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## Law and Pastoral Care: Reflections of Three Popes

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## Law and Pastoral Care: Reflections of Three Popes<sup>1</sup>

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During various discussions on the subject of the presence of law in the Church community over the post-conciliar period, a new trend appeared negating the need for any statutory law, suggesting that because the Church as a community is based on a foundation, namely Christ, and is therefore ordered by the commandment of love of God and neighbour, it does not need any other legislation. In this context it is worth looking at, only to a certain extent, statements made by recent popes on the topic of relations between law and pastoral care.

### 1. John Paul II's concept of canon law

#### 1.1. The Pope's vision of law

Reflecting on the John Paul II's pontificate in relation to the law, it is impossible not to ponder the thoughts of the Pope regarding the law in general, and particularly the ecclesiastical law.

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<sup>1</sup> This article is an extended version of the paper: "Prawo i duszpasterstwo: konflikt czy zbieżność celów?" In: *Księga pamiątkowa ku czci śp. Ks. prof. Antoniego Kościa*. Lublin 2012, pp. 999—1010.

John Paul II frequently spoke about the inviolability of human dignity, which “in the first place should be protected by concern for morals, and then by the law.”<sup>2</sup> In this way, the Holy Father showed the proper relationship: the primacy of morality over the law, the latter should be inspired by the former on an anthropological basis. The primacy of the human person and his inalienable rights etched in the heart of every man should impose modern legal systems with the need to “recognize them as earlier than the state legal system and provide the opportunity to use them.” The law, necessarily existing in society, is associated with the concept of a “law-abiding state,” whose mission is to “enable people to realize their transcendent purpose for which they were called,” and to the “obligations of the state that require it to provide them with adequate legal recognition.” In this regard, the Holy Father also reminded that “respect for religious freedom is not only a criterion of consistency of the legal system, but also of the free society.”<sup>3</sup>

Caring for the personalistic nature of legal systems is something the Holy Father reiterated. First of all, during the annual meeting of the Diplomatic Corps accredited to the Holy See, by his own appearances and by appearances of his representatives at the UN forum, at the European Parliament, and at other international organizations, and also by the way of meeting with a couple of statesmen, politicians and diplomats. Also, the Pope’s meetings with lawyers usually provided an opportunity to respond to major topics related to both theory, as well as specific legal practice (e.g. meeting with Catholic lawyers in Italy for the protection of minors on 6 December 1996,<sup>4</sup> or also a meeting with police commanders from countries belonging to the European Union on 2 April 1996, which drew attention to the duties of police forces in the social services<sup>5</sup>).

The Pope’s call for the respect of human rights, which are the foundation of statutory law, was heard throughout all continents during his

<sup>2</sup> GIOVANNI PAOLO II: *Discorso ai Membri del Corpo Diplomatico Accreditato presso La Santa Sede*, 9.1.1989, n. 7, in: [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/speeches/1989/january/documents/hf\\_jp-ii\\_spe\\_19890109\\_corpo-diplomatico\\_it.html](http://www.vatican.va/holy_father/john_paul_ii/speeches/1989/january/documents/hf_jp-ii_spe_19890109_corpo-diplomatico_it.html) (accessed 6.7.2012).

<sup>3</sup> *Ibidem*.

<sup>4</sup> GIOVANNI PAOLO II: *Messaggio ai partecipanti ad un Convegno organizzato dall’Unione Giuristi Cattolici Italiani*, 6.12.1996, in: [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/messages/pont\\_messages/1996/documents/hf\\_jp-ii\\_mes\\_19961206\\_catholic-jurists\\_it.html](http://www.vatican.va/holy_father/john_paul_ii/messages/pont_messages/1996/documents/hf_jp-ii_mes_19961206_catholic-jurists_it.html) (accessed 16.7.2012).

<sup>5</sup> JOHN PAUL II: *Address of His Holiness John Paul II to the Heads of the Police Forces from the Member Nations of the European Union*, 2.4.1996, in: [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/speeches/1996/april/documents/hf\\_jp-ii\\_spe\\_19960402\\_police-forces\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/speeches/1996/april/documents/hf_jp-ii_spe_19960402_police-forces_en.html) (accessed 16.7.2012).

numerous papal pilgrimages and was spoken almost directly to those who make the laws and implement them.

In particular, it is worth noting the Pope's concern for the respect of the rights of the family, of women and children, of the right to life, of the right to freedom of expression and freedom of religion, and finally, for a just law for peoples of poor and heavily indebted countries.

The internal law of the Catholic Church, of course, held a special place in the teachings of John Paul II. During many papal statements to the employees of the Roman Curia, especially to the Court of the Roman Rota, as well as in a number of different documents, the Holy Father pointed out that the purpose of canon law "is in no way intended as a substitute for faith, grace and the charisms in the life of the Church and of the faithful. On the contrary, its purpose is rather to create such an order in the ecclesial society that, while assigning the primacy to faith, grace and the charisms, at the same time renders easier their organic development in the life both of the ecclesial society and of the individual persons who belong to it."<sup>6</sup> The Code of Canon Law "is to be regarded as an indispensable instrument to ensure order both in individual and social life, and also in the Church's activity itself."<sup>7</sup>

The Holy Father, commenting on canonical law, often referred to the Second Vatican Council, claiming the occasion of the promulgation of the new Code of Canon Law that "the kind of tool that the Code is, fully agrees with the nature of the Church, which is especially presented in the teachings of Vatican II, taken as a whole, with particular emphasis on the ecclesiological doctrine. Thus, in some way, this Code can be seen as a big conveyor belt that moves this doctrine into a canonical language, namely into the conciliar ecclesiology. It can be concluded that the Code is considered as a complement to the teachings of Vatican II, presented in a special way when it comes to two constitutions: dogmatic and pastoral."<sup>8</sup> And further, "It should be wished, that the new canonical legislation will become an effective instrument, which will help the Church be able to embody the spirit of Vatican II, and more so will appear suitable for the redemptive task of the Church, carried out in this world." Finally, the Holy Father encouraged "all the loved children, given to the provisions of (i.e. legal standards), with a sincere heart and willingness to fulfill, strengthened by hope, that the discipline of the Church will regain power,

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<sup>6</sup> IOANNES PAULUS II: *Constitutio apostolica "Sacrae disciplinae leges,"* 25.1.1983, AAS 75 (1983) p. XI.

<sup>7</sup> *Ibidem.*

<sup>8</sup> GIOVANNI PAOLO II: *Discorso per la presentazione ufficiale del nuovo Codice di diritto canonico,* 3.2.1983, in: [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/speeches/1983/february/documents/hf\\_jp-ii\\_spe\\_19830203\\_nuovo-codice\\_it.html](http://www.vatican.va/holy_father/john_paul_ii/speeches/1983/february/documents/hf_jp-ii_spe_19830203_nuovo-codice_it.html) (accessed 16.7.2012).

and therefore, the salvation of souls will also be obtained with the help of the Blessed Virgin Mary, Mother of the Church, who provides a better support.”<sup>9</sup>

The character of service of canon law in relation to the salvific mission of the Church, in the most concise manner and referring to the ancient roots, is expressed in the final sentence of can. 1752 from the Code of Canon Law for the Latin Church and in Art. 308 in the Instruction *Dignitas connubii*,<sup>10</sup> which state: *salus animarum in Ecclesia suprema semper lex esse debet*.

With equal care, the Pope referred to the codification made by himself, the first in the 2000-year-old history of the Church, the common law for the Eastern Catholic Churches. In the apostolic constitution *Sacri Canones* from 18 October 1990, he wrote, “From the beginning of the codification of the canons of the Eastern Churches there was the firm will of the Roman Pontiffs for promulgation of two Codes; one for the Latin Church, the other for the Eastern Catholic Churches. This would clearly show the observance of that which results in the Church by God’s Providence — that the Church itself, gathered in the one Spirit breathes as if through its two lungs — of the East and of the West — and that it burns with the love of Christ in one heart having two ventricles.”<sup>11</sup> And further, “The Code of Canons of the Eastern Churches which now comes to light must be considered a new complement to the teachings proposed by the Second Vatican Council, and by which at last the canonical ordering of the entire Church is completed. This is accomplished with the previously issued Code of Canon Law of the Latin Church promulgated in 1983 and the apostolic constitution concerning the Roman Curia in 1988, which is added to both Codes as the chief instrument of the Roman Pontiff for ‘the communion, which binds together the whole Church’ (apostolic constitution *Pastor Bonus* 2).”<sup>12</sup>

Therefore, within the Pope’s view of the law, one can notice a particular concern for the unity of humans and the Church community, for the servant nature of the law in relation to the human person and their dignity, and for the salvific mission of the Church.

<sup>9</sup> Ibidem.

<sup>10</sup> PONTIFICIUM CONSILIUM DE LEGUM TEXTIBUS: *Instructio servanda a tribunalibus dioecesanis et interdioecesanis in pertractandis causis nullitatis matrimonii “Dignitas connubii.”* Typis Vaticanis 2005.

<sup>11</sup> IOANNES PAULUS II: *Constitutio apostolica “Sacri canones,”* 18.10.1990, AAS 82 (1990), pp. 1033—1044; here from p. 1037.

<sup>12</sup> Ibidem, pp. 1038—1039.

## 1.2. Speeches to the Court of the Roman Rota

In his speech made on 18 January 1990, Bl. John Paul II said, “The pastoral spirit, which the Second Vatican Council strongly insisted on in the context of the theology of the Church as communion, was set forth especially in the dogmatic constitution *Lumen gentium*. This spirit characterizes every aspect of the Church’s being and activity. The Council itself in the decree on priestly formation expressly directed that in teaching canon law attention is to be paid to the mystery of the Church, according to the dogmatic constitution on the Church (OT, no. 16). This applies *a fortiori* to its formulation, as well as to its interpretation and application. The pastoral nature of this law, that is its function within the salvific mission of the pastors of the Church and the all People of God, thus finds a solid basis in conciliar ecclesiology according to which the visible aspects of the Church are linked inseparably to the invisible ones — forming a single unified whole — comparable to the mystery of the Incarnate Word (LG, no. 8). On the other hand, the Council did not fail to draw many practical consequences from this pastoral character of canon law, by taking concrete measures to ensure that canonical laws and structures might always be more suited to the welfare of souls” (cf. CD, *passim*).<sup>13</sup>

He went on to say, “From this standpoint, it is opportune to pause to reflect on a mistaken idea. Perhaps it is an understandable one, but not thereby less harmful, for unfortunately it often conditions one’s view of the pastoral nature of Church law. This distortion lies in attributing pastoral importance and intent only to those aspects of moderation and humanness in the law which are linked immediately with canonical equity (*æquitas canonica*) — that is holding that only the exceptions to the law, the potential non-recourse to canonical procedures and sanctions, and the streamlining of judicial formalities have any real pastoral relevance. One thus forgets that justice and law in the strict sense — and consequently general norms, proceedings, sanctions and other typical juridical expressions, should they become necessary — are required in the Church for the good of souls and are therefore intrinsically pastoral.”<sup>14</sup>

“The juridical and the pastoral dimensions are inseparably united in the Church, pilgrim on this earth. Above all, they are in harmony because of their common goal — the salvation of souls. But there is more. In effect, juridical-canonical activity is pastoral by its very nature. It consti-

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<sup>13</sup> IOANNES PAULUS II: *Alocutio ad Romanae Rotae Praelatos, auditores, officiales et advocatos anno iudiciali ineunte*, 18.1.1990, AAS 82 (1990) pp. 872—877, n. 2.

<sup>14</sup> *Ibidem*, n. 3.

tutes a special participation in the mission of Christ, the shepherd (*pastore*), and consists in bringing into reality the order of intra-ecclesial justice willed by Christ himself. Pastoral work, in its turn, while extending far beyond juridical aspects alone, always includes a dimension of justice. In fact, it would be impossible to lead souls toward the kingdom of heaven without that minimum of love and prudence that is found in the commitment to seeing to it that the law and the rights of all in the Church are observed faithfully.”

“It follows from this that any opposition between the pastoral and the juridical dimensions is deceptive. It is not true that, to be more pastoral, the law should become less juridical. Surely, the very many expressions of that flexibility that have always marked canon law, precisely for pastoral reasons, must be kept in mind and applied. But the demands of justice must be respected also; they may be superseded because of that flexibility, but never denied. In the Church, true justice, enlivened by charity and tempered by equity, always merits the descriptive adjective pastoral. There can be no exercise of pastoral charity that does not take account, first of all, of pastoral justice.”<sup>15</sup>

Regarding the application of procedural law, the Pope said: “Canonical procedural law also shares the pastoral character of Church law. In this regard, the words of Paul VI in his last discourse to the Roman Rota remain as contemporary and effective as ever: ‘You are well aware that canon law as such and consequently procedural law of which it is a component in its inspiration is part of the plan of the economy of salvation — since the salvation of souls (*salus animarum*) is the supreme law of the Church’ (28 January 1978).<sup>16</sup> “[...] A fair trial is a right of the faithful (see c. 221), and at the same time it is required for the public good of the Church. Canonical procedural norms are thus to be observed by all involved in a trial as means of justice leading to substantive justice.”<sup>17</sup>

Finally, in his last speech to the employees of the Rota, Pope John Paul II warned, “In my annual Addresses to the Roman Rota, I have referred several times to the essential relationship that the process has with the search for objective truth. It is primarily the Bishops, by divine law judges in their own communities, who must be responsible for this. It is on their behalf that the tribunals administer justice. Bishops are therefore called to be personally involved in ensuring the suitability of the members of the tribunals, diocesan or inter-diocesan, of which they are the Modera-

<sup>15</sup> *Ibidem*, n. 4.

<sup>16</sup> PAULUS VI: *Alocutio ad Tribunalis Sacrae Romanae Rotae Decanum, Praelatos Auditores, Officiales et Advocatos, ineunte anno iudiciali*, 28.1.1978, AAS 70 (1978) pp. 181–186; here from p. 182.

<sup>17</sup> IOANNES PAULUS II: *Alocutio*, 18.1.1990, n. 7.



tors, and in verifying that the sentences passed conform to right doctrine. Sacred Pastors cannot presume that the activity of their tribunals is merely a ‘technical’ matter from which they can remain detached, entrusting it entirely to their judicial vicars.”<sup>18</sup>

“The criterion that inspires the deontology of the judge is his love for the truth. First and foremost, therefore, he must be convinced that the truth exists. The truth must therefore be sought with a genuine desire to know it, despite all the inconveniences that may derive from such knowledge. It is necessary to resist the fear of the truth that can, at times, stem from the dread of annoying people. The truth, which is Christ himself (cf. Jn 8: 32, 36), sets us free from every form of compromise with interested falsehoods.”

“The judge who truly acts as a judge, in other words, with justice, neither lets himself be conditioned by feelings of false compassion for people, nor by false models of thought, however widespread these may be in his milieu. He knows that unjust sentences are never a true pastoral solution, and that God’s judgment of his own actions is what counts for eternity.”<sup>19</sup>

“The judge must then abide by canonical laws, correctly interpreted. Hence, he must never lose sight of the intrinsic connection of juridical norms with Church doctrine. Indeed, people sometimes presume to separate Church law from the Church’s magisterial teaching as though they belonged to two separate spheres; they suppose the former alone to have juridically binding force, whereas they value the latter merely as a directive or an exhortation. Such an approach basically reveals a positivist mindset, which is in contradiction with the best of the classical and Christian juridical tradition concerning the law. In fact, the authentic interpretation of God’s Word, exercised by the Magisterium of the Church (cf. Second Vatican Council, Dogmatic Constitution on Divine Revelation *Dei verbum*, n. 102), has juridical value to the extent that it concerns the context of law, without requiring any further formal procedure in order to become juridically and morally binding.”<sup>20</sup>

## 2. The teaching of Pope Benedict XVI

In his first meeting with the Roman Rota on 28 January 2006, Holy Father Benedict XVI said, “During this first meeting with you, I would

<sup>18</sup> Cf. CIC, cann. 391, 1419, 1423 § 1.

<sup>19</sup> IOANNES PAULUS II: *Alocutio ad Tribunal Rotae Romanae iudiciali ineunte anno*, 29.1.2005, AAS 97 (2005), pp. 164–166.

<sup>20</sup> *Ibidem*, n. 6.



rather focus on what is the fundamental point of law and pastoral care: on the love of truth. [...] The canonical proceedings for the nullity of marriage are essentially a means of ascertaining the truth about the conjugal bond. Thus, their constitutive aim is not to complicate the life of the faithful needlessly, nor far less to exacerbate their litigation, but rather to render a service to the truth. Moreover, the institution of a trial in general is not in itself a means of satisfying any kind of interest but rather a qualified instrument to comply with the duty of justice to give each person what he or she deserves. Precisely in its essential structure, the trial is instituted in the name of justice and peace. In fact, the purpose of the proceedings is the declaration of the truth by an impartial third party, after the parties have been given equal opportunities to support their arguments and proof with adequate room for discussion. This exchange of opinions is normally necessary if the judge is to discover the truth, and consequently, to give the case a just verdict. Every system of trial must therefore endeavour to guarantee the objectivity, speed and efficacy of the judges' decisions."<sup>21</sup>

And further, "just as the dialectic of the proceedings leads us to understand the criterion of the search for the truth, so it can help us grasp the other aspect of the question: its pastoral value, which cannot be separated from love for the truth. Indeed, pastoral love can sometimes be contaminated by complacent attitudes towards the parties. Such attitudes can seem pastoral, but in fact they do not correspond with the good of the parties and of the Ecclesial Community itself; by avoiding confrontation with the truth that saves, they can even turn out to be counterproductive with regard to each person's saving encounter with Christ. The principle of the indissolubility of marriage forcefully reaffirmed here by John Paul II (cf. addresses: 21 January 2000, in ORE; 26 January 2000, p. 1; 28 January 2002, in *ibid.*; 6 February 2002, p. 6) pertains to the integrity of the Christian mystery. Today, unfortunately, we may observe that this truth is sometimes obscured in the consciences of Christians and of people of good will. For this very reason, the service that can be offered to the faithful and to non-Christian spouses in difficulty is deceptive: it reinforces in them, if only implicitly, the tendency to forget the indissolubility of their union. Thus, the possible intervention of the ecclesiastical institution in causes of nullity risks merely registering a failure."

"However, the truth sought in processes of the nullity of marriage is not an abstract truth, cut off from the good of the people involved. It is a truth integrated in the human and Christian journey of each of the faithful. It is very important, therefore, that the declaration of the truth

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<sup>21</sup> BENEDICTUS XVI: *Alocutio ad Tribunal Rotae Romanae*, 28.1.2006, AAS 98 (2006) pp. 135—138; here from p. 136.

is reached in reasonable time. Divine Providence certainly knows how to draw good from evil, even when the ecclesiastical institutions neglect their duty or commit errors. It is nonetheless a grave obligation to bring the Church's institutional action in her tribunals ever closer to the faithful. Besides, pastoral sensitivity must be directed to avoiding matrimonial nullity when the couple seeks to marry and to striving to help the spouses solve their possible problems and find the path to reconciliation. That same pastoral sensitivity to the real situations of individuals must nonetheless lead to safeguarding the truth and applying the norms prescribed to protect it during the trial."<sup>22</sup>

In his address to the employees of the Roman Rota in 2011, Benedict XVI referred to the words of Bl. Pope John Paul II from 1990, and his earlier speeches, by saying, "The post-conciliar discussion on canon law was centred on the relationship between law and pastoral care. The well-known assertion of the Venerable Servant of God, John Paul II, whose opinion was that 'it is not true that, to be more pastoral, the law should be less juridical' (cf. Address to the Roman Rota, 18 January 1990, n. 4), expresses the radical surmounting of an apparent antithesis. 'The juridical and the pastoral dimensions', John Paul II said, 'are united inseparably in the Church, a pilgrim on this earth. Above all, one aspect of their harmony emerges from their common goal: the salvation of souls' (ibid.). At my first meeting with you in 2006 I tried to highlight the authentic pastoral meaning of causes of the nullity of marriage founded on love for the truth."<sup>23</sup>

However, in his exhortation *Sacramentum caritatis*,<sup>24</sup> Pope Benedict wrote: "When legitimate doubts exist about the validity of the prior sacramental marriage, the necessary investigation must be carried out to establish if these are well-founded. Consequently, there is a need to ensure, in full respect for canon law, the presence of local ecclesiastical tribunals, their pastoral character, and their correct and prompt functioning. Each Diocese should have a sufficient number of persons with the necessary preparation, so that the ecclesiastical tribunals can operate in an expeditious manner. I repeat that 'it is a grave obligation to bring the Church's institutional activity in her tribunals ever closer to the faithful'. At the same time, pastoral care must not be understood as if it were somehow in conflict with the law. Rather, one should begin

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<sup>22</sup> Ibidem, p. 138.

<sup>23</sup> BENEDICTUS XVI: *Alocutio ad sodales Tribunalis Rotae Romanae*, AAS 103 (2011), pp. 108—113.

<sup>24</sup> BENEDICTUS XVI: *Adhortatio apostolica postsynodalis "Sacramentum caritatis" ad Episcopos, sacerdotes, consecratos consecratasque necnon christifideles laicos de Eucharistia vitae missionisque Ecclesiae fonte et culmine*, 22.2.2007, AAS 99 (2007), pp. 105—180.

by assuming that the fundamental point of encounter between the law and pastoral care is love for the truth: truth is never something purely abstract, but “a real part of the human and Christian journey of every member of the faithful.” Finally, where the nullity of the marriage bond is not declared and objective circumstances make it impossible to cease cohabitation, the Church encourages these members of the faithful to commit themselves to living their relationship in fidelity to the demands of God’s law, as friends, as brother and sister; in this way they will be able to return to the table of the Eucharist, taking care to observe the Church’s established and approved practice in this regard. This path, if it is to be possible and fruitful, must be supported by pastors and by adequate ecclesial initiatives, nor can it ever involve the blessing of these relations, lest confusion arise among the faithful concerning the value of marriage.”

“Given the complex cultural context which the Church today encounters in many countries, the Synod also recommended devoting maximum pastoral attention to training couples preparing for marriage and to ascertaining beforehand their convictions regarding the obligations required for the validity of the sacrament of Matrimony. Serious discernment in this matter will help to avoid situations where impulsive decisions or superficial reasons lead two young people to take on responsibilities that they are then incapable of honouring. The good that the Church and society as a whole expect from marriage and from the family founded upon marriage is so great as to call for full pastoral commitment to this particular area. Marriage and the family are institutions that must be promoted and defended from every possible misrepresentation of their true nature, since whatever is injurious to them is injurious to society itself.”<sup>25</sup>

In addition, in 2007, Pope Benedict XVI, in a message to the participants of a training course in the field of canon law of marriage and its process said, “The Church’s marriage law is not there to complicate the lives of the faithful. Its only aim is to serve the truth.”<sup>26</sup>

Finally, in a speech to the staff of the Supreme Tribunal of the Apostolic Signatura, Benedict XVI, citing the exhortation *Sacramentum caritatis*, evoked the pastoral nature of ecclesiastical tribunals.<sup>27</sup>

<sup>25</sup> Ibidem, n. 29.

<sup>26</sup> The Pope recalls this message to participants of a training course in the field of canon law of marriage and the process at the Pontifical University of the Cross on 17–21.9.2007, Catholic News Agency, 21.9.2007, time: 17:27: *Benedykt XVI: kościelne prawo małżeńskie to służba prawdzie*, in: [http://system.ekai.pl/kair/?screen=depesza&\\_scr\\_depesza\\_id\\_depeszy=383770](http://system.ekai.pl/kair/?screen=depesza&_scr_depesza_id_depeszy=383770) (accessed 16.7.2012).

<sup>27</sup> BENEDICTUS XVI: *Allocutio ad Plenariam Sessionem Supremi Tribunalis Signaturae Apostolicae*, 4.2.2011, AAS 103 (2011), pp. 115–118.

In an interview with Peter Seewald, Benedict XVI explained the relationship between the order of love and the legal order of the Church, by bluntly claiming that “ecclesiastical penal law functioned until the late 1950s; admittedly it was not perfect — there is much to criticize about it — but nevertheless it was applied. After the mid-1960s, however, it was simply not applied any more. The prevailing mentality was that the Church must not be a Church of laws but, rather, a Church of love; she must not punish. Thus the awareness that punishment can be an act of love ceased to exist. This led to an odd darkening of the mind, even in very good people. Today we have to learn all over again that love for the sinner and love for the person who has been harmed are correctly balanced if I punish the sinner in the form that is possible and appropriate. In this respect there was in the past a change of mentality, in which the law and the need for punishment were obscured. Ultimately this also narrowed the concept of love, which in fact is not just being nice or courteous, but is found in the truth. And another component of truth is that I must punish the one who has sinned against real love.”<sup>28</sup>

### 3. Pope Francis to canonists

The pontificate of Pope Francis is accompanied by an unusual interest, including in the context of the anticipated and expected reforms in the Church, especially in its institutional functionality and better implementation of the mission — the saving mission of the Church. Therefore, the public interest tracks papal statements on this subject. On 8 November 2013 and 24 January 2014, the Pope met with the staff of the two apostolic tribunals: the Supreme Tribunal of the Apostolic Signatura and the Tribunal of the Roman Rota.

During the first meeting, at the end of his speech, the Pope pointed out the link between evangelization and ecclesiastical justice, pointing to the icon of the Good Shepherd who seeks the lost sheep, “One final observation, which is very important in regard to those who are involved in the ministry of justice in the Church. They act on behalf of the Church; they are part of the Church. Therefore, it is always necessary to keep in mind the effective connection between the action of the Church, which evangelizes, and the action of the Church, which administers justice. The service of justice is an undertaking of the apostolic life: its exercise requires that

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<sup>28</sup> *Benedykt XVI w rozmowie z Peterem Seewaldem, Światłość świata. Papież, Kościół i znaki czasu*. Kraków 2011, pp. 37–38.

we keep our gaze fixed on the icon of the Good Shepherd, who bends down to the lost and wounded sheep.”<sup>29</sup>

In turn, to the employees of the Tribunal of the Roman Rota, Francis stated that there is no contradiction between pastoral care and the law of the Church, and “The juridical dimension and the pastoral dimension of the Church’s ministry do not stand in opposition, for they both contribute to realizing the Church’s purpose and unity of action. In fact the judicial work of the Church, which represents a service to truth in justice, has a deeply pastoral connotation, because it aims both to pursue the good of the faithful and to build up the Christian community. Such activity constitutes a peculiar development of the power of governance, turned toward the spiritual care of the People of God, and is therefore fully inserted in the journey of the mission of the Church. It follows that the judicial office is a true *diakonia*, that is a service to the People of God in view of strengthening the full communion between individual members of the faithful, and between them and the ecclesial body. Furthermore, dear Judges, through your specific ministry, you offer a qualified contribution in confronting emerging pastoral themes.”<sup>30</sup>

Drawing the silhouette of the ecclesiastical judge, he noted that, “In his work he is also guided by the intent to safeguard truth, respecting to the law, without overlooking the delicacy and humanity proper to a pastor of souls.” The Pope drew attention to the pastoral ministry aspect of the judge, “As an expression of the pastoral concern of the Pope and Bishops, the judge is required not only to have proven competence, but also to have a genuine spirit of service. He is the servant of justice called to treat and judge the condition of the faithful, who with confidence turn to him, by imitating the Good Shepherd who cares for the wounded lamb. That is why he must be inspired by pastoral charity; [...]. Love — St. Paul writes — ‘binds everyone together in perfect harmony’ (Col 3:14), and constitutes the soul as well as the function of the ecclesiastical judge.”<sup>31</sup>

These statements made by Bl. John Paul II, Benedict XVI, and the current pontiff, Francis, lead to a clear conclusion: the law in the Church only makes sense in the pastoral context, that is both of these aspects of

<sup>29</sup> FRANCISCUS: *Discorso ai partecipanti alla Plenaria del Supremo Tribunale della Segnatura Apostolica*, 8.11.2013, in: [http://www.vatican.va/holy\\_father/francesco/speeches/2013/november/documents/papa-francesco\\_20131108\\_plenaria-segnatura-apostolica\\_it.html](http://www.vatican.va/holy_father/francesco/speeches/2013/november/documents/papa-francesco_20131108_plenaria-segnatura-apostolica_it.html) (accessed 14.3.2014).

<sup>30</sup> FRANCISCUS: *Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year*, 24.1.2014, in: [http://www.vatican.va/holy\\_father/francesco/speeches/2014/january/documents/papa-francesco\\_20140124\\_rota-romana\\_en.html](http://www.vatican.va/holy_father/francesco/speeches/2014/january/documents/papa-francesco_20140124_rota-romana_en.html) (accessed 14.3.2014).

<sup>31</sup> *Ibidem*.

the activity of the Church have a common goal: the salvation of souls, which must always be the supreme law.

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LESZEK ADAMOWICZ

## Law and Pastoral Care: Reflections of Three Popes

### Summary

The theme of the article is to present the relationship between canon law and the pastoral activity of the Catholic Church. The author cites a number of statements made by popes: John Paul II, Benedict XVI and Francis, on the subject, contained in doctrinal documents, speeches to employees of the Tribunal of the Roman Rota, and other bodies, as well as on other occasions. Quoted statements lead to a clear conclusion: the law in the Church only makes sense in the pastoral context, that is, both of these aspects of the activity of the Church have a common goal: the salvation of souls, which must always be the supreme law.

LESZEK ADAMOWICZ

## Droit et prêtrise : réflexions des trois papes

### Résumé

L'objectif de l'article est de présenter les relations entre le droit canonique et l'activité pastorale de l'Église catholique. L'auteur rapporte une quantité de propos des papes : de Jean-Paul II, de Benoît XVI et de François concernant ce sujet et étant inclus dans les documents doctrinaux, dans les exposés adressés aux travailleurs du Tribunal de la Rote romaine et à d'autres groupes, ainsi que dans d'autres circonstances. Les propos cités



aboutissent à la conclusion qui ne laisse aucune place au doute : c'est-à-dire qu'à l'Église, le droit a un sens uniquement dans le contexte pastoral, alors les deux aspects de l'activité de l'Église (le droit et la prêtrise) ont un but commun : salut des âmes qui doit être toujours le droit le plus important.

**Mots clés :** droit, droit canonique, prêtrise, Rote romaine, Signature apostolique

LESZEK ADAMOWICZ

## Diritto e pastorale: riflessioni di tre pontefici

### Sommario

Il tema dell'articolo è la presentazione della relazione tra il diritto canonico e l'attività pastorale della Chiesa cattolica. L'autore cita una serie di asserzioni dei pontefici: Giovanni Paolo II, Benedetto XVI e Francesco sull'argomento, incluse nei documenti dottrinali, nei discorsi ai componenti del Tribunale della Sacra Rota e ad altri membri, ed anche in altre occasioni. Le asserzioni citate guidano ad una conclusione esplicita: il diritto nella Chiesa ha senso esclusivamente nel contesto pastorale ossia entrambi questi aspetti dell'attività della Chiesa (diritto e pastorale) hanno un fine comune: la salvezza delle anime che deve essere sempre la legge suprema.

**Parole chiave:** diritto, diritto canonico, pastorale, Rota Romana, Segnatura Apostolica