II. The Right to Privacy and to Good Reputation (Canon 220)


Canon 220 of the Code of Canon Law states: "No one is permitted to harm illegitimately the good reputation which a person possesses nor to injure the right of any person to protect his or her own privacy."

This canon is crucial and fundamental when dealing with matters that implicate allegations against anyone, but particularly in our context, Catholic clergy. The canon reflects two basic rights that come to us from human nature, the right to possess and enjoy a good reputation and the right to protect one's privacy. As has been said before and bears repeating, a person can spend decades building a good reputation, but in a matter of a mere five (5) minutes that reputation can be destroyed and permanently harmed by a false accusation.

One of the most difficult aspects of representing clergy accused of various forms of misconduct is effectively protecting both their reputation and privacy. When an allegation has been brought forward against a priest, often in an effort to notify the parishioners or diocesan faithful, the Diocese will make known that an allegation has at least the semblance of truth and the accused cleric is placed on so-called administrative leave (if such has not already been done) in accord with Canon 1722. At that moment, effectively protecting and maintaining good reputation has already been lost for the priest who has been accused. Henceforth, the priest will always be under a cloud of suspicion (at least to some degree), even if ultimately he is found to be not guilty of the allegation in a canonical process or civil process or both.

The challenge arising from such a circumstance is that once the proverbial bell has been rung with the allegation, even if proven to be false, the bell can never be un-rung. The damage done to the cleric's reputation can never be fully restored - it is fiction to believe that it can be. Rather, at best, what can result is some mitigation of the harm to reputation that has befallen the cleric if he resumes ministry. That is the dilemma that faces advocates who deal with these situations daily on behalf of priests and deacons who call our offices in need of our assistance.

In consideration of this dilemma, how can we as advocated for clergy, when confronted with these circumstances, try to do our part to prevent the damage to reputation before it occurs? What steps can we as counsel take to protect and vindicate both privacy and reputational rights of clergy? First, in my experience the best approach in this matter is to, as much as possible, work in collaboration professionally and charitably with the diocesan officials. As members of the Church we must recognize and balance our goals of effective advocacy with responsible dialogue - both can and must occur concomitantly to be effective for clerics accused and in service to truth and charity. There must be a deep overview and plan for the entire course of the cleric's case from start to finish in consideration of both effective advocacy and also protecting his right to a good reputation and privacy. Each point of contact and each point of development of the process from the first notice that there is an allegation, to the first meeting with diocesan representatives on the merits of the allegation to what is stated publicly (and hopefully not at all!) regarding the allegation and what the Review Board hears, decides and is reported all impact substantially a priest's reputation and privacy rights. Being engaged and involved from the outset is essential.
Referencing both privacy and reputational rights at the first moment an allegation comes forward brings the issue to the forefront for all involved. The weight of the allegation alone is enough to cause serious stress, anxiety and fear for the accused cleric. This weight is magnified significantly when the allegation is made public and acts as a source of breach of the cleric’s right to both good reputation and privacy.

As an advocate, we must actively take steps to ensure that there is no publicity if possible, and if impossible in speaking with diocesan officials, take steps to make sure that what is expressed publicly does not place the accused cleric in a false and negative light, especially when the accused is adamant that the allegation is false. In furtherance of these goals, it is important to emphasize to diocesan officials what is also in the interest of the Diocese regarding the downside of making an allegation public.

Often when an accusation is made public against a diocesan priest, for example, tension will arise in the parish. There will be those who support Father and who are vocal about their support, through setting up a blog, handing out flyers, trying to meet and build up support for the accused priest. Such a scenario, due to the publicity surrounding the matter often only acts to cause distance and harm among the faithful. Explaining to the Diocese how publicity can also harm the Diocese may be a way to realize that reputation concerns are for all involved. Furthermore, as points of reference, it is also important to take into consideration the USCCB Essential Norms germane to our discussion that state:

Norm 6 states in part: "... During the investigation the accused enjoys the presumption of innocence, and all appropriate steps shall be taken to protect his reputation."

Norm 13 also states in part: "... When an occasion has been shown to be unfounded, every step possible will be taken to restore the good name of the person falsely accused."

The aforementioned norms concretize in practice how the right to a good reputation and a right to privacy are exercised. Nevertheless, the challenge has been and continues to be how to ensure that these provisions are implemented in each and every stage of the process for the accused cleric.

Perhaps as advocates we should assertively proclaim what the Catechism of the Catholic Church teaches about these important matters:

- "2477 Respect for the reputation of persons forbids every attitude and word likely to cause them unjust injury. He becomes guilty:
  - of rash judgment who, even tacitly, assumes as true, without sufficient foundation, a moral fault of a neighbor;
  - of detraction who, without objectively valid reason, discloses another’s faults and failings to persons who did not know them;
  - of calumny who, by remarks contrary to the truth, harms the reputation of others and gives occasion for false judgments concerning them."

At what point does making an allegation known to the faithful implicate a cleric right to a good reputation to the point of constituting calumny, detraction or rash judgment? Individual facts and circumstances will govern how we apply these principles in advocating for those accused clerics.
But as advocates, if we are fully aware from the outset of these principles, we can be most effective at vindicating an accused cleric’s right to a good reputation and right to privacy consistent with the letter and the spirit of the law.