



The Holy See

ADDRESS OF THE HOLY FATHER JOHN PAUL II TO THE NATIONAL ASSOCIATION OF MAGISTRATES ON CONTEMPORARY ROLE OF THE JUDICIARY

Friday, 31 March 2000

Distinguished Ladies and Gentlemen, 1. As I receive you on the occasion of your Jubilee celebration, I cordially welcome each of you and express my deep respect for your high mission. In particular I greet the President of your association, Dr Mario Cicala, and thank him for his kind words on behalf of you all. The Jubilee, the celebration of the 2,000th anniversary of Christ's coming into our history, challenges the people of our time, summoning them to the responsible fulfilment of the tasks entrusted to them. Since "all these human activities ... must be purified and perfected by the Cross and Resurrection of Christ" (*Gaudium et spes*, n. 37), believers must be inspired by that event not only in their private sphere of conduct, but also in the commitments connected with their public relationships. 2. By your freely accepted vocation, you have put yourselves at the service of justice and so also at the service of peace. The ancient Romans liked to say: "*opus iustitiae pax*". There can be no peace among human beings without justice. This *opus iustitiae*, on which peace is based, is carried out within a precise ethical-juridical framework and is an ongoing worksite. Indeed, wherever fundamental human rights, the inalienable rights that no legislation can violate, are codified in laws, it is always possible to give them a more complete juridical formulation and, above all, a more effective application in the concrete context of social life. History shows how difficult is the advance of a legal culture both because of cultural slowness and especially because of the moral resistance connected with human sin, which gives rise to dangers that can interfere with laws and make peace precarious. One need only think of all the initiatives of individuals and organized groups that, not content with transgressing the law, also endeavour to modify the legal system to serve their own interests, with disregard for ethical principles and the common good. The very roots of secure and peaceful coexistence are also undermined. A legal culture, a State governed by law, a democracy worthy of the name, are therefore characterized not only by the effective structuring of their legal systems, but especially by their relationship to the demands of the common good and of the universal moral principles inscribed by God in the human heart. 3. In this framework we see how important it is to distinguish the characteristic powers of the modern democratic State, in which the judicial power stands side by side with the legislative and executive powers, with its own autonomous and constitutionally protected function. The balanced relationship between these three powers, each one operating according to its own specific competence and responsibility so that one never prevails over the others, guarantees the proper functioning of democratic life (cf. *Letter to the Italian Bishops*, 6 January 1994, n. 7). The Magistracy's task is to see that justice is done by fully applying recognized rights and duties, and by safeguarding the interests protected by the law

within the framework of fundamental ethical values. In Italy, these values are written into the Constitution and form the civil and moral basis of organized society, as normally occurs in the democratic States of our time.⁴ As you know well, the judge carries out his mission by uncovering, in relation to the dictates of the law, the truth of the particular case. In his investigation the magistrate encounters "man", a creature of God, with his personal dignity and inalienable values, which neither the State nor civil institutions nor the Magistracy nor the magistrate himself can touch, let alone nullify. In defining the proper relationships between the legislative, executive and judicial powers, the Constitutions of modern States guarantee the judicial power the necessary independence in the realm of law. But this independence is a value which, in the forum of conscience, must be matched with a deep sense of rectitude and serene objectivity of judgement in seeking the truth. The Magistracy's independence can never be exercised with disregard for the values rooted in the nature of the human being, whose inalienable dignity and transcendent destiny must always be respected. In particular, respect for a person's rights rule out the use of detention for the sole purpose of trying to obtain significant information for the trial. Justice, moreover, must make every effort to ensure that trials are conducted swiftly: their excessive length is becoming intolerable for citizens and results in a real injustice. It is also very important that the magistrate's relations with the mass media be marked by the proper reserve, in order to avoid all risk of infringing the right to privacy of those being investigated and to guarantee that the principle of presumed innocence is respected.⁵ The search for the truth of facts and proofs, and the correct application of the law are two of the most important requirements of the judge's role and call for total freedom from prejudice and a constant effort of study and examination. Furthermore, the recent institution of the single-judge trial increases the responsibility of each individual magistrate and spurs him to ever greater swiftness in his work. In addition, you should not overlook a problem that is emerging because legislative activity cannot always keep pace with technological and scientific developments and their resulting effects on society, so that the jurisprudential interpretation of the law is becoming more and more important as a source of law. With good reason there is a reaction in many quarters to the idea of the Magistracy compensating for the omissions of the legislative power, especially when it is a question of human life and death, biotechnology, problems of public morality or essential issues of freedom, which can never degenerate into an individualism that disregards the common good.⁶ Lastly, I would like to emphasize that the relationship between truth and humanity is always at stake. The truth that the judge is called to ascertain has nothing to do with mere events and cold norms, but with the concrete individual who may be marked by inconsistencies and weaknesses, but is endowed with inalienable dignity because he is God's image. The nature and application of penal sanctions must be such as to guarantee the rightly invoked security of society, but without attacking the dignity of man, beloved of God and called to redeem himself if guilty. The sentence must not shatter this hope of redemption. Distinguished ladies and gentlemen! As I once again express my esteem for your work, which is so valuable to the common good, I entrust your activity to God's constant protection. May the Blessed Virgin Mary, the bright "Mirror of Justice", watch from heaven over you who have seen so many of your eminent colleagues fall in the line of justice, which is particularly hazardous today, as your President has fittingly recalled. With this wish, I gladly impart a special Blessing to you as a sign of my esteem and affection, and extend it to all your loved ones. © Copyright 2000 - Libreria Editrice Vaticana