

Don Bosco

Don Bosco

Child PROTECTION Policy

India 2014



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Don Bosco

Youth Animation - South Asia

DBYA-SA

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Don Bosco Child PROTECTION Policy

A Proactive Environment for the Young

The quality of any society can be judged from the way it treats its young and the elderly. From this point of view Indian society notoriously falls short of standards. The scale of child abuse in India is far worse than people generally imagine. Many stern laws have been enacted by the Government to protect children from abuses, and yet the situation remains grim. While much abuse takes place in families and work places, unfortunately it can take place also in institutions of child care and education. Hence it is necessary that a strict code of conduct and stringent measures of discipline be implemented within our own institutions. This is the reason why this Don Bosco Child Protection Policy has been created, following upon the more general Don Bosco Child Policy for India.

This Child Protection Policy will help to eliminate vigilantly all risks of child exploitation and abuse in all our services. The first section gives guidelines for the Provincials, Institutions, Staff and Associates. The second part deals with the procedures and guidelines for dealing with child abuse cases in the Salesian provinces



A handwritten signature in black ink, reading "Fr. Maria Arokiam Kanaga sdb".

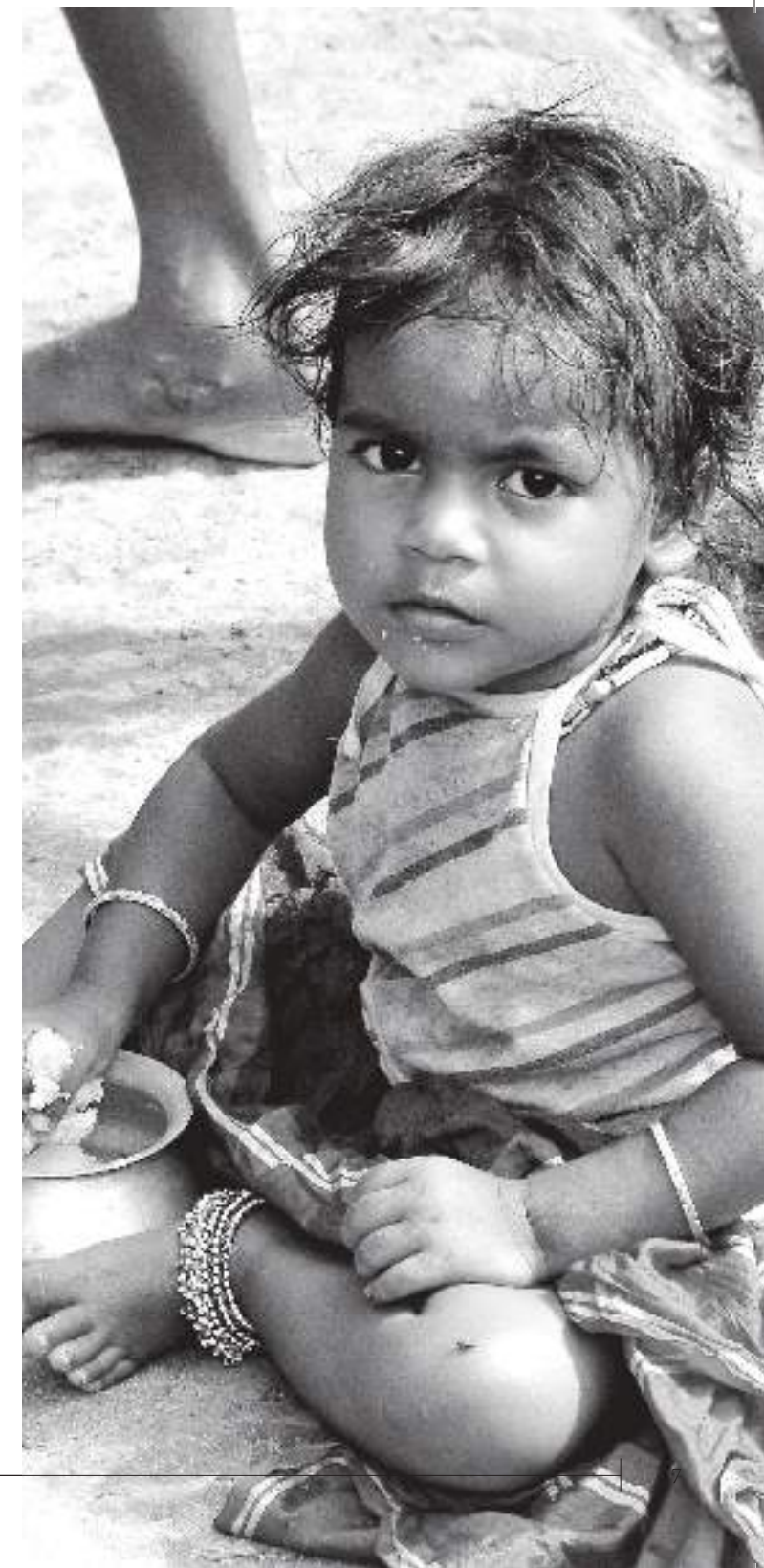
Fr. Maria Arokiam Kanaga sdb
Regional Councillor for the Salesians of Don Bosco
South Asia

in India. These procedures are in harmony with the guidelines of the Code of Canon Law of the Catholic Church and the substantive norms promulgated by the Congregation for the Doctrine of Faith in 2001 and in 2010. This policy integrates the guidelines given by the Salesian Congregation concerning the abuse of minors in 2002 and the provisions of the latest legislation of the Indian Government.

Don Bosco Child Protection Policy - India is a sign of our unwavering commitment to serving the young in our land. While we are far from perfect, we still stand tall as pioneer educators in the society with passionate commitment to the protection and safety of children. Don Bosco's entire system of "assistance" is a framework of constructive presence among the young, involving also rules and regulations, meant to protect and promote children in our institutions. This document is therefore in keeping with our century-long traditions in this field.

The Don Bosco Child Protection Policy, together with the Don Bosco Child Policy, has been approved by the Salesian Provincial Conference of South Asia and comes into effect in all the Salesian Provinces of India from 31st January 2014, the feast of Don Bosco. Our gratitude goes to Fr. Maria Charles and the Don Bosco Youth Animation (DBYA) team which has prepared this policy. Thanks also to all the Salesians and experts who have contributed to it and to the provinces which have discussed it and have given valuable feed-back.

This policy is dedicated to all the children, "that part of human society so exposed to danger and yet so rich in promise" (Salesian Constitutions, art. 1). Let us unite and commit ourselves to remove the shame of child abuse in its various forms from the face of Indian society and to create a safe environment for the flowering of our children into honest citizens and loving members of the society!



Who we are

1.1 We are members of an international religious Order in the Catholic Church, officially known as the Society of St. Francis de Sales, but more popularly known as Salesians of Don Bosco (SDB). This Society was founded in 1859 in Turin, Italy, by Don Bosco, a saint and educator who reached out to the exodus of aimless and homeless youngsters who flowed into the cities of northern Italy in the aftermath of the industrial revolution and pioneered a system of education based on reason, religion and loving kindness that did wonders with those rough and tough kids. Salesian institutions are generally referred to as Don Bosco Institutions.¹

1.2 We specialize in working for young people, taking up any venture that could answer the needs of the young wherever they are. Some of our activities include academic and technical education at all levels, non-formal job-oriented training programmes for those

¹ Constitutions and Regulations of the Society of St. Francis de Sales, Art.1



who cannot enter the mainstream to pursue a career, providing leisure-time activities like youth centres, supportive and empowering services such as counselling, sports, music and arts. A high-priority area for us is the work for the Young at Risk - those who, often through parental neglect or society's failure, have been pushed to the margins and are exposed to all kinds of risks and are therefore the most vulnerable sections in any society.

1.3 We are people who deeply feel called to journey with the young. And we've been doing it for over 150 years across the globe, having presences in over 130 countries. For us it has been an enviable and highly rewarding experience to come to know the young and their world up close walking with them, sharing their dreams, listening to their puzzling questions, joining them in their search, and sometimes gently challenging them and being challenged by them, but always standing by their side offering them a reassuring adult presence as they struggle to find their feet in their topsy-turvy world, both within them and outside.

1.4 We are also part of the Salesian Family - a vast moment of both professed religious and lay persons who share the same charism of Don Bosco, working for the welfare of the young. We also have numerous collaborators all over the world who share in our mission of working for the young. Together we encounter millions of young people every day all over the world.

1.5 In India we have been working with the young from the year 1906 and have established hundreds of Institutions and set up reach-out programmes for the education and development of young people all over the country.



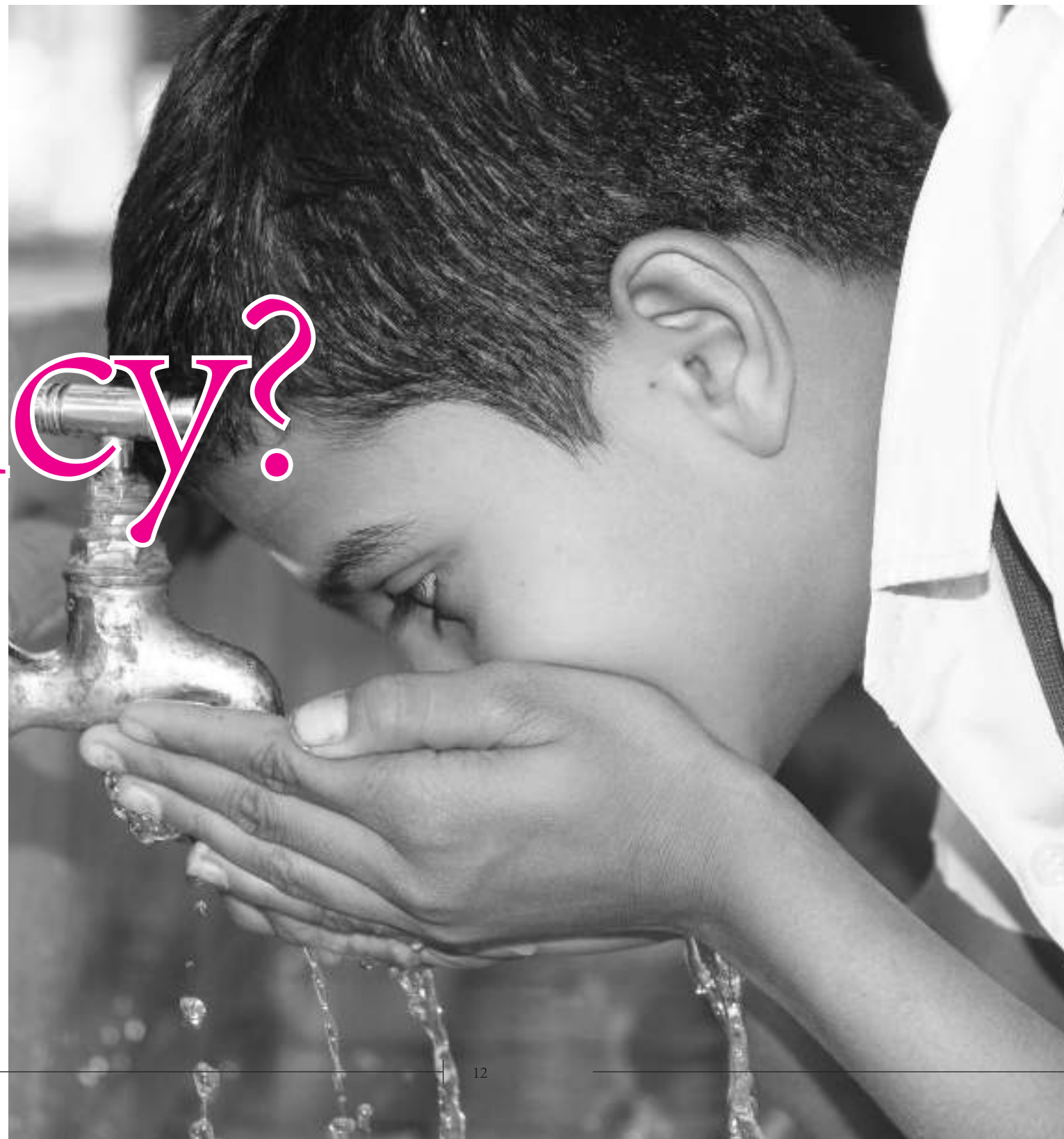
Why this Policy?

2.1 Following Jesus the Good Shepherd and Don Bosco the great apostle of the young, we have committed ourselves to caring for the needs of the young and helping them to reach their potential so that they may enjoy “life in its fullness”.²

2.2 The protection of the children who are under our care is not only our duty and responsibility but also our first priority. We defend them from all possible physical, emotional and spiritual dangers. The 25th General Chapter of the Salesians of Don Bosco directed us to “lay down both at Congregational and provincial levels, norms of behaviour to which all Salesians and their collaborators must conform, so as to prevent the scandals connected with sexual abuse; in this we take advantage also of opportune legal and scientific advice.”³

² John 10:10

³ General Chapter of the Salesians of Don Bosco, 25, Art. 38.



2.3 We the Salesian Provinces of India have the responsibility to take care of the rights of the children in our care. We promote and defend the rights of the children, especially their rights to health, education, development, protection and participation. We are also aware that it is our duty to study, interpret and implement in our activities and institutions the laws enacted in the country for the protection and promotion of the rights of the children.

2.4 This Child Protection policy is a concrete expression of our wholehearted commitment to the welfare, protection and empowerment of the children in our care. We believe it is also a valuable contribution to the many steps the Government and concerned citizens are making towards the care and protection of children in our country.

We endeavour to be the voice of every child under our care by promoting awareness, education, recognition, prevention and intervention.⁴



⁴ SPCSA, Protection of Minors: Policy Statement and Guidelines for use in Salesian Institutions, SPCI House, New Delhi, 2006. P.14.



Scale of Child Abuse in India

3.1 Child Abuse: A Violation of Human Rights - child is any person below the age of 18.⁵ The scale of child abuse in India is far worse than people generally imagine. Child abuse is a violation of human rights of a child and in Indian context, acceptance of child rights is fairly a recent phenomenon. While certain types of child abuse such as physical abuse, sexual abuse, emotional and psychological abuse and neglect issues such as abandonment and, increasingly, problems of street children, are found in almost all countries, there are many issues which are prevalent only in certain regions of the world. For instance, in Asia where population density is high, incidence of child labour and child sexual exploitation are very high. The World Health Organization has estimated that globally 150 million girls and 73 million boys under 18 years experienced forced sexual intercourse or other forms of sexual violence

⁵ For definitions of children and their rights please refer to the “Don Bosco Child Policy India 2013”

involving physical contact.⁶ The ‘Study on Child abuse in India 2007’ conducted by the Ministry of Women and Child Development acknowledges that the scale of child abuse taking place in schools is alarmingly high. According to this study, two out of every three children have been physically abused; 65% of school-going children reported facing corporal punishment; 53.22% children reported having faced one or more forms of sexual abuse. Every second child reported facing emotional abuse.⁷

3.2 Steps taken by the Government of India to protect Children from abuse: Various Acts have been enacted by the Government of India to protect children from various types of abuses. Notable are ‘The Child Labour Prohibition and Regulation Act 1986’⁸ and ‘The Juvenile Justice (Care and Protection of Children) Act 2000’⁹ and the amended Act of 2006.¹⁰ ‘The Protection of Children from Sexual Offences Act, 2012’¹¹, a landmark legislation, has been drafted to strengthen the legal provisions for the protection of children from sexual abuse and exploitation. For the first time, a special law has been passed to address the issue of sexual offences against children in India. The Act takes into account sexual assault, sexual harassment and provides for Special Court, Special Public Prosecutor and speedy trial.

⁶ United Nations study on violence against children, http://www.unicef.org/violencestudy/reports/SG_violencestudy_en.pdf

⁷ <http://wcd.nic.in/childabuse.pdf> pp. vi-vii

⁸ http://pblabour.gov.in/Pdfs/Child%20Labour%20Prohibition%20_%20Regulation_%20Act,%201986.pdf

⁹ <http://wcd.nic.in/childprot/jjact2000.pdf>

¹⁰ <http://wcd.nic.in/childprot/jjactamendment.pdf>

¹¹ <http://wcd.nic.in/childact/childprotection31072012.pdf>

Terms used in

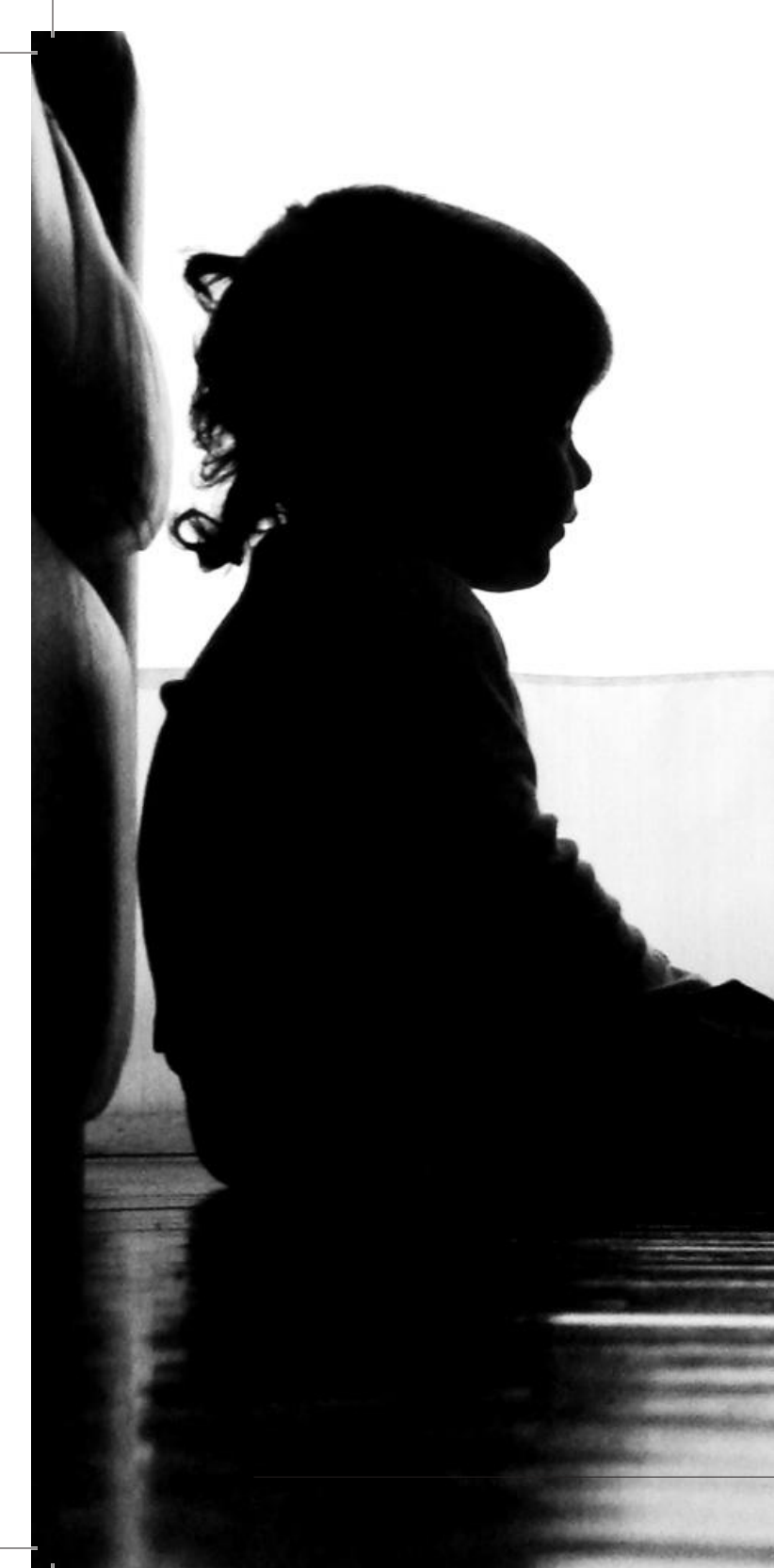
Child Protection



4.1 CHILD PROTECTION

It is defined as the responsibilities, measures and activities that are undertaken to safeguard children from both intentional and unintentional harm. UNICEF uses the term 'child protection' to refer to preventing and responding to violence, exploitation and abuse against children - including commercial sexual exploitation, trafficking, child labour and harmful traditional practices, such as child marriage. UNICEF's child protection programmes also target children who are uniquely vulnerable to these abuses; especially those living without parental care, those in conflict with the law and those in





armed conflict.¹²

4.2 CHILD ABUSE

According to World Health Organization, “Child abuse or maltreatment constitutes all forms of physical and/or emotional ill-treatment, sexual abuse and sexual exploitation, neglect or negligent treatment commercial or other exploitation of a child and any action resulting in actual or potential harm to child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.”¹³

Child abuse may be a deliberate act or it may be failing to act to prevent harm. Child abuse consists of anything which individuals, institutions or processes do or fail to do, intentionally or unintentionally, which harms a child or damages their prospect of safe and healthy development into adulthood.

Child abuse also refers to “any act, deed or word which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.”¹⁴

Child abuse can be categorised into four different types. They are: Neglect, Emotional abuse, Physical abuse and Sexual abuse.

4.2.1 CHILD NEGLECT

Child Neglect is abandonment of a child by a parent, institution or guardian. It is depriving the child of care by not providing appropriate and necessary food, shelter,

¹² http://www.unicef.org/chinese/protection/files/What_is_Child_Protection.pdf

¹³ World Health Organization (1999): Report of the Consultation on Child Abuse Prevention; Geneva, http://www.who.int/violence_injury_prevention/violence/neglect/en

¹⁴ <http://wcd.nic.in/childabuse.pdf> p.13



clothing, medical care and supervision. Neglect includes not providing care or control in respect to physical or emotional or psychological health; the refusal or inability to discharge parental or custodial obligations; and expressions of intention by parent, guardian or institution to discontinue care.

Child neglect is an act of omission or commission leading to the denial of a child’s basic needs. Educational neglect includes failure to provide appropriate schooling or special educational needs. Psychological neglect

includes lack of emotional support and love.¹⁵

4.2.2 EMOTIONAL ABUSE OF CHILD

It is the persistent emotional maltreatment that would adversely affect the child’s emotional development. It may involve conveying to children that they are worthless or unloved, inadequate or valued only insofar as they meet the needs of another person. This may be expressed verbally or non-verbally or via electronic or written communication or any other form.

Emotional abuse includes verbal abuse, mental abuse, and psychological maltreatment. It also includes parents’ or caretakers’ acts or the failure to act that cause or could cause, serious behavioral, cognitive, emotional, or mental trauma. This can include parents/caretakers using extreme and/or bizarre forms of punishment, such as confinement in a closet or dark room or being tied to a chair for long periods of time or threatening or terrorizing a child. Less severe acts, but no less damaging, are belittling or rejecting treatment, using derogatory terms to describe the child, habitual tendency to blame the child or make him/her a scapegoat.¹⁶

4.2.3 PHYSICAL ABUSE OF CHILD

The Ministry of Women and Child Welfare in its study on Child Abuse define Physical abuse as “inflicting of physical injury upon a child. This may include burning, hitting, punching, shaking, kicking, beating or otherwise harming a child even when the parent or caretaker may not have intended to hurt the child. It may, even be the result of over disciplining or physical punishment that is inappropriate to the child’s age”.¹⁷

¹⁵ <http://wcd.nic.in/childabuse.pdf> p.4

¹⁶ <http://wcd.nic.in/childabuse.pdf> p.3.

¹⁷ <http://wcd.nic.in/childabuse.pdf> p.3



4.2.4 SEXUAL ABUSE OF CHILD

Sexual abuse of child, according to American Psychological Association, “is the dominant position of an adult that allows him or her to force or coerce a child into sexual activity. Child sexual abuse is not solely restricted to physical contact; such abuse could include noncontact abuse, such as exposure, voyeurism, and child pornography”¹⁸.

According to “Child Abuse: India 2007”, Sexual abuse is inappropriate sexual behaviour with a child. It includes fondling a child’s genitals, making the child fondle the adult’s genitals, intercourse, incest, rape, sodomy, exhibitionism and sexual exploitation. To be considered ‘child abuse’, these acts have to be committed by a person responsible for the care of a child (for example a baby-sitter, a parent, or a day care provider), or related to the child. When these acts are committed by a stranger it is considered as sexual assault¹⁹

The Protection of Children from Sexual Offences Act 2012 enumerates various sexual offences against children such as penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment and use of child for pornographic purposes. This Act specifies that if such penetrative sexual assault or sexual assault are committed by persons responsible for the children (as indicated in nos. 5 & 9), then they would be considered “aggravated” crimes.²⁰ The Act further prescribes punishments for various crimes as indicated above.²¹

¹⁸ <http://www.apa.org/pubs/info/brochures/sex-abuse.aspx>

¹⁹ <http://wcd.nic.in/childabuse.pdf> p.3

²⁰ <http://wcd.nic.in/childact/childprotection31072012.pdf> Art. 5,9.

²¹ Punishments for Offences covered in the Act are: Penetrative Sexual Assault (Section 3) – Not less than seven years which may extend to



4.3 CHILD EXPLOITATION:

Child exploitation is using a child unfairly for one’s advantage. Child sexual exploitation is when someone grooms and controls a child for a sexual purpose.

Grooming children for a sexual purpose: This involves befriending the children, gaining their trust, giving them drugs, alcohol or gifts, asking them to perform sexual acts as a favour or in exchange for something.

Grooming children online for the purpose of sexually abusing them: This involves an adult who pretends to be a child by befriending the child through online chat rooms, social networking websites, email, mobile telephone messaging, gaining their trust, and stalking their online activities.

imprisonment for life, and fine (Section 4), Aggravated Penetrative Sexual Assault (Section 5) – Not less than ten years which may extend to imprisonment for life, and fine (Section 6), Sexual Assault (Section 7) – Not less than three years which may extend to five years, and fine (Section 8) Aggravated Sexual Assault (Section 9) – Not less than five years which may extend to seven years, and fine (Section 10), Sexual Harassment of the Child (Section 11) – Three years and fine (Section 12), Use of Child for Pornographic Purposes (Section 13) – Five years and fine and in the event of subsequent conviction, seven years and fine (Section 14 (1)).

Guidelines for Child Protection in Salesian Provinces in India

5.1 GENERAL NORMS FOR THE SALESIAN PROVINCES:

5.1.1 The Salesian Provinces of India will exercise vigilant management to eliminate all risks of child exploitation and abuse.

5.1.2 Any allegation of child abuse must be reported to the Rector/Director/Local Superior of the Salesian Institutions and the Provincial/Major Superior (and the Vice Provincial in the absence of Provincial) of that jurisdiction or to the Provincial Commission for Professional Standards.

5.1.3 The Salesian Provinces/Institutions will stand by the victims of child abuse, shall respond to the child

abuse report immediately and shall monitor internal and external compliance with the child protection policy.

5.1.4 As prescribed by the Law, the Salesian provinces/Institutions commit to fully cooperate with legal authorities, if ever a child abuse is denounced against anyone working in our institutions.

5.1.5 As demanded by Law, the province will support any ensuing investigation by any recognised authority.

5.1.6 The Salesian Province/Institution assures any



Salesian, Staff, Child or any person reporting about child abuse, that their concerns will be taken seriously and treated sensitively.

5.1.7 The Salesian province/institution will not tolerate harassment of any Salesian, Staff, Associate, visitor or child who raises concerns of child abuse.

5.1.8 When someone working in our Institutions is alleged to have abused children, the Salesian province will supervise the individual concerned and may offer remedial care, but in its commitment to the protection of children, it will set boundaries for that person, which may include suspension and separation from children and eventually also termination of professional/work contract.

5.1.9 False allegations do occur. However, if children

indicate that they are being abused or information is obtained which gives concern that a child is being abused, this should never be ignored and the burden of proof falls on the accused.

5.1.10 The Salesian Province/Institution shall take appropriate disciplinary or legal action against Staff,

Associates and Visitors of Don Bosco institutions who make false and malicious accusations of child abuse.

5.1.11 No Salesian province/Institution will stand responsible for any perverse action of any individual employed, accommodated, endorsed, and admitted into its society.

5.1.12 A proper balance must be maintained between protecting children and respecting the needs and rights of those caring for the children and adults. However, the

welfare of the child is paramount.

5.1.13 In connection with sexual abuse of a child, due regard must be given to the criminal dimension of any action while affirming that it is the statutory duty of the civil authorities, not individuals or organisations, to investigate reports of child abuse.

5.2 THE ROLE OF THE SALESIAN PROVINCIAL IN SAFEGUARDING THE CHILD PROTECTION POLICY:

5.2.1 The Salesian Provincial together with the Provincial Commission for Professional Standards has the ultimate responsibility for the Child Protection Policy and procedures within the Province. He promotes child rights, encourages rights-based approach in the Province while vigilantly following up the safety of children in all the Salesian Institutions of the Province.

5.2.2 He oversees the development, review, implementation, record-keeping, training and safeguarding of the “Child Protection Policy for the Salesian Provinces in India” within the Province.

5.2.3 He appoints members for the Provincial Commission for Professional Standards for overseeing the Salesian Institutions in safeguarding children.

5.2.4 He is responsible, together with the Provincial Commission for Professional Standards, for processing and dealing with allegations of child abuse in conjunction with the civil authorities.

5.2.5 He is responsible for cooperation and liaison with other Salesian Provinces for the protection of children.

5.3 GENERAL NORMS FOR THE SALESIAN INSTITUTIONS:

5.3.1 Every Salesian Institution undertakes to protect the children from all forms of child exploitation and child abuse. The Institution shall take all appropriate measures to prevent any inducement to coerce of children; and any exploitative use of children.²²

5.3.2 All the Salesian Institutions shall maintain an open culture where Salesians, Staff, volunteers, children,

parents or guardians feel comfortable to express concerns about child protection issues and issues of dealing with children and vulnerable adults.

5.3.3 Severe action – which may include filing criminal complaints as well as severance of employment – against anyone (staff or volunteer or other persons) suspected of child abuse or inappropriate behaviour.

5.3.4 Children who are victims need to be cared for by professionals and by responsible persons who have the skills to give proper care.

5.3.5 All records about the children of our Institutions and their families along with information regarding their status will be maintained in strict confidentiality by all our Salesian Institutions.

5.3.6 The Don Bosco Institution, in accordance with the Child Protection National and State legislations, along with the Child protection ecclesiastical/Church legislations and with the Don Bosco Child Protection



Policy India, shall initiate appropriate action against staff, including temporary, contract staff, volunteers or anyone who is associated with the children in the Institution, if the person:

- Behaved in a way that has harmed or may potentially harm a child or put them at risk;
- Committed a criminal offence against a child;
- Behaved towards a child in a way which indicates she/he is unsuitable to work with children;
- Has previously been involved in child abuse.

5.4 GENERAL NORMS FOR THE SALESIANS OF DON BOSCO:

5.4.1 As followers of St John Bosco, for whom the dignity and welfare of the young person was paramount, the Salesians endeavour to live and be faithful to his wise and

strong principles regarding the dignity of children. The preventive prescriptions he strongly indicated should be put into practice.

5.4.2 The Salesians of Don Bosco shall strive to ensure that the children are never abused and/or exploited or placed at the risk of harm by any act or behaviour in the Salesian Institution.

5.4.3 “Any Salesian who becomes aware of abuse perpetrated on the young by a confrere is obliged to inform the Provincial personally”²³

5.4.4 When a Salesian who has completed the initial formation admits guilt, does not contest guilt, or there is a finding of guilt, with regard to a grave act of sexual abuse of a child, that person is removed at once from every public, pastoral or educative ministry, and placed in a position where the possibility of contact with children will be minimal. Following all the ecclesiastical legislations and procedures on *delicta graviora*, he may



be dismissed from the religious life and/or clerical state, if the case so warrants.²⁴

²³ Pascual Chavez, (Rector Major’s Letter of 19th July 2002).

²⁴ Cfr: Code of Canon Law 1395:2, Cfr. Cong. Doctrine of Faith, Norms on grave delicts, 2010.

²² <http://www2.ohchr.org/english/law/crc.htm> Art. 34.

5.4.5 The Salesians shall ensure safe environment for the children by supervising their activities constantly by following the Preventive System of Don Bosco.

5.4.6 Children must not be expelled from the care of the Institution arbitrarily by an individual Salesian; it must be a result of a consultative process among appropriate persons that keeps in mind the spirit of the child policy.

5.5 GENERAL NORMS FOR THE STAFF IN A SALESIAN INSTITUTION:

5.5.1 The Salesian Institution shall ensure that all staff be appointed, trained, supported and supervised in their working with children.

5.5.2 All staff shall receive regular training on child protection issues and on their obligations under this policy. Training is compulsory for all staff.

5.5.3 If staff learns about any child abuse in a Salesian Institution he/she is expected to report to the Superior of the Institution or the Provincial without fail. The Staff needs to report any child abuse and protection concerns they have in accordance with applicable laws of our country. This is a mandatory requirement for Staff. Failure to do so may result in disciplinary action.

5.5.4 All the Staff must sign a statement stating that they are aware of the contents of the child Protection policy of Salesian Provinces of India and would respect and abide by it and understand that disciplinary or penal actions would be taken in cases where their behaviour is not in accordance with the policy.

5.5.5 Children must not be disciplined through any forms of violence against the child. Appropriate disciplinary action will be taken against staff who exercises corporal punishment on children.

5.5.6 All the staffs need to be aware that they may work

with children who because of the circumstances and abuse they have experienced in life may use a relationship to obtain special attention. The staff is always expected to behave appropriately and be responsible for the interaction with a child even when it appears that a child is acting in a provocative or seductive manner.

5.5.7 The staff shall not exercise inappropriate behaviour towards children; failure to behave according to the Don Bosco Child Protection Policy India can lead to disciplinary action up to and including dismissal from employment/ volunteering/ internship/ board/ committee membership etc.

5.5.8 All the staff must be concerned about perception and appearance in their dress, language, action, and relationship with children. It is important to maintain an appropriate standard of behaviour in the presence of children. (For example, they should not use any unbecoming language, tobacco products and liquor in the presence of children who are under the care of the Institution.)

5.5.9 All the staff ought to cooperate fully and confidentially in any investigation of concerns and allegations of child abuse.

5.5.10 The Staff must not disclose information of children or make it available to the general public unless that disclosure is in accordance with standard Salesian policies and procedures.

5.5.11 All staffs who belong to various institutions in the Salesian Provinces of India must comply with Don Bosco Child Protection Code of Conduct (Ref. Appendix 4) which sets stringent standards for personal behaviour.

5.6 GENERAL NORMS FOR THE ASSOCIATE/VISITOR IN A SALESIAN INSTITUTION:

5.6.1 No unannounced visits to children by donors or supporters will be allowed.

5.6.2 The community around the child in our boarding/ hostel/ Institution will be encouraged to report any unauthorized visits and will attempt to thwart such activity.


5.6.3 Any requests for volunteering and social work in our project locations will be entertained only after rigorous verification of the request and carried out by local Institution and the Provincial to be duly informed about such an agreement.

5.6.4 Prior Permission is needed from authorized persons for volunteers and external persons for photographing, video graphing, and recording children/children's events and for use of these materials for purposes outside the objectives of Salesian Provinces.

5.6.5 Associates and Visitors of Don Bosco Institutions must not disclose information of children or make it available to the general public without explicit consent from the Salesian Community or the Province.

We work for the integral formation of the child and we firmly believe that our education and intervention will enable the young to become more balanced and integrated. We the Salesian Provinces of India are respectful of the rights and freedom of each individual.





We uphold and promote their rights. We commit ourselves to creating a safe environment for the children under our care. We strive to protect the children from all types of abuse in our Institutions. We take responsibility to help the victims of abuse in obtaining justice and offer pastoral care and psychological counselling to the victimised child and the family. The Salesian Provinces of India pledge to promote the wellbeing of the children and their empowerment by faithful adherence to this child policy in all our Salesian Institutions.

Concluding
Remarks for the

Policy

Procedures and Guidelines for dealing with child abuse in Salesian Provinces of India



GUIDELINES FROM THE CONGREGATION

In a letter addressed to the Salesian Provincials, titled, "Some Guidelines concerning the Abuse of Juveniles, dated 19 July 2002 the Rector Major and the General Council asked each province to set up an "appropriate committee for dealing with alleged cases of abuse," and described its competence and duties in broad lines. The following text is based on the guidelines given therein and in the Code of Canon Law, both of the Latin (CIC) and Oriental Churches (CCEO) and the special norms promulgated by the Congregation for

the Doctrine of Faith on *Delicta graviora* (grave delicts/ crimes) of 2001 and of 2010.

7.1 ESTABLISHMENT AND COMPOSITION OF THE PROVINCIAL COMMISSION FOR PROFESSIONAL STANDARDS

(i) Each Province shall set up a Provincial Commission for Professional Standards, appointed by the Provincial to assist the provincial in his task of dealing with alleged cases of sexual abuse of children.

(ii) The Commission is made up of three to five competent persons like a legally trained person, a psychologist, a priest, a canon lawyer and possibly other members endowed with wisdom and prudence. A woman member shall be compulsory. It is recommended that some members of the Commission be lay persons. The names of the Commission members are made known to the province.

(iii) The Coordinator and members of this Commission are appointed by the Provincial for a term of three years, renewable at the end of the term. The Coordinator is normally the Vice Provincial.

(iv) At the beginning of their office, each member of the Commission should take an oath of office and should sign a declaration, in front of the Provincial, to strictly abide by these policies, to act always according to the indications of the Code of Canon Law both of the Latin (CIC) and Oriental Churches (CCEO) and of the special norms of the Congregation for the Doctrine of Faith on grave delicts. They should also promise to uphold "papal secrecy" (as required by the special norms of CDF of 2010) and "professional secrecy" also valid in civil law, which absolutely prohibits them to use or share even indirectly any information received or discussed as members of the Commission for purposes not foreseen by these policies and norms.



7.2 COMPETENCE AND PURPOSE OF THE PROVINCIAL COMMISSION FOR PROFESSIONAL STANDARDS

(i) The Provincial Commission for Professional Standards exists to investigate cases of child sexual abuse in keeping with the directives of the Church Law especially Canon Law and of the Salesian Congregation, to provide advice and to review policies and has no independent power or authority.

(ii) The Provincial Commission for Professional Standards shall:

- Examine alleged cases of sexual abuse of children on the part of Salesians or an employee in a Salesian Institution, for the purpose of informing the Provincial of the innocence or culpability of the accused.

- Suggest to the Provincial modes of procedure in conformity with the laws of the country, state and the Church.

- Interview the accused, the victim(s), and other persons of interest.

- Propose to the Provincial criteria and guidelines for the Province in dealing with the victim, the accused and members at risk.

- Suggest to the Provincial's pastoral response to the individual making the allegation and to his/her family

- Maintain contact with the parallel committee of the diocese.

- Offer to the provincial opinion concerning the suitability of the accused person for continuing his or her work in the Salesian Institution or if Salesian, in religious life and/or ministerial priesthood.





7.3 OFFICERS

(i) The Coordinator of the Provincial Commission for Professional Standards shall chair the meetings of the Commission. He shall ensure that the work of the Commission is properly documented and communicated to the Provincial and appoint other ad hoc assistants from among the other Commission members as may be required to accomplish the work of the Commission. These ad hoc assistants should take the oath of office and sign the above mentioned declaration in front of the Coordinator. They too are bound by both civil “professional secrecy” and canonical “papal secrecy”.

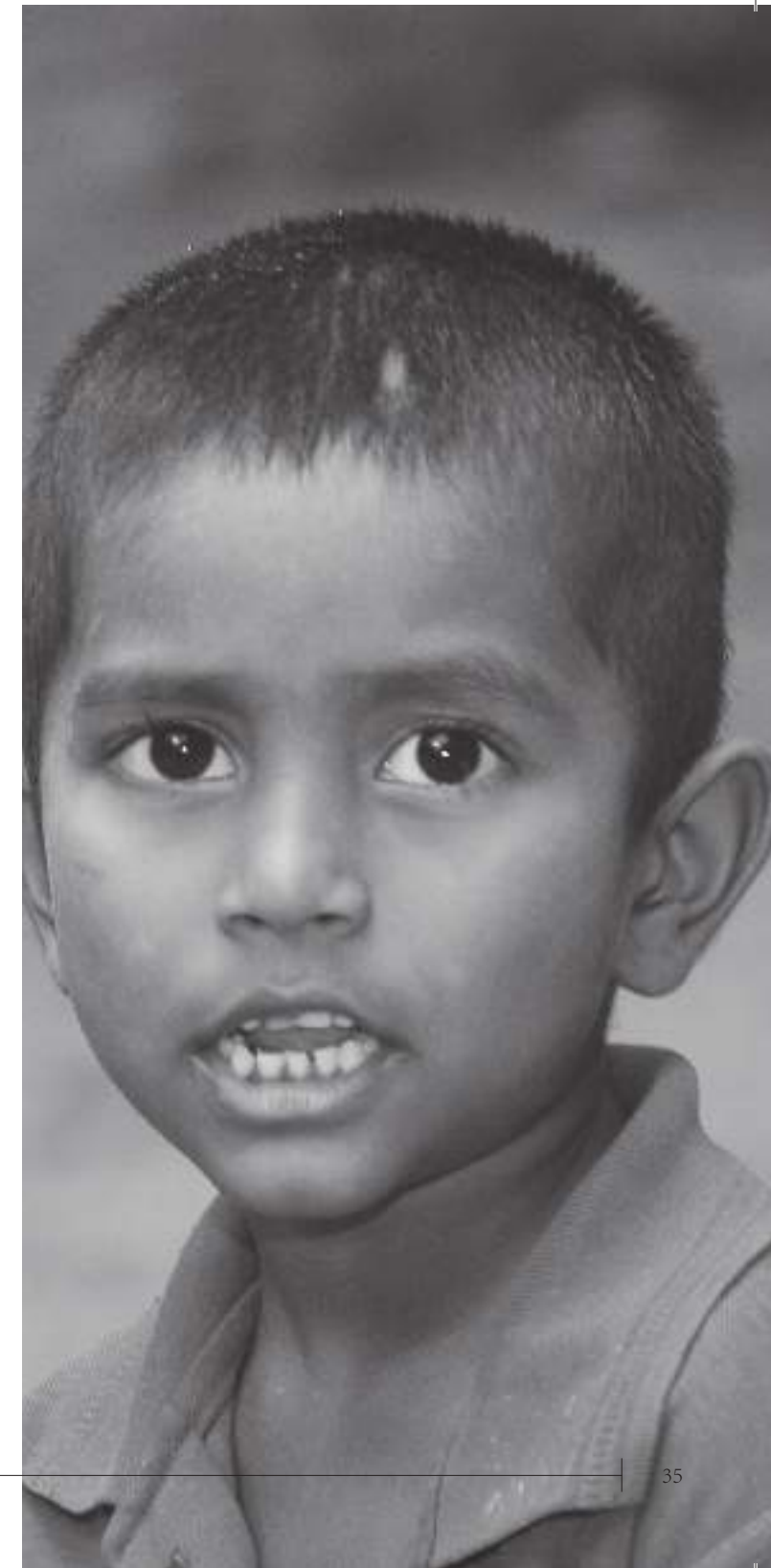
(ii) At the beginning of each meeting of the Provincial Commission for Professional Standards, the coordinator shall appoint a recording secretary to record the decisions and other relevant actions of the Commission.

7.4 RECORD MAINTENANCE

(i) The Provincial Commission for Professional Standards shall maintain a file on every case or matter it considers. Each file shall contain a written description of the matter presented to the Commission, a written report of the investigation conducted, conclusions reached, and a written summary of the advice given to the Provincial.

(ii) The files of the Provincial Commission for Professional Standards are the exclusive property of the Province whose member is being investigated.

(iii) The records kept and all other documents and information received by the members of the Commission shall be treated as confidential and thus under the “professional and papal secrecy” mentioned above.



7.5 OPERATING PROCEDURES

7.5.1 Preliminaries - Responding to a complaint (applicable in all cases)

(i) The complaint about any abuse is a right, as well as a duty of the victim him/herself, who needs to inform the Salesian Provincial either personally or through parents or guardians. This is motivated by the fact that the victim and other potential victims have the right to be protected from future abuse and that the primary responsibility to provide a valuable help in such cases is the Provincial himself. The complaint, as seen above, should be given also by any Salesian who knows of any sexual misbehaviour towards a minor.

(ii) Under no circumstances shall there be any attempt to intimidate a complainant or to dissuade a complainant

from proceeding with a complaint.

(iii) When there is an allegation, which according to the considered judgement of the provincial needs further investigation, the Provincial shall notify the coordinator of the Commission. The Coordinator shall promptly contact the other members of the Commission and schedule a meeting as soon as practical. In case of an allegation against a Salesian, an Instructor-Judge (who could well be the coordinator of the Commission) and a Notary shall be appointed by the Provincial to carry out the “Preliminary Investigation” (as indicated in 6.5.3). Both the Instructor and the Notary shall be priests, if the accused is a Salesian priest.

(iv) The Provincial shall provide the Commission with all the information that is at his disposal relevant to the matter under consideration.



(v) It may happen that in the course of the investigations the complainant does not pursue the case or does not show interest in the case after the initial complaint. In such a situation the investigation may not be initiated and it is considered as officially closed three months from the day the complaint was accepted. [At times the investigation may not be initiated because the complainant shows no interest in the case indicating that the complaint may not be true].

(vi) Where the complainant is not the victim, the coordinator shall, after informing the complainant, seek a written statement from the victim with the help of the parents or guardians or skilled child-experts. If the facts are disputed, and it is not possible to get the above written statement of the victim, then it may not be possible to proceed any further in dealing with the complaint unless relevant information from other reliable sources is available.

(vii) The coordinator may suggest to the provincial to close a matter if the complainant and/or the victim decide not to cooperate with the process and there is no reasonable ground of getting reliable information from other sources.

(viii) If the Provincial Commission for Professional Standards proposes to reject the complaint itself, then it must provide reasons for its proposal to the provincial, who could communicate the same to the complainant.

(ix) The Coordinator shall inform the accused of the nature of the complaint if it is possible to do so. The accused needs to be given enough details about the complaint, and the complainant to be able to make a response. The accused shall be entitled to information about the process for dealing with the complaint. The accused will be offered the possibility of choosing a support person, if needed, from a list of support persons indicated by the province. The accused may choose



- someone of his preference from outside the list also.
- (x) The Coordinator shall seek a response from the accused within a specified time limit in order to determine whether the facts of the case are significantly disputed.
 - (xi) The Commission may make a recommendation concerning any immediate action that needs to be taken in relation to the protection of vulnerable children and adults.
 - (xii) The Commission may suggest to the provincial that the accused stand aside from a particular office or from all offices held in the Salesian institution or province, pending investigation. The provincial may seek the opinion of others involved in the matter before making a decision, and shall give the accused the opportunity to be heard on the matter.



7.5.2 Proceeding with the Investigation (case of non-Salesian)

- (i) As the first step in furthering the investigation, the coordinator should interview the victim. Where the complainant is not the victim, the coordinator shall not make arrangements to interview the victim without first discussing the matter with the complainant. If the facts are disputed, and it is not possible to interview the person who has been victimized, then it may not be possible to proceed any further in dealing with the complaint unless relevant information from other reliable sources is available.
- (ii) When a child has to be interviewed the coordinator shall get the services of someone professionally recognized as skilled in interviewing children. The province shall make available the names of skilled practitioners in interviewing children.
- (iii) Special care shall be taken in interviewing persons with intellectual or psychiatric disability. Only a qualified and experienced person shall conduct such interviews.



(iv) The coordinator might suggest to the Provincial to close the investigation if the complainant decides not to cooperate with the process and there is no reasonable ground of getting reliable information from other sources.

(v) The coordinator shall arrange an interview with the accused if the person is available and willing to speak to the coordinator or other members of the Provincial Commission for Professional Standards. If the accused does not wish to cooperate with the process, the process will continue and reach a conclusion concerning the truth of the matter so that the provincial can make an appropriate response to the complainant.

(vi) Where an interview has to take place with the accused, the coordinator shall inform the accused that in Church law a person is presumed innocent till proven guilty. An accused person may be invited to admit to an offence but is not bound to do so, nor may an oath be administered (CIC can. 1728 § 2, CCEO can. 1479).

(vii) The accused has a right to obtain independent legal advice. The accused is entitled to have one support person of his/her choice during any interview. The details about the chosen support person shall be made known to the coordinator at least a few days before the interview. A written declaration may be requested from the support person that he would abide by this policy.

(viii) Decisions about who should be interviewed are made after taking into account also the wishes expressed by the complainant and the accused. In case of contradictory claims, the coordinator might call ex officio persons, who might know the complainant and the accused or are close to them.

(ix) The Coordinator will make known to the complainant the version of events as presented by the accused.

(x) The province is not required to disclose documents which it has an obligation to guard as confidential to the accused or to any other person.

(xi) A written record shall be made of all interviews with the help of a notary/secretary.

(xii) The coordinator will provide a written report to the



provincial of the findings. The coordinator shall make known all the documentation and the results of interview to all the members of the Provincial Commission for Professional Standards and discuss the gravity of offense, if any, committed by the accused. They shall also comment on how serious the offence was from a pastoral and professional perspective and the suitable punishment to be imposed. Their final recommendations should be made known to the Provincial, who discusses the facts and the gravity of the offence with his council and takes appropriate decisions.

(xiii) The complainant and the accused are entitled to know the findings of the assessment promptly. The provincial might communicate this to them or may delegate the Coordinator to do this.

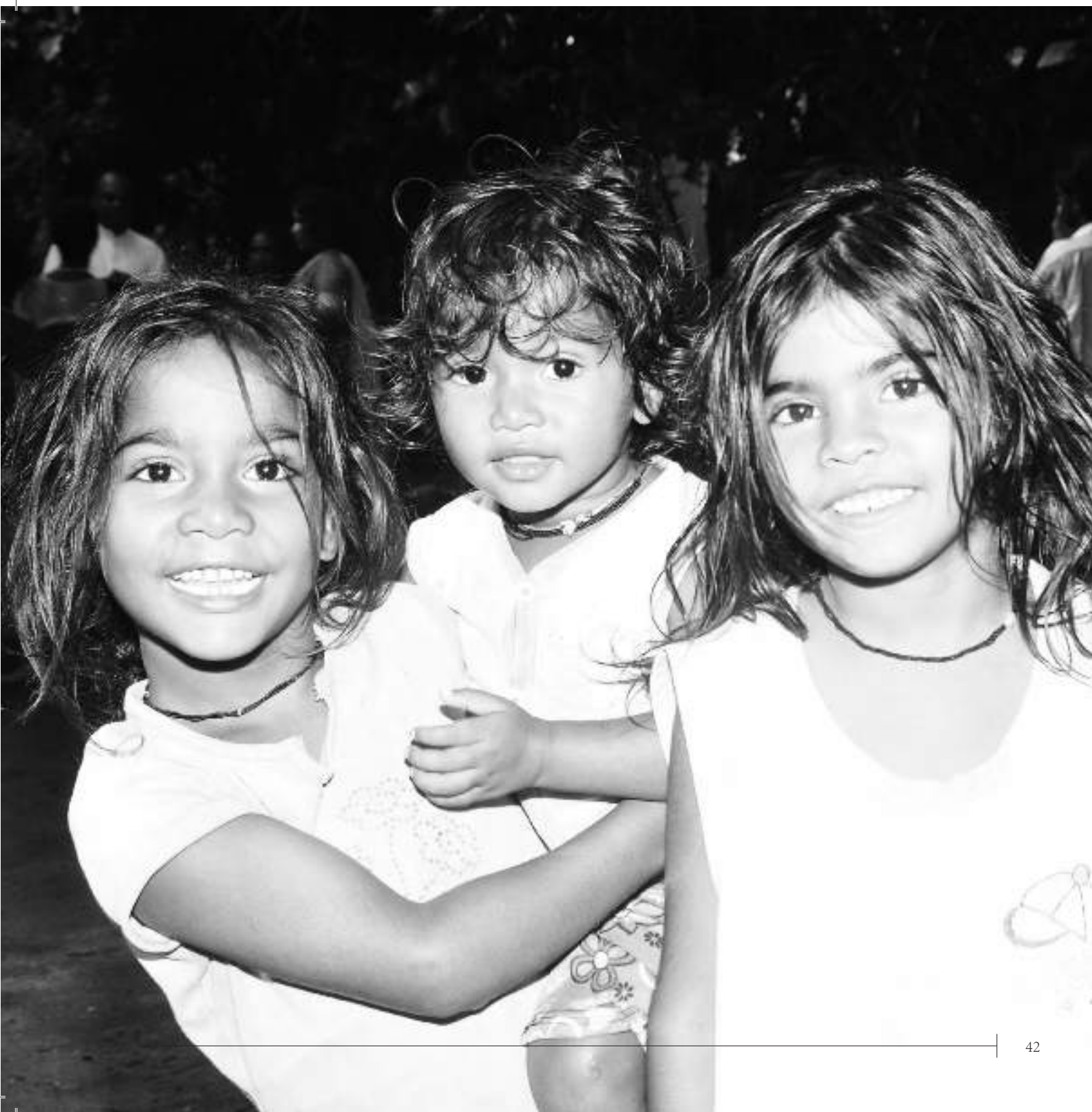
(xiv) If the Provincial Commission for Professional Standards decides to reject the complaint, then it must provide reasons for its decision

(xv) During the assessment, and therefore, at a time when guilt has been neither admitted nor proven, the issue of guilt, liability or the particular course of action that may follow assessment cannot be commented upon.

(xvi) As the assessment process is a difficult and trying time for all concerned, particularly the complainant and the accused, the process of assessment shall be undertaken and concluded as quickly as possible (not exceeding three months) .

(xvii) The records of the interview and all other documents are to be treated as confidential.

(xviii) The process of investigation is complete in relation to the complainant when the provincial gives a response to him/her at the end of the investigation. The process is complete in relation to the accused when the provincial has made known to the accused his findings as well as his decision concerning the ministry/profession of the accused person.



7.5.3 Proceeding with the “Preliminary Investigation” – of an accusation against a Salesian

- (i) The provincial must - with certified letter or orally before two witnesses - notify the accused Salesian that an ecclesiastical investigation has been initiated against him, inviting him to assist the same, especially in self-defence.
- (ii) The Instructor-Judge, investigating the facts, must gather evidence, interviewing people (salesians or even non-salesians), who know the accused Salesian and who could witness about the accused Salesian and on the accuracy and reliability of the facts, bringing such evidences as necessary. The interrogation of the witnesses can be done - preferably - by interview (questions and answers), but also possibly with a written affidavit (in this case with an indication of questions to be answered which are given by the instructor-Judge). Starting with the bio-data of the witness (name, age, condition, current assignment, how long he knows the accused), the interview shall address the facts that are the subject of the complaint: whether the witness knows of the complaint; whether s/he knows the victim and the details of the facts and its circumstances; whether the accused is culpable of such an act; what measures have been taken or what should be taken, etc. Of the testimony of each witness a written report must be made, signed by the witness, the Instructor-Judge and the Notary.
- (iii) The Instructor-Judge should get the versions of the facts from the victim/s either through a personal interview or a written affidavit.
- (iv) The Instructor shall also interview the accused Salesian, by giving an opportunity to defend himself (presenting clearly the charges against him, asking his version of the facts and about his own responsibility, along with his own proposals for his future) and by asking him specifically if he wishes to apply for dispensation

from clerical state and from celibacy. The report of the interview shall be drawn up and signed by the Salesian and by the instructor-Judge and notary.

(v) At the end of the preliminary investigation, the instructor-Judge should provide (based on evidences gathered), a report, on the reliability of the evidence, the veracity of the facts and the specific responsibility of the accused.

(vi) The provincial examines along with his council the results of the investigation, especially the evidence and facts, the responsibility of the accused and the disciplinary measures that are to be taken. Along with the votum of the council, the provincial shall present a personal report on the case, along with the procedural steps taken in the above case.

(vii) If the accusations have been verified, the Provincial will inform the Local Bishop and will send all the documentation with his final report to the Rector Major.

(viii) The Rector Major, after deciding along with his council, would forward the whole documentation to the Congregation for the Doctrine of Faith, which has the exclusive competence over this matter.²⁵

(ix) After examination, the CDF might specify the administrative or penal process for further investigation or could apply dismissal from the clerical state and/or from the Salesian congregation.

²⁵ CDF, Norms on grave delicts of 2010. Art. 6 § 1. The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are: 1 the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor. 2 the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology; § 2. A cleric who commits the delicts mentioned above in § 1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition



Actions to be taken when one is found guilty

8.1 THE DUTY OF THE PROVINCIAL AND HIS COUNCIL

Once the Provincial has received the findings of the Provincial Commission for Professional Standards, he will present the findings to his Council, which gives its judgment, expressing this also by a vote. The Provincial, after consulting his Council, will also decide on the measures to be adopted (such as the termination of employment or, if Salesian, the prohibition to exercise the salesian/priestly ministry and possible dismissal).

8.2 ACTIONS TO BE TAKEN WHEN AN EMPLOYEE IS FOUND GUILTY

(i) If an employee admits guilt, does not contest guilt, or there is a finding of guilt, with regard to a grave act of sexual abuse of a child, his or her services are immediately terminated without prejudice to existing State/Labour

Laws. Adequate safeguards are taken to assure that the Salesian Society does not employ the individual in any capacity.

(ii) For the evil/criminal act committed and the legal consequences that arise from it he/she alone is responsible

(iii) He/she is exhorted to own his/her responsibility and to cooperate fully with any investigation that may be initiated.

(iv) The Salesian Institution will accompany him/her according to the demands of Christian charity to face the new situation.

8.3 ACTIONS TO BE PROPOSED WHEN A SALESIAN IS FOUND GUILTY

(i) If a Salesian member, who has completed the initial formation (e.g. Perpetually Professed Salesian Brother, Priest) admits guilt, does not contest guilt, or there is a finding of guilt, with regard to a grave act of sexual abuse of a child that person is removed at once from every public, pastoral or educative ministry, and placed in a position where the possibility of contact with children will be minimal. He may be suspended a divinis (= from the ministry of clerics) or restrictions may be placed on his exercise of Salesian or sacramental ministry. He could be dismissed from the Salesian Congregation and or from clerical state, if the case so warrants (cf. CDF's Norms of 2010; CIC 1395 2; CCEO 1453 1; Rector Major's Letter of 19 July 2002).²⁶

(ii) In the case of one in initial formation he could be expelled immediately (to avoid further scandal) and



shall not be admitted to renewal of profession or orders (Criteria and Norms for Salesian Vocation Discernment, nos.75-76; CIC can. 703; CCEO can. 498, 551).

(iii) In the case of public scandal when a priest or deacon is concerned he is to be immediately suspended a divinis (= from the ministry of clerics). In certain cases, it is fitting that the confrere asks for dispensation from celibacy. He may be also dismissed from the clerical state and the congregation if the case so warrants.

(iv) For the evil/criminal act committed and the legal consequences that arise from it the guilty person alone is responsible (in the spirit of Regulations 191).

(v) The accused confrere is accorded a competent follow-up of a spiritual, psychological and medical kind through a well chalked out Ongoing Accompaniment Plan.

(vi) No Salesian who has committed an act of sexual abuse of a child may be transferred for ministerial assignment to another province/diocese or eparchy.

(vii) Before a Salesian can be transferred for residence to another province, diocese/eparchy the provincial shall forward, in a confidential manner, to the local Provincial and Bishop/Eparch details of the proposed place of residence and all information concerning any act of sexual abuse of a child and any other information that he has been or may be a danger to children or young people (Cf. Letter of Fr Adriano Bregolin dated 24 July 2004 addressed to all Salesian Provincials as well as “Charter for the Protection of Children and Young People” of the United States Conference of Catholic Bishops, art 14).

²⁶ Refer Appendix 5 for relevant texts from Code of Canon Law of the Catholic Church

Appendix 1

Application Form

Salesian Lay Staff/Youth Workers

[All staff/volunteers must complete and sign this form.]

Name of the institution/project:

Name: Surname:

Male/Female:

Date of Birth:

Home address:

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Telephone:

Details of previous youth work experience:

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Character references:

Please give the names and addresses of two persons who can provide information on your suitability to work with children and young people:

1.....

2.....



Personal statement by volunteer/staff:

I have no history of abuse of children and no record of convictions relating to offences against children or for violent crimes, and consider myself suitable to work in this institution/project.

Signature (Volunteer/staff):

Signature (Director/Project leader for Salesians of Don Bosco):

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Date:

Place:

N.B. In case a history/incidence of past sexual abuse or convictions comes to be discovered, the candidate alone will be held responsible and his/her services will be terminated, entertaining no claims whatsoever towards any benefits or compensation.

Appendix 2

Disclosure of Criminal Record Form

Salesian Lay Staff/Youth Workers

[All staff/volunteers must complete and sign this form.]

Name of the institution/project:

Name: Surname:

Male/Female:

Date of Birth:.....

Home address:.....

.....

Telephone:

Other addresses: List any other addresses which you have had over the last five years. Please include dates. Write 'none' if this section does not apply to you.

1.....

Dates:

2.....

Dates:

3.....

Dates:



Previous convictions:

Serial Number	Conviction	Date	Court	Offense	Sentence

Have you any record of sexual abuse of minors?

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STATEMENT

I declare that the above information is correct to the best of my knowledge and that I agree to these particulars being checked by the police or screened by other competent agencies.

Signature

Date

The Salesians of Don Bosco will keep the above information confidential unless requested by an appropriate authority.



Appendix 3

Health Form

Salesian Lay Staff/Youth Workers

[All volunteers/staff must complete and sign this form.]

Name of the institution/project:

Name:

Surname

Male/Female:

Date of Birth:

Home address:

Family doctor's details:

1. Name:

2. Address:

Telephone:

Details of persons to be contacted in an emergency:

Address:

Telephone numbers:



PERSONAL MEDICAL DETAILS

Tick as appropriate

CONDITION/COMPLAINT	YES	NO
1. Asthma or bronchitis		
2. Heart condition		
3. Fits/fainting/blackouts		
4. Severe headaches		
5. Diabetes		
6. Allergies to any known drugs/food		
7. HIV/AIDS		
8. Other illness/disability		
9. Travel sickness		
If the answer to any of these is 'yes' please give details below		

OTHER QUESTIONS	YES	NO
Have you received vaccination against Tetanus in the last five years?		
Are you receiving medical or surgical treatment of any kind from your family doctor or hospital?		
Have you been given specific medical advice to follow in emergencies?		
Are you taking any medication at all at present?		
If the answer to any of these is 'yes' please give details below		

STATEMENT

I am in good health and I consider myself capable of taking part in the programme outlined. In the event of illness or accident, I consent to any necessary treatment which might include the use of anaesthetic.

Signed.....

Date.....



Appendix 4

Child Protection Code of Conduct

I, [insert name], acknowledge that I have read and understand Child Protection Policy of the Salesian Provinces of India, 2013, and agree that in the course of my association with the Salesian Province of, I must:

- Treat children with respect regardless of race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status
- Not use language or behaviour towards children that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate
- Not engage children under the age of 18 in any form of sexual intercourse or sexual activity, including paying for sexual services or acts
- Wherever possible, ensure that another adult is present when working in the proximity of children
- Not invite unaccompanied children into my home, unless they are at immediate risk of injury or in physical danger
- Not sleep close to unsupervised children unless absolutely necessary, in which case I must obtain my supervisor's permission, and ensure that another adult is present if possible
- Use any computers, mobile phones, video cameras, cameras or social media appropriately, and never to exploit or harass children or access child exploitation material through any medium
- Not use physical punishment on children
- Not hire children for domestic or other labour which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at significant risk of injury
- Comply with all relevant Indian and State legislation, including all child related laws and labour laws in relation to child labour
- Immediately report concerns or allegations of child exploitation and abuse and policy non-compliance in accordance with appropriate procedures
- Immediately disclose all charges, convictions and other outcomes of an offence, which occurred before or occurs during my association with the Salesian Province of that relate to child exploitation and abuse.



Appendix 5

Relevant Texts from Code of Canon Law of the Catholic Church

Can. 489

■ § 1. In the diocesan curia there is also to be a secret archive, or at least in the common archive there is to be a safe or cabinet, completely closed and locked, which cannot be removed; in it documents to be kept secret are to be protected most securely.

■ § 2. Each year documents of criminal cases in matters of morals, in which the accused parties have died or ten years have elapsed from the condemnatory sentence, are to be destroyed. A brief summary of what occurred along with the text of the definitive sentence is to be retained.

Can. 490

■ § 1. Only the Bishop is to have the key to the secret archive.

Can. 1321

■ § 1. No one is punished unless the external violation of a law or precept, committed by the person, is gravely imputable by reason of malice or negligence.

■ § 2. A penalty established by a law or precept binds the person who has deliberately violated the law or precept; however, a person who violated a law or precept by omitting necessary diligence is not punished unless the law or precept provides otherwise.

■ § 3. When an external violation has occurred, imputability is presumed unless it is otherwise apparent.

Can. 1394

■ § 1. Without prejudice to the prescript of can. 194, § 1, n. 3, a cleric who attempts marriage, even if only civilly, incurs a *latae sententiae* suspension. If he does not repent after being warned and continues to give scandal, he can be punished gradually by privations or even by dismissal from the clerical state.

■ § 2. A perpetually professed religious who is not a cleric and who attempts marriage, even if only civilly, incurs a *latae sententiae* interdict, without prejudice to the prescript of can. 694.

Can. 1395

■ § 1. A cleric who lives in concubinage, other than the case mentioned in can. 1394, and a cleric who persists with scandal in another external sin against the sixth commandment of the Decalogue is to be punished



by a suspension. If he persists in the delict after a warning, other penalties can gradually be added, including dismissal from the clerical state.

■ § 2. A cleric who in another way has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.

Can. 1717

■ § 1. Whenever an ordinary has knowledge, which at least seems true, of a delict, he is carefully to inquire personally or through another suitable person about the facts, circumstances, and imputability, unless such an inquiry seems entirely superfluous.

■ § 2. Care must be taken so that the good name of anyone is not endangered from this investigation.

■ § 3. The person who conducts the investigation has the same powers and obligations as an auditor in the process; the same person cannot act as a judge in the matter if a judicial process is initiated later.

Can. 1718

■ § 1. When it seems that sufficient evidence has been collected, the ordinary is to decide:

1/ whether a process to inflict or declare a penalty can be initiated;

2/ whether, attentive to can. 1341, this is expedient;

3/ whether a judicial process must be used or, unless the law forbids it, whether the matter must proceed by way of extrajudicial decree.

■ § 2. The ordinary is to revoke or change the decree mentioned in § 1 whenever new evidence indicates to him that another decision is necessary.

■ § 3. In issuing the decrees mentioned in § 1 and 2, the ordinary is to hear two judges or other experts of the law if he considers it prudent.

■ § 4. Before he makes a decision according to the norm of § 1 and in order to avoid useless trials, the ordinary is to examine carefully whether it is expedient for him or the investigator, with the consent of the parties, to resolve equitably the question of damages.

Can. 1719

■ The acts of the investigation, the decrees of the ordinary which



initiated and concluded the investigation, and everything which preceded the investigation are to be kept in the secret archive of the curia if they are not necessary for the penal process.

Can. 1722

■ To prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, the ordinary, after having heard the promoter of justice and cited the accused, at any stage of the process can exclude the accused from the sacred ministry or from some office and ecclesiastical function, can impose or forbid residence in some place or territory, or even can prohibit public participation in the Most Holy Eucharist. Once the cause ceases, all these measures must be revoked; they also end by the law itself when the penal process ceases.

Can. 1728

■ § 1. Without prejudice to the prescripts of the canons of this title and unless the nature of the matter precludes it, the canons on trials in general and on the ordinary contentious trial must be applied in a penal trial; the special norms for cases which pertain to the public good are also to be observed.
■ § 2. The accused is not bound to confess the delict nor can an oath be administered to the accused.

Appendix 6



**Part One
SUBSTANTIVE NORMS**

Art. 6

■ § 1. The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are:
1° the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.
2° the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology.
■ § 2. A cleric who commits the delicts mentioned above in § 1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.

Art. 7

■ § 1. A criminal action for delicts reserved to the Congregation for the Doctrine of the Faith is extinguished by prescription after twenty years, with due regard to the right of the Congregation for the Doctrine of the Faith to derogate from prescription in individual cases.
■ § 2. Prescription runs according to the norm of can. 1362 § 2 of the Code of Canon Law[32], and can. 1152 § 3 of the Code of Canons of the Eastern Churches[33]. However, in the delict mentioned in art. 6 § 1 n. 1, prescription begins to run from the day on which a minor completes his eighteenth year of age.

**Part Two
PROCEDURAL NORMS**

Title I

The Constitution and Competence of the Tribunal

Art. 8

■ § 1. The Congregation for the Doctrine of the Faith is the Supreme Apostolic Tribunal for the Latin Church as well as the Eastern Catholic Churches, for the judgment of the delicts defined in the preceding articles.
■ § 2. This Supreme Tribunal also judges other delicts of which a



defendant is accused by the Promotor of Justice, by reason of connection of person and complicity.

■ § 3. The sentences of this Supreme Tribunal, rendered within the limits of its proper competence, do not need to be submitted for the approval of the Supreme Pontiff.

Art. 9

■ § 1. The Members of the Congregation for the Doctrine of the Faith are ipso iure the judges of this Supreme Tribunal.

■ § 2. The Prefect of the Congregation presides as first among equals over the college of the Members, and if the office of Prefect is vacant or if the Prefect himself is impeded, the Secretary of the Congregation carries out his duties.

■ § 3. It is the responsibility of the Prefect of the Congregation to nominate additional stable or deputed judges.

Art. 10

It is necessary that such appointed judges be priests, of mature age, possessing a doctorate in canon law, outstanding in good morals, prudence and expertise in the law. Such priests may at the same time exercise a judicial or consultative function before another Dicastery of the Roman Curia.

Art. 11

To present and sustain an accusation a Promoter of Justice is to be appointed, who is to be a priest, possessing a doctorate in canon law, outstanding in good morals, prudence, and expertise in the law. He is to carry out his office in all grades of judgment.

Art. 12

For the functions of Notary and Chancellor, priests are appointed, whether or not they are officials of this Congregation.

Art. 13

The role of Advocate or Procurator is carried out by a priest possessing a doctorate in canon law. He is to be approved by the presiding judge of the college.

Art. 14

Indeed, in the other tribunals dealing with cases under these norms, only priests can validly carry out the functions of Judge, Promotor of Justice, Notary, and Patron [Procurator and Advocate].



Art 15

With regard to the provisions of can. 1421 of the Code of Canon Law[34], and can. 1087 of the Code of Canons of the Eastern Churches[35], the Congregation for the Doctrine of the Faith may dispense from the requirements of the priesthood and of a doctorate in Canon Law.

Art. 16

Whenever the Ordinary or Hierarch receives a report of a more grave delict, which has at least the 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 or Hierarch how to proceed further, with due regard, however, for the right to appeal, if the case warrants, against a sentence of the first instance only to the Supreme Tribunal of this same Congregation.

Art. 17

If a case is referred directly to the Congregation without a preliminary investigation having been undertaken, the steps preliminary to the process, which fall by common law to the Ordinary or Hierarch, may be carried out by the Congregation itself.

Art. 18

With full respect for the right of defense, the Congregation for the Doctrine of the Faith may sanate acts in cases lawfully presented to it if merely procedural laws have been violated by lower Tribunals acting by mandate of the same Congregation or according to art. 16.

Art. 19

With due regard for the right of the Ordinary to impose from the outset of the preliminary investigation those measures which are established in can. 1722 of the Code of Canon Law[36], or in can. 1473 of the Code of Canons of the Eastern Churches[37], the respective presiding judge may, at the request of the Promotor of Justice, exercise the same power under the same conditions determined in the canons themselves.

Art. 20

The Supreme Tribunal of the Congregation for the Doctrine of the Faith judges in second instance:

- 1° cases adjudicated in first instance by lower tribunals;
- 2° cases decided by this same Supreme Apostolic Tribunal in first instance.



Title II

The Procedure to be followed in the Judicial Trial

Art. 21

■ § 1. The more grave delicts reserved to the Congregation for the Doctrine of the Faith are to be tried in a judicial process.

■ § 2. However, the Congregation for the Doctrine of the Faith may:
1° decide, in individual cases, ex officio or when requested by the Ordinary or Hierarch, to proceed by extrajudicial decree, as provided in can. 1720 of the Code of Canon Law[38] and can. 1486 of the Code of Canons of the Eastern Churches[39]. However, perpetual expiatory penalties may only be imposed by mandate of the Congregation for the Doctrine of the Faith.

2° present the most grave cases to the decision of the Roman Pontiff with regard to dismissal from the clerical state or deposition, together with dispensation from the law of celibacy, when it is manifestly evident that the delict was committed and after having given the guilty party the possibility of defending himself.

Art. 22

The Prefect is to constitute a turnus of three or five judges to try the case.

Art. 23

If in the appellate stage the Promotor of Justice brings forward a specifically different accusation, this Supreme Tribunal can admit it and judge it as if at first instance.

Art. 24

■ § 1. In cases concerning the delicts mentioned of in art. 4 § 1, the Tribunal cannot indicate the name of the accuser to either the accused or his patron unless the accuser has expressly consented.

■ § 2. This same Tribunal must consider the particular importance of the question concerning the credibility of the accuser.

■ § 3. Nevertheless, it must always be observed that any danger of violating the sacramental seal be altogether avoided.

Art 25

If an incidental question arises, the college is to decide the matter by decree most expeditiously [expeditissime, cf. cann. 1629, n.5 CIC; 1310, n. 5 CCEO].

Art. 26



■ § 1. With due regard for the right to appeal to this Supreme Tribunal, once an instance has been finished in any manner before another tribunal, all of the acts of the case are to be transmitted ex officio to the Congregation for the Doctrine of the Faith as soon as possible.

■ § 2 The right of the Promotor of Justice of the Congregation to challenge a sentence runs from the day on which the sentence of first instance is made known to this same Promotor.

Art. 27

Recourse may be had against singular administrative acts which have been decreed or approved by the Congregation for the Doctrine of the Faith in cases of reserved delicts. Such recourse must be presented within the preemptory period of sixty canonical days to the Ordinary Session of the Congregation (the Feria IV) which will judge on the merits of the case and the lawfulness of the Decree. Any further recourse as mentioned in art. 123 of the Apostolic Constitution Pastor bonus is excluded[40].

Art. 28

A res iudicata occurs:

1° if a sentence has been rendered in second instance;

2° if an appeal against a sentence has not been proposed within a month;

3° if, in the appellate grade, the instance is abated or is renounced;

4° if the sentence has been rendered in accord with the norm of art.20.

Art. 29

■ § 1. Judicial expenses are to be paid as the sentence has determined.

■ § 2. If the defendant is not able to pay the expenses, they are to be paid by the Ordinary or Hierarch of the case.

Art. 30

■ § 1. Cases of this nature are subject to the pontifical secret.[41]

■ § 2. Whoever has violated the secret, whether deliberately (*ex dolo*) or through grave negligence, and has caused some harm to the accused or to the witnesses, is to be punished with an appropriate penalty by the higher turnus at the insistence of the injured party or even ex officio.

Art. 31

In these cases, together with the prescripts of these norms, by which all Tribunals of the Latin Church and Eastern Catholic Churches are bound, the canons concerning delicts and penalties as well as the canons concerning the penal process of each Code also must be applied.

Appendix 7

PROTECTION OF CHILDREN AGAINST SEXUAL OFFENCES (POCSO) ACT 2013 RELEVANT PASSAGES:

Definitions

3. Penetrative sexual assault-A person is said to commit "penetrative sexual assault" if

(a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or

(b) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or

(c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or

(d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.

5. Aggravated penetrative sexual assault-

(a) Whoever, being a police officer, commits penetrative sexual assault on a child

(i) within the limits of the police station or premises at which he is appointed; or

(ii) in the premises of any station house, whether or not situated in the police station, to which he is appointed; or

(iii) in the course of his duties or otherwise; or

(iv) where he is known as, or identified as, a police officer; or

(b) whoever being a member of the armed forces or security forces commits penetrative sexual assault on a child

(i) within the limits of the area to which the person is deployed; or

(ii) in any areas under the command of the forces or armed forces; or

(iii) in the course of his duties or otherwise; or

(iv) where the said person is known or identified as a member of the security or armed forces; or

(c) whoever being a public servant commits penetrative sexual assault on a child; or

(d) whoever being on the management or on the staff of a jail, remand home, protection home, observation home, or other place of custody or



care and protection established by or under any law for the time being in force, commits penetrative sexual assault on a child, being inmate of such jail, remand home, protection home, observation home, or other place of custody or care and protection; or

(e) whoever being on the management or staff of a hospital, whether Government or private, commits penetrative sexual assault on a child in that hospital; or

(f) whoever being on the management or staff of an educational institution or religious institution, commits penetrative sexual assault on a child in that institution; or

(g) whoever commits gang penetrative sexual assault on a child.

Explanation: When a child is subjected to sexual assault by one or more persons of a group in furtherance of their common intention, each of such persons shall be deemed to have committed gang penetrative sexual assault within the meaning of this clause and each of such person shall be liable for that act in the same manner as if it were done by him alone; or

(h) whoever commits penetrative sexual assault on a child using deadly weapons, fire, heated substance or corrosive substance; or

(i) whoever commits penetrative sexual assault causing grievous hurt or causing bodily harm and injury or injury to the sexual organs of the child; or

(j) whoever commits penetrative sexual assault on a child, which

(i) physically incapacitates the child or causes the child to become mentally ill as defined under clause (b) of section 2 of the Mental Health Act, 1987 (14 of 1987) or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; or

(ii) in the case of female child, makes the child pregnant as a consequence of sexual assault;

(iii) inflicts the child with Human Immunodeficiency Virus or any other life threatening disease or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks; or

(k) whoever, taking advantage of a child's mental or physical disability, commits penetrative sexual assault on the child; or

(l) whoever commits penetrative sexual assault on the child more than



- once or repeatedly; or
- (m) whoever commits penetrative sexual assault on a child below twelve years; or
- (n) whoever being a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who is living in the same or shared household with the child, commits penetrative sexual assault on such child; or
- (o) whoever being, in the ownership, or management, or staff, of any institution providing services to the child, commits penetrative sexual assault on the child; or
- (p) whoever being in a position of trust or authority of a child commits penetrative sexual assault on the child in an institution or home of the child or anywhere else; or
- (q) whoever commits penetrative sexual assault on a child knowing the child is pregnant; or
- (r) whoever commits penetrative sexual assault on a child and attempts to murder the child; or
- (s) whoever commits penetrative sexual assault on a child in the course of communal or sectarian violence; or
- (t) whoever commits penetrative sexual assault on a child and who has been previously convicted of having committed any offence under this Act or any sexual offence punishable under any other law for the time being in force; or
- (u) whoever commits penetrative sexual assault on a child and makes the child to strip or parade naked in public, is said to commit aggravated penetrative sexual assault.

7. Sexual assault:

Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.

The above comments would apply also for the following:

8. Aggravated sexual assault:

- (a) Whoever, being a police officer, commits sexual assault on a child



- (i) within the limits of the police station or premises where he is appointed; or
- (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
- (iii) in the course of his duties or otherwise; or
- (iv) where he is known as, or identified as a police officer; or
- (b) whoever, being a member of the armed forces or security forces, commits sexual assault on a child
 - (i) within the limits of the area to which the person is deployed; or
 - (ii) in any areas under the command of the security or armed forces; or
 - (iii) in the course of his duties or otherwise; or
 - (iv) where he is known or identified as a member of the security or armed forces; or
- (c) whoever being a public servant commits sexual assault on a child; or
- (d) whoever being on the management or on the staff of a jail, or remand home or protection home or observation home, or other place of custody or care and protection established by or under any law for the time being in force commits sexual assault on a child being inmate of such jail or remand home or protection home or observation home or other place of custody or care and protection; or
- (e) whoever being on the management or staff of a hospital, whether Government or private, commits sexual assault on a child in that hospital; or
- (f) whoever being on the management or staff of an educational institution or religious institution, commits sexual assault on a child in that institution; or
- (g) whoever commits gang sexual assault on a child. Explanation: when a child is subjected to sexual assault by one or more persons of a group in furtherance of their common intention, each of such persons shall be deemed to have committed gang sexual assault within the meaning of this clause and each of such person shall be liable for that act in the same manner as if it were done by him alone; or
- (h) whoever commits sexual assault on a child using deadly weapons, fire, heated substance or corrosive substance; or
- (i) whoever commits sexual assault causing grievous hurt or causing bodily harm and injury or injury to the sexual organs of the child; or



- (j) whoever commits sexual assault on a child, which
- (i) physically incapacitates the child or causes the child to become mentally ill as defined under clause (l) of section 2 of the Mental Health Act, 1987 (14 of 1987) or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; or
- (ii) inflicts the child with Human Immunodeficiency Virus or any other life threatening disease or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks; or
- (k) whoever, taking advantage of a child's mental or physical disability, commits sexual assault on the child; or
- (l) whoever commits sexual assault on the child more than once or repeatedly; or
- (m) whoever commits sexual assault on a child below twelve years; or
- (n) whoever, being a relative of the child through blood or adoption or marriage or guardianship or in foster care, or having domestic relationship with a parent of the child, or who is living in the same or shared household with the child, commits sexual assault on such child; or
- (o) whoever, being in the ownership or management or staff, of any institution providing services to the child, commits sexual assault on the child in such institution; or
- (p) whoever, being in a position of trust or authority of a child, commits sexual assault on the child in an institution or home of the child or anywhere else; or
- (q) whoever commits sexual assault on a child knowing the child is pregnant; or
- (r) whoever commits sexual assault on a child and attempts to murder the child; or
- (s) whoever commits sexual assault on a child in the course of communal or sectarian violence; or
- (t) whoever commits sexual assault on a child and who has been previously convicted of having committed any offence under this Act or any sexual offence punishable under any other law for the time being in force; or
- (u) whoever commits sexual assault on a child and makes the child to strip or parade naked in public, is said to commit aggravated sexual assault.



10. Sexual harassment.-

A person is said to commit sexual harassment upon a child when such person with sexual intent,

- (i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or
 - (ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or
 - (iii) shows any object to a child in any form or media for pornographic purposes; or
 - (iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or
 - (v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or
 - (vi) entices a child for pornographic purposes or gives gratification therefor.
- Explanation. Any question which involves sexual intent shall be a question of fact.

11. Use of child for pornographic purposes-

Whoever, uses a child in any form of media (including programme or advertisement telecast by television channels or internet or any other electronic form or printed form, whether or not such programme or advertisement is intended for personal use or for distribution), for the purposes of sexual gratification, which includes

- (a) representation of the sexual organs of a child;
- (b) usage of a child engaged in real or simulated sexual acts (with or without penetration);
- (c) the indecent or obscene representation of a child, shall be guilty of the offence of using a child for pornographic purposes. Explanation. For the purposes of this section, the expression "use a child" shall include involving a child through any medium like print, electronic, computer or any other technology for preparation, production, offering, transmitting, publishing, facilitation and distribution of the pornographic material.

Glossary



■ **PHYSICAL ABUSE** - the use of physical force against a child that results in harm to the child. Physically abusive behaviour includes shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling and poisoning

■ **NEGLECT** - the failure by a parent or caregiver to provide a child (where they are in a position to do so) with the conditions that are culturally accepted as being essential for their physical and emotional development and well-being

■ **EMOTIONAL ABUSE** - refers to a parent or caregiver's inappropriate verbal or symbolic acts toward a child or a pattern of failure over time to provide a child with adequate non-physical nurture and emotional availability. Such acts have a high probability of damaging a child's self-esteem or social competence

■ **SEXUAL ABUSE** - the use of a child for sexual gratification by an adult or significantly older child or adolescent. Sexually abusive behaviours can include fondling genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling breasts, voyeurism, exhibitionism and exposing the child to, or involving the child in, pornography.

■ **BEHAVIOURAL-BASED INTERVIEW QUESTIONS** - interview questions that probe the applicant's past behaviour in specific situations relevant to the position. Behavioural-based questions give interviewers additional information as to the applicant's suitability to work with children.



■ **CHILD OR CHILDREN** - in accordance with the United Nations Convention on the Rights of the Child, 'child' means every human being under the age of 18 unless under the law applicable to the child, majority is attained earlier. For the purposes of this policy, Salesian Provinces of India considers a child to be a person under the age of 18 years.

■ **CHILD ABUSE MATERIAL** - material that depicts (expressly or implicitly) a child under 18 years of age as a victim of torture, cruelty or physical abuse.

■ **CHILD EXPLOITATION AND ABUSE** - one or more of the following:

★ committing or coercing another person to commit an act or acts of abuse against a child

★ possessing, controlling, producing, distributing, obtaining or transmitting child exploitation material

★ Committing or coercing another person to commit an act or acts of grooming or online grooming.

■ **CHILD EXPLOITATION MATERIAL** - material, irrespective of its form, which is classified as child abuse material or child pornography material.

■ **CHILD PORNOGRAPHY** - in accordance with the Optional Protocol to the Convention on the Rights of the Child, 'child pornography' means 'any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.'

■ **CHILD PORNOGRAPHY MATERIAL** - material that depicts a person, or is a representation of a person, who is, or appears to be, under 18 years of age and is engaged in, or appears to be engaged in, a sexual pose or sexual activity, or is in the presence of a person who is engaged in, or appears to be engaged in, a sexual pose or activity, and



does this in a way that a reasonable person would regard as being, in all the circumstances, offensive.

■ **CHILD PROTECTION** - an activity or initiative designed to protect children from any form of harm, particularly arising from child exploitation and abuse.

■ **CONTACT WITH CHILDREN** - working on an activity or in a position that involves or may involve contact with children, either under the position description or due to the nature of the work environment.

■ **GROOMING** - generally refers to behaviour that makes it easier for an offender to procure a child for sexual activity. For example, an offender might build a relationship of trust with the child, and then seek to sexualise that relationship (for example by encouraging romantic feelings or exposing the child to sexual concepts through pornography).

■ **ONLINE GROOMING** - the act of sending an electronic message with indecent content to a recipient who the sender believes to be under 18 years of age, with the intention of procuring the recipient to engage in or submit to sexual activity with another person, including but not necessarily the sender.

■ **PERSONNEL** - personnel are either employed by an organisation, engaged by an organisation on a subcontract basis, or engaged by an organisation on a voluntary or unpaid basis.

■ **POLICE CLEARANCE CERTIFICATE** - the certificate showing the results of a criminal record check, which is issued by the police or other authority responsible for conducting such checks.