



# PROTECTION OF CHILDREN

How to deal with acts of sexual abuse against minors



**GUIDELINES OF THE CONGREGATION OF  
THE BROTHERS OF CHRISTIAN INSTRUCTION**

February 2014

“In these schools, a complete human formation is given to the child’s heart as well as to his mind... The child acquires the knowledge that he will need in the future for whatever way of life that he may choose, and at the same time he is preserved from the bad habits that could spoil his entire life. ”

(Jean-Marie de la Mennais, on the occasion of the foundation of a school, in 1846, Sermons, II p. 796)

“The time has come when we must take a new direction in the field of education and of formation inside the seminaries and the religious communities we need men and women who are serious, generous, strong, capable of giving their lives for the weak and the underprivileged, and who would never let anyone steal the life of the innocents. ”

Don Fortunato Di Noto, founder of the association for the protection of childhood: METER)

# INTRODUCTION

The General Chapter of 2012 entrusted the General Council with the task of verifying whether, in the Congregation and the Mennaisian Family, the integrity of each child and young person is fully respected.

Quoting the words of Pope Benedict XVI in his post synodal exhortation *Africae Munus* of 19<sup>th</sup> November 2011, (No. 67): "**We acknowledge that God wants every child to be happy and to smile [...]** ; his favour rests upon them 'for to such belongs the Kingdom of God' (Mk 10, 14)", the General Chapter asks the General Council to consider the following points:

- *Urge the whole Mennaisian Family "to deplore and forcefully denounce the intolerable treatment to which so many children are subjected throughout the world" (Africae Munus, No. 67), to provide the necessary structures in defense of their basic rights and/or to make use of existing ones.*
- *Ensure, in each Province and Vice-Province that the guidelines relating to child safeguarding provided by local dioceses and local and national civil authorities are followed. In situations where such guidelines are absent, it is up to the Province or the Vice-Province to formulate their own policy document.*
- *Encourage each Brother to maintain healthy, prudent relationships at all times, whilst still offering to others "the resources of his unfettered heart." (D 39)*

There are many ways of taking advantage of the fragility of children or of vulnerable persons, and of inflicting on them acts of physical or moral violence (ill treatments, exploitation of children, child soldiers, child trafficking, etc....) All those acts of violence of which children are victims, as well as those committed against vulnerable adults, are inadmissible and must be fought with energy.

In the present guidelines, the General Council of the Congregation will limit itself to the management of sexual abuse against minors or vulnerable persons, on account of the particularly serious nature of this type of abuse. These guidelines constitute an engagement which has a public character and are thus intended for the knowledge of everyone.

First of all, this document wishes to address the Major Superiors in order to exhort them, in this specific field, to put into practice their pastoral mission of vigilance and kindness. It wishes also to question all the Brothers so that, in each aspect of their educational work, they are particularly attentive at protecting and at giving preferential treatment to the integrity of each child, each young person and each vulnerable person.

In this whole document, we shall limit ourselves to the definition given in the *motu proprio* of Benedict XIV (approved on 29<sup>th</sup> May 2010) which specifies that the act of sexual abuse is "*the delict against the sixth commandment of the Decalogue committed by (a cleric) with a minor below the age of eighteen years*", while taking into consideration the civil laws of each country (cf. p. 11, III, a. of this document). When we mention vulnerable persons, we mean persons who are unable to defend themselves against any act of violence because of their psychological or physical weakness.

# PROTECTION OF CHILDREN AGAINST ACTS OF SEXUAL ABUSE

We have been deeply affected by the great suffering that numerous children must have endured especially in educational institutions which were under the responsibility of the Church. The disclosures of these events have given rise to the indignation and the anger of many people.

As educators, especially as religious educators, it is impossible for us to ignore this problem. Everything that harms children or young people must mobilize all our energy. *"Take care not to despise any of these little ones,"* (Mt 18, 10) says the Gospel. These words of Jesus are addressed to us as a warning and as a duty which we must consider as the very core of our educational relationship with children. This requires of each Brother a clear-sighted examination of his conduct and of his objectives.

Superiors have, in the past many years, taken up this problem in their meetings, either at the level of the Congregation, or with the religious authorities of their different countries (Episcopal Conferences, Conferences of Major Superiors), in order to find the right solution, while taking into consideration the legislation of each country.

With the help of the following guidelines, which offer general orientations, the Major Superiors are urged to make up, with the religious authorities of their countries, their own protocol.

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## 1. A Concept of Education

Jean-Marie de la Mennais wanted that his schools give to the children the possibility of fulfilling all the potential of their human nature. The Brothers of Christian Instruction, founded for this educational mission, have as their principal objective to give a Christian education to the students in order to build a society based on evangelical values, which contain especially respect, liberty, truth and the sense of responsibility. All the words of our Founder to his Brothers are aimed at promoting the respect for the dignity of each child and the awakening of all the wealth of his personality. Through an excellent education based on the Gospel, his main preoccupation was to *"preserve the young ... from all the dangers that surround them..."*<sup>1</sup>

*"The Brothers must strive to gain the trust, the respect and the affection of their students, but without getting familiar with them."* Thus spoke Jean-Marie de la Mennais to his Brothers, to whom he added, *"You must be the guardians of their innocence."*<sup>2</sup>

He forbade any educational approach based on violence, be it in the form of corporal punishments or angry words. One day, he wrote to a Brother, *"With the children, be kind,*

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<sup>1</sup> Sermons II, p. 485

<sup>2</sup> Rule of 1835

*patient and gentle, of course you must be firm sometimes but not rude, and never let yourself become impatient: you will have a much better chance of correcting their bad conduct by being loved by them rather than by having them fear you."*<sup>3</sup> He also said: "*Kindness is the best way of having your children do what you want them to do. If you scold them or punish them too much, they will bear ill feelings against you and become embittered.*"<sup>4</sup>

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## **2. Prevention of acts of sexual abuse against children or vulnerable persons.**

In order that, in all our educational institutions, we be able to give to the children and young people, as well as to their parents, the greatest assurance, that they will receive an education based on the respect of their persons and the preoccupation of their integral growth, the Major Superiors and all those in functions of responsibility shall take the following points into serious consideration:

### **1. Mutual information between Superiors and the General Council.**

Every Major Superior shall inform the General Council of the measures taken by the Episcopal Conference and/or the Major Superiors Conference of his country.

If such measures do not exist, the Superior shall establish, together with his council, a protocol that gives precise lines of conduct concerning such wrongdoings. That protocol must be approved by the Superior General and his Council.

### **2. Formation – Information.**

Everything must be done so that the Brothers are made aware of the measures taken by the civil authorities concerning acts of violence against children or young people, as well as the guidelines coming from the Episcopal Conference and/or Major Superiors Conference.

The Major Superiors shall encourage their Brothers to attend sessions of formation organised by the dioceses where such sessions exist.

They shall also recommend prudence in the use of mass media, especially of the internet and of social networks.

It is also their responsibility to form and inform those who are responsible of the animation of the Schools, heads of educational establishments and all other persons who occupy posts of responsibility in our educational institutions.

### **3. Supervision of Educational Institutions.**

The Major Superiors shall fulfill with a particular care their mission of vigilance by visiting regularly each of the educational institutions of which they are responsible. They shall listen willingly to anyone who would like to meet them.

### **4. Candidates to the Brotherhood.**

Each Province or Vice-Province shall see to it that, in accordance with the local ecclesiastical procedures, every candidate to the brotherhood is examined by a psychologist

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<sup>3</sup> To Br. Liguori-Marie Langlumé, 1845

<sup>4</sup> To Br. Lucien Deniau, 1835

approved by the other Major Superiors of the country. That examination should take place before the entrance to the novitiate, or, when this is not possible, before the first profession.

Those procedures will be examined at the time of the periodical meetings of the Major Superiors with the General Council.

### **5. Programme of Initial Formation.**

Those in charge of initial formation shall establish a programme of formation, from the postulate to the scholasticate, which includes very clearly all the questions related to sexuality and to affective life, and shall give to the candidates a proper education on the use of mass media.

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## **3. How to deal with a case of sexual abuse against a minor or a vulnerable person**

### **1. When a case of sexual abuse is disclosed.**

a. If the presumed assailant is a Brother of the Congregation, the Major Superior concerned must be informed as a matter of priority.

b. As soon as the Major Superior becomes aware of such an accusation, he shall inform the General Council and describe the way in which he intends to deal with the matter.

c. He shall without delay summon the necessary advisors, in accordance with the guidelines of the Conference of Major Superiors or with those that have been established by the Province or the Vice-Province.

d. He shall also make up an ad hoc team composed of himself and two or three other Brothers, one of whom will be responsible for dealing with mass media.

e. He will meet the victim in the presence of either one or the other of these Brothers, and at a neutral venue.

### **2. How to deal with the victim.**

a. The Major Superior, in the presence of the Brothers of the team he will have selected (Cf. 3. 1. d.), will receive and listen to the victim. He would not claim, at any time to resolve by himself the problem thus posed. It is not the responsibility of the Major Superior to investigate or to doubt the word of the victim.

b. The Major Superior will then invite the victim - his parents, in the case of a child - to comply with the provisions of the legislation if he wishes to make a complaint.

c. Then it is up to the lawyer to respond to any request of the victim.

### **3. How to deal with the accused Brother**

a. Concerning the Brother accused of alleged aggression, the Major Superior shall take care of him personally or he may entrust another Brother with this mission.

b. The person in charge of the accused Brother will maintain with him a true relationship of fraternal support. He shall help him to protect his rights and his reputation as

long as the accused Brother has not been certified guilty. He shall not pry into the facts that may have happened but will leave the matter into the hands of the lawyer in charge of the case.

c. Concerning the Brother proven guilty, the Major Superior shall abide entirely by the legislation of the country and the decisions taken by the judicial authorities. He shall give his kind support to the Brother to help the latter become conscious of his responsibility, reform himself and change his behaviour in case of condemnation.

d. In the case where such a thing is not mentioned in the law of the country, or if no clear instructions have been taken at the Conference of the Major Superiors or by the Episcopal Conference, the Major Superior shall see to it that a Brother found guilty of such a crime be immediately removed from his educational function and be kept away from contacts with children. He shall also ask the Brother to be taken care of by a psychologist. For that purpose, he shall, as much as possible, find a specialist recommended by the Episcopal Conference or by the Conference of the Major Superiors of the country.

e. In any case whatsoever, the Major Superior shall not entrust a Brother recognized guilty with any work that would put him in contact with minors, whatever kind of work it may be.

f. If a Brother happens to be falsely accused of an act of sexual abuse against a minor or a vulnerable person, the Major Superior shall actively work at the reestablishment of that Brother's reputation and provide him with the appropriate care.

Text approved by the Superior General with the consent of his Council.

Rome, May 24, 2013

A handwritten signature in blue ink, reading "Yannick Houssay", with a long horizontal flourish extending to the right.

Brother Yannick Houssay

## CONGREGATIO PRO DOCTRINA FIDEI

### *CIRCULAR LETTER*

### *TO ASSIST EPISCOPAL CONFERENCES IN DEVELOPING GUIDELINES FOR DEALING WITH CASES OF SEXUAL ABUSES OF MINORS PERPETRATED BY CLERICS*

Among the important responsibilities of the Diocesan Bishop in his task of assuring the common good of the faithful and, especially, the protection of children and of the young, is the duty he has to give an appropriate response to the cases of sexual abuse of minors by clerics in his diocese. Such a response entails the development of procedures suitable for assisting the victims of such abuse, and also for educating the ecclesial community concerning the protection of minors. A response will also make provision for the implementation of the appropriate canon law, and, at the same time, allow for the requirements of civil law.

#### **I. General considerations:**

##### **a) The victims of sexual abuse:**

The Church, in the person of the Bishop or his delegate, should be prepared to listen to the victims and their families, and to be committed to their spiritual and psychological assistance. In the course of his Apostolic trips our Holy Father, Benedict XVI, has given an eminent model of this with his availability to meet with and listen to the victims of sexual abuse. In these encounters the Holy Father has focused his attention on the victims with words of compassion and support, as we read in his Pastoral Letter to the Catholics of Ireland (n.6): "You have suffered grievously and I am truly sorry. I know that nothing can undo the wrong you have endured. Your trust has been betrayed and your dignity has been violated."

##### **b) The protection of minors:**

In some countries programs of education and prevention have been begun within the Church in order to ensure "safe environments" for minors. Such programs seek to help parents as well as those engaged in pastoral work and schools to recognize the signs of abuse and to take appropriate measures. These programs have often been seen as models in the commitment to eliminate cases of sexual abuse of minors in society today.

##### **c) The formation of future priests and religious:**

In 2002, Pope John Paul II stated, "there is no place in the priesthood and religious life for those who would harm the young" (n. 3, [\*Address to the American Cardinals, 23 April 2002\*](#)). 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. The directions given in the Apostolic Exhortation [\*Pastores Dabo Vobis\*](#) as well as the instructions of the competent

Dicasteries of the Holy See take on an even greater importance in assuring a proper discernment of vocations as well as a healthy human and spiritual formation of candidates. In particular, candidates should be formed in an appreciation of chastity and celibacy, and the responsibility of the cleric for spiritual fatherhood. Formation should also assure that the candidates have an appreciation of the Church's discipline in these matters. More specific directions can be integrated into the formation programs of seminaries and houses of formation through the respective *Ratio institutionis sacerdotalis* of each nation, Institute of Consecrated Life and Society of Apostolic Life.

Particular attention, moreover, is to be given to the necessary exchange of information in regard to those candidates to priesthood or religious life who transfer from one seminary to another, between different dioceses, or between religious Institutes and dioceses.

#### **d) Support of Priests**

1. The bishop has the duty to treat all his priests as father and brother. With special attention, moreover, the bishop should care for the continuing formation of the clergy, especially in the first years after Ordination, promoting the importance of prayer and the mutual support of priestly fraternity. Priests are to be well informed of the damage done to victims of clerical sexual abuse. They should also be aware of their own responsibilities in this regard in both canon and civil law. They should as well be helped to recognize the potential signs of abuse perpetrated by anyone in relation to minors;

2. In dealing with cases of abuse which have been denounced to them the bishops are to follow as thoroughly as possible the discipline of canon and civil law, with respect for the rights of all parties;

3. The accused cleric is presumed innocent until the contrary is proven. Nonetheless the bishop is always able to limit the exercise of the cleric's ministry until the accusations are clarified. If the case so warrants, whatever measures can be taken to rehabilitate the good name of a cleric wrongly accused should be done.

#### **e) Cooperation with Civil Authority**

Sexual abuse of minors is not just a canonical delict but also a crime prosecuted by civil law. Although relations with civil authority will differ in various countries, nevertheless it is important to cooperate with such authority within their responsibilities. Specifically, without prejudice to the sacramental internal forum, the prescriptions of civil law regarding the reporting of such crimes to the designated authority should always be followed. This collaboration, moreover, not only concerns cases of abuse committed by clerics, but also those cases which involve religious or lay persons who function in ecclesiastical structures.

## **II. A brief summary of the applicable canonical legislation concerning the delict of sexual abuse of minors perpetrated by a cleric:**

On 30 April 2001, Pope John Paul II promulgated the *motu proprio Sacramentorum sanctitatis tutela [SST]*, by which sexual abuse of a minor under 18 years of age committed

by a cleric was included in the list of more grave crimes (*delicta graviora*) reserved to the Congregation for the Doctrine of the Faith (CDF). Prescription for this delict was fixed at 10 years beginning at the completion of the 18<sup>th</sup> year of the victim. The norm of the *motu proprio* applied both to Latin and Eastern clerics, as well as for diocesan and religious clergy.

In 2003, Cardinal Ratzinger, then Prefect of the CDF, obtained from Pope John Paul II the concession of some special faculties in order to provide greater flexibility in conducting penal processes for these more grave delicts. These measures included the use of the administrative penal process, and, in more serious cases, a request for dismissal from the clerical state *ex officio*. These faculties have now been incorporated in the revision of the *motu proprio* approved by the Holy Father, Benedict XVI, on 21 May 2010. In the new norms prescription, in the case of abuse of minors, is set for 20 years calculated from the completion of the 18<sup>th</sup> year of age of the victim. In individual cases, the CDF is able to derogate from prescription when indicated. The canonical delict of acquisition, possession or distribution of pedopornography is also specified in this revised *motu proprio*.

The responsibility for dealing with cases of sexual abuse of minors belongs, in the first place, to Bishops or Major Superiors. If an accusation seems true the Bishop or Major Superior, or a delegate, ought to carry out the preliminary investigation in accord with *CIC* can. 1717, *CCEO* can. 1468, and *SST* art. 16.

If the accusation is considered credible, it is required that the case be referred to the CDF. Once the case is studied the CDF will indicate the further steps to be taken. At the same time, the CDF will offer direction to assure that appropriate measures are taken which both guarantee a just process for the accused priest, respecting his fundamental right of defense, and care for the good of the Church, including the good of victims. In this regard, it should be noted that normally the imposition of a permanent penalty, such as dismissal from the clerical state, requires a penal judicial process. In accord with canon law (cf. *CIC* can. 1342) the Ordinary is not able to decree permanent penalties by extrajudicial decree. The matter must be referred to the CDF which will make the definitive judgement on the guilt of the cleric and his unsuitability for ministry, as well as the consequent imposition of a perpetual penalty (*SST* art. 21, §2).

The canonical measures applied in dealing with a cleric found guilty of sexual abuse of a minor are generally of two kinds: 1) measures which completely restrict public ministry or at least exclude the cleric from any contact with minors. These measures can be reinforced with a penal precept; 2) ecclesiastical penalties, among which the most grave is the dismissal from the clerical state.

In some cases, at the request of the cleric himself, a dispensation from the obligations of the clerical state, including celibacy, can be given *pro bono Ecclesiae*.

The preliminary investigation, as well as the entire process, ought to be carried out with due respect for the privacy of the persons involved and due attention to their reputations.

Unless there are serious contrary indications, before a case is referred to the CDF, the accused cleric should be informed of the accusation which has been made, and given the opportunity to respond to it. The prudence of the bishop will determine what information will be communicated to the accused in the course of the preliminary investigation.

It remains the duty of the Bishop or the Major Superior to provide for the common good by determining what precautionary measures of *CIC* can. 1722 and *CCEO* can. 1473 should be imposed. In accord with *SST* art. 19, this can be done once the preliminary investigation has been initiated.

Finally, it should be noted that, saving the approval of the Holy See, when a Conference of Bishops intends to give specific norms, such provisions must be understood as a complement to universal law and not replacing it. The particular provisions must therefore be in harmony with the *CIC /CCEO* as well as with the *motu proprio Sacramentorum sanctitatis tutela* (30 April 2001) as updated on 21 May 2010. In the event that a Conference would decide to establish binding norms it will be necessary to request the *recognitio* from the competent Dicasteries of the Roman Curia.

### **III. Suggestions for Ordinaries on Procedures:**

The Guidelines prepared by the Episcopal Conference ought to provide guidance to Diocesan Bishops and Major Superiors in case they are informed of allegations of sexual abuse of minors by clerics present in the territory of their jurisdiction. Such Guidelines, moreover, should take account of the following observations:

a.) the notion of "sexual abuse of minors" should concur with the definition of article 6 of the *motu proprio SST* ("the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years"), as well as with the interpretation and jurisprudence of the Congregation for the Doctrine of the Faith, while taking into account the civil law of the respective country;

b.) the person who reports the delict ought to be treated with respect. In the cases where sexual abuse is connected with another delict against the dignity of the sacrament of Penance (*SST* art. 4), the one reporting has the right to request that his or her name not be made known to the priest denounced (*SST* art. 24).;

c.) ecclesiastical authority should commit itself to offering spiritual and psychological assistance to the victims;

d.) investigation of accusations is to be done with due respect for the principle of privacy and the good name of the persons involved;

e.) unless there are serious contrary indications, even in the course of the preliminary investigation, the accused cleric should be informed of the accusation, and given the opportunity to respond to it.

f.) consultative bodies of review and discernment concerning individual cases, foreseen in some places, cannot substitute for the discernment and *potestas regiminis* of individual bishops;

g.) the Guidelines are to make allowance for the legislation of the country where the Conference is located, in particular regarding what pertains to the obligation of notifying civil authorities;

h.) during the course of the disciplinary or penal process the accused cleric should always be afforded a just and fit sustenance;

i.) the return of a cleric to public ministry is excluded if such ministry is a danger for minors or a cause of scandal for the community.

### **Conclusion:**

The Guidelines developed by Episcopal Conferences seek to protect minors and to help victims in finding assistance and reconciliation. They will also indicate that the responsibility for dealing with the delicts of sexual abuse of minors by clerics belongs in the first place to the Diocesan Bishop. Finally, the Guidelines will lead to a common orientation within each Episcopal Conference helping to better harmonize the resources of single Bishops in safeguarding minors.

*Rome, from the Congregation for the Doctrine of the Faith, 3 May 2011*

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