

**Apostolic Prefecture of Laayoune-Sahara**

**FOR THE PROTECTION OF MINORS AND  
VULNERABLE ADULTS**

**DIRECTORY ON THE CONDUCT TO BE  
ADOPTED  
IN THE EVENT OF SEXUAL ABUSE OR  
ABUSE OF AUTHORITY AGAINST MINORS  
AND VULNERABLE ADULTS**

# INTRODUCTION: VALUES AND PRINCIPLES

The Apostolic Prefecture of Western Sahara adopts the biblical conception of the human person, whose value is sacred and whose dignity must be protected above all. She therefore seeks to develop human-spiritual capacities and to promote the positive in each person entrusted to her pastoral care. As sowers of hope, we commit ourselves to living the Gospel values of the Beatitudes in the heart of our society, with special attention to the most vulnerable.

Furthermore, recognizing the principles proclaimed by international law and the law of the Kingdom of Morocco (see Appendix 1) on the protection of minors, the Apostolic Prefecture and all workers and pastoral agents at each respective level of responsibility in pastoral activity, undertake to prevent and avoid any mistreatment of minors and vulnerable adults, in order to:

- a) To provide and guarantee to minors safe environments, in which play and training activities are carried out, appropriate to their age, free from psychological pressures and where dignity and development are respected and safeguarded;
- (b) To cultivate a culture of respect and esteem, altruism, protection of freedom, equality, dignity and autonomy of all human beings.
- c) To protect those who are vulnerable, children or adults, and to listen, accompany and help them when they are victims of any type of abuse of authority, physical, psychological or sexual.

The Apostolic Prefecture intends to adopt all the necessary precautionary and preventive measures to ensure that its members are not guilty of any type of abuse (physical, psychological, sexual, cultural) against minors or vulnerable adults.

At the same time, the Apostolic Prefecture, through this "**Directory on the Conduct to be Taken in Case of Sexual Abuse or Abuse of Authority against Minors and Vulnerable Adults**", intends to establish all canonical and civil procedures for the truth to be revealed, in the event that one of its members is responsible for such a crime.

The rules of this document are subject to:

Clerics, men and women religious present in the territory of the Apostolic Prefecture and subject to the jurisdiction of its Apostolic Prefect, lay people and other pastoral agents who collaborate in the Prefecture with and under the direction of the same Prefect, in all activities that have minors or vulnerable adults as beneficiaries or recipients.

## CODE OF CONDUCT

The main objective of the Code of Conduct is to ensure the protection of children and vulnerable adults. Any violation of this code will result in disciplinary proceedings and/or legal action depending on the seriousness of the facts.

**It is important for all people in contact with children and vulnerable adults to:**

- Ensure their safety and well-being. Treat children and vulnerable adults with respect and recognize them as actors of their rights; Work with them in a spirit of cooperation and partnership based on mutual trust and respect and to develop their potential;
- Plan and organize work and the workplace in a way that minimizes the risks of situations that may pose risks to children and vulnerable adults. Act preventively. Whenever possible, be visible when working with children. To control the access to the internet of vulnerable children/adults and to program parental control in all computers used for pastoral work.
- Ensure that vulnerable children and adults have access to information, the right to express themselves and to be heard; Give credence to the opinions of vulnerable children and adults, take them seriously; Treat vulnerable children and adults fairly, without discrimination, (positive or negative);
- Commit to never ignoring a bad practice or potentially violent behaviour towards a child or vulnerable adult.

**More concretely, employees and partners must never:**

- Hitting, assaulting or physically abusing vulnerable children/adults;
- Have physical/sexual relations with vulnerable children/adults;
- Engaging in behaviours with vulnerable children/adults that may in some way be considered exploitation or abuse;
- Acting in a way that may be violent or likely to put a child or vulnerable adult at risk of abuse;
- Acting in a way that is intended to cause a sense of shame, humiliation, or degrading or any other form of psychological violence;
- Show pornographic material to vulnerable children/adults.
- Taking photographs of vulnerable children or adults without the permission of their guardians.

In addition, staff and anyone else in contact with children or vulnerable adults **must refrain from** :

- Use language, make suggestions, or offer advice that is inappropriate, offensive, or violent;
- Physically behave or use the internet in a manner that is inappropriate or sexually provocative;
- Invite or bring a child/children/vulnerable adults accompanied by to spend the night with them, or in their home, unsupervised;
- Sharing the same room or bed with a vulnerable child/adult;
- Travelling alone with a child in a vehicle except in cases of extreme necessity after obtaining the authorisation of the parents and/or the Management.
- Assisting a vulnerable child/adult with tasks that he/she can perform without external assistance (e.g. accompanying him/her to the toilet, bathing him/her or changing his/her clothes) unless such assistance is necessary, in which case the rule of two adults should be observed.
- Consenting to or participating in the behaviour of a vulnerable child/adult that is illegal, dangerous or violent (e.g. not tolerating illegal, dangerous or violent behaviour, or participating in harmful traditional practices,

- spiritual or ritual violence or situations in which children are led to use alcohol or drugs);
- Have a discriminatory behaviour or attitude, treat vulnerable children/adults differently by favouring some and excluding others, particularly in the possible logic of sponsorship

## **In Case of Crime MEASURES**

### **1. What constitutes the offence?**

The offences committed against the sixth commandment of the Decalogue consist of:

- a. Coercing anyone, with violence or threats or by abuse of authority, to perform or undergo sexual acts;
- b. Performing sexual acts with a minor or with a vulnerable person (cf. can. 1395 § 2 of the Code of Criminal Procedure; Art. 6 § 1, 1° SST);
- c. Producing, exhibiting, possessing or distributing, even by electronic means, child pornography, as well as recruiting or inciting a minor or a vulnerable person to participate in pornographic exhibitions (cf. Art. 6 § 1, 2° SST);

### **2. The age of the minor concerned by this offence, since 30 April 2001.**

- a. The age of the minor has been universally raised to 18 year.
- b. Vulnerable person: a minor is a person who habitually enjoys an imperfect use of reason (cf. SST, Art. 6 § 1, 1°).

### **A. What to do when you receive information about an alleged offence (*notitia de delicto*)**

**What is meant by *notitia de delicto*?**

- a. The *notitia de delicto* (cf. can. 1717 § 1 CIC; can. 1468 § 1 CCEO; Art. 16 SST; Art. 3 VELM), is any information on a possible crime, which in any way reaches the Ordinary. It is not necessarily a formal whistleblowing

The information of delictum gravius learned in confession is placed under the strictest bond of the sacramental seal (cf. can. 983 § 1 CIC; Art. 4 § 1, 5 ° SST).

### **B. What should be done when a *notitia de delicto* has been received?**

1. After receiving a *notitia de delicto*, the Ordinary must carry out a preliminary investigation if the *notitia de delicto* is "saltem verisimilis" (probably probable) (Art. 16 SST and also can. 1717 CIC). If the *notitia de delicto* proves to be devoid of plausibility, it could be taken no further action, but care is taken to keep the documentation accompanied by a note explaining the reasons for this decision. If the suspect is the Ordinary, one must follow the norms of *Vos estis lux mundi*, VELM, Titolo II.
2. In view of the delicacy of the matter – due, among other things, to the fact that sins against the sixth commandment of the Decalogue are rarely committed in the presence of witnesses – the *notitia de delicto* will be considered implausible only in the case of manifest impossibility of proceeding according to the norms of canon law<sup>[10]</sup>. However, even in this case, it is desirable that the Ordinary inform the CDF of the *notitia de delicto* and the decision to postpone the preliminary investigation due to the manifest lack of plausibility.
3. In such cases, in the absence of an offence against a minor but in the presence of reprehensible and imprudent behaviour, if this proves necessary to protect the common good and avoid scandals, it is within the power of the Ordinary to take administrative measures against the person denounced (for example, ministerial limitations), to impose on him the penal remedies mentioned in can. 1339 CIC in order to prevent crimes (cf. can. 1312 § 3 CIC). And if crimes non graviora have been committed, the Ordinary must follow the juridical channels corresponding to the circumstances.
4. According to can. 1717 CIC, the responsibility for the preliminary investigation lies with the Ordinary who has received the *notitia de delicto*, or with an appropriate person delegated by him. It is preferable that a priest-delegate be appointed.
5. Taking into account the indications that may be adopted by the Episcopal Conferences, the Apostolic Prefecture will set up, individually or jointly in collaboration with the Bishops' Conference, a stable and easily accessible mechanism for the presentation of reports, in particular through the establishment of an appropriate ecclesiastical office (**Listening Unit**). The Pontifical Representative will be informed of the establishment of this mechanism (VELM I, art. 2, §1). The Apostolic Prefecture will collaborate with the Archdioceses of Morocco to establish this Listening and Accompaniment Cell.
6. The Ordinary to whom this task falls may be that of the denounced cleric or that of the place where the alleged offence was committed. In this case, communication and collaboration between the Ordinaries concerned must be effective, in order to avoid conflicts of competence or duplication in the work, especially if the cleric is religious.
7. If the Ordinary encounters difficulties in opening or completing the preliminary investigation, he or she will immediately contact the CDF for advice or answers to any questions.
8. If the *notitia de delicto* reaches the CDF directly, without going through the Ordinary, it may ask the CDF to carry out the investigation or carry it out itself, in accordance with Art. 17 SST. The CDF, of its own

accord, upon explicit request or necessity, may also ask a third-party Ordinary to conduct the preliminary investigation.

9. The prior canonical investigation must be carried out independently of the corresponding investigation by the civil authorities, but always in compliance with the civil laws of each State (cf. Art. 19 of the MLL).
10. However, if the legislation of the State prohibits investigations parallel to its own, the competent ecclesiastical authority shall refrain from opening the preliminary investigation and shall inform the CDF of the report, communicating to it any useful material. If it seems appropriate to wait until the end of the civil investigation to obtain the results or for other reasons, it is good for the Ordinary to consult the CDF on this matter.
11. Subject to the right of the Congregation for the Doctrine of the Faith to derogate from the statute of limitations on a case-by-case basis, the criminal action relating to the offence of abuse provided for in SST Art. 6, § 1, n. 1 is time-barred after twenty years; the statute of limitations begins to run from the day on which the minor turns eighteen years of age. (Cf. SST Art. 7, §§ 1 and 2).
12. It should be noted that even at this stage professional secrecy is required. However, no obligation to remain silent about the facts may be imposed on the persons concerned.
13. In accordance with Art. 2 § 3 VELM, the Ordinary who has received the *notitia de delicto* must transmit it without delay to the Ordinary of the place where the facts are alleged to have occurred, as well as to the Ordinary of the person reported, that is, in the case of a religious, to his major superior; if the Ordinary of the place and the Ordinary proper are not the same person, they will agree on who will conduct the investigation. If the report concerns a member of an institute of consecrated life or a society of apostolic life, the major superior is also to inform the supreme moderator.
14. Even in the absence of an explicit legal obligation, the ecclesiastical authority is to lodge a complaint with the competent civil authorities whenever it deems it necessary to protect both the alleged victim and other minors from the danger of further criminal acts.

### **3. Initiation of the investigation**

- a. The purpose of the preliminary investigation is: a) to collect data useful for investigating the *notitia de delicto*; b) to establish the plausibility of the case, in law and in fact of the accusation; it is intended to gather more detailed information on the *notitia de delicto*, concerning the facts, the circumstances and their imputability. As far as possible, the facts on which the accusation is based, the number and time of the criminal conduct, their circumstances, general information on the alleged victims, adding an initial assessment of any physical, psychological and moral damage, mentioning other possible crimes imputed to the accused (cf. Art. 8 §2 SST) and pointing out problematic facts that would emerge from his biographical profile. It

is appropriate to collect testimonies and documents of all kinds and from all sources, useful for circumstantiating the accusation and assessing its plausibility.

- b. The competent Ordinary shall appoint a priestly investigator (delegate) and two assessors, by decree in which he shall indicate that he has the powers indicated in cann. 1717 § 3 CIC.; It is recommended that a notary priest also be appointed.
- c. The delegate conducting the preliminary inquiry must pay particular attention to it, taking all necessary precautions, to ensure that the good reputation of the persons involved (accused, alleged victims, witnesses) is, so that the report does not give rise to prejudice, retaliation or discrimination (cf. Can. 1717 § 2 CCC and Art. 4 § 2 and 5 § 2 VELM).
- d. The ordinary, according to the expediency, will appoint a spokesman, especially when it is necessary to publish press releases on the subject with caution, using a sober and succinct style, avoiding sensational announcements, strictly refraining from any pre-judgment and welcoming any desire to respect confidentiality shown by the alleged victims.
- e. The ecclesiastical authorities must undertake to ensure that the alleged victim and his or her family are treated with dignity and respect; they must offer them welcome, listening and accompaniment, including through specific services, such as spiritual, medical and psychological assistance, as the case may be (cf. Art. 5 VELM). This will also be done with respect to the accused.

#### **4. Interim and disciplinary measures.**

- a. To protect the good reputation of those involved, the public good, and to avoid other facts (for example, the dissemination of the scandal, the risk of concealment of future evidence, threats or other conduct aimed at diverting the alleged victim from the exercise of his rights, the provocation of other possible victims), the Ordinary has the right, from the beginning of the preliminary investigation, to impose, by means of a particular precept notified to the person concerned, the precautionary and disciplinary measures of an administrative nature that he deems appropriate, or other (cf. Art. 19 SST; can. 1722) according to the circumstances, such as the prohibition or prohibition of the exercise of the ministry.
- b. It is necessary to avoid simply transferring the cleric involved from the cleric involved to a transfer of office, circumscription or religious house, as if his removal from the place of the alleged offence or the alleged victims could constitute a satisfactory solution.
- c. The measures imposed must be revoked if the cause that provoked them disappears; they cease with the conclusion of a possible criminal trial. In addition, they may be modified - by aggravation or by alleviation - if circumstances so require.

## **5. Conclusion of the preliminary inquiry**

- a. It is recommended, as a matter of fairness and for the reasonable exercise of justice, that the duration of the preliminary inquiry be limited by the proper purposes of the inquiry, namely, to permit a well-founded assessment of the air of reality of the *notitia de delicto* and the existence of the related *prima facie delicti*.
- b. If the investigation has been carried out by an appropriate person appointed and delegated by the Ordinary, the latter shall submit to him the acts thereof, together with a personal evaluation of the results of the investigation. According to the can. 1719 CIC, it is up to the Ordinary to decree the closure of the preliminary investigation.
- c. Once the preliminary investigation has been concluded, whatever the result, the Ordinary must send the acts to the CDF, in certified copy and as soon as possible (cf. Art. 16 SST).
- d. To the copy of the acts he shall add his own evaluation of the results of the investigation (*votum*), also giving his suggestions as to how to proceed.
- e. If the Ordinary who conducted the preliminary investigation is also an adult superior, he or she should also transmit a copy of the investigation file to the Supreme Moderator, as it is with them that the CDF will communicate later. In turn, the supreme moderator will send his *votum* to the CDF.
- f. Always, once the acts of the preliminary investigation have been sent to the CDF, the Ordinary must wait for communications or instructions from the CDF (cf. Art. 16 SST).

**6.- Supporting victims.** Beyond the measures mentioned above, the Prefecture is committed to supporting the alleged victims. This role will be assumed by the listening and support unit. In particular, it will be possible to:

- Have a trusted professional assess the support needed by the alleged victim and their family.
- Analyze how to provide this support, taking into account the expectations of the alleged victim.
- Discern who else in the environment should benefit from it.
- Regularly review all provisions to support individuals

## **7. Evaluation and implementation of the Executive Board:**

- The Apostolic Prefecture undertakes to apply this directory.
- The Apostolic Prefect will request collaboration with the Listening and Accompaniment Unit of the Archdiocese of Rabat.
- The Apostolic Prefecture undertakes to make this Directory known to all those involved and to the faithful in general.
- The Apostolic Prefecture must make the directory public and accessible.

- Every six months there will be an evaluation of the practices for the implementation of the directory and, if necessary, updated with new canonical or civil provisions.

**This document was approved by the Apostolic Prefect on October 14, 2020, *ad experimentum*. It will be subject to review and final approval. In the meantime, it comes into force.**

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