

AUTHENTIC LAW IS INSEPARABLE FROM JUSTICE

VATICAN CITY, 21 JAN 2012 (VIS) - This morning in the Vatican, Benedict XVI received the dean, judges, promoters of justice, defenders of the bond, officials and lawyers of the Tribunal of the Roman Rota, for the occasion of the inauguration of the judicial year.

Benedict XVI focused his remarks on a fundamental aspect of judicial ministry: the interpretation of canon law with a view to its correct application. The hermeneutic of canon law "is closely associated with the very concept of Law in the Church", the Pope explained, and he went on to define two forms of interpretation which lead to impoverishment of the law: "The identification of canon law with the system of canonical legislation", which effectively means overlooking "natural law, divine positive law and the vital relationship of all law with the communion and mission of the Church". In the second form of interpretation, "the specific situation becomes a decisive factor in determining the authentic meaning of a legal precept in a particular case"; but in this way "it is human interpretation that decides what is juridical, and a sense of objective law is lacking".

"But there is another way", said the Holy Father, "in which a correct understanding of canon law leads to its being interpreted as part of a search for the truth about law and justice in the Church. ... Authentic law is inseparable from justice. Obviously, this principle also holds true for canon law, in the sense that it cannot remain closed in a merely human system of norms but must be associated with a just ordering of the Church in which a higher law holds sway. In this perspective, human positive legislation loses its primacy ... and can no longer simply be identified as the Law. Nonetheless human legislation is an important expression of justice, first and foremost for what it declares to be divine law, but also for what it identifies as being the legitimate ambit of human law.

"In this way", Benedict XVI added, "it becomes possible to apply a legal hermeneutic that is authentically juridical, in the sense that, in keeping with the meaning of the law, we can raise the crucial question of what is just in each particular case. ... Human rules must be interpreted in the light of the situations with which they deal. These situations always contain a core of natural law and of divine positive law, with which all norms must be in harmony if they are to be rational and truly juridical.

"From this realistic standpoint, the sometimes arduous task of interpretation acquires a meaning and a goal. ... It is revitalised by an authentic contact with the overall situation of the Church, which facilitates access to the true meaning of the law".

"It follows that the interpretation of canon law must take place within the Church. ... 'Sentire cum Ecclesia' also applies to discipline, because of the doctrinal foundations which are always present and operative in the Church's legal norms. Thus the hermeneutic of renewal in continuity, about which I have spoken with reference to Vatican Council II (which is so closely associated with current canonical legislation), must also be applied to canon law".

"This basic approach is applicable to all forms of interpretation: from academic research on canon law ... to the daily search for just solutions in the lives of the faithful and their communities. Meekness is necessary in order to accept the laws, seeking to study ... the juridical tradition of the Church in order to identify with that tradition and with the legal dispositions issued by pastors, especially pontifical laws and Magisterium on canonical issues, which are binding in their teachings on the law".

All this has particular importance "as regards laws on the act of Marriage and its consummation, and Holy Orders. ... Particular care must be taken to apply all juridically binding measures which tend to ensure coherence in the interpretation and application of laws, as required by justice. These measures include the Pontifical Magisterium in this field, contained above all in addresses to the Roman Rota; the jurisprudence of the Rota itself, ... and the norms and declarations issued by other dicasteries of the Roman Curia".

The Holy Father continued: "This hermeneutical unity in the essentials in no way prejudices the function of local tribunals, which are called to face the complex real situations that arise in all cultural contexts. Each of them must proceed with a sense of reverence towards the truth of law, applying judicial and administrative norms so as to achieve exemplary communion in discipline, this being an essential aspect of Church unity".

Finally Pope Benedict turned his attention to the recent transfer to the Roman Rota of an office dealing with the procedures for dispensation from unconsummated marriage and causes for the nullity of priestly ordination. "I am sure", he said, "that there will be a generous response to this new ecclesial task".

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