

PONTIFICAL COUNCIL
FOR LEGISLATIVE TEXTS

Prot. N. 15512/2016

Vatican City State, 15 September 2016

Your Excellency,

With these presents I respond to your letter N. 86/2916 of 10 June of this year, by which you requested the opinion of this Pontifical Council regarding the publication on the webpage of the Conference of a list containing the names of clerics condemned in a civil or ecclesiastical process due to abuse of minors.

After an attentive examination of the question, I hasten to communicate to you the following observations.

Can. 220 establishes a principle of general character responding to the natural law and to the imperative that prohibits detraction and defamation (cfr. nn. 2477-2479 CCC): detraction concerns the dissemination of true information, even when such is public, if done in an unjustifiable manner. The aforesaid canon declares that “no one is permitted to harm illegitimately the good reputation which a person possesses.” This means that sometimes, injury to reputation can be legitimate by reason of the superior good of persons or communities. A concrete example of legitimate injury to the reputation of an offender is represented in the “Declaration” on the part of the Ordinary of a penalty incurred *latae sententiae* (can. 1335 CIC) unto the end of preventing the offender from inflicting ulterior harm to the community.

During the *iter* of study of the Fundamental Law of the Church, injury to reputation was considered legitimate in the case of removal of a pastor or in the case of the declaration of a heretic (PCCICR, LEF, *Coetus Specialis studii*, Sessio VII, 17-22 December 1973, p. 40, can. 20).

The judgment of “adequation” between the good that good reputation represents, and the evil that an offender can inflict upon a community is made, necessarily, case by case, and, consequently, the legitimacy of rendering the status of an offender public cannot be set forth in general terms. In some cases it will be legitimate, because there is a reasonable risk to other persons, while said publicity would not be legitimate when the risk were reasonably to be excluded. This latter [case] is to be observed, entirely, in the case of deceased delinquents: in these cases there cannot be a proportionate reason for injury to reputation.

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Furthermore, a judgment of the kind corresponds to the Pastor who has the care of the community or who is responsible for the offender. Consequently, other levels of authorities – for example, the Episcopal Conference – can act subsequent to the deliberation of the competent authority.

In this sense, the basing of the publication of information [pertaining to an offender] upon reasons of transparency or reparation (unless the same subject be consenting) does not appear to be legitimate, because such a publication would in fact contradict can. 220 *CIC*.

In support of what is stated above, some characteristics of penal canonical discipline that point to confidentiality and the protection of good reputation are to be called to mind: the accused is neither held to take an oath, nor to confess his own crimes (can. 1728 § 2 *CIC*); all those who are involved in a penal trial are forever bound by the obligation of secrecy, something which does not always occur in other trials (can. 1455 *CIC*); the remission of a penalty is not divulged, unto the end of safeguarding the good reputation of the offender (can. 1361 § 3 *CIC*): which, for greater reason, suggests the need for confidentiality regarding the imposition of a penalty.

Naturally, in the case in which legislation of a Country legitimately establishes concrete dispositions in this matter, the observations [given *supra*] should be juxtaposed with said legislation.

In the hope of having provided a useful opinion, I take the occasion to confirm myself with sentiments of distinct respect,

of Your Most Reverend Excellency,
most devotedly in the Lord

/s/

+ Francesco Card. Coccopalmerio
President

/s/

+ Juan Ignacio Arrieta
Secretary