

**POLICY CONCERNING THE PROTECTION OF
MINORS, VULNERABLE ADULTS AND EMPLOYEES**

FOR

**THE PROVINCE OF ST. THOMAS THE APOSTLE IN
INDIA,**

**CUSTODY OF MARY MOTHER OF GOD AND
THE FOUNDATION OF ST. FRANCIS OF ASSISI**

1. Preamble

We, the members, of the Order of Friars Minor in India, express our commitment to the Gospel way of living, by updating and accommodating our lives according to the signs of the times.

Pope Francis in his Encyclical, published on 24th October, 2024, says, “Indeed, the men and women of our time often find themselves confused and torn apart, almost bereft of an inner principle that can create unity and harmony in their lives and actions. Models of behaviour that, sadly, are now widespread exaggerate our rational-technological dimension or, on the contrary, that of our instincts” (*Dilexit nos*, 9). One such recurring matter of concern and contradictory behavioural pattern found in the society, even among the clerics is the sexual abuse of minors and vulnerable adults .

In view of preventing such incidents, to take appropriate corrective measures on those involved in such unbecoming behaviours, to protect the victims and to make required remedial actions based on the civil and ecclesiastical laws, we enact this particular norm, named, “**Policy concerning the protection of minors and vulnerable adults and employees**”, for the Friars and the persons who associated with the Friars in India.

Introduction

Every member of the Province and the persons who are associated with the Province in an official capacity, in whatever manner, is accountable for maintaining the integrity of ministerial and professional relationships. If at any time, any Friar who belongs to the Province, Custody or Foundation or any employee in the employment of the Province, Custody or Foundation, engages in sexual abuse or misconduct or harassment of a minor or vulnerable adult or student-in-formation or parishioner or employee or co-worker or volunteer or student-in-institutions or any other person, they involve themselves in unethical and potentially unlawful acts.

Sexual abuse of a minor and vulnerable adults and sexual harassment of persons in the workplace are intrinsically evil and criminal both in the Church and society. It does damage to the victim, the Order, the Church and to Society. When such incidents of sexual abuse and sexual misconduct arise, the friars must be able to respond in a way that shows the compassion, reconciliation, forgiveness and justice of Jesus himself, both toward the victim, the communities affected and the offender. This also calls for a commitment to transparency and accountability in dealing with such matters.

2. Objectives of this Policy

- 3.1 To understand the implications and seriousness of sexual misconduct of friars.
- 3.2 To provide a frame work of dealing with cases of sexual misconduct, respecting the Civil laws of the Country, Ecclesiastical norms of the Church and the Proper norms of the Institute.
- 3.3 To be sensitive to the trauma of the victims of sexual misconduct and to offer them adequate remedies.

- 3.4 To propose preventive measures to be adapted by all the jurisdictions under Friars Minor in India to protect the Friars Minor from committing such crimes.

3. Preliminary Clarifications

This policy contains a set of guidelines to help the Minister Provincial (herein referred to as Major Superior) and those responsible to appropriately respond to incidents of sexual abuse and sexual misconduct in the Province of St. Thomas the Apostle, Custody of Mary, the Mother of God and the Foundation of St. Francis of Assisi. This policy and guidelines have been developed based on:

- The Canonical norms of the Universal Catholic Church and the documents of the Holy See, including the Pope Francis's Apostolic Letter *Vos Estis Lux Mundi* (You are the Light of the World) issued on 7 May 2019 and updated on 25 March 2023.
- Universal Guidelines Framework issued by the Pontifical Commission for the protection of Minors (Established within the Dicastery for Doctrine of Faith, PCPM, 2024).
- Proper norms of the Institute (Order of Friars Minor).
- Norms Promulgated by the Catholic Bishops Conference of India (CBCI).
- Laws of the Country, such as; The Protection of Children from Sexual Offences Act, 2012 (herein after referred to as POCSO 2012); Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (herein after referred to as PoSH Act, 2013); Bharatiya Nyaya Sanhita Act, 2023.

4. Definitions

5.1 Accused Person: Any Friar who is alleged to have engaged

in sexual and criminal abuse or misconduct with a child or a vulnerable adult.

5.2 Adolescent: A person who has completed 14 years and up to 18 years complete.

5.3 Adult: A person who has completed the 18th year of age. (*CIC97§1*).

5.4 Allegation: An accusation against someone asserting a violation of a law or policy.

5.5 Child pornography: Representation regardless of the means or medium used of minors apparently involved in either real or virtual sexual activity, or any representation of the genitals of any minor with an exclusively sexual purpose.

5.6 Complainant/ Accuser: Either the victim or any other person who accuses another of sexual misconduct.

5.7 Custody: Custody of Mary, Mother of God, refers to the juridical entity of the Order of Friars Minor in India, at present dependent upon the Province.

5.8 Custos: Major Superior of the Custody.

5.9 Employees: Those who work in our friaries, parishes and other health care, educational and social institutions.

5.10 Ephebophilia: Sexual activity with a pubescent minor.

5.11 Friar: A professed member of any of the jurisdictions of the Order of Friars Minor in India. (This policy also applies to the Friar students from the stage Postulancy).

5.12 Minor: Any person below the age of 18 years (*CIC97§1*).

5.13 Ministry / Ministries: Refers to professional activities, such as administration and managing, institutions, school, colleges, parishes, teaching, counselling, psychological

counselling, student mentoring, etc.; pastoral activities, such as working as a member of the parish team; and spiritual activities, such as, spiritual direction, retreat, confession, counselling, or mentoring of all kinds, undertaken by a Friar.

5.14 Minister Provincial: Major Superior of the Province.

5.15 Minister General: Supreme Moderator of the Order of Friars Minor.

5.16 Infant: Any person who has not completed 7 years (*CIC97§2*).

5.17 Order of Friars Minor, referred to as “Order”: Under Code of Canon Law refers to the religious Order and juridical entity of the *Ordo Fratrum Minorum* translated as Order of Friars Minor and represented with the acronym O.F.M. The word “minor” herein has no relationship with minor, persons below the age of 18 years.

5.18 Paedophilia: It is a term used in reference to child sexual abuse, molestation, incest and use of child pornography.

5.19 Penetrative Sexual Assault: Any kind of sexual relationship with sexual organs with (of protection) a child, or making a child to do the same. (*cf. Section 3, Articles a to (d) of POCSO Act 2012*).

5.20 President: Major Superior of the Foundation of St. Francis of Assisi.

5.21 Province or St Thomas the Apostle of India, referred to as “Province”: Ecclesiastical jurisdiction of the Order of Friars Minor in India.

5.22 Pubescent: A person who has completed 7 years of age up to 14 years complete.

5.23 Rape: Sexual penetration of another person

without that other person's consent. (Section 63 of Bharatiya Nyaya Sanhita Act, 2023, defines rape more elaborately).

- 5.24 Sexual abuse: A general term used to cover different kinds of sexual activity that are abusive.
- 5.25 Sexual Assault: Whoever, with sexual intentions touches a child or makes a child to touch sexual feelings any part of the sexual organs or other parts which will stimulate the sexual feelings is called sexual assault. (*cf. Section 7 POCSO Act 2012*).
- 5.26 Sexual exploitation: A betrayal of trust in a pastoral relationship by developing or attempting to develop a sexual relationship with the person to whom one is ministering.
- 5.27 Sexual harassment: Any unwelcome sexual advance, request for sexual favours, and other verbal or physical conduct of a sexual nature. This may happen in a verbal or physical or non-verbal manner. The sections of SHWW Act 2013 also defines sexual harassment elaborately.
- 5.28 Sexual manipulation: When someone attempts to arouse a person's sexual feelings in order to get that person to perform sexual acts. This may be done by seducing someone, offering sexual favours for a reward and by demanding sexual favours as "payment".
- 5.29 Student-in-Formation: A person who has joined the Province or Custody or Foundation and is undergoing training and formation with an intention of becoming a full member of the Order of Friars Minor.
- 5.30 Student-in-institutions A person who is studying or residing in of the jurisdictions run by the Friars in India.
- 5.31 Victim: One who is subjected to sexual abuse.
- 5.32 Volunteers: Those who offer free-will service in our friaries, retreat centers, parishes and other institutions of the

jurisdiction.

- 5.33 Vulnerable Adult: One who is unable, assault of defend her/him-self against the sexual assault of others on account of her/his physical, developmental and emotional inabilities.

5. Delicts Described in the Ecclesiastical Laws

6.1 Code of Canon Law (1983)

Canon 1398 §1. A cleric is to be punished with deprivation of office and with other just penalties, not excluding, where the case calls for it, dismissal from the clerical state, if he:

1° commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an imperfect use of reason or with one to whom the law recognises equal protection;

2° grooms or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognises equal protection to expose himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated;

3° immorally acquires, retains, exhibits or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason.

§2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in §1 or in can. 1395 §3 is to be punished according to the provision of can. 1336 §§2–4, with the addition of other penalties according to the gravity of the offence.

6.2 *Vos Estis Lux Mundi*, 2019, Art 1§1

1. a crime in canon law against the sixth commandment of the Decalogue (You shall not commit adultery) committed through violence or threat or through abuse of authority, or by forcing someone to perform or submit to sexual acts;
2. a crime in canon law against the sixth commandment of the Decalogue (You shall not commit adultery) committed with a minor or with a person who habitually has imperfect use of reason or with a vulnerable adult;
3. the immoral acquisition, possession, exhibition or distribution, in any way or by any means, of pornographic images of minors or of persons who habitually have imperfect use of reason;
4. the recruitment or inducement of a minor or of a person who habitually has imperfect use of reason or of a vulnerable adult to pose in a pornographic manner or to participate in real or simulated pornographic exhibitions;

6. Sexual abuse of a minor and vulnerable adults under POCSO, Act, 2012

POCSO classifies the sexual offenses as follows:

- Penetrative sexual assault, ¹
- Sexual assault, ²

¹ **Penetrative sexual assault** refers to: penetration of penis or insertion of any object or part of body [other than penis] or manipulating any part of child's body to penetrate into vagina, mouth, urethra or anus of child or making the child do so with such person or any other person or application of mouth to penis, vagina, anus or urethra of child or making the child do so to such person or any other person. Cfr. POCSO, Sec. 3.

² **Sexual assault** refers to 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. Cfr. POCSO, Sec. 7.

- Sexual harassment, ³
- Using a minor for pornographic purposes, ⁴
- Abetment of an attempt to commit an offence. ⁵

7. Sexual Harassment of Women at Workplace

The Government of India has enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (PoSH Act, 2013) which provides protection for women against sexual harassment at the workplace and for the prevention and redressal of complaints of sexual harassment.

"Sexual harassment" in the workplace refers to any unwelcome sexual advance, request for sexual favours, and other verbal or physical conduct of a sexual nature when submission to or rejection

³ **Sexual harassment** refers to whoever with sexual intent utter any word or make any sound or gesture or exhibit any object or part of body; make a child exhibit any object or part of body; shows any object or media to child for pornographic purpose; constantly or repeatedly follows, watches or contacts a child by any means; threatens to use a real or fabricated depiction of any part of child's body or child involved in sexual act; entices a child for pornographic purpose. Cfr. POCSO, Sec. 11.

⁴ **Use of child for pornographic purposes** refers to 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 representation of the sexual organs of a child; usage of a child engaged in real or simulated sexual acts (with or without penetration); the indecent or obscene representation of a child; shall be guilty of the offence of using a child for pornographic purposes. Cfr. POCSO, Sec. 13.

⁵ **Abetment of an offence** happens when a person abets an offence, who instigates any person to do that offence; or engages with one or more other person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence; or intentionally aids, by any act or illegal omission, the doing of that offence. Cfr. POCSO, Sec. 16.

of such conduct is used as the basis for employment decisions; or such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment does not refer to behaviour or compliments of a socially acceptable nature. It refers to behaviour that, to a reasonable person, is unwelcome, that is personally offensive, lowers morale, and consequently interferes with work effectiveness. It can be verbal, non-verbal or physical.

Sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication), namely –

1. Physical contact and advances.
2. A demand or request for sexual favours.
3. Making sexually coloured remarks.
4. Showing pornography.
5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

In addition to the above, the following circumstances, among other circumstances, if they occur or are present in relation to or connected with any act or behaviour of sexual nature, may amount to sexual harassment –

1. Implied or explicit promise of preferential treatment in her employment or
2. Implied or explicit threat of detrimental treatment in her employment; or
3. Implied or explicit threat about her present or future employment status; or
4. Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
5. Humiliating treatment likely to affect her health or safety.

The distinguishing characteristic of sexual harassment is that it is a conduct with a component, which is unwelcome, unsolicited and unreciprocated. In short, Sexual Harassment refers to all types of unwanted sexual attention.

Sexual harassment is likely to occur where an employer, supervisor, member of management or co-employee, undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant in exchange for sexual favours. Sexual harassment may also occur as a result of an act by any third party or outsider.

8. 1 Forms of Sexual Harassment

Sexual Harassment can be classified into three basic types:

1. Verbal Harassment.⁶
2. Physical Harassment.⁷
3. Non-Verbal Harassment.⁸

⁶ Examples of Verbal Harassment. These include the following: sexually suggestive comments; sexually provocative compliments; comments of a sexual nature; comments or remarks or observations about the sensuality of a person; repeated unwanted proposals for dates and/or sexual activities; continuous idle chatter involving sexual nature and graphic sexual descriptions; telephone conversations touching sexual aspects; derogatory sexual comments or slurs; sex-related verbal abuse or threats; sexual jokes; suggestive or insulting sounds such as whistling, wolf-calls or kissing sounds; etc.

⁷ Examples of Physical Harassment. These include the following: sexual and provocative gestures; lewd gestures or sign language to denote sexual activity; sexual looks such as leering and ogling; sexual innuendoes (overtones); any physical interference with normal work or movement; touching that is inappropriate in the workplace; etc.

⁸ Examples of Non-Verbal Harassment. These include the following: gratuitous display of sexually explicit written or audiovisual materials like pornographic posters, cartoons, drawings, books or magazines; transmission or display of offensive email, screen savers or pornographic computer images; offensive

8. 2 Sexual attraction verses sexual harassment – Clarification

A distinction should be made between sexual attraction and sexual harassment. Sexual attraction is attraction on the basis of sexual desire or the quality of arousing such interest. Sexual harassment differs from healthy sexual attraction because the first is unwelcome and unsolicited. Sexual conduct becomes unlawful when it is unwelcome, in the sense that the aggrieved employee did not solicit or incite it, and regarded the conduct as undesirable or offensive.

To clarify further, the unwelcome and intentional touching of a person's intimate body parts is sufficiently offensive to be considered severe, and even a single incident can be considered as harassment. Asking someone for a date may not be considered severe. But a repetitive series of non-severe incidents will be considered harassment if the offender was told to stop. It is important for the victim to communicate that the conduct is unwelcome, particularly when the alleged harasser may have some reason to believe that the advance may be welcomed because of previous consenting relationship, if any.

Some forms of sexual conduct, which are considered innocent by some people, may be considered offensive by others. In addition, different social or cultural backgrounds may lead persons to perceive the same conduct differently. Therefore, members of the Province and staff are expected to respect the sensitivities of others especially where there may be variations in the interpretation of

gestures or actions of a sexual nature including indecent exposure or “flashing”; persistent unwanted attention; following or stalking behaviour; unwanted sexual advances that condition an employment benefit for exchange of sexual favours; etc.

acceptable behaviour. Accordingly, cultural differences may not be used as an excuse or justification for sexual harassment.

8. 3 Harassment by a Third Party

Third-party sexual harassment is perpetrated not by members of the Province, Custody or Foundation or by employees but rather by outsiders. The sexual harassment may involve unwelcomed requests for sexual favours and verbal or physical harassment that creates a hostile work environment. It involves an act or omission by any third party or outsider.

9. Crime against Vulnerable Adults

Any sexual offence committed by a friar against those who are above 18 years of age and unable to defend themselves against the sexual misconduct of others on account of their physical, developmental and emotional inabilities, is considered to be a crime against vulnerable adults. It can include exhibiting pornographic material, indecent exposure, inappropriate touching, deliberate sexual arousal, and oral, anal or vaginal penetration. Such abuses are more likely to take place in the ministerial and professional contexts at the same time, without ruling out their occurrence in other personal relationships of a friar with the persons of the same or opposite sex as well.

10. Procedures in Treating cases of Sexual abuse of minors

This section of the policy delineates the step-by-step procedure to be followed when an offence of sexual nature in which a friar is involved occurs.

Procedures to be followed are based on the guidelines given by CBCI in dealing with cases involving sexual abuse of minors and

vulnerable adults issued by CBCI on ----- and the VADEMECUM of the Dicastery for the Doctrine of the Faith on “Certain points of procedure in treating cases of sexual abuse of minors committed by Clerics, given on 5 June, 2022 and the Code of Canon Law.

10. 1 *Notitia de Delicto*

- a. A *notitia de delicto* (cf. canon 1717 § 1 CIC; canon 1468 § 1 CCEO; art. 10 SST; art. 3 VELM), occasionally called a *notitia criminis*, consists of any information about a possible delict that in any way comes to the attention of the Ordinary or Hierarch. It need not be a formal complaint.
- b. This *notitia* can come from a variety of sources: it can be formally presented to the Ordinary or Hierarch, orally or in writing, by the alleged victim, his or her guardians or other persons claiming to have knowledge about the matter; it can become known to the Ordinary or Hierarch through the exercise of his duty for vigilance; it can be reported to the Ordinary or Hierarch by the civil authorities through channels provided for by local legislation; it can be made known through the communications media (including social media); it can come to his knowledge through hearsay, or in any other adequate way.
- c. At times, a *notitia de delicto* can derive from an anonymous source, namely, from unidentified or unidentifiable persons. The anonymity of the source should not automatically lead to considering the report as false, especially when it is accompanied by documentation that attests to the likelihood of a delict. Nonetheless, for easily understandable reasons, great caution should be exercised in considering this type of *notitia*, and anonymous reports certainly should not be encouraged.
- d. Likewise, when a *notitia de delicto* comes from sources whose credibility might appear at first doubtful, it is not

advisable to dismiss the matter *a priori*.

- e. At times, a *notitia de delicto* lacks specific details (names, dates, times...). Even if vague and unclear, it should be appropriately assessed and, if reasonably possible, given all due attention.
- f. It must be pointed out that a report of a *delictum gravius* received in confession is placed under the strictest bond of the sacramental seal (cf. canon 983 § 1 CIC; canon 733 § 1 CCEO; art. 4 § 1, 5° SST). A confessor who learns of a *delictum gravius* during the celebration of the sacrament should seek to convince the penitent to make that information known by other means, in order to enable the appropriate authorities to take action.
- g. The responsibility for vigilance incumbent on the Ordinary or Hierarch does not demand that he constantly monitor the clerics subject to him, yet neither does it allow him to consider himself exempt from keeping informed about their conduct in these areas, especially if he becomes aware of suspicions, scandalous behaviour, or serious misconduct.

10.2 Upon Receiving the *Notitia*

A case if initiated when a formal complaint is filed. This is sent to the Major Superior.	
The complaint should state: name and address of victim and alleged offender; date of offence; age of victim at time of offence; brief account of offence; sign of petitioner	The complaint can also be made by a third party: parent, guardian, family member or legal delegate. If complaint is made by none of the above, then the complainant should be authorised to do so either by the victim or by the legal representative.
The Major Superior will take immediate notice of the complaint and initiate an inquiry as to ascertain the veracity of the case. To do this the Major Superior is to carefully inquire about the facts and circumstances of the allegations with the local Guardian / Team Leader of the fraternity where the accused resides.	
The Major Superior will meet the accused friar in a fraternal manner and inform him about the allegations being made against him. He should give the friar in question the possibility of being heard so that he can adequately respond concerning the allegations made against him. The response of the friar should be made in writing.	

The Major Superior will offer to meet in person with the alleged victim or the victim's guardian if he or she desires. He will maintain a compassionate and pastoral manner regardless of the demeanour of the victim, recognizing that the experience of sexual abuse and difficulty of coming forward may bring out strong emotions during the disclosure process.	
If the accused admits his faults	In cases of denial of the offence or disputing about the facts of the offence
no further investigation is required. The Major Superior will then proceed in accordance with the provisions of the Canon law and that of Civil Law. Cfr. POCSO, Sec. 19.	the matter calls for further investigation. The Major Superior should notify the accused friar that an official investigation would be conducted.
The Major Superior ought to deal fraternally and sympathetically with the friar who has accepted his fault. He will provide him with necessary spiritual	It shall be the duty of the Major Superior to entrust the responsibility of further inquiry of the offence to the Preliminary Enquiry Committee (PEC)⁹ which

⁹ **The Preliminary Enquiry Committee (PEC)** appointed by the Major Superior with the advice of his Definitory shall consist of a member of the that Definitory and two other members, preferably a friar who is a Canonist and another friar who is of outstanding competence. In case the victim is a female, a Religious Sister should be part of this Committee.

counsel and fraternal advice and therapeutic assistance if necessary.	will carry out its task expeditiously and submit its report within 30 days, to the Major Superior.
Once the case is referred to PEC the Major Superior is to suspend the accused friar (<i>CIC</i> , Can. 1333) from any office he holds and if he is a Deacon or Priest ask him to refrain from exercising any ministry in public. From then on he shall be under the personal jurisdiction of the Major Superior until the case is resolved. The Major Superior should either personally or by appointing another friar supervise the conduct of the accused friar closely.	
Should the accused friar intimidate the victim or the accuser in any way, he should be cautioned about the adverse consequences of the same.	
The entire procedure of the PEC should be properly documented. It shall be the responsibility of the PEC to maintain utmost confidentiality of the entire process.	
Should the accused friar refuse to cooperate either with the Major Superior, or with the PEC, the law should be allowed to take its own course and the case be brought to the logical conclusion.	
This committee will examine if there is a prima facie case based on the following: the complaint itself, an interview with the petitioner and the alleged offender, an interview with one or two significant witnesses, if necessary and other evidence, even documentary.	

The PEC will present its report and conclusions to the Major Superior within 30 days giving the name and address of victim and alleged offender; date of offence; age of victim at time of offence; brief account of offence; sign of petitioner.
If the Major Superior accepts that there is a prima facie case, on his part places the PEC Report before his Definitory for a follow-up action not excluding the appropriate sanctions in accordance with the Canon Law. He will further refer the matter to the General Curia for advice, sending them the entire dossier.
Simultaneously the accused friar is advised to seek legal counsel in accordance with the civil law. Should he refuse to do so, the Major Superior himself should report the matter to the appropriate Civil Authorities in concurrence with the Victim / Complainant. Cfr. POCSO, Sec. 19.
When it has been established that a Friar has sexually abused a minor, the Province will provide for the pastoral care and treatment of the Friar, offering him fraternal support in whatever penalties are imposed upon him by the legal system or restrictions imposed upon him by the Province.
If after proper investigation the allegation is found to be false immediate steps should be taken to restore the good name of the friar falsely accused with possible reintegration with the community to which he belonged and reinstatement of the former ministry and office when possible.

11. Assistance to the Victim

On receiving the complaint of sexual abuse, the victim (*child or vulnerable adult*) so abused should be treated with utmost compassion and kindness. The initial encounter of the victim with the Major superior must be restricted to only seeking clarification regarding the complaint and not to negotiate any settlement of the dispute. Further, she/he may be asked to make her/his accusation in writing revealing the identity/name of the perpetrator of the offence. If the sexual abuse took place in the context of the sacrament of penance the Major superior concerned may reveal the name of the victim to the accused friar in view of self- defence taking utmost care to safeguard the privacy/good name of the victim. The victim must be provided with spiritual, psychological and medical assistance if necessary.

12. Reporting to the Minister General

On receiving an oral/written complaint from the victim/third party and having established the credibility of the accusation, the Major Superior is to immediately notify the Minister General of the same , even as the PEC is to begin the investigation.

After studying the report of PEC the Major Superior has to forward the same together with the opinion of his council

regarding the credibility of the complaint to the Minister General.

If the accused friar has admitted his fault before the Major Superior the same fact is to be reported to the Minister General along with a summary report of the offense including the opinion of the Definitory.

13. Communication with Other Involved Parties

The Province shall notify the diocesan bishop where the alleged abuse took place, and where the accused Friar is currently residing, as appropriate to the circumstances.

14. Recording

All the reports of the accusations and the findings of the investigations shall be permanently preserved in the secret archives of the Province.

15. Procedures for Accusations Against Employees/ Volunteers

Each time an employee is appointed for any kind of job in our friaries or its institutions, a written undertaking should be given by the employee through which he/she accepts to be fully responsible for any sexual offense of his/ hers and its consequences.

The same procedure mentioned above is to be applied while accepting the services of a volunteer in our friaries and Institutions.

If a victim/third party brings up an accusation of sexual nature against one of our employees/volunteers the Local Superior/ Head of the Institution shall make a careful inquiry about the accusation and take appropriate action if the employee/volunteer is found guilty, not ruling out the immediate dismissal/termination of the employee/volunteer from her/his job/service.

The guidelines given by the PoSH Act, 2013 for the constitution of the Complaints Committee, a body constituted in order to resolve complaints of sexual harassment, must be adhered to in all the institutions¹⁰ run by the Friars in India.

16. Sanctions

Though charity demands that the delinquent friar be dealt with kindness, justice demands that the grave harm done to another person through sexual abuse be rectified.

¹⁰ The PoSH Act mandates that any organization having 10 (ten) or more employees shall constitute an Internal Complaints Committee by an order in writing. The ICC will have the adequate power to investigate the sexual harassment complaints and redress them in the manner enumerated under the PoSH Act and PoSH Rules. If an organization has multiple administrative divisions at different locations, the ICC has to be constituted in each such administrative division.

Therefore, the guilty friar has the obligation of seeking pardon from the victim, restore her/his good name and compensate her/him adequately according to the terms and conditions of settlement.

If the settlement is done in the ecclesiastical tribunal¹¹ the sanctions imposed on the guilty friar according to Canon Law must be accepted by him fully and the compensation be made by him accordingly.

If the case is brought to a conclusion through a criminal court, the sentence imposed by the judge according to the law of the land is carried out , which may include both compensation and imprisonment.

17. Preventive Measures

All members of the Province, Custody, Foundation and staff are responsible for upholding the policy for prevention of sexual harassment and must take steps in order to prevent sexual harassment. Some of the responsibilities and duties in this regards would be to take preventive steps in some of the following ways:

¹¹ This would apply to only those cases which are purely ecclesiastical in nature, for instance, any sort of spiritual abuses that are not offences in the eyes of the civil law and this would also apply to those cases wherein the accused friar is let free by the trial of the civil courts, but proved to be an offender in the ecclesiastical inquiry.

1. Proper assessment of candidates before recruiting them to the Order, including the sexual orientations;
2. Friars in formation to have adequate knowledge on human sexuality through proper training and implementing them in the formation programme; basic as well as in on-going formation programmes;
3. Proper assessment of employees and undertakings to be taken from them before ensuring the appointment in our institutes;
4. Notifying, publishing and circulating express prohibition of sexual harassment;
5. Prominently displaying the policy and guidelines, including the procedures for resolving complaints, in order to create awareness among employees and the penal consequences of sexual harassments;
6. Constituting a Preliminary Enquiry Committee in all the three entities of the Order in India;
7. Constituting the Internal Complaints Committee in the institutes run by the Friars, where ever it is the law requires it;
8. Providing a safe and appropriate working environment at the workplace;
9. Ensuring that staff and other employees are aware of appropriate and acceptable standards of behaviour;
10. Taking early corrective action to deal with behaviour that may constitute sexual harassment;
11. Organising periodical workshops and awareness programmes for sensitizing employees on this issue;

12. Adequate training programmes to be given to all the heads of the institutes;
13. Declaration on safeguarding the minors and vulnerable adults that is approved by the Provincial Definitory, must be signed by all temporary and perpetual professed members;
14. An undertaking is to be taken in this regard from the students in formation, in case if the student is a minor, from the parents;

Appendix 1:

Code of Conduct and Declaration to Safeguard the Minors and Vulnerable Adults

Promise of Declaration made to:

The Minister Provincial, Province of St Thomas the Apostle, India, residing at St. Anthony's Friary, 85, Hosur Road, Bangalore-560 095.

Promise of Declaration made by:

As a member of the Order of the Friars Minor and of the Province of St. Thomas the Apostle – India, I am obligated to minister in different capacities among all the categories of people, especially minors and vulnerable adults. I am aware that the law of the land including canonical provisions is very stringent regarding offences against minors and vulnerable categories of people. Working under such conditions, as per the norms of the Order of Friars Minor and the Particular Statutes of the Province of St. Thomas the Apostle - India, I undertake the following **“Code of Conduct and the Declaration to Safeguard the Minors and Vulnerable Adults”**, without any force or undue influence but with my free will and volition.

Declaration

I, Br. _____, having made my perpetual/temporal vows on _____ in the Order of the

Friars of Minor and as a member of the Province of St. Thomas the Apostle – India, knowing fully well my responsibilities as a Friar Minor as stipulated in the Universal norms of the Church, in the proper norms of my Order and in the particular Statutes of my Province, take this oath to respect the provisions explicated both under civil as well as ecclesiastical norms, with regard to the protection of minors and vulnerable adults wherever and whatever responsibilities that are entrusted to me. Considering the seriousness of safeguarding the minors and vulnerable adults and considering the legal requirements of my Order and my Province, I promise to undertake the Code of Conduct and Declaration to safeguard the Minors and Vulnerable Adults in the form of the following oath:-

1. **Whereby, I promise and declare** that I understand the need for the protection of all minors, irrespective of their age, gender, cultural and economic background, and further knowing the legal consequences of child abuse in the Country where I reside, in the Church and in the Franciscan Order, oblige myself, to do all that is within my power to abstain from indulging in any sort of sexual abuse to minors and vulnerable adults who are in contact with me or who are under my care and custody, either mentally, physically, through social media or through any other medium.

2. **Whereby, I promise and declare** that I respect the rights and identity of every minor and vulnerable adult whom I come across either at the workplace, in my ministry or in personal contact and further. I understand my responsibility to encourage/support them in their development to become independent personalities both physically and psychologically.
3. **Whereby, I promise and declare** that I will handle them with care and concern and also keep sufficient distance maintaining personal space for them respectfully. I promise to respect the privacy and personal limits of minors and vulnerable adults without violating their physical as well as psychological integrity.
4. **Whereby, I promise and declare** that I shall give complete attention to the matters relating to the appropriate use of social media, especially mobile phones and the internet. Further, I deem it to be my bounden duty to intimate to my concerned superiors and civil authorities in cases of any violation by any person I come across in the events of my involvement in any activities related to minors and vulnerable adults. I will take all possible measures to protect the minors in such circumstances and I will also take equal measures to protect minors from other juvenile offenders.
5. **Whereby, I promise and declare** that I firmly stand against any sort of discrimination and unbecoming behaviour, both in word and deed that affects the life and liberty of minors and vulnerable adults.

6. **Whereby, I promise and declare** that I am fully aware of my prominence as a religious, my position as an authority and my responsible status as a fiduciary to protect the interests of minors as a guardian and therefore, I will not take any undue advantage of the situation or my position as an authority and exploit their vulnerable situation.
7. **Whereby, I promise and declare** that I agree with my free will that if ever I am accused of any such offences after undertaking this Code of Conduct and Declaration to safeguard the Minors and Vulnerable Adults and their interests, no institution, or my Province or my Order or the heads of the institution that I belong to, will be held responsible for my personal actions. I solemnly undertake that I will be totally responsible for my actions and no vicarious liability will fall upon the Congregation or any heads therein.

Hereby, I solemnly declare that I have not been accused or convicted for any such offences and also I declare that no such offences will take place in my dealings with the minors and the vulnerable adults in future either. Further, I declare that I will not hold responsible any of the institutions, its legal representatives or the heads of my Province or Order, for any such inappropriate behaviours that were solely done by me in exercising my authority and position.

Place:

Date:

Name and Signature of the Declarant

Name and Signature of the Witnesses:

1.

2.