

Pope's Discourse to the Roman Rota: Good of Indissolubility, Good of Marriage (28.I.2002)

Here is a translation of the Holy Father's discourse that was given in Italian.

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1. I cordially thank Monsignor Funghini, the Dean, who, while expressing your sentiments of respect and concern, explained your daily labour with comments and statistics that stress the serious and complex matters on which you must render a decision. The solemn inauguration of the new judicial year gives me the welcome chance for a cordial meeting with all those who carry out the mission of justice in the Tribunal of the Roman Rota -- Prelate Auditors, Promoters of Justice, Defenders of the Bond, Officials and Advocates -- to show them my appreciation, my esteem and encouragement. The administration of justice in the Christian community is a precious service, because it constitutes the indispensable premise for authentic charity.

Judicial activity is a form of pastoral service

Your judicial activity, as the Dean has stressed, is directed above all to causes of matrimonial annulment. On this subject, together with other ecclesiastical tribunals and with a special role among them, that I emphasized in *Pastor Bonus* (cf. art. 126), you constitute a particular institutional expression of the solicitude of the Church in judging, according to truth and justice, the delicate matter of whether or not a marriage exists. This mission of the tribunals in the Church, an indispensable contribution, belongs to the whole area of the pastoral service to marriage and family life. The pastoral aspect itself calls for the constant effort to develop more fully the truth about marriage and the family, even as a necessary condition for administering justice in this field.

Indissolubility is the natural good that corresponds to the plan of the Creator for husband and wife

2. The essential properties of marriage -- unity and indissolubility (cf. CIC, can. 1056; CCEO, can. 776 3) -- offer an opportunity for a fruitful reflection on marriage. Today, taking up what I treated last year in my discourse on indissolubility (cf. AAS, 92 [2000], pp. 350-355), I want to examine indissolubility as a good for spouses, for children, for the Church and for the whole of humanity.

A positive presentation of the indissoluble union is important, in order to rediscover its goodness and beauty. First of all, one must overcome the view of indissolubility as a restriction of the freedom of the contracting

parties, and so as a burden that at times can become unbearable. Indissolubility, in this conception, is seen as a law that is extrinsic to marriage, as an "imposition" of a norm against the "legitimate" expectations of the further fulfilment of the person. Add to this the widespread notion that indissoluble marriage is only for believers, who cannot try to "impose" it on the rest of civil society.

3. To give a valid and complete response to this problem one must begin with the word of God. I am thinking concretely of the passage of the Gospel of Matthew that recounts Jesus' conversation about divorce with some Pharisees and then with his disciples (cf. Mt 19,3-12). Jesus goes radically beyond the debates of his day concerning the factors that could justify divorce asserting: "For your hardness of heart Moses allowed you to divorce your wives, but from the beginning it was not so" (Mt 19,8).

According to the teaching of Jesus, it is God who has joined man and woman together in the marital bond. Certainly this union takes place with the free consent of both parties, but this human consent concerns a plan that is divine. In other words, it is the natural dimension of the union and, more concretely, the nature of man created by God himself that provides the indispensable key for interpreting the essential properties of marriage. The further reinforcement that the properties obtain in Christian marriage by virtue of the sacrament (cf. can. 1056) is based on a foundation of natural law that, if removed, would make incomprehensible the very work of salvation and elevation of the conjugal reality that Christ effected once and for all.

Indissolubility is not an ideal but a natural law requisite of universal applicability

4. Countless men and women of all times and places have complied with this divine and natural plan, even before the Saviour's coming and a great many others have done so after his coming, even without knowing him. Their freedom expands to the gift of God, both at the moment of their marriage and throughout their entire conjugal life. Yet the possibility always exists of rebelling against that loving plan: then returns the "hardness of heart" that had led Moses to permit divorce but which Christ definitively overcame. To such situations as these, one has to respond with the humble courage of faith, a faith that supports and corroborates reason itself, to enable it to carry on a dialogue with all who are in search of the true good of the human person and of society. To treat indissolubility not as a natural juridical norm but as a mere ideal empties of meaning the unequivocal declaration of Jesus Christ, who absolutely refused divorce because "from the beginning it was not so" (Mt 19,8).

Marriage "is" indissoluble: this property expresses a dimension of its

objective being, it is not a mere subjective fact. Consequently, the good of indissolubility is the good of marriage itself; and the lack of understanding of its indissoluble character constitutes the lack of understanding of the essence of marriage. It follows that the "burden" of indissolubility and the limits it entails for human freedom are no other than the reverse side of the coin with regard to the good and the potential inherent in the marital institution as such. In this perspective, it is meaningless to speak of an "imposition" by human law, because human law should reflect and safeguard the natural and divine law, that is always a freeing truth (cf. Jn 8,32).

Pastoral care entails clarity about indissolubility and the support of marital love and communion

5. This truth about the indissolubility of marriage, like the entire Christian message, is addressed to the men and women of every time and place. In order to make that a reality, testimony to that truth must be given by the Church and, in particular, by individual families as "domestic Churches" in which husband and wife recognize that they are bound to each other forever by a bond that demands a love that is ever renewed, generous and ready for sacrifice.

One cannot give in to the divorce mentality: confidence in the natural and supernatural gifts of God to man prevents that. Pastoral activity must support and promote indissolubility. The doctrinal aspects should be transmitted, clarified and defended, but even more important are consistent actions. Whenever a couple is going through difficulties, the sympathy of Pastors, and of the other faithful must be combined with clarity and fortitude in remembering that conjugal love is the way to work out a positive solution to their crisis. Given that God has united them by means of an indissoluble bond, the husband and wife by utilizing all their human resources, together with good will, and by, above all, confiding in the assistance of divine grace, can and should emerge from their moments of crisis renewed and strengthened.

6. When one considers the role of law in marital crises, all too often one thinks almost exclusively of processes that ratify the annulment of marriage or the dissolution of the bond. At times, this mentality extends even to canon law, so that it appears as the avenue for resolving the marital problems of the faithful in a way that does not offend one's conscience.

There is indeed some truth to this, but these eventual solutions must be examined in a way that the indissolubility of the bond, whenever it turns out to be validly contracted, continues to be safeguarded. The attitude of the Church is, in contrast, favourable to convalidating, where possible,

marriages that are otherwise null (cf. CIC, can. 1676; CCEO, can. 1362). It is true that the declaration of the nullity of a marriage, based on the truth acquired by means of a legitimate process, restores peace to the conscience, but such a declaration -- and the same holds true for the dissolution of a marriage that is *ratum non consummatum* or a dissolution based upon the privilege of the faith -- must be presented and effected in an ecclesial context that is totally favourable to the indissolubility of marriage and to family founded upon it. The spouses themselves must be the first to realize that only in the loyal quest for the truth can they find their true good, without excluding a priori the possible convalidation of a union that, although it is not yet a sacramental marriage, contains elements of good, for themselves and their children, that should be carefully evaluated in conscience before reaching a different decision.

Judgements about nullity should be examined in the external forum

7. The judicial activity of the Church, which is always at the same time genuinely pastoral activity, draws its inspiration from the principle of the indissolubility of marriage and strives to guarantee its effective existence among the People of God. In effect, without the proceedings and sentences of ecclesiastical tribunals, the question of whether or not an indissoluble marriage exists would be relegated solely to the consciences of the faithful, with the evident risk of subjectivism, particularly when the civil society is experiencing a profound crisis concerning the institution of marriage.

Every correct judgement of the validity or nullity of a marriage contributes to the culture of indissolubility, in the Church and in the world. It is a very important and necessary contribution: indeed, it has an immediate practical application, since it gives certainty not only to the individual persons involved, but also to all marriages and families. Consequently, an unjust declaration of nullity, opposed to the truth of the normative principles or the facts, is particularly serious, since its official link with the Church encourages the spread of attitudes in which indissolubility finds verbal support, but is denied in practice.

At times, in recent years some have opposed the traditional "*favor matrimonii*" in the name of a "*favor libertatis*" or "*favor personae*". In this dialectic it is obvious that the basic theme is that of indissolubility, but the antithesis is even more radical with regard to the truth about marriage itself, more or less openly relativized. Against the truth of a conjugal bond, it is not right to invoke the freedom of the contracting parties, who, in freely consenting to that bond, were bound to respect the objective demands of the reality of marriage that cannot be altered in the name of human freedom. Judicial activity must therefore be inspired by a "*favor indissolubilitatis*"; that clearly does not mean

prejudice against just declarations of nullity, but an active conviction of the good at stake in the processes, together with the ever renewed optimism that derives from the natural character of marriage and from the support of the Lord for the spouses.

Society has to understand that divorce undermines the lives of the children and society itself

8. The Church and every Christian must be the light of the world: "Let your light so shine before men, that they may see your good works and give glory to your Father who is in heaven" (Mt 5,16). Jesus' words have a special application today to the indissoluble nature of marriage. It could perhaps seem that divorce is so firmly rooted in certain social sectors that it is almost not worth continuing to combat it by spreading a mentality, a social custom and civil legislation in favour of the indissolubility of marriage. Yet it is indeed worth the effort! Actually, this good is at the root of all society, as a necessary condition for the existence of the family. Its absence, therefore, has devastating consequences that spread through the social body like a plague -- to use the term of the Second Vatican Council to describe divorce (cf. *Gaudium et spes*, n. 47) -- and that have a negative influence on the new generations who view as tarnished the beauty of true marriage.

Educate the young to realize that Indissolubility is the cornerstone of society, not just a private choice

9. The essential witness to the value of indissolubility is given through the married life of the spouses, in their fidelity to the bond, through all the joys and trials of life. However the value of indissolubility cannot be held to be just the object of a private choice: it concerns one of the cornerstones of all society. Therefore, while all the initiatives that Christians, along with other persons of good will, promote for the good of the family (for example, the celebrations of wedding anniversaries) are to be encouraged, one must avoid the risk of permissiveness on fundamental issues concerning the nature of marriage and the family (cf. *Letter to Families*, n. 17).

Among the initiatives should be those that aim at obtaining the public recognition of indissoluble marriage in the civil juridical order (cf. *ibid.*, n. 17). Resolute opposition to any legal or administrative measures that introduce divorce or that equate *de facto* unions -- including those between homosexuals -- with marriage must be accompanied by a pro-active attitude, acting through juridical provisions that tend to improve the social recognition of true marriage in the framework of legal orders that unfortunately admit divorce.

Material cooperation with divorce for judges

On the other hand, professionals in the field of civil law should avoid being personally involved in anything that might imply a cooperation with divorce. For judges this may prove difficult, since the legal order does not recognize a conscientious objection to exempt them from giving sentence. For grave and proportionate motives they may therefore act in accord with the traditional principles of material cooperation. But they too must seek effective means to encourage marital unions, especially through a wisely handled work of reconciliation.

Lawyers, as independent professionals, should always decline the use of their profession for an end that is contrary to justice, as is divorce. They can only cooperate in this kind of activity when, in the intention of the client, it is not directed to the break-up of the marriage, but to the securing of other legitimate effects that can only be obtained through such a judicial process in the established legal order (cf. Catechism of the Catholic Church, n. 2383). In this way, with their work of assisting and reconciling persons who are going through a marital crises, lawyers truly serve the rights of the person and avoid becoming mere technicians at the service of any interest whatever.

10. I entrust to the intercession of Mary, Queen of the Family and Mirror of Justice, the heightening of everyone's conviction of the good of the indissolubility of marriage. To her I also entrust the zealous work of the Church and of her children, together with that of many other men and women of good will, in this cause that is so crucial for the future of humanity.

With these wishes, as I ask divine assistance on all your activities, Prelate Auditors, Officials and Advocates of the Roman Rota, I warmly impart my Blessing to you.

[translation by L'Osservatore Romano]