially the Apostolic Penitentiary, the Supreme Tribunal of the Apostolic Signatura and the Tribunal of the Roman Rota, which help me in that part of my ministry which deals with the proper administration of justice.

Canon law touches on every aspect of the Church's life and therefore imposes upon Bishops a wide range of responsibilities, but it is undoubtedly in the area of marriage that these responsibilities are felt most acutely and are most complex. The indissolubility of marriage is a teaching that comes from Christ himself, and the first duty of pastors and pastoral workers is therefore to help couples overcome whatever difficulties arise. The referral of matrimonial cases to the tribunal should be a last resort. Great care must be taken when explaining to the faithful what a declaration of nullity is, in order to avoid the danger of its being conceived as divorce under a different name. The tribunal exercises a ministry of truth: its purpose is "to ascertain whether or not the facts exist that by natural, divine or ecclesiastical law invalidate the marriage, in order to be able to issue a true and just sentence concerning the alleged non-existence of the marriage bond" (*Address to the Roman Rota*, February 4, 1980, No. 2). The process leading to a judicial decision about the alleged nullity of marriage should demonstrate two aspects of the Church's pastoral

mission. First, it should manifest clearly the desire to be faithful to the Lord's teaching concerning the permanent nature of sacramental marriage. Secondly, it should be inspired by genuine pastoral concern for those who seek the ministry of the tribunal in order to clarify their status in the Church.

5. Justice demands that the work of tribunals be carried out conscientiously and in strict observance of canonical directions and procedures. As Moderators of your diocesan tribunals, you have the duty to ensure that the officials of the tribunal are suitably qualified (cf. *Canons* 1420, 4; 1421, 3; 1428, 2; 1435), possessing a doctorate or at least a licentiate in canon law. Where this is not the case, they need to be properly dispensed by the Apostolic Signatura after receiving specialized training for their position. In regard to the officials of the tribunal, I urge you in particular to see that the defender of the bond is diligent in presenting and expounding all that can reasonably be argued against the nullity of the marriage (cf. *Canon* 1432). Bishops whose tribunals handle cases in second instance should ensure that their tribunals treat their competence seriously, not acting merely as an almost automatic confirmation of the judgment of the tribunal of first instance.

Both parties in a marriage case have rights which must be scrupulously respected. These include the right to be heard for the formulation of the doubt, the right to know on what grounds the case will be tried, the right to name witnesses, the right to inspect the acts, the right to know and rebut the arguments of the other party and of the defender of the bond, and to receive a copy of the final sentence. The parties are to be informed of the ways in which they may challenge the definitive sentence, including the right to appeal to the Tribunal of the Roman Rota in second instance. In regard to cases tried on the basis of psychic incapacity, that is, on the basis of some serious psychic anomaly which renders a person incapable of contracting a valid marriage (cf. *Canon* 1095), the tribunal is to make use of the services of an expert in psychology or psychiatry who shares a Christian anthropology in accordance with the Church's understanding of the human person (cf. *Address to the Roman Rota*, February 5, 1987).

A canonical process must never be seen as a mere formality to be observed or a set of rules to be manipulated. The judge may not pass sentence in favor of the nullity of a marriage if he has not first acquired the moral certainty of the existence of this nullity; probability alone is not sufficient to decide a case (cf. *ibid.*, No. 6; *Canon* 1608). Moral certainty - which is not just probability or subjective conviction - "is characterized on the positive side by the exclusion of well-founded or reasonable doubt. On the negative side, it does admit the absolute possibility of the contrary and in this it differs from absolute certainty" (Pius XII, *Address to the Roman Rota*, October 1, 1942, No. 1). Moral certainty proceeds from a multitude of indications and demonstrations which, taken separately, may not be decisive, but which taken together can exclude any reasonable doubt. If the judge cannot reach moral certainty in the canonical trial, he must find in favor of the validity of the matrimonial bond (cf. *Canon* 1608, 3 and 4): marriage enjoys the favor of the law.

6. Dear Brother Bishops, the purpose of these brief considerations is to encourage you in overseeing the faithful application of canonical legislation: this is essential if the Church is to show herself ever more equal to the task of carrying out her salvific mission (cf. Apostolic Constitution *Sacrae Disciplinae Leges*). A deeper appreciation of the importance of canon law in the life of the Church and the implementation of measures to guarantee a more effective and conscientious administration of justice must be a central concern of your Episcopal ministry. Fidelity to ecclesiastical law should be a vital part of the renewal of your particular Churches. It is a condition for unleashing new energies for evangelization as we approach the Third Christian Millennium. I entrust your pastoral efforts in this regard to the maternal intercession of Mary, *Mirror of Justice*, and to you and the priests, religious and lay faithful of your Dioceses, I gladly impart my Apostolic Blessing.

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