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Canonical Right to Privacy in the Context of Clerics and Consecrated Persons

Abstract: The problem addressed in this article is the varied scope of privacy protection within canon law, specifically concerning how this right is applied differently depending on the canonical state of the faithful, such as laypersons, clerics, and consecrated persons. The aim of the research conducted is to determine the sources, the subjective and objective scope, and the acceptable limitations of the right to privacy, including those limitations resulting from voluntary self-limitation and the public mission of the Church. The method employed is a dogmatic-legal analysis based on the 1983 Code of Canon Law, documents of the Magisterium of the Church, canonical literature, and the General Decree of the Polish Episcopal Conference of 2018 regarding personal data protection. The findings demonstrate that the right to privacy is universally rooted in human dignity, but its practical application calls for a three-tier model of protection, providing the broadest protection for laypersons, narrower protection for clerics, and the narrowest protection for consecrated persons. The conclusions drawn from the research indicate that the varied application of the right to privacy does not constitute discrimination because it is justified by the specific nature and voluntary commitments of each canonical state, while the internal forum remains strictly inviolable for all the faithful.

Keywords: right to privacy, can. 220 CIC, human dignity, consecrated persons, priestly and religious formation, protection of personal data in the Church

Introduction

In recent years, in the Church in Poland, conflicts have arisen with increasing frequency between clerics, seminarians, consecrated persons,

and candidates for holy orders or religious life, on the one hand, and their ecclesiastical superiors, on the other, concerning the publication of personal data, including in the form of an image or other information about them, also that regarding the course of their formation. These individuals invoke the right to privacy, questioning the superiors' authority to make such data public.

The research question that can be posed in the context of this phenomenon is as follows: (1) Does the right to privacy vary depending on the canonical state of the faithful (lay faithful, cleric consecrated life)? And if so: (2) What is the source of this differentiation and its scope? The aim of this article is to answer these questions.

The results of the considerations contained in this article are of a practical nature. Firstly, a clear definition of the boundaries of the right to privacy in different ecclesiastical states is of significant importance for the formation of priests and religious by those responsible for it. Formators need precise guidelines regarding the scope of interference in the privacy of those entrusted to them. Secondly, this issue affects the practice of management in ecclesiastical institutions, where superiors must verify the qualifications of persons to whom they entrust functions, also through "public announcement" of candidates. Thirdly, this issue gains importance in the context of preventing abuse of law and power in the Church by superiors who, under the pretexts mentioned above, may violate the right to privacy. To achieve this aim, it is necessary to apply the dogmatic-legal method, encompassing both the provisions of the 1983 Code of Canon Law, other ecclesiastical laws, documents of the Magisterium of the Church as well as canonical literature, which, it must be noted, does not directly address the questions posed above.

1. Source and subjective scope of the right to privacy

The source of the right to privacy in the ecclesiastical order is primarily the dignity of the human person, which finds its deepest justification in Divine Revelation. The Second Vatican Council affirmed that "all things on earth should be oriented toward man as their center and crown."¹ This

¹ SECOND VATICAN COUNCIL: *Constitution on the Church in the Modern World* "*Gaudium et spes*" (December 7, 1965). AAS 58 (1966), pp. 1025–1120, no. 12.

dignity arises not only from being a creature made in the image and likeness of God (Gen 1:27), but also from the supernatural calling of man to participate in divine life. “Another singular reason for human dignity is man’s calling to participate in the life of God.”² Human dignity also flows from the fact that man was redeemed by Jesus Christ.³ From human dignity flows the right to privacy. The Second Vatican Council included the right “to protection of privacy” among the fundamental rights “necessary for a truly human life,” which should be extended to all people precisely because of their “exalted dignity.”⁴

The right to privacy (*verba legis*: intimacy) is contained in can. 220 of the 1983 Code of Canon Law. Due to its origin and context within the code, this right has a universal character, meaning it applies to all the faithful, as understood by the code (cann. 204 and 205). The invoked right applies both to clerics, lay faithful (can. 207 § 1), and to consecrated persons, who are drawn from among both groups through the profession of the evangelical counsels (can. 207 § 2). Analogous protection is provided by can. 23 of the Code of Canons of the Eastern Churches (CCEO),⁵ which demonstrates the universality of this principle in the canon law of both traditions.

It should be emphasized as a marginal note that the indicated sources of the right to privacy – rooted in the dignity of every human person – justify the application of this protection in canon law also to persons who do not belong to the Church.

2. Objective scope of the right to privacy

The right to privacy in canon law is indicated in can. 220,⁶ which uses the term *intimita* for the object of protection. In Latin, this term derives

² Ibidem, no. 19.

³ CATHOLIC CHURCH: *Catechism of the Catholic Church*. Vatican City 1994, nos. 613, 1004.

⁴ Ibidem, no. 26.

⁵ *Codex Canonum Ecclesiarum Orientalium* auctoritate IOANNIS PAULI PP. II promulgatus (October 18, 1990). AAS 82 (1990), pp. 1033–1363, can. 23.

⁶ *Codex Iuris Canonici* auctoritate IOANNIS PAULI PP. II promulgatus (January 25, 1983). *Acta Apostolicae Sedis* 75 (1983), part II, pp. 1–318.

from the adjective *intimus*, which means the innermost, most secret,⁷ that is, that which is deepest within a person; the deepest part of the mind or conscience, heart, etc. At the same time, this term defines what is most distant from public knowledge, and thereby most intimate, secret, or private.⁸ In the Polish translation of the code, the term “intymność” (intimacy) is used, but another term reflecting the Latin original – “prywatność” (privacy) – also appears in canonical literature.⁹

However, such a solution is a certain simplification. In Latin, *privatus*, that is, the term closest to the Polish word “prywatność” (privacy), means something personal, domestic, which belongs rather to one person and constitutes their property, also in the sense of property rights, thus referring to the space surrounding a person.¹⁰ Intimacy is therefore something more personal and deeper than privacy, understood as the external sphere relative to others. Hence, one should note the purposiveness of a differentiated approach to understanding these two terms. Intimacy refers primarily to the internal sphere of a person’s life, while privacy encompasses a broader range of personal and social relationships.¹¹

For the purposes of this article, the term “privacy” will be used as a broader concept, also encompassing the protection of “intimacy” within the meaning of can. 220 CIC, unless the context requires their strict distinction. It is assumed, after all, that in the practice of applying canon law, the concept of privacy includes and absorbs the scope of intimacy.

3. Examples of the application of the right to privacy

The right to privacy is detailed in many canons of the code, taking the form of specific legal institutions. Several examples from various areas of canon law should be presented: criminal law and judicial procedure, law regulating the sacraments and the formation of clerics.

⁷ A. JOUGAN: *Słownik kościelny łacińsko-polski*. Poznań–Warszawa–Lublin 1958, entry: “Intimus.”

⁸ *Oxford Latin Dictionary*. Oxford 1968, entry: “Intimus.”

⁹ T. PAWLUK: *Prawo kanoniczne według kodeksu Jana Pawła II. Lud Boży jego nauczanie i uświęcanie*. Vol. 2. Olsztyn 1986, p. 43.

¹⁰ A. JOUGAN: *Słownik kościelny łacińsko-polski...*, entry: “Privatus.”

¹¹ J. KRUKOWSKI, R. SOBAŃSKI: *Komentarz do kodeksu prawa kanonicznego*. Tom 2: *Lud Boży*. Poznań 2025, p. 37.

3.1. Criminal law

In canonical criminal law, the principle of respect for privacy is binding, which is contained in several provisions. These provisions apply at various stages of the proceedings.

At the pre-trial stage, that is, within the preliminary investigation, the following applies: Can. 1717 § 2, which orders that “care must be taken lest anyone’s good name be endangered because of such an investigation.” In the sphere of procedural secrecy, detailed regulation is contained in can. 1455, the *ratio legis* of which is the protection of the integrity of the proceedings and of the private interests of the parties involved in the case. Can. 1455 § 1 orders judges and tribunal personnel to observe official secrecy, and § 3 extends this obligation to witnesses, experts, parties, and their advocates. The subjective scope of this norm is therefore broad. The protection of privacy with respect to good name is evident in can. 1361 § 3, which states: “Care must be taken lest the request for dispensation from a penalty or the dispensation itself be made public unless and insofar as it is necessary for the protection of the good name of the guilty party or necessary to repair scandal.”

These norms are part of the broader context of the protection of personal goods in canon law, in which *bona fama* (from can. 220) is treated as an innate value belonging to every human being by reason of their natural dignity. Both goods – privacy and good name – although distinct in nature, together constitute an integral sphere of personal dignity. In the preliminary investigation, during the trial, or upon dispensation from a penalty, a violation of one good creates a real risk of violating the other. The disclosure of information inevitably encroaches upon the private sphere of the interested party, simultaneously exposing their reputation to harm in the environment where the opinion of the church community plays a significant social role.

The juxtaposition of the indicated regulations allows us to formulate the conclusion that the privacy protection in canonical criminal law is continuous and multifaceted.

3.2. Judicial procedure

As regards the procedural regulations of judicial proceedings (in all contentious cases), the canons regulating the matter of evidence also provide

protection for privacy. “No one is obliged to submit documents, even common ones, which cannot be disclosed without the danger of harm or without the danger of violating a secret that must be kept” (can. 1548 § 2, n. 2). Similarly, the provisions of can. 1548 § 1 and § 2 exempt from the obligation to answer those “who fear that from their testimony infamy, dangerous hardships, or other grave evil will befall them, their spouse, or close relatives or in-laws.” These norms therefore introduce a principle according to which the interest in protecting privacy may, in specifically justified circumstances, outweigh the general obligation to provide evidence in a canonical process (cf. can. 1526 § 1).

3.3. Regulations concerning the sacraments

Referring to the canonical regulations concerning the sacraments in the area of privacy protection, one must point to the special case of privacy protection, which is the seal of confession (can. 983), where the confessor is forbidden “to betray the penitent in any way, for any reason, by word or in any other manner.” This is the most far-reaching form of privacy protection in the Church, safeguarded by the most severe penalties. The absolute of privacy with respect to the sacramental seal, knowing no exceptions in canon law – also includes, obviously, personal data. Linked to this seal is the obligation to observe special discretion toward the penitent (can. 979) and respect for the choice of confessor (can. 991). Another example occurring in the context of priestly formation is can. 240 § 2, which forbids requesting the opinion of the spiritual director and confessors when making decisions about admitting seminarians to orders or dismissing them from the seminary. This solution protects the *forum internum* of seminarians, constituting an important element of respect for their intimacy.

As can be seen from these examples, the protection of the right to intimacy encompasses two interrelated norms. First, a norm entitling everyone to the protection of their own intimacy and privacy in the Church. Second, a norm obliging everyone not to violate another person’s right to the protection of their own intimacy without their consent. Everyone has the right, and everyone must respect that right of the other person. The above examples are specifications and complements of the protection generally regulated by can. 220.

4. Differentiation of the right to privacy

The aforementioned protection of intimacy and privacy may be differentiated by certain circumstances in which the provisions are applied. It is crucial to understand that although the right to privacy is fundamental, its application is not uniform for all canonical states in the Church. This may arise from various reasons.

4.1. Examples of differentiation of canonical states in the area of privacy

The faithful fulfill their mission, which God entrusted to the Church in the world, in various circumstances of life and “according to their *positio*” (can. 204). The indicated diversity already shows the basis for differences in the realization of the right to privacy. Different canonical states in the Church mean, after all, a different environment and life context for the person, which affects the practical application of the right to privacy (cf. CCC 873).

4.1.1. Lay faithful

In the case of lay persons, their natural environment is – to use the language of the catechism – “the world” (CCC 897), in which they realize their Christian vocation through professional work, family life, and social activity. As the Council emphasizes, “the characteristic proper to the laity is their secular character.”¹² This environment is characterized by a relatively high degree of autonomy from ecclesiastical structures, which translates into a broad scope of privacy. Lay persons, although subject to canon law, enjoy great freedom in organizing their personal lives. Their right to privacy is limited only by the general moral requirements arising from belonging to the Church, and is not subject to systematic control by church authorities.

4.1.2. Clerics

In turn, clerics live in an environment more closely linked to ecclesiastical structures. Their vocation to serve the People of God through preaching

¹² SECOND VATICAN COUNCIL: *Dogmatic Constitution on the Church “Lumen gentium”* (November 21, 1964). AAS 57 (1965), pp. 5–75, no. 31.

the word, celebrating the sacraments, and leading the community is associated with greater dependence on church authority. This hierarchical dependence, based on the duty of obedience to the Pope and one's own ordinary (can. 273), affects the scope of privacy of clerics.

A particular example is the obligation of clerical celibacy in the Latin Church (can. 277 § 1), which constitutes a limitation of the right to privacy in the sphere of intimate life. Clerics, by accepting the specific duties of the clerical state, subject the exercise of the right to privacy to further-reaching limitations arising from the nature of church ministry, including submitting to stricter scrutiny by superiors in the area of moral conduct. Failure to observe celibacy can be a delict described in can. 1395 § 1. Privacy is limited by the provisions of can. 277 § 2 and 3 ordering clerics to exercise due prudence in relating with persons whose company could endanger their obligation to observe continence or give rise to scandal among the faithful. The diocesan bishop can issue more specific regulations in this matter and assess, in individual cases, the observance of this obligation.

In the context of seminary formation and candidates for ordination, the ecclesiastical superior has broad authority to verify the suitability of a candidate by obtaining data. A particular expression of the limitation of the right to privacy in the context of future public ministry in the Church is can. 241. According to § 1 of this canon, the diocesan bishop may admit only those candidates to major seminary who – after considering their human and moral qualities, spiritual and intellectual endowments, physical and psychological health, and sincere intention – seem capable of devoting themselves permanently to the sacred ministries. Implementing this provision requires the candidate to disclose a range of highly personal information, including data concerning mental health, life history, prior formation, or potential difficulties. Furthermore, can. 241 § 2 imposes the obligation to present certificates of baptism and confirmation and other documents provided for by the program of priestly formation, while § 3, in the case of candidates transferring from another seminary, additionally requires a testimonial from the previous superior, particularly regarding the reasons for dismissal or departure. This canon clearly shows that in the process of recruitment and priestly formation, the right to privacy is significantly limited for the good of the Church and the requirement of due diligence (*debita diligentia*) in selecting candidates for ordination.

The announcements (proclamations) of upcoming priestly ordinations undoubtedly constitute an interference in the candidate's private sphere, as they publicly disclose their personal data, including the intention to

receive orders. Such publication can be seen as a limitation of the right to privacy protected, among other things, by can. 220 CIC. Nevertheless, for the sake of the *bonum ecclesiae* and for the good of the candidate himself for ordination, such announcements are prescribed by law (can. 1051 n. 2). This serves, after all, to conduct a thorough investigation of the candidate's qualities, enabling the faithful to reveal any impediments or counter-indications to ordination. In this way, the primacy of the common good of the Church over the individual right to privacy finds clear footing in canon law. Notably, similar requirements are placed on candidates for consecrated life in religious institutes (e.g., cann. 642–645).

4.1.3. Consecrated persons

Consecrated persons experience even more far-reaching modifications of the right to privacy. Life in a religious community, based on the profession of the evangelical counsels – chastity, poverty, and obedience – involves the voluntary adoption of a specific lifestyle that inevitably limits certain aspects of privacy. The vow of obedience (can. 601) obliges religious to subordinate their will to superiors, which may include decisions regarding place of residence, work, or daily schedule. The vow of poverty (can. 600) limits autonomy in disposing of material goods, often excluding the possibility of private ownership. Since, therefore, the right to privacy is meant to protect and safeguard persons, depending on the external subject against whom the person operates, the possibilities for realizing this right differ. This is evident in the hierarchical dependence within which the privacy of a specific person is shaped.

4.2. The issue of image

The protection of one's image, understood as the likeness of a natural person recorded in any form that allows their identification by a third party,¹³ occurs in universally binding law on three parallel levels: as a personal right,¹⁴ as an object of copyright law,¹⁵ and as personal data.

¹³ M. PAZDAN, in: *System Prawa Prywatnego*, vol. 1: *Prawo cywilne – część ogólna*. Ed. M. SAFJAN. 2nd ed. Warszawa 2012), pp. 1249–1250.

¹⁴ Ustawa z dnia 23 kwietnia 1964 r. – *Kodeks cywilny* (consolidated text). Dz.U. z 2025 r. poz. 1071 [Polish Civil Code], art. 23.

¹⁵ Ustawa z dnia 4 lutego 1994 r. o prawie autorskim i prawach pokrewnych (consolidated text). Dz.U. 1994 Nr 24 poz. 83 [Polish Act on Copyright and Related Rights], art. 81.

The protection of one's image is not explicitly included in canon law. However, it may be derived from the general principle of privacy protection expressed in can. 220. However, in practice, in ecclesiastical law, provisions concerning the protection of personal data, which the Catholic Church adopted in its own regulations, are applied to the protection of one's image. This refers to the General Decree of the Polish Episcopal Conference of 2018 on the protection of natural persons in connection with the processing of personal data in the Catholic Church (issued on March 13, 2018, promulgated on April 30, 2018). This act, in accordance with the requirement of Article 91(1) of the GDP,¹⁶ aligned the canonical order with the provisions of the GDPR.

It should be noted that the invoked Decree uses the term "facial image." This term is found in Art. 5 point 11 of the Decree, which defines biometric data, namely, "personal data resulting from specific technical processing, relating to the physical, physiological, or behavioral characteristics of a natural person and enabling or confirming the unique identification of that person." An image captured in this way will not have broad application in the practice of the Church.

The basis for processing personal data (including image) by administrators (dioceses, religious provinces) is – in accordance with Art. 6(1)(f) of the Decree – the legitimate interest of the administrator. Applying this condition, however, requires conducting a proportionality test each time, as referred to in Art. 6(1)(f) in connection with Art. 18 of the Decree and in recitals 47–49 of the GDPR, which constitute a necessary context for the interpretation of the Decree according to can. 17.¹⁷

It should be considered at the same time that image data – although not classified as sensitive data (Art. 9 GDPR, Art. 5 point 9 of the Decree) – are subject to heightened protection due to the particularly significant interference in the privacy of the data subject.

¹⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4 May 2016.

¹⁷ P. KROCZEK, P. SKONIECZNY: *Ochrona danych osobowych w Kościele katolickim. Komentarz do Dekretu ogólnego Konferencji Episkopatu Polski w sprawie ochrony osób fizycznych w związku z przetwarzaniem danych osobowych w Kościele katolickim z 2018 roku*, vol. 1, part 1: *Kwestie wstępne*, part 2: *Preambuła*. Annales Canonici. Monographiae. Ed. J. KRZYWDA, no. 9. Kraków 2022, <https://doi.org/10.15633/9788363241308>, pp. 54–55.

Additionally, when analyzing the possibility of applying this data processing condition in the form of image, one must consider that canon law demands a special witness from consecrated persons, which is expressed, among other things, in the obligation to wear appropriate attire (can. 669), being a sign of consecration and a witness to evangelical life. This shows that the right to privacy regarding one's image is modified by the requirement of bearing witness.

With respect to lay persons (employees, volunteers, parishioners – who are not clerics), the condition of the legitimate interest of the administrator (diocese or other ecclesiastical juridical person) will apply rarely. Even if it does apply, in the case of lay faithful, the presumption of the prevalence of the administrator's interest does not exist – the administrator must demonstrate that its interest is overriding with respect to the rights and freedoms of the data subject, which, in the context of image, will be extremely difficult to satisfy. In practice, it will be necessary to base the processing of image on another legal basis, most often on the explicit consent of the data subject (Art. 6(1)(a) of the Decree in connection with Art. 5 point 7 of the Decree), unless the processing arises from an explicit legal obligation (Art. 6(1)(c)) or is necessary for the performance of a contract (Art. 6(1)(b)).

4.3. Limitations of the so-called right to be forgotten

The right to be forgotten (right to erasure of personal data) is regulated in Art. 14(1) of the Decree. Its content essentially mirrors the regulation set out in Art. 17 of the GDPR.

In ecclesiastical practice, the most significant limitation of the right to erasure of data is the obligation to maintain and preserve with due diligence the parochial registers (of the baptized, confirmed, marriages, deceased) based on can. 535 § 1 and § 5. These registers document the reception of the sacraments, which shape the canonical status of the person. For this reason, the data contained therein are protected from complete erasure, as confirmed by Art. 14(4) of the Decree. The right to request the erasure of data does not apply when the data concern the administration of the sacraments or in any other way refer to the canonical status of the person. In such a case, the request for erasure is merely noted in the collection, and the administrator is obliged not to use this data without the consent of the local ordinary or the higher superior.

A separate, apparent *limitatio* of the right to be forgotten is the provision of can. 489 § 2, which orders the annual destruction of documents from the secret archive concerning criminal matters relating to morals – with respect to deceased persons or cases concluded ten years earlier by a conviction sentence (retaining only a brief summary together with the operative part of the judgment). However, this norm is not an exception to the right to erasure but an obligation of erasure explicitly provided for by canon law, independent of the will of the data subject.

The Decree in Art. 14(1)–(3) grants natural persons the right to request the erasure of data in factual and legal circumstances, including, among other things, withdrawal of consent by the data subject, unlawful processing, or data no longer necessary. At the same time, the realization of this right is subject to significant exceptions arising both from Art. 14(4) of the Decree. This provision concerns data on canonical status, archival materials, as well as from particular and statutory provisions concerning archiving, protection of legal interests, and the fulfillment of the Church's statutory tasks.

These limitations have particularly significant implications in the context of priestly and religious formation. For example, a former novice or seminarian may request the erasure of their personal data gathered in the course of formation; however, this request will not be effective with respect to data necessary for legal claims and for data concerning the canonical status of the person. Can. 241 § 3, after all, states that in the case of accepting a candidate from another seminary or religious institute, a testimonial from the proper superior is required, “especially regarding the reason for their dismissal or departure.” This provision imposes on formation institutions the obligation to retain information about the reasons for the departure or dismissal of former alumni and members of institutes.

This obligation includes not only data concerning the reception of sacraments (which are subject to the exception in Art. 14(4) of the Decree) but also information about the reasons for departure – and these may reveal personality traits (e.g., quarrelsomeness, lack of maturity) or circumstances of a moral nature (e.g., sexual orientation, problems with chastity). The data collected during the formation process are, after all, diverse: they include formal documents, opinions of formators, results of psychological tests, records of conversations, information on progress in formation. All of these – within the limits set by the principle of data minimization – may be subject to further processing for the purpose of assessing suitability for ordination or religious profession.

This leads to the conclusion that the right to be forgotten, in the context of priestly and religious formation, is subject to significant limitations arising from the autonomy of ecclesiastical juridical persons and from the duty of careful selection of candidates. The Catholic Church has not only a legitimate interest but, to a certain extent, also an obligation to retain information about persons who have dropped out of formation – which is particularly important in the face of contemporary challenges, including the need to counteract sexual abuse and ensure the safety of the faithful and the candidates themselves.

4.4. Self-limitation by the individual of privacy protection

Another basis for limiting privacy is the voluntary renunciation in favor of other subjects, including those exercising authority. This occurs, for example, in the case of religious formation, which, being voluntarily undertaken, requires, for example, control and supervision of certain areas of the candidate's life.

In the context of religious formation, a candidate for consecrated life voluntarily submits to a formation process which, by its nature, requires a certain degree of control by superiors. A novice, by entering a religious order, accepts the rules of community life, which may include limitations on privacy arising from communal living, submission to monitoring of correspondence, or spiritual conversations, for example, with the master of novices.

Similarly, in seminary formation, a candidate for the priesthood accepts the seminary regulations, which may contain provisions limiting his privacy, such as the obligation to inform superiors about leaving the seminary premises or one's whereabouts.

This self-limitation by the individual, referred to, is permitted by law, but under several necessary conditions.

Firstly, it must be voluntary, and it is also voluntary when it is the consequence of a conscious choice. Secondly, it cannot concern spheres of intimacy that form the core of the person's identity. There are certain areas of interior life, such as conscience or deepest thoughts, which belong to the *forum internum* of the person and should not be subject to external control. Can. 630 § 1 clearly states that “superiors are to leave their subjects the due freedom in the use of the sacrament of penance and spiritual direction,” which underscores the inviolability of the *forum internum* even

in the context of religious life. Similarly, can. 239 § 2 and can. 240 § 2 forbid requesting the opinion of the spiritual director and confessors when making administrative decisions.

An interesting example of the self-limitation of privacy is the practice of “giving an account of one’s conscience” (*ratio conscientiae*) present in some religious institutes, particularly among the Jesuits. This involves regularly informing the superior about one’s interior life, which is meant to serve better discernment of God’s will. Although this practice appears to be a far-reaching limitation of privacy, it is undertaken voluntarily as a means of spiritual perfection.

5. The problem of discrimination

The question that arises after demonstrating the differences in the privacy of the faithful concerns potential discrimination. It is as follows: does the differentiated treatment of persons belonging to different canonical states with regard to the right to privacy constitute a form of discrimination?

To answer this question, one must first consider the canonical principle of the equality of all the faithful (can. 208). This is a fundamental principle, but it contains the reservation that each faithful person cooperates in building up the Body of Christ “according to their own position and task.” This reservation indicates that equality does not mean identity of legal situation. This principle does not preclude the differentiation of legal situations, provided that such differences arise from the objective requirements of the respective states of life recognized by the code (cann. 204 and 207). Each differentiation must be proportional and justified by the aim: the protection of the sanctity of the sacraments, the common good of the community, and the effectiveness of ministry (cf. can. 223 § 1). In the case of clerics, limitations on the right to privacy arise from their particular role in the Church, which involves higher moral requirements. Similarly, in the case of consecrated persons, limitations on privacy arise from the nature of consecrated life, which is based on the profession of the evangelical counsels.

The argumentation provided by the Polish Constitutional Tribunal may also be helpful in resolving this issue. Referring to the constitutional principle of equality before the law (equality in law), it indicated that it consists

in the fact that “all subjects of law (addressees of legal norms), characterized by a given relevant feature to an equal extent, are to be treated equally. That is, according to the same measure, without both discriminatory and preferential differentiations. [...] Equality also signifies the acceptance of different treatment by law of different subjects (addressees of legal norms), because equal treatment by law of the same subjects in one respect generally means different treatment of the same subjects in another respect.”¹⁸

Thus, it can be maintained that the differentiated treatment of persons belonging to different canonical states with regard to the right to privacy does not constitute discrimination, provided it is: 1) justified by the specificity of the given state of life, 2) proportional to the legitimate aims it serves, and 3) voluntarily accepted by the persons concerned.

Conclusions

The right to privacy, or intimacy, in the Catholic Church is one of the fundamental rights of the faithful. The equality of the faithful also includes the fundamental right to the protection of intimacy. It must be emphasized that this right is universal in character. It is, after all, rooted in the dignity of the human person. For this reason, under canon law, its protection is possible, for example, judicial (can. 1400), also in the case of persons not belonging to the Church.

The application of the right to privacy is differentiated depending on belonging to a canonical state. Differentiation exists, but it is functional, not ontological, in character. Clerics and religious voluntarily accept limitations on their rights (cann. 273–289, can. 663 §2, can. 745, etc.), particularly by reason of their, for instance *munus* and *status perfectionis*. Summarizing the results of the analysis, a three-tier model of privacy protection can be proposed: the broadest protection is enjoyed by lay faithful (only moral limitations), narrower protection by clerics (control of external conduct), and the narrowest protection – with respect to community life – by consecrated persons (limitations arising from the profession of

¹⁸ Orzeczenie Trybunału Konstytucyjnego z dnia 9 marca 1988 r., sygn. akt U 7/87, OTK 1988, nr 1, poz. 1 (LEX nr 25472) [Judgment of the Polish Constitutional Tribunal of March 9, 1988].

the evangelical counsels). The *forum internum* remains inviolable in every canonical state.

This differentiation is not discriminatory in character. As a rule, after all, different treatment of individual subjects, if it has factual or legal justification, can be justified and is not a form of discrimination.

The concrete application of this right differs depending on the canonical state of the faithful, which results from different life conditions and the specificity of the vocation. Clerics and consecrated persons voluntarily accept certain limitations on the right to privacy arising from their particular service to the Church.

It must be noted that the provisions on the seal of confession and the prohibition on requesting the opinions of confessors confirm this protection of the right to privacy. Even in the case of clerics and consecrated persons, there are inviolable spheres of privacy, particularly in the area of the *forum internum*. In pastoral and formation practice, this means the necessity of maintaining a delicate balance between respect for this right and the requirements of service to the Church. This balance can be achieved only through the prudent application of the provisions of canon law, taking into account the concrete circumstances of each case.

Bibliography

CATHOLIC CHURCH: *Katechizm Kościoła Katolickiego*. Warszawa 1992 [English edition: *Catechism of the Catholic Church*. 2nd ed. Vatican 1997].

Codex Canonum Ecclesiarum Orientalium auctoritate IOANNIS PAULI PP. II promulgatus (October 18, 1990). *Acta Apostolicae Sedis* 82 (1990), pp. 1033–1363.

Codex Iuris Canonici auctoritate IOANNIS PAULI PP. II promulgatus (January 25, 1983). *Acta Apostolicae Sedis* 75 (1983), part II, pp. 1—318.

KROCZEK P., SKONIECZNY P.: *Ochrona danych osobowych w Kościele katolickim. Komentarz do Dekretu ogólnego Konferencji Episkopatu Polski w sprawie ochrony osób fizycznych w związku z przetwarzaniem danych osobowych w Kościele katolickim z 2018 roku*, vol. 1, part 1: *Kwestie wstępne*, part 2: *Preambuła*. *Annales Canonici. Monographiae*. Ed. J. KRZYWDA, no. 9. Kraków 2022, <https://doi.org/10.15633/9788363241308>, pp. 54–55.

KRUKOWSKI J., SOBAŃSKI R.: *Komentarz do kodeksu prawa kanonicznego*. Tom 2: *Lud Boży*. Poznań 2025.

- PAWLUK T.: *Prawo kanoniczne według kodeksu Jana Pawła II. Lud Boży jego nauczanie i uświęcanie*. Vol. 2. Olsztyn 1986.
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4 May 2016.
- SAFJAN M. (ed.): *System Prawa Prywatnego*. T. 1: *Prawo cywilne – część ogólna*. 2nd ed. Warszawa 2012.
- SECOND VATICAN COUNCIL: *Constitution on the Church in the Modern World “Gaudium et spes”* (December 7, 1965). *Acta Apostolicae Sedis* 58 (1966), pp. 1025–1120.
- SECOND VATICAN COUNCIL: *Dogmatic Constitution on the Church “Lumen gentium”* (November 21, 1964). *Acta Apostolicae Sedis* 57 (1965), pp. 5–75.
- Ustawa z dnia 23 kwietnia 1964 r. – *Kodeks cywilny* (consolidated text). Dz.U. z 2025 r. poz. 1071 [Polish Civil Code].
- Ustawa z dnia 4 lutego 1994 r. o prawie autorskim i prawach pokrewnych (consolidated text). Dz.U. z 2025 r. poz. 24. [Polish Copyright and Related Rights Act].