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PREAMBLE
The Lord Jesus showed special concern for children and took them as models of those who belong to Lord’s Kingdom. Thus, Jesus upheld the dignity of the child and raised the child to the level of a model of discipleship. We see this clearly stated in the Gospel of St. Matthew: At that time the disciples approached Jesus and said, “Who is the greatest in the Kingdom of heaven?” He called a child over, placed it in their midst, and said, “Amen, I say to you, unless you turn and become like children, you will not enter the kingdom of heaven. Whoever humbles himself like this child is the greatest in the kingdom of heaven. And whoever receives one child such as this in my name receives me” - Mt. 18: 1 - 5.

The Lord had strong words therefore, for those who would scandalise little ones. “Whoever causes one of these little ones who believes in me to sin, it would be better for him to have a great millstone hung around his neck and to be drowned in the depths of the sea. Woe to the world because of things that cause sin! Such things must come, but woe to the one through whom they come! See that you do not despise one of these little ones, for I say to you that their angels in heaven always look upon the face of my Heavenly Father” - Mt. 18: 6 - 7, 10.

The Catholic Church following her Master is committed not only to assure the common good of all the faithful but also in a very special manner to protect children and the young. The Catholic Church knows well that whenever one of its ministers sexually abuses a minor or a vulnerable person, a tragic wound is inflicted on the community. It also inflicts an indescribably repugnant damage to normal sexual development, self-esteem and human dignity. It is a cause of grave scandal to Christians and non-Christians alike.

- It constitutes an abuse and a betrayal of the sacred trust, which the people of God rightly place in their Shepherds.
- It damages the beauty of her testimony to the Gospel of Jesus Christ who is the Way, the Truth and the Life.
- It discredits the ministerial priesthood and puts count less innocent clergy and pastoral agents under the shadow of crime and misdemeanour.

Thus in 2002 April 23rd in the address to the American Cardinals, Pope (now Blessed) John Paul II affirmed “there is no place in the priesthood and religious life for those who would harm the young. These words call to mind the specific responsibility of Bishops and Major Superiors and all those responsible for the formation of future priests and religious to discern the suitability of candidates. Thus, a proper discernment of vocations as well as a healthy human and spiritual formation becomes an absolute necessity. In particular, candidates should be formed in an appreciation of chastity and celibacy, and the responsibility of the clergy to be loving, caring shepherds (Pastores Dabo Vorbis of John Paul II).

SOURCES OF UNIVERSAL LAW IN DEALING WITH CASES OF SEXUAL ABUSE OF MINORS AND VULNERABLE PERSONS
On 30th April 2001, Pope John Paul II promulgated the “Motu Proprio”, Sacramentorum Sanctitatis Tutela (SST), a special law, by which sexual abuse of a minor, under 18 years of age or a person who habitually suffers from an imperfect use of reason, by a cleric was included in the list of more grave crimes (Delicta Graviore) reserved to the Congregation of the Doctrine of the Faith. Prescription (Statutes of limitation) for this delict was fixed at 10 years beginning at the completion of the 18th year of the victim.

In 2003, Cardinal Ratzinger, then Prefect of the Congregation for the Doctrine of the Faith, obtained from Pope John Paul II, the concession of some special faculties in order to provide greater flexibility in conducting penal process for these more grave delicts.

These measures included the use of administrative penal process (Code of Canon Law), and in more serious cases, a request for dismissal from clerical state “ex officio”.

These faculties are now incorporated in the revision of the Motu Proprio of Pope John Paul II (SST) approved by Pope Benedict XVI, and promulgated on 21st May 2010.

In the new norms prescription (Statute of limitation), in the case of sexual abuse of minors, is fixed for 20 years, calculated from the completion of the 18th year of age of the victim. In individual cases, the CDF is authorised to derogate from prescription when requested.

In the new norms of the Motu Proprio, the acquisition possession or distribution of pedo-pornography (pornography involving children), under the age of 14 is also added as a Graviore Delicta (MP, SST, Art. 6 § 1: n. 2). As from May 2011, a person who habitually lacks the use of reason to be considered is equivalent to a minor for purpose of the canonical delict of sexual abuse of a minor (MP, SST, Art. 6 § 1: n. 1).

COOPERATION WITH CIVIL LAW
As sexual abuse of minors is not just a Canonical delict or a breach of the code of conduct internal to an institution, whether it be a religious or any other, it is also a crime prosecuted by civil law. In Sri Lanka, in addition to both the criminal code and civil law (Vide Annexure), the Child Protection Authority of the State too, has promulgated laws regarding sexual abuse of minors.

It is important for the Church in Sri Lanka to cooperate with civil authorities in safeguarding children. The CDF in its circular letter of 3rd May 2011, further specified “without prejudice to the Sacramental, internal Forum (namely the Seal of Confession), the prescriptions of civil law regarding the reporting of such crimes to the designated authority should always be followed.

- Guiding Principles
1. Canonical procedures are designated to protect the innocent and at the same time, to mete out a just punishment to the guilty.
2. This can be ensured by:
   a. ascertaining the facts of the case
   b. guaranteeing the right of self-defence
   c. presuming the innocence of the accused until he is guilty or confesses to the crime.

- Once the offence has been proven, it is necessary in each case to assess carefully both the just principle of proportionality between fault and punishment as well as the predominant need to protect the entire people of God (Pope John Paul to CDF, 6th February 2004).

- The protection of the people of God does not only depend on the application of canonical penal law: its best guarantee is the CORRECT and BALANCED Formation of future priests who are explicitly called to embrace with joy and generosity that humble, modest and chaste life style that is the practical basis of ecclesiastical celibacy (Pope John Paul II, 6th February 2004)
Ultimately what is of paramount importance is the protection of children and vulnerable adults from all forms of abuse in particular sexual and to ensure the integrity in ministry of those to whom the Church entrusts her faithful for pastoral care or shepherding.

**Commitment and accountability:**
No strategy for the prevention of child abuse will ever work without commitment and accountability. Addressing the Bishops of Ireland, Pope Benedict XVI stated in 2010: “Only decisive action carried out with complete honesty and transparency will restore the respect and good will of the Irish people towards the Church to which we have consecrated our lives. This must arise, first and foremost, from your own self-examination, inner purification and spiritual renewal”.

**PROCEDURES**
This procedure does not apply to corporate bodies that have a Catholic identity such as schools and school boards, social welfare agencies and hospitals. These entities are subject to their own policies.

**Definitions**
Sexual abuse: An external, objectively grave violation of the Sixth Commandment. It means any act or attempted act of emotional, physical, verbal or approaches, or threats with sexual intent whether or not apparent damage arises from that conduct, and it includes grooming (that is, engaging in conduct that is designed to select and prepare potential victims for abuse). Possession of pornographic materials depicting minors is, equal to abuse.

Archbishop / Bishop means, the Roman Catholic Archbishop / Bishop of a Archdiocese / Diocese / Ecclesiastical Territory or, in his absence or incapacity, the lawful administrator of the Archdiocese / Diocese according to Roman catholic Law.

Archdiocese / Diocese means, the Roman Catholic Archdiocese / Diocese in Sri Lanka.

Clergy (Singular form is Cleric) means, ordained Deacons, Priests and Bishops of the Roman Catholic Church.

Code of Canon Law means, the 1983 compendium of laws for the Western (Latin) Catholic Church, published by Pope John Paul II, and as amended from time to time. Individual laws are referred to as Canons.

Complainant means, a person who alleges having suffered as a result of misconduct by a member of the clergy in the Archdiocese / Diocese.

Faculties mean, the grants by a higher ecclesiastical authority enabling a priest or deacon to act in ways that the recipient would not otherwise be empowered or authorised to act. (e.g.: hearing sacramental confessions by priests).

**Direct abuse**
Any form of sexual behaviour with a child or young person is always sexual abuse. It is both immoral and criminal. This may take the form of sexual harassment, molestation, “grooming” and any other conduct of a sexual nature.

**Indirect abuse**
Showing pornography to minors

**Pedophilia**
The sexual attraction to pre-pubescent minors

**Ephebophilia**
The sexual attraction of a male to adolescent male

**Homosexuality**
The sexual attraction to adults of same sex

**Abuse of the mentally disabled**
The 2010 Revision of MP SST Art. 6 § 1.1

Sexual abuse of a person who habitually suffers from an imperfect use of reason

**Pedophilic Pornography**
Acquisition, possession and or distribution of pornographic images of minors (under the age of fourteen) for purposes of sexual gratification.

**Prescription/Statute of limitation**
20 years from the victim’s 18th Birthday – CIC 1362 § 2.

Incardination: means the action by which a cleric, at ordination as a deacon, becomes affiliated with a particular diocese or religious order and subject to the bishop or superior respectively.

**Judicial Vicar:** means the priest appointed by the Archbishop/Bishop to fulfill the role as outlined in the policy, and any duly appointed assistant.

**Misconduct means:** serious behaviour contrary to the norms of civil law or Catholic Church teaching.

**Religious Order:** means an independent and self-governing religious institute or secular institute that is recognized by the Catholic Church and governed by her laws.

**Respondent:** means a member of the clergy, a religious sister or brother under vows in Religious Orders, staff or volunteer alleged to have committed an act of misconduct.

**Review Board:** means a group of qualified persons appointed by the Archbishop / Bishop to assist the Judicial Vicar.

**Superior means:** the local head of a Religious Order.

**Vulnerable Person:** means minors or persons of any age who by reason of their condition, suffer from physical mental, emotional or spiritual handicaps or disabilities.
THE GUIDELINES AND PROCEDURES

The guidelines and procedures seek to protect minors and help victims in finding assistance and healing and reconciliation. The guideline will lead to a common orientation within the Episcopal Conference thus, helping individual Bishops to better harness the resources in safeguarding minors. Art B SST

Whenever the ordinary receives a report of a reserved delict, which has at least a semblance of truth, once the preliminary investigation has been completed, he is to communicate the matter to the Congregation for the Doctrine of the Faith, which unless it calls the case to itself due to particular circumstances, will direct the ordinary on how to proceed further, with due regard, for the input of appeal against a sentence of the First Instance only to the Supreme Tribunal of the Congregation.

PROCEDURE FOR THE PRELIMINARY INVESTIGATION

The responsibility for dealing with cases of sexual abuse of minors belongs, in the first place, to Bishop/Major Superior. However, if the Bishop/Major Superior is not able to carry out the process of investigation personally, delegates and resource groups of competent personnel shall be established in every diocese/religious congregation. It is however, to be noted that these consultative bodies of review and discernment cannot substitute for the discernment and “Potestas Regiminis” of individual Bishops.

THE STRUCTURES AND PERSONNEL

1. Delegates of Bishop/Major Superior

There shall be in every diocese/religious institution a delegate appointed specifically to receiving complaints of abuse of minors. An assistant delegate may also be appointed to assist the delegate. They are to be drawn from priests who possess the required canonical knowledge, and qualities of mind and heart such as compassion for the victim, prudent judgement and skills in listening.

2. The Bishop/Major Superior shall appoint also a review board of three competent persons to assist the delegate in the inquiry. They could be proven members of the clergy and/or a member male/female of a Religious Institute.

3. There shall be a National Review Board constituted by the Episcopal Conference for cases that require greater competence and expertise in Canon Law and Civil Law of the country. A member of the Episcopal Conference shall be the head of this board.

CANONICAL PROCEDURE

1. Receiving a complaint

The process is begun when the Church Authority or his delegate receives a complaint in writing, signed by the complainant. The written complaint shall include his or her contact details and the complainant shall indicate if he or she wishes to invoke the proceedings outlined in this document. There should be sufficient information about the nature of the complaint for the accused person to know what has been alleged against him/her. Anonymous complaints are to be prudently verified. If the allegation is made against a cleric or a member of a Religious Order, the delegate will refer it immediately to the competent Superior.

The Church authority is obliged to cooperate fully with civic authorities and with Civil Law.

The Church in the person of the Bishop or his delegate should be prepared to listen to the victims and their families with great compassion and sensitivity. The one who listens to the victim recognises that telling the story of what happened will, to some extent, renew the hurt experienced at the time of the abuse or misconduct. The complainant may request to have someone else (e.g.: a parent, family member) present during the interview as a support.

3. The interview will take place at a mutually convenient time and place, as soon as possible after the Church Authority or his delegate has received the initial contact. If the complainant is a female a Religious Sister shall be present.

4. The Church Authority/delegate will explain the next steps in the process assuring the complainant that his/her privacy will be respected. (If the complainant has chosen not to approach the civil authority, he will obtain from the complainant a written document duly signed stating the same).

   a. The delegate shall determine whether the complaint concerns conduct which could be reasonably considered to fall within the definition of abuse in SST Art. 6.

   b. After receiving the notice of the complaint the delegate shall inform the Church Authority who will then inform the accused of the nature of the complaint.

   c. If the matter is also being examined by Civil Authorities, the Bishop/Major Superior is to give his/her full cooperation to assist in their investigations.

   It is important to remember that, it is the responsibility of the Church authority to cooperate fully with civil authorities and with civil law requirements.

   d. During all stages of the procedure all attempts are to be made to protect the good name of the alleged offender. Even in a grave allegation, the principle that every accused person is innocent until proved guilty, has to be upheld.

   At no time after an allegation is made against a cleric, shall the Church Authority, his delegate or any priests involved in the process shall hear the Sacramental Confession of the accused as the seal of the Confession is inviolable (Can. 983 § 3).

   The preliminary investigation is to be conducted according to the process given in Can. 1717-1719.

   The delegate by himself or with the help of at least two resource persons will examine if there is “a prima facie” case based on the following:

   i. the petition of the complainant

   ii. an interview with the complainant and the alleged offender

   iii. an interview with one or two significant witnesses.

   iv. other evidence, including documentary

   v. The investigator in his report to the Church Authority, as to whether the allegation is true, can use canonical terms such as “a serious suspicion” (Can. 1339 § 1), moral certainty (Can. 1608), beyond a reasonable doubt and the balance of probabilities.

   If in the investigation there is even a semblance of truth, the outcome relating to the accused has to be referred to CDF by the Bishop/Major Superior.
No. 1 RIGHTS OF THE ACCUSED

After receiving notice of the complaint, the Church authority (or his/her delegate) shall inform the accused of the nature of the complaint. This should occur as soon as possible unless a delay in so doing is required by civil authorities. The accused needs to be given enough details about the complaint, and the person who was allegedly abused, to be able to offer a response. Thus the accused must always be heard and a response regarding the allegations should be solicited from the accused.

The accused has his rights to a legal assistant and right of defence in terms of canons 1723 and 1481.

a. The accused shall be offered a support person (not a therapist or psychologist) to represent the needs of the accused and to facilitate liaising with Church Authority, his delegate or other resource persons.

b. The Church Authority (or his delegate) shall seek a response from the accused to determine whether the facts of the case are significantly disputed. There is no need to be an assessment of the facts if the Church Authority is satisfied of the validity of the complaint.

g. If however, there is a significant dispute or uncertainty as to the facts, or where there is a need for further information concerning the complaint an assessor or two assessors are to be appointed by the Church Authority to review the case. The assessor chosen must be and be seen to be independent of the Church Authority, the complainant and the accused.

The CDF after studying the case presented by the Bishop/Major Superior will authorise the local Bishop to conduct a judicial trial before the local tribunal. Or it may authorise the local Bishop to conduct an administrative penal process before a delegate of the local Bishop assisted by two assessors. The accused cleric is called to respond to the accusation and to review the evidence. The accused has a right to have recourse to the CDF against a decree condemning him to a canonical penalty.

The accused has his rights in such a procedure as has been spelt-out in Can. 1729 and 1418.

Should the cleric be judged guilty, both judicial and administrative processes can condemn a cleric to a number of canonical penalties, the most serious of which is dismissal from the clerical state.

In very grave cases, where a civil criminal trial has found the cleric of sexual abuse of minors or where the evidence is overwhelming, the CDF may choose to take the case directly to the Holy Father with the request that the Pope issue a decree of dismissal "ex officio" from the clerical state. There is no further recourse beyond a Papal decree.

In cases where the accused cleric has admitted to his crimes and has accepted to live a life of prayer and penance, the CDF authorises the local Bishop to issue a decree, not excluding dismissal from the clerical state.

Administrative recourse is possible against such decrees. The decision of the CDF, however, is final.

5. He/she shall arrange interviews with the complainant and the accused separately, and where feasible, such other persons as well aid assessment process. The Complainant may be invited to have a support person at the interview. Special care will be taken in interviewing a person with an intellectual or psychiatric disability, and any such interview shall be conducted only by a skilled person in interviewing children.

The accused may in person or in writing respond to the complaint. The accused has the right to have a support person during any interview.

6. The records of interviewers and all other documents or materials are to be treated as confidential.

7. If after the assessors' attempts at ascertaining the facts, the accused still does not cooperate, the Church Authority may seek the view of the National Review Board of the CBCSL.

CARE FOR THE COMPLAINANT

1. In the event the Church Authority is satisfied of the truth of the complaint whether through admission of the offender, a finding of a court or a penal process under Canon Law, the Church Authority shall respond to the needs of the victim in such ways as demanded by justice and compassion.

2. The victim has the right in accordance with Canon 1729 to have recourse to the penal trial itself and to bring a contentious action to repair damages incurred personally from the delict, within the same canonical process (Can. 1729 CIC).

3. The Church Authority will offer immediately the complainant and the family assistance in obtaining professional counselling.

4. If the matter is also being examined by Civil Authority it is to be given full cooperation to assist in their investigations.

OUTCOMES RELATING TO THE ACCUSED

1. If a cleric or religious has admitted to or been found guilty of abuse, the Church Authority shall, meet with the offender to discuss honestly and openly the offender's future options. His ministry may be restricted or if the seriousness of the offence so demands, he has to be removed from public ministry if it poses a risk of abuse of children and young people.

2. The Church Authority shall arrange for the accused cleric, a just and fit sustenance during the course of disciplinary or penal process.

3. The accused has his/her rights in accordance with Canon Law – Canons Cc 1823 – 1728. However, the special legal provision as given by the particular law relating sexual abuse of minors by clergy/religious should be followed as regards the above trials.

4. If a cleric after due investigation by the ecclesiastical authority is found not guilty or has been wrongly accused of the crime of sexual abuse of a minor, the Ordinary/Religious Superior shall undertake the responsibility of rehabilitating him/her after the exoneration. Much damage is done to the individual when a false accusation is made. He/she is deeply wounded and the Ordinary/Religious Superior should do his/her utmost to help the falsely accused offender to be rehabilitated with great sensitivity.

The damage done in such a case cannot be easily undone. Thus, the ecclesiastical authority with the collaboration of the Presbytery / Religious Community is bound to restore his/her dignity and good name, and all assistance given to return to ministry.
OUTCOME OF THE PRELIMINARY INVESTIGATION

Allegations which are clearly unfounded or unreliable should be dismissed as such.

1. Once the preliminary investigation is concluded and the ordinary receives the report of an abuse which has even a semblance of truth, he/she is obliged to communicate the matter to the Congregation of the Doctrine of the Faith.

The following information will be required to be forwarded to the Congregation for the Doctrine of the Faith:

a. personal data and curriculum vitae of the accused
b. details of the allegation
c. details of civil proceedings
d. response of the accused (if available)
e. votum of the Ordinary concerning procedure and expediency of any future ministry
f. the accused and his canonical advocate are also encouraged to make representations to the CDF

g. CDF will provide a “Tabella” to the Ordinary/Hierarch to facilitate the provision of information on request.

2. This obligation is applicable to all cases involving “graviora delicta”, reported or committed after 30th April 2001.

3. All documents pertaining to the case with the personal data of the accused, details of allegations, details of Ecclesiastical or civil proceedings and other useful and ancillary information such as risk assessment, psychological evaluations, notoriety of accusations, and impact on the faithful are to be forwarded to the Congregation for the Doctrine of the Faith, according to a “Tabella” provided by the Congregation for the Doctrine of the Faith.

4. As much information as possible including documents and finding of the preliminary investigation, as well as findings of the Review Board or the Consultative organs should be included.

5. Above all these, the “votum” of the ordinary, with a clear statement based on the merits of the case as well as the procedures and measures adopted in the conclusion arrived at, should be forwarded with the above mentioned documents to the Congregation for the Doctrine of the Faith.

FURTHER STEPS BY THE CONGREGATION FOR THE DOCTRINE OF THE FAITH

1. On receipt and study of these documents the Congregation for the Doctrine of the Faith will indicate further steps to be taken by the Bishop/Major Superior.

2. The Congregation for the Doctrine of the Faith will make a definitive judgement on the guilt of the cleric/religious and on his/her suitability for ministry as well as the consequent imposition of a penalty (SST Art. 21 § 2).

3. Measures imposed by Congregation for the Doctrine of the Faith could be:

   a. Authorisation of a penal process according to Canon Law
   b. Declaration or confirmation of disciplinary non-penal measures e.g.: restricting of ministry
   c. Direct intervention of the Supreme Pontiff, which could mandate dismissal from the priesthood, with dispensation from other obligations such as celibacy.
CONCLUSION

All Church Authorities shall take the necessary steps to conduct such in-service programmes for Church personnel as may be necessary to inform clergy and religious, of the principles and procedures set out in this document.

While the distribution of this document is restricted, the publication of the document, and all matters of interpretation, are reserved to the Catholic Bishops’ Conference of Sri Lanka.

Abuse of children, young people and vulnerable adults by Church personnel has done great harm to individuals and to the whole Church. Despite this, it can become an opportunity to create a better Church, but only the response given by the leaders and all members of the Church can guarantee that this tragedy would never again recur.

Prevention of abuse and child protection

More than ever before, the child-abuse crisis has brought into focus that the well-being of the child is a paramount concern for the Church. The Episcopal Conference of Sri Lanka /CMRS will do its utmost to initiate programmes to prevent child abuse by first and foremost, forming all pastoral agents and communities, to educate children and families in this regard. The letter of Pope Benedict XVI addressing the Catholics of Ireland on 19th March 2010 had the following: “In today’s world it is not easy to build a home and to bring up children. They deserve to grow up in security, loved and cherished with a strong sense of their identity and worth. This noble but demanding task is entrusted to the first place to you, the parents, while the Church for her part continues to implement the measures adopted in recent years to protect young people in parish and school environment”.

In the protection of children the CBCSL will pay special attention to screening and formation of pastoral agents. In 2002 Pope (Blessed) John Paul II stated “There is no place in the priesthood and religious life for those who would harm the young”. The directions given by the Apostolic Exhortation “Pastores Dabo Vobis”, emphasise the need for Bishops and Major Superiors, in assuring a proper discernment of vocations as well as a healthy, human and spiritual formation of candidates. In particular, the candidates should be formed in an appreciation of the gift of celibacy and chastity and make them aware of the discipline of the Church in these matters. The Bishops and Major Superiors are required, in regard to candidates who transfer from one seminary to another or between religious institution and dioceses to communicate truthful and honest information regarding such candidates, keeping in mind the good of the Church or religious life.

The Bishops and Major Superiors are required to set up codes of conduct for pastoral agents, requiring clean boundaries that should not be violated, in relationships with people and specially children entrusted to them. Pope Benedict XVI’s words can be a guideline in dealing with cases of sexual abuse by clergy and religious. “In your continuing efforts to deal effectively with these problems, it is important to establish the truth of what happened in the past, to take whatever steps are necessary to prevent it from occurring again, to ensure that the principles of justice are fully respected and above all to bring healing to the victims and to all those affected by these egregious crimes” (Pope Benedict XVI’s address to Irish Bishops, 28th October 2006).

Ultimately it is the serious lack of a deep spirituality that is responsible for these heinous crimes that have caused untold damage to children, God’s faithful and the Church as a whole.