



The Holy See

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

25 January 1988

I am deeply grateful to you, Monsignor Dean, for the noble words with which you have expressed the good wishes of all. I greet you cordially and I extend my greeting to the college of prelate auditors of the Tribunal of the Roman Rota, to the officials who form part of it, to the members of the *Studio Rotale* and to the corps of rotal advocates, who are well represented here.

This annual meeting with you affords me a gratifying opportunity to underline the importance of your delicate ecclesial service, and to express to you my appreciation and my gratitude. Besides it enables me to reflect with you on the judicial activity of the Church.

In today's meeting, I take up again the subject I began last year (February 5, 1987, *supra* pp. 198–203), and I intend to recall to your attention to the role of the defender of the bond in marriage nullity trials under the heading of psychic incapacity.

As Pius XII stated in masterly fashion (October 2, 1944, *supra* pp. 27–28), the defenders of the bond are called to cooperate in the search for *objective truth* concerning the nullity or otherwise of a marriage in concrete cases. This does not mean that it is their task to evaluate the arguments for or against or to give an opinion on the merits of the case. Instead it means that they ought not construct “an artificial defense, without concern as to whether his statements have or have not a serious foundation” (*ibid.*).

Their specific role is to cooperate in the discovery of objective truth. They have the duty “to present and expound all that can be reasonably be argued against the nullity” (c. 1432).

Since marriage has to do with the common good of the Church, it “enjoys the favor of the law” (c. 1060). The role of the defenders of the bond is irreplaceable and of the greatest importance.

Consequently, the absence of a defender of the bond in a marriage nullity case renders the acts null and void (c. 1433).

As I already had occasion to mention, in recent times: “One notes tendencies which tend to reduce the defender’s role” (January 28, 1982, *supra* p. 183) to the point of confusing it with that of others taking part in the case, or to reduce it to some insignificant formality. In practice, this eliminates from the procedural dialogue the intervention of the person qualified really to investigate, propose, and clarify all that could reasonably be cited against nullity with serious damage to the impartial administration of justice.

Therefore, I feel obliged to recall that the defenders of the bond *are bound* (c. 1432) and therefore have the obligation—and not simply the option—of carrying out their specific task in a serious manner.

The necessity of carrying out such an obligation assumes a particular importance in those marriage cases, of their nature very difficult, which have to do with the psychic incapacity of the contracting parties. In cases of this kind, in fact, confusion and misunderstanding can easily arise—as I had occasion to emphasize last year—in the dialogue between the psychiatrist or the psychologist and the ecclesiastical judge, with consequent incorrect use of psychiatric and psychological evidence. This requires that the intervention of the defender of the bond should be really expert and perceptive. In this way, it will contribute effectively to throw light on facts and their meaning and it also becomes, in concrete cases, a defense of the Christian vision of human nature and of marriage.

I now wish to confine my remarks to two points, to which the defender of the bond should pay particular attention in the aforementioned cases—namely, the correct view of the normality of the contracting party and the canonical conclusions to be drawn from the psychopathological symptoms—for the purpose of indicating eventually the pertinent duties of the one who must defend the bond.

The difficulty which the experts themselves in the field of psychology and psychiatry experience in defining satisfactorily for everybody the concept of normality is well known. In any case, whatever may be the definition given by the psychiatric and psychological sciences, it must always be examined in the light of the concepts of Christian anthropology which underlie canonical science.

In the psychological and psychiatric trends prevailing today, attempts to arrive at an acceptable definition of normality refer solely to the earthly and natural dimensions of the person, that, namely, which are perceptible by those same human sciences as such. They do not take into consideration an integrated concept of the person, in the eternal dimension and in the vocation to transcendent values of a religious and moral nature. In such a scaled down view of the human person and of the human vocation, one easily ends up identifying normality, in relation to marriage, with the capacity to receive and to offer the possibility of full fulfillment in the conjugal relationship.

Of course this conception of normality based on natural values is also relevant to the capacity to strive for transcendent values, in the sense that in the most extreme forms of mental illness the capacity of the subject to strive for values in general is compromised.

Christian anthropology, enriched by the contribution of recent discoveries in psychology and psychiatry, considers the human person, under every aspect—terrestrial and eternal, natural and transcendent. In accordance with this integrated vision, humans, in their historical existence, appear internally wounded by sin, and at the same time redeemed by the sacrifice of Christ.

Humans, therefore, carry within themselves the seed of eternal life and the vocation to make transcendent values their own. They, however, remain internally vulnerable and dramatically exposed to the risk of failing in their own vocation. This is due to the resistance and difficulties which they encounter in their earthly existence. These may be found on the conscious level, where moral responsibility is involved, or on the subconscious level, and this may be either in ordinary psychic life or in that which is marked by slight or moderate psychic illnesses that do not impinge substantially on one's freedom to strive after transcendent ideals which have been responsibly chosen.

Thus we are divided—as St Paul says—between Spirit and flesh: “For what the flesh desires is opposed to the Spirit, and what the Spirit desires is opposed to the flesh” (*Gal 5:17*). At the same time, we are called to overcome the flesh and to “live by the Spirit” (*Gal 5:16, 25*). Furthermore, we are called to crucify the flesh “with its passions and desires” (*Gal 5:24*), thus giving to this unavoidable struggle and to the suffering that it involves—and also to the above-mentioned limits of our effective liberty—a redemptive meaning (see *Rom 8:17-18*). In this struggle, “the Spirit helps us in our weakness” (*Rom 8:26*).

It follows, therefore, that while for the psychologist or psychiatrist every form of psychic illness can appear contrary to normality, for the canonist, who is inspired by the aforementioned integrated vision of the person, the concept of normality, that is to say, of the normal human condition in this world, also includes moderate forms of psychological difficulty. Consequently it includes the call to live in accordance with the Spirit even in the midst of tribulation and at the cost of renunciation and sacrifice. Where such an integral vision of the human being is lacking, normality on the theoretical level can easily become a myth and on the practical level, one ends up denying to the majority of people the possibility of giving valid consent.

The second point on which I intend to dwell is related to the first. It concerns the conclusions to be drawn in jurisprudence, when psychiatric evidence indicates the presence of some psychopathology in the spouses.

Bearing in mind that only the most severe forms of psychopathology impair substantially the freedom of the individual and that psychological concepts do not always correspond with canonical, it is of fundamental importance that, on the one hand, the identification of the more serious forms and their distinction from the slight, be carried out by means of a method that is scientifically sure; and on the other hand it is important that the categories that belong to psychiatry or psychology are not automatically transferred to the field of canon law without making the necessary adjustments which take account of the specific competence of each science.

In this regard it must not be forgotten that difficulties and divergences exist within the sciences of psychiatry and psychology as regards the definition of *psycho-pathology*. There certainly exist descriptions and classifications which receive a higher level of agreement, so that scientific discussion is possible. However, it is precisely in relation to these classifications and descriptions of the principal psychic disturbances that a serious danger can arise in the dialogue

between expert and canonist.

It frequently happens that the psychological and psychiatric analyses carried out on the contracting parties, instead of considering "the nature and degree of psychic processes which impinge upon matrimonial consent and the ability of the person to assume the essential obligations of marriage" (February 23, 1987, supra p. 192, no. 2) are limited to a description of the behavior of the contracting parties in the different stages of their life. From that the abnormal symptoms are collected and classified according to a diagnostic label. It must be said candidly that such an exercise, while it has its value, is totally incapable of supplying the clarification which the ecclesiastical judge expects of the expert. The judge should, therefore, request the expert to go further and extend the analysis to an evaluation of the underlying causes and dynamic processes without stopping with the symptoms which spring from them. Only such a complete analysis of the subject, of the individual's psychic capacities, and freedom to strive for values that are in themselves self-fulfilling can be translated into canonical categories by the judge.

All possible explanations for the failure of a marriage for which a declaration of nullity is sought will have to be considered and not just the hypothesis of it being due to psychopathology. If nothing more is done than a descriptive analysis of the different ways of behaving, without seeking their dynamic explanation and without attempting a comprehensive evaluation of the elements which make up the personality of the subject, the analysis of the experts leads to one single predetermined conclusion. In fact it is not difficult to see within the contracting parties infantile and irreconcilable aspects, which in such a situation become inevitably the *proof* of their abnormality. It may, in fact, be a case of people who are substantially normal but who have difficulties which could be overcome, were it not for their refusal to struggle and make sacrifices.

The error becomes all the more easy if one considers that often the expert presupposes that a person's past not only helps to understand the present but inevitably determines it in such a manner as to eliminate all possibility of free choice. Here again the conclusion is predetermined and the consequences are serious when it is considered how easy it is to find in everyone's infancy and adolescence traumatizing and inhibiting elements.

There is another and not infrequent source of misunderstanding in the evaluation of psychopathological symptoms. It arises not from an exaggeration of the extent of the illness but, on the contrary, from an unjustified exaggeration of the concept of capacity to contract marriage. As I noted last year (supra p. 192, no. 6), the misunderstanding can arise from the fact that the expert declares that a party is incapable of contracting marriage, while referring not to the minimum capacity sufficient for valid consent, but rather to the ideal of full maturity in relation to happy married life.

The defender of the bond, in cases involving psychic incapacity, is called therefore to refer constantly to an adequate anthropological vision of normality in order to compare with it the results of the reports of the experts. The defender of the bond will have to pick out and indicate to the judge possible errors arising in this matter in the passage from psychological and psychiatric to canonical categories.

In this way, the defenders of the bond will help in preventing the tensions and difficulties, inevitably involved in the choice and achievement of the ideals of marriage, from being confused with the signs of a serious pathology. They will prevent the subconscious dimension of ordinary psychic life from being interpreted as a condition which removes the substantial freedom of the person. They will also prevent every form of dissatisfaction and maladjustment in the period of a person's human formation from being understood as a factor which necessarily destroys even the ability to choose and realize the object of matrimonial consent.

The defender of the bond must also take care that expert evidence, which is scientifically uncertain, or else limited only to an examination of the signs of abnormality without the required existential analysis of the contracting party in the totality of the person's being, should not be accepted as sufficient basis for a diagnosis.

Thus for example, if in the evidence there is no reference to the responsibility of the spouses, nor to their possible errors of judgment, or if the means at their disposal to remedy weakness or error are not considered, then it is to be feared that a reductionist slant pervades the evidence, predetermining the conclusions.

This also holds true in the case when the subconscious or the past may be presented as factors which not only influence the conscious life of the person, but determine it, impeding the faculty of free decision.

In the carrying out of their duty, the defenders of the bond must adapt their activity to the various phases of the process. In the interest of objective truth it belongs to them above all to ensure that the questions are put to the experts in a clear and relevant manner, that their competence be respected and that answers are not expected from them on canonical matters. Then in the discussion stage the defenders of the bond will have to know how to evaluate correctly the expert's evidence insofar as it is unfavorable to the bond, and indicate in appropriate fashion to the judge the risks of incorrectly interpreting the evidence. The defender will also avail of the right to reply granted by the law (c. 1603, §3). In the case of an affirmative decision in first instance, should the defenders of the bond notice insufficiency of proofs on which the judgment is based or in their evaluation, they will not fail to lodge and justify an appeal.

However, the defenders of the bond will have to remain within their own specific canonical competence, without in any way wishing to vie with the experts or to substitute for them with regard to psychology or psychiatry.

Nevertheless, by virtue of canon 1435, which requires of them "prudence and zeal for justice," they must know how to recognize, both in the premises and in the conclusions of the expert, the elements which have to be confronted with the Christian vision of human nature and of marriage. They are to be vigilant so that the correct methodology be safeguarded in the dialogue between

the disciplines, with the required observance of their respective roles.

The peculiar contribution of the defenders of the bond in the development of the process makes them an indispensable element in the avoidance of misunderstanding in the pronouncement of decisions. This is especially true when the predominant culture is opposed to the protection of the marriage bond undertaken by the parties at the moment of their wedding.

When their participation in the process is confined to the presentation of merely ritual observations, there would be justified reason for deducing there from an unacceptable ignorance and/or grave negligence which would weigh on their consciences. This would make them responsible in regard to the justice administered by the tribunals since such an attitude on their part would effectively weaken the search for truth which should always be “the foundation, mother and law of justice” (February 4, 1980, *supra* p. 160).

While I am grateful for the wise and prudent work carried out by the defenders of the bond of this Roman Rota and in many other ecclesiastical tribunals, I intend to encourage the renewal and the strengthening of such a specialized role. I hope it will always be carried out with competence, clarity, and commitment, especially because we find ourselves confronted with an ever-growing mentality which has little respect for the sacredness of obligations that have been undertaken.

Upon you and all those administering justice in the Church, I confer my blessing.