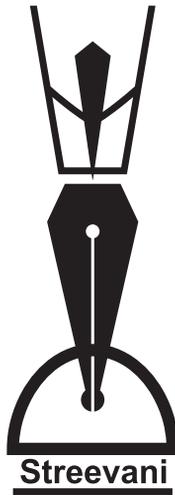


**Re-visiting the Discourse on
Women's Empowerment
in the Church:
Women Religious
Negotiating Spaces**



2019

2019

**Re-visiting the Discourse on Women's
Empowerment in the Church: Women Religious
Negotiating Spaces**

Published by:

STREEVANI

1&2 Lotus Building

Neco Garden, Viman Nagar,

Pune 411014. Maharashtra, INDIA

Email: Streevani@gmail.com

Printed by:

ST PAUL PRESS TRAINING SCHOOL,

Bandra, Mumbai - 400 050

(For Private circulation only)

Contents

1. From the Directors Desk.....5
– *Julie George SSpS*
2. Consecrated Women’s Role in the Mission
of the Church in India 11
– *Fabian Jose UMI*
3. The Liberation of Nuns;
the re-imagining of Church.....20
– *Suren Abreu*
4. Culture of Silence and Servitude in the lives of
Women Religious.....25
– *Raynah Braganza Passanha*
5. Going beyond Boundaries –
The Prophetic Agency of Women Religious.....34
– *Manju Kulapuram*
6. Religious Joining Hands
with People’s Movements.....42
– *Dorothy Fernandes pbvm*
7. Women Finding a foothold in the age of
the #Me Too movement46
– *Virginia Saldanha*
8. Background to the Church Guidelines on
Sexual Harassment at Workplace Policy.....54
– *Astrid Lobo Gajiwala*
9. Sexual Harassment Policy at Workplace:
A Comparative Study of the Church Policy Vs
Government of India Act, 201356
– *Sheeba Jose UMI*
10. Sexual Harassment at the Workplace and the
Practical Aspects of its Implementation.....67
– *Ms. Audrey Dmello*

11. Church Policy on Sexual Abuse: A Critical Appraisal.....	79
– <i>Shaji George Kochuthara, CMI</i>	
12. The 21 Reflection Points by Pope Francis	96
– <i>Virginia Saldanha</i>	
13. UISG Declaration Against any kind of Abuse	106
– <i>Union of International Superiors General (UISG)</i>	
14. Transformative Power of the Constitution.....	107
and a Nation in Flux	
– <i>Jacob Peenikaparambil</i>	
15. Programs, Reflections and Celebrations....	
Glimpses from Streevani’s Journey	
during 2018-19	125
– <i>Rose Thomas SSpS</i>	
16. Forum for Justice and Peace	
National Workshop on ‘ <i>In Defence of the</i>	
<i>Indian Constitution</i> ’— Statement	
	130

From the Directors Desk

Sister Veronica Openibo, a Nigerian-born nun, was one of the only three women to address the Vatican summit on clergy sexual abuse in February, 2019. She made a bold statement when she addressed the Pope directly as “**Brother Francis**” during her powerful speech on abuse of Nuns. Noted human rights lawyer Indira Jaising says that language is more than a mere communication tool. It is an intuitive social, cultural and political indicator, which reflects prevailing attitudes and ethos of any society. So when we talk about “gender bias” in a language, we refer to the superior-inferior paradigm that has evolved due to distinction in gender.

After Openibo’s address, Cardinal Blase Cupich of Chicago, told the reporters that “women’s voices should be heard more. And the voice of a woman in the hall was very compelling, and is something that is causing bishops to say we need the voices of women more often in events like this gathering.”

Pope Francis has brought in a new energy and hope; He has challenged us to take stock of the current realities and to move ahead with him to bring about the rebirth of the Church. For the Church to grow in wholeness, it is crucial that we overcome the flaws of Clericalism, deep rooted Patriarchy, servitude of Nuns and Sexual abuse of minors and vulnerable adults and many more of such maladies.

This volume of Birthing a New Vision titled **Re-visiting the Discourse on Women’s Empowerment in the Church: Women Religious Negotiating Spaces**” bring together profound reflections on the above mentioned topics, as well as the laws pertaining to abuse cases, flaws in the Church Policies and the constitutional rights of the citizens. What underlies each of the articles is the belief that one of the most important

elements of the right to equality proclaimed and upheld by the Church in no uncertain terms, is the right to inclusion and participation and freedom from any kind of abuse.

It is a universal truth that faith and religion do not tolerate any discrimination but most of the religious practices are seen perpetuating patriarchy thereby negating the basic tenets of faith and of gender equality and rights. The essays in this volume are with a special focus on women's empowerment in the Church by Catholic women and men from academe and the grass roots. The well-researched papers call for a deeper reflection on the issue of women's place in the Church as a fundamental issue of justice and equality.

Last 50 years of feminist activism in India has managed to challenge the 5000 years of patriarchal order by striking at the root of exploitation and oppression, subjugation and degradation of women in personal and public life. In the Church change is extremely slow and women continue to be treated as subordinates at the service of the male hierarchy. Within such uneven power structures, very little rights discourse takes place. Because of the unequal power equation that prevails in the Church, women are incapable of voluntary consent owing to a particular vulnerability or due to the power relationship between the parties.

The existing laws and policies and the implementation of it are situated within a patriarchal framework and it fails to question the conventional notions about women in our society and Church. We have learnt that Social change and gender justice cannot be achieved merely by making laws. We need change in our mind set.

Consecrated Women's Role in the Mission of the Church in India by Sr. Fabian Jose explains that consecrated women need to be liberated from internalized norms of dependence,

victimization, emotional manipulation, fear of insecurity and the crab mentality.

Suren Abreu emphasizes that his article is not about the guilt or innocence of Mulakkal – the courts will decide that! Nor is it about the general subjugation of nuns in an overbearingly patriarchal Church – that is a given! This article explores the contours of a revolution against oppression and silencing, a revolution towards justice and equality, where voices of all will be heard and respected.

What can we do when the Church talks the talk, but doesn't walk the walk? Asks Raynah Braganza Passanha. She says that we cannot choose inaction as it would make us promoters of a culture that is against gospel values of equality, respect, dignity and justice. We have no choice but to exercise our agency and challenge existing systems that deny these values.

Going beyond Boundaries – The Prophetic Agency of Women Religious by Manju Kulapuram explores the lack of appreciation and respect for Religious life and further asserts that mechanisms to resolve disputes when they occur in a Christian spirit have to be devised. But even more important, all, whether clergy, Religious or laity, need to recover the Christian spirit in our life and mission.

Joining Hands with People's Movements, Dorothy Fernandes shares that religious life has become more regimented prioritizing on discipline, commitment and distancing from the world. While these are important values there are aspects which call for introspection. It is imperative to revisit some of our practices if we really wish and desire to work towards the transformational model. Commitment to the people with competency and courage can take us a long way.

Women finding a foothold in the age of the #Me Too by Virginia Saldanha, stresses that the movement was born out of

women's helplessness to indict their harasser. Women decided the best way was to go public taking advantage of the various social media platforms available for easy communications. Name and shame is the only way to call attention to their abuser.

Sheeba Jose in her comparative study on Sexual Harassment Policy at Workplace of the Church Vs Government of India Act, 2013 asserts that the Church needs to commit to implement the policy as sexual harassment violates the sacredness of the human person and is against the ethos of the Bible. She further states that the CBCI policy if not adhered to in its true spirit remains as a whimsical policy that may be modified or adjusted suiting the whims of the Churchmen or representatives in hierarchical order.

The Church rejects any violence and abuse. Sexual violence and abuse are among the most serious violations and are considered not only sins, but also crimes. However, the pertinent question would be whether the teaching of the Church and related policies are reflected in the actual practice. There are also complaints that processes lack transparency, especially in a hierarchical system, which adversely affects the implementation of even existing laws and policies. Shaji George Kochuthara explores further the nuances of the Church Policy in his article titled "Church Policy on Sexual Abuse: A Critical Appraisal"

Ms. Audrey D'mello explains in great detail the Sexual Harassment at Workplace Act, 2013 and various aspects of its Implementation. Though the Act is meant to prevent, prohibit and redress sexual harassment, the aspects of prevention and prohibition are generally ignored, hence the government should concede to the recommendations by various groups to amend the statute.

Jacob Peenikaparambil elucidates the transformative power of the Constitution and places it in today's context and emphasizes the need for each of us to study the Constitution. He further asserts that one of the reasons for the survival of democracy in India for more than 70 years is the constitution of India. The Preamble, with its emphasis on justice, liberty, equality and fraternity; and its commitment to India being and remaining a "sovereign socialist secular democratic republic" spells out the vision and the intrinsic character of the Constitution".

The papers in this volume are born out of the present day context of the Church and Nation, especially the recent storms that have rocked the Church. Clericalism that privileges the status of clergy over that of lay people and insists on an exaggerated deference for clergy and bishops and has functioned as a closed world should be dismantled in order to establish equality in the Church. The Time's Up! Women will no longer be cast out nor take things lying down.

Julie George SSpS

Consecrated Women's Role in the Mission of the Church in India

Fabian Jose UMI*

Introduction

Today, women are awakening to a new consciousness. They are, claiming agency to discover their true identity. This collective awakening of women is indeed a global experience, cutting across the barriers of nation, race, color and creed. Women's issues are becoming global concerns. In India too, women religious are more increasingly seen among professionals, activists, leading NGOs and People's movements. They are moving beyond kitchens and child-care centers, into law courts, research in different streams of knowledge and discovering their power. Women religious are courageously making a break-through into spaces reserved for 'men alone' thus leading humanity to a new consciousness of being human.

Today, the global movements are affecting the entire human family. These movements are leading the people to recognize their dignity and power. Similarly the consecrated women too are waking up to actualize their power in the world, in the church and in the society. Pope John XXIII in the Encyclical *Pacem in Terris* affirmed the equality of women to men and argued that the modern world cannot tolerate women being treated as inferior in any way. Consecrated women as disciples of Jesus believe that their strength is in the Lord, who treated the

* Fabian Jose UMI is the member of the Congregation of the Ursulines of Mary Immaculate. She has completed her doctorate from Berkely, California, USA. She has specialized in "Prophetic Mysticism in Consecrated Life" focusing on the spirituality of Thomas Merton for the Indian Context.

women of His time with respect, and consequently they became powerful messengers of God. Drawing inspiration from the Lord the following dimensions will enable consecrated women to play a vital role in the mission of the church.

Building an Inclusive Church and Society

Jesus' intimate union with God strengthened him to reach out to the broken, downtrodden, lonely, the abandoned, especially to the women and children of his time. Today, more than ever the life of Jesus should inspire the women religious in India for a greater inclusion in the life of the Church, in its policy and decisions. The universal Church too is realizing its great responsibility towards women. The following statement made by Pope John Paul II at the time of the Beijing conference is still pertinent: "Women have often been relegated to the margins of society and even reduced to servitude. This has prevented women from truly being themselves and it has resulted in a spiritual impoverishment of humanity." In all humility he apologized to the women for the wrongs done to them and urged the Church to make amends for these sins.² Pope Francis too is making efforts to improve the status of women in the Church today. When he visited Manila, he noted that four of the five people who addressed him on the stage were men and he challenged the people who gathered there through these words:

There is only a small representation of females here, too little. Women have much more to tell in today's society. At times we men are too 'machista', using the Spanish term for male chauvinists. We don't allow room for women but women are capable of seeing things with a different angle from us, with a different eye. Women are able to pose questions that we men are not able to understand. Then he jokingly added: so, when the next pope comes to Manila,

² Inigo Joachim, "Empowering Women as Evangelizers," *Asian Journal of Vocation and Formation*, Vol. XXXIX, No.1 (Pune: 2014, January-June): 33.

let's please have more women among you.³

The feminist's slogan '*we make policy, not coffee*' is perhaps beginning to be heard within the Indian ecclesial boundaries too. In India, for a long time, women's voices were not heard. Consecrated women in particular, have been passive recipients of spirituality, in the understanding of Christian ethics and the pastoral vision. Today, they are questioning the monopolized leadership of the Church which is masculine. There is an urgent need for greater mutuality in mission, which implies working out new structures of collaboration at the parochial and diocesan levels, and at the national and international commissions. More women need to be heard in the field of theological formation, spiritual direction, guided retreats, counseling, leadership and in creative expressions of *daikonia*.⁴ According to Inigo Joachim the male-dominated church in India needs to be conscientized urgently through these measures:

Consecrated men at all levels of their formation starting from their minor seminary formation, should be sensitized about human rights, gender issues, stressing the need for equality so that everybody can live on this planet in peace and tranquility.

Awareness seminars on gender equality, inviting enlightened women and women activists, could be organized to share their views; reading the biographies of courageous women of our time will increase their awareness.

The Church authorities should also invest in women's formation at various levels. They should be included in the diocesan and local level Councils and in the decision making process.

³ Pope Francis, "Pope's Message to Men: Don't be Machists Listen to Women More" *Times of India*, (Pune: Bennet, Coleman & Co. Ltd., 2015, January): 15.

⁴ Kochurani Abraham, "The Place and Role of Women in the Catholic Church," *Towards The Full Flowering of the Human* (Mumbai: St. Pauls, 2011), 67-68.

We should popularize inclusive language in liturgy, the prayer of the Church, catechesis and homilies and should judiciously use more feminist and liberative passages: Deborah, Judith, Naomi and other women from the old and New Testament.

It should be announced from the pulpit that discrimination and violence against women is sinful.

Parishes should involve women in the ministry of the proclamation of the Good News. Women should be included as co-workers and co-leaders by recognizing their leadership competence and intellectual and creative potentialities.⁵

Since, in India, all the present power structures are male-centered models, and women find it impossible to fit into them, there is a need to understand those structures and critique them with an enlightened spirit. The need of today is not a competitive spirit or prejudice against men, not proving who is right and who is wrong, but the need is for men and women who are interested in the establishment of a new world to cooperate and collaborate with each other to work out a means to see a new heaven and a new earth.

Being Empowered by Christ to Empower Others

Jesus being one with God, saw God's face in every one. He respected women, talked to them as individuals with spiritual understanding, and included some of them to be his disciples, who followed him on his Galilean journeys and finally to Jerusalem and Calvary (Lk 8:31; 43:48). For a renewed vision of the consecrated life, it is an urgent call for society, the church in India and the universal church at large, to effect a radical change in the status of women. In order to uplift the downtrodden, consecrated women need to be rooted in Christ. The power to empower others must spring from one's own deep God-experience. When asked by a journalist in England, "What is your motivation, what

⁵ Inigo, 35-36.

inspired you to do all this?” the resounding and resolute answer of Mother Teresa was, “Jesus!” Like Mother Theresa, strengthened by the spirit of Jesus, we need to play a prophetic role in our society and make the church realize its responsibility to empower the women:

If the Church is to become the empowering symbol of communion, it must embark on new models of relationship and new forms of partnership. If the church is to become the conscience of a new world order, it needs an alternate leadership that acknowledges women’s potential and inner power, and recognizes their intellectual competence, charisms, and skills in order to actualize God’s plan of fashioning a just society⁶

Together with the church we need to believe in ourselves with dignity and in the power of our potential. When women realize that ‘we can’ with the power of the Jesus who has promised to be with us always, we get the inner energy, to work with commitment for the upliftment of women. We, the consecrated women, need to be liberated from internalized norms of dependence, victimization, emotional manipulation, fear of insecurity and the crab mentality. Liberation will be possible for others, only if we consecrated women are liberated and empowered by the spirit of Christ. Thus empowered, the joy-filled witnessing presence of consecrated women will be a blessing to take up the challenges in the Indian church and society.

Being Joy filled Witness of Christ

Jesus’ intimacy with *God* leads him to bear witness to the love of God. Amidst many challenging situations, Jesus never failed to witness the love of God. Consecrated women are called to follow Jesus and bear witness to him joyfully in the midst of the various challenges in India. We need to enter into the world and need to be in solidarity with the experiences of

⁶ Margaret, *Women in Mission* (Chennai: Arumbu Publications, 2008), 132.

people, just as Jesus was in solidarity with the people of his time. The documents of the Church *Gaudium et Spes*, expects all the Christians and in particular the consecrated men and women, to be in solidarity with the people of the world:

The joys and hopes, the grief and anguish of the people of our time , especially of those who are poor or afflicted, are the joys and hopes, the grief and anguish of the followers of Christ as well. Nothing that is genuinely human fails to find an echo in their hearts. For theirs is a community united in Christ and guided by the Holy Spirit in their pilgrimage towards the Father's Kingdom, bearers of the message of salvation for all humanity (GS 1).

This statement of the Council is the motivating force for the consecrated women of India. When Pope Francis expresses his views on the various agonizing problems of this present time affecting the Church and the world, he calls on consecrated men and women to prophetically denounce all kinds of evil that destroys the harmony and communion among humanity, through our love, peace, and above all through our joy-filled spiritual presence. People must see that we are truly joyful people, an "alleluia" people, whose joy is reflected in our joyful service to our brothers and sisters.

Our presence will be effective in India if we are able to enter into a dialogue with people of all faiths by sharing our faith through action and encouraging others in their faith by listening to them and accepting them as they are. Once someone asked Mother Teresa how she could become effective in this pluralistic country India, she responded with a smile: "I never tried to convert anyone, but tried to make a Hindu a better Hindu, a Christian a better Christian, a Muslim a better Muslim, a Sikh a better Sikh, through my love and care, peace and joy." Yes, this is what is expected from us today in our country. Francis of Assisi told his fellow brethren "preach the Gospel always" and "if needed use words." Through all our missionary activities teaching, healing, preaching and educating, we are called to make Christ present.

Pope Francis express witness in these words: “The witness that can be really attractive is that associated with attitudes which are uncommon: generosity, detachment, sacrifice, self-forgetfulness in order to care for others. This is the witness, the martyrdom of consecrated life.”⁷

Today, there is no need of using high technology in promoting vocations to the consecrated life. Our Christ-filled, joy-filled presence and service need to be the guiding lights for people. When our light shines, people will praise God in heaven (Mt 5:16). Instead of cursing the darkness let us light up and wake up the people of our nation and the world through our love, peace and joy-filled witness.

Being Mystics and Prophets in India

United in deep, contemplative stillness with *God*, the divine source, Jesus was saturated with divine energy and grasped his consequent mission as the prophet. As Jesus was integrated with God we need to cultivate passion for Christ and the compassion for humanity. Otherwise, we cannot be effective in responding to the present day challenges of our country India. We need to listen to the movement of the Spirit and read the signs of the times to understand the realities of our people in depth. Filled with the fire of Christ in our heart, we are called to walk through the lanes and by-lanes, high rise buildings and slums, malls and pavement bazaars in India, mingling and interacting with women and men, rich and poor, upper caste and lower caste.⁸ Ablaze with love of Christ as prophets and emissaries of God, we need to discover him in the harassed wives and anxious

⁷ Antonio Spadaro, “Wake Up the World;” Conversation with Pope Francis about the Religious Life, *La Civiltà Cattolica*, Vatican, 2014.

⁸ Evelyn Monteiro, “The Call of Women Religious to Mystical Contemplation,” in *Asian Journal for Religious*, Vol. 53, No. 2 (Pune: Jnana-Deepa Vidyapeeth, March, 2008): 24.

mothers, in the insecurity of the girl child, in the traumas of raped and molested women, in the yearning of Indian women to be free from socio-cultural and religious shackles that bind them as slaves to oppressive customs and traditions. As consecrated women prophetess, with complete trust and confidence in the power of Jesus, we need to enter into the life of our struggling brothers and sisters of our country, and very especially of the women and girl children.

In the context of India today, consecrated women have a prophetic task to present the dignity and beauty of genuine womanhood in modern society. With great trust in the Lord and with a magnanimous heart, we need to break down the walls that exist between people, religion, culture and gender. We need to be an embodiment of God's presence for his people, through our God-experience, love, compassion, self-sacrificing spirit and enthusiasm to continue the mission of Jesus. Joan Chittister said, "Nothing from the past is secure. Nothing in the future is clear. Risk is the new asceticism of Religious Life."⁹

Consecrated women must hope that the Holy Spirit will creatively transform consecrated life in India to become a dynamic force. When we live with renewed vision and mission, our life becomes a symbol of unity, love, forgiveness, peace and joy. Today, tomorrow and in the future we need consecrated life which is at the heart of the Church. Without the meaningful existence of the consecrated women, the church cannot continue the mission of Christ. One Mother Teresa, Rani Maria, Valsa John, or Mariam Teresa has a deeper impact than a thousand mediocre Christians or consecrated persons in India.

⁹ O'Murchu, Diarmuid. *Consecrated Life: The Changing Paradigms*(Bangalore: Claretian Publications, 2006) 78.

Conclusion

Today at this decisive time in the 21st century, Pope Francis is challenging every consecrated person to ask themselves, “Is Jesus really our first and only love, as we promised he would be when we professed our vows? Only if he is, will we be empowered to love, in truth and mercy, every person who crosses our path. We will be able to love because we have his own heart.”¹⁰ The Spirit is calling us in the context of India through Pope Francis to have a new way of being consecrated women: by developing an intimate personal relationship with the person of Christ as mystics and prophets which will enable us to renew our lives in relationship to our brothers and sisters to share the message of love, peace, joy, forgiveness, solidarity and integrity. Consecrated women need to have fire in their hearts to live a meaningful life by making Christ present in the world today. Certainly, our human frailties would put hindrances to actualize this truth. In spite of the innate failures and weaknesses, the Church is calling every consecrated woman to be a meaningful sign through faith, dialogue and communion. The heartening words of Pope Francis should captivate our hearts and minds with a renewed motivation, “to look at the past with gratitude, to live the present with passion and to embrace the future with hope.

¹⁰ Pope Francis, *To All Consecrated People*, Apostolic Letter on the Occasion of ‘The Year of Consecrated Life,’ Vatican, November 21, 2014.

The Liberation of Nuns; the Re-imaging of Church

*Suren Abreu**

Recently two seminarians were sitting and chatting with me. I asked whether the rape case against Jalandhar Bishop Franco Mulakkal was being discussed at the seminary. The two responses I got were surprising and shocking (though the second was in tune with patriarchal perceptions!). First was No, it was not being discussed, though one professor had made a mention of it! Second was, “Don’t you think the nun too...”

Whether my face or a realisation of what he was saying made him trail off without completing the sentence was unsure. I urged him to complete, but he was hesitant and put it another way: “I mean, after 14 times...” and again lapsed into silence.

The two got an impromptu lecture on power abuse, inequality of consent (if consent was to be presumed), and the horrible socio-religious ethos in India and in convents that makes it traumatically difficult to speak up and demand justice for being raped!

What was shocking was that these were priests in the making, and if the Church will be run by men with such perceptions, we are on a downward spiral!

Patriarchal Power Pyramid

The consolidation of power in the hands of single men over centuries has come at a great cost to the movement initiated by Jesus. The dynamic community (ekklesia) he imaged was

* Suren Abreu is a Priest of the Archdiocese of Bombay. He is a feminist and part of Satyashodak, a feminist collective in Mumbai

painstakingly destroyed to erect a magnificent hollow edifice not much different from that supported by the Pharisees and controlled by the Sanhedrin. Adapting Roman civil power structures, the Constantine-approved Church soon created, over time, a monolithic hierarchy where single men wielded almost complete power over people at every level. And that persists despite great advances in society. While more people are vocal today, and councils and commissions exist, all bodies are consultative, and ultimate decision-making power is retained by single men.

We might choose to believe that convents stand alone and have their own, non-male, power

Structure. We would have an erroneous belief! For a religious order to be started, the approval of the local bishop is required; for it to acquire pontifical rite, it needs the approval of the Vatican; and all religious orders are under the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, which is headed by a Cardinal. Now some might think this mere trifle, but at its deepest level of understanding, what it means is that from start to finish, for every religious congregation (and I am specifically focussing on congregations of women), there is a man to control its very existence and subsistence! Without doubt, there will be very little interference, perhaps none, and this is a system we have accepted without murmur for generations. But at a subliminal level, we are firmly told that whether man or woman, a single male determines your existence and subsistence!

And within the convent, the same patriarchal structures that define the church operate; the same top- down approach of management that ensures that those at the bottom of the pyramid have the least vocal participation! Sure, there are chapters and general chapters, but at the end of them all, it is the tip of the pyramid that decides.

Pressures Within and Without

Imagine a lone voice deciding to speak out against abuse! Imagine the fear, the self-doubt. Will I be believed? Will I be opposed? Will I get justice? How will I be viewed after I speak out? Will my own accept me? Will I be cast out? Now, re-imagine this in the Indian ethos where the victim is more often than not shamed, blamed, and condemned to live in fear!

Re-imagine this in the Indian ethos where a nun is considered set aside for sanctity, and painted as a model of humility and mildness, just as the strong revolutionary image of Mary was layered with generations of patriarchal paint to become the meek, humble statue of today!

A nun who raises her voice against injustice within is considered a rebel. A nun who leaves the convent is perceived as a lesser being in many (if not all) parts of India. A nun who is asked to leave the convent is generally seen as an embarrassment to society and a disgrace to her family. And this knowledge generates enough fear to stifle that voice. A woman who joins the convent at a very young age might have no social and education skills to survive in the real world if asked to leave. That and the pressures of family and society on her are sufficient to make her think many times before deciding to speak out, if ever. There are exceptions for sure, but so few, indeed, as to matter little. The power structures of the Church and the societal ethos of India prove very effective dampeners on voices for justice. The case of Mulakkal depicts that so clearly that we need to hang our heads in shame!

The nun who complained remains faceless, left alone by the hierarchy, while the man accused of raping her gets a hero's welcome in Jalandhar after he secures bail. Nuns who came out in support of the accuser were severely criticised, threatened with sanctions, and one even heckled at the funeral of Kuriakose, one of the witnesses in the case. And was there

any strong reaction from the hierarchy for this abuse? Was there a concerted appeal for support for the complainant? Or does the Church protest for Nirbhaya and the Kathua child, but ignore its own?

Breaking The Taboo

The revelations of sexual and paedophilic scandals in the Church across America, Australia and Europe, while shocking, were also an opportunity!

An opportunity for the Church to re-evaluate itself, its structures, and the myths behind their permanence. It seems to have become a lost opportunity!

With the fervent religiosity that characterises much of India, priests and bishops assume a near god- man aura, making it very difficult for an abused person to speak boldly against one of these men. But that is changing. Singly, hesitantly, voices are being raised. And once again, an opportunity is offered! In an increasingly aware and educated Church and a socially connected world, voices will not be so easily stifled. People are ready to demand justice more readily, and support, however derided, is now available for those who face abuse. Ten years back, while the Church in the developed world was still reeling under the many cases of abuse that came forward, it would have been unimaginable to think of a bishop in India being arrested on rape charges! Today that is a reality!

The Revolution Ahead

In Satyashodhak, the feminist group of which I am a member, the desire to consider women priests has dwindled; it is not only seen as unnecessary, it is also seen as undesirable given the state of the priesthood and hierarchy today! Why would women want to be a part of a top-heavy structure that has dehumanised women down the years, unless the structure

itself can be re-invented! respected and decisions were collectively taken.

With massive strides in gender equality and understanding women's rights, we need to re-image the Church so that all genders have a role to play in decision making and ministry. We need to reclaim the old image and add new shades to accommodate those on the margins as equivalent members. We need, perhaps more urgently, to re-think the pyramid and allow for alternative models of governance and control so that, however benevolent, single men are not the only ones in charge. Congregations of nuns can be the forerunners in this by introducing collective decision making at every level and flattening the power pyramid. Formation houses introducing programmes on gender equality, rights, and justice. Coupled with the assurance of support and redress, will take this agenda forward. At the global level, considering a woman in charge of the Congregation would be a bold step indeed!

We also need to respond promptly to issues of injustice within. When a complaint of rape or sexual assault is made, the first step should always be compassionate support and understanding; the second should be to start the process for justice without delay. This nun had to endure painful and pointless waiting before she finally decided to file an FIR. If that is how a case of rape is treated within the Church, all our actions for justice in society are hollow and meaningless!

We need a Church that is simple that is comfortable to women, the poor, the marginalised, that is ready to accept it is human, not divine. Alfred Loisy, French priest and theologian was noted for saying: "Jesus came proclaiming the kingdom, and what arrived was the Church." The question that we ask ourselves is: Have we, in 2000 years, built that vision of Jesus? Or have we built the Church at the expense of that vision? One has only to listen to the countless stories of abuse to sense the answer!

Culture of Silence and Servitude in the Lives of Women Religious

*Raynah Braganza Passanha**

I grew up next door to a convent, have served in two schools run by religious sisters [one in India and another abroad], interacted with several of them in parishes, schools, associations and causes that I have been engaged in and number quite a few nuns among my dearest friends. Having always admired their competencies, capabilities in so many varied fields and their immense courage, I used to envy their being able to “choose” to be unfettered in order to serve God whom they love and work for, to spread the divine reign among God’s people.

However, over time, I have been deeply pained to discover that they are bound by invisible chains of obedience and servility – not to the God whom they commit to love in complete faithfulness and joy, but to powers that claim an earthly obedience above and before the Divine. They, like most of us, soon find that the actual practices of the Church don’t always match stated values. There are unwritten, unspoken rules and expectations by people within and outside their congregations. They learn not to dissent by observing the response of peers and superiors towards those who dare to do so. They learn the impact of the vow of obedience they make!

One can only imagine the confusion and agony their hearts and beings experience as they train themselves to be faithful to the one they have committed themselves to, giving up

* Raynah Braganza Passanha is the Chairperson of women’s commission in Poona Diocese. She has wide experience in working for the empowerment of women in Honkong, Dubai and India both in the Church and in the Society. She is an educationist by profession.

their freedom to conform to a system that unabashedly re-creates them into clones of servitude and pawns that sustain the abuse and exploitation within. They have very little choice if they have to survive within the system ... and almost no choice in the world they have renounced, which will look on them with suspicion and contempt, if they choose to return to it. They learn very early... to train themselves: train their eyes to see but be blind, their ears to hear without listening, their mouth to speak without saying much, without challenging or rocking the boat, speaking but not saying what is in their minds and hearts, speaking only the words that are acceptable, appropriate and will not antagonise any of the powers that be.

They learn to train the mind to subdue questions arising from incongruities or inconsistencies in the life they are compelled to lead with the scriptures they are taught and train their heart to attempt to grow strong, immune and impervious to the pain of denying themselves and their God. They learn a new language – the language of conformity and silence.... All clothed in the garb of faithfulness to their faith...

Sadly, it becomes so much a way of life, so much a part of their being, that it becomes frightening and difficult, if not impossible, to acknowledge the fact that they have lost their freedom and agency in their attempt to conform and ‘obey’ just to live a seemingly peaceful life. Denial of the reality by clouding it in justifications is easier than facing the truth of their bondage.

I know several who read this will say, “Who is she to judge from the outside? She is a lay woman, who has never been in a convent?” In reply, I would like to point out that I needed people outside my home to hold a mirror for me to see my reality, to challenge me to address what was denying me the ‘fullness of life’ that God offered me. I’m only trying to do the same.

Service is Not Servitude

Patriarchal norms and culture in the Church shackle women religious just as they do women in general. Because of this conditioning, women, nuns included, are expected to conform to the roles and spaces that history has assigned to them. Not only is our perception of the roles of clergy and women religious thus influenced, but also our perception of authority, service, obedience and submission.

In my travels across India and the world, I have met sisters who manage kitchens and household affairs in Church-run institutions, women religious who work as cooks and cleaners and who wait on tables for cardinals, bishops and priests for “random and often small” remuneration if at all. The sisters are seen as voluntary workers to be used as desired which gives rise to real abuse of power.

Nuns across India speak out at women’s meetings about how clergy expect nuns to attend to the cleaning, flower arrangements and décor of parish Churches and resist getting them involved in meaningful apostolate of the Church. I have asked superiors why they send novices to parishes to perform tasks free of charge when parishes can easily employ a needy individual and pay them a just wage.... Superiors answer, “The parish priest expects it. It has been done for years. If we now say no, they will be upset and will sanction us, refuse to come to our convent to say mass, stop us from distributing communion or having the blessed sacrament in our convents, preach against us from the pulpit, etc.” The answer I get from parish priests on the other hand is always “the sisters will feel bad if we stop them, they like serving the Church” etc. Oftentimes it is the leaders who are responsible for this situation and who, far from questioning the system collude with it by accepting degrading agreements for the sisters.

And yet, Pope Francis when asked about this at a meeting with

Women Religious Superiors in 2016, said: “This is servitude! Tell me, (...) if in your city there aren’t good women, who are in need of work. Hire one or two to do that service. Let these Sisters go to the schools, to the neighbourhoods, to the sick, to the poor. This is the criterion that helps many, because when one wishes a consecrated woman to do a work of servitude, the life and dignity of that woman is devalued. Her vocation is service: service to the Church, wherever she is, but not servitude!”

Nuns, indeed, are the face of the Catholic Church in India. There are about 100,000 of them in various congregations. They run schools, hospitals, orphanages, destitute homes, NGO’s and hostels all over the country. They are the ones who tend to the needy in the remotest areas of the country. “Women religious form the largest workforce within the church,” said Sr. Julie George, a lawyer who belongs to the congregation of Missionary Sisters Servants of the Holy Spirit in an article in Matters India. “Still, they get no respect, face sexual abuse, get low wages and are allowed to perform only stereotypical roles. They have no say in policy matters. All decisions are taken by the diocese headed by priests.”

Can we only blame the Church hierarchy and male clergy for this situation? Are not congregations complicit in allowing the situation to continue un-challenged? A situation of a few years ago comes to mind. A particular parish priest asked the six congregations of religious sisters in his parish to undertake two months each of the kind of work described above. A few of them refused leading to all joining together to tell the priest to employ someone for those tasks and they would help in the different apostolates. The latter did not happen but the former did! A victory nonetheless!

Unless religious sisters realise that their commitment to ‘obey’ does not mean blind obedience or submission out of fear of being penalised for going against demands that contradict the

very mission of their charism, just to pander to an ego that needs to mature, we will be in an ‘as it was in the beginning, is now, and ever shall be’ situation. It is important that women within the Church take the lead to oppose the misuse of power to exploit and oppress especially since the victims are from among themselves. We can no longer continue being complicit in perpetuating a system that denies the ‘fullness of life’ promised by Jesus in John 10:10.

Submission in Silence

Whose fault is it if the pain and anger of those facing oppression, exploitation and abuse is not heard if it has not even been voiced! Being silent is being complicit in the act of exploitation and oppression. While there may have been few isolated protests, they ended up being either discounted or explained away by wrongly referencing scripture or tradition regarding ‘suffering’, ‘obedience’ or even ‘service’. More often than not, it is the sister who protests who ends up paying the price. This then serves as a deterrent for future complaints and encourages silence.

The role of ‘suffering in silence’ is even more pronounced in the case of abuse and harassment, physical and / or sexual, within communities or by priests or religious sisters in positions of authority. The scale of the problem in India remains unclear, cloaked by a powerful culture of silence. The most helpless in these instances are novices or junior nuns who fear non-compliance will put them in even more serious predicaments. The fact that many of them come from situations of poverty and servitude, make them vulnerable as they cannot expect assistance or support from their families back home. The brave who dare to report abuse at the hands of superiors, priests, spiritual counsellors or retreat directors find their stories not being believed, the allegations never being investigated, or the abusers paying for their crimes. Instead

the abused find themselves having to bear the blame for “tempting” priests and bishops to sin or of having ‘consensual sex’ and then crying ‘rape’. The faith community having been indoctrinated into the myth that ‘speaking against a priest is a sin’, accuse the sister who dares to go public about her abuse, of being against the Church and wanting to harm the Church.

The shame of being abused by someone one who you are trained to look up to as a protector and a person of God. The humiliation of having to prove that abuse took place and that it was not consensual. The fear of bringing oneself and one’s family shame and dishonour, facing the risk of isolation within her congregation, and possibly even expulsion. Knowing that very few if any of those who know of the abuse will support her, all foster and perpetuate the myth that ‘silence is the only way’. I cannot imagine the loneliness these sisters face in the abyss of silence and blame they are engulfed in.

Who is to blame for this silence? Is it the superiors who fear the risk of loss of privileges for their community or financial troubles (in the case of diocesan congregations)? The sisters who are aware of the abuse but refuse to stand by the victims? The priests who are aware of the ones among themselves who are shamelessly breaking the vow of celibacy but find it easier to laugh about it among themselves or pretend ignorance rather than challenge the abusers? The faith communities that like to pretend that the ones they place on pedestals don’t have feet of clay for reasons like ‘think of the souls he is saving’ or ‘he gives such good sermons he couldn’t be guilty’ or ‘he is only human, what to do’? Or is it you and me, who are prepared to talk about it behind closed doors, in private spaces but fear raising our voices in public?

Silence is the armour that sisters use to protect themselves and the lives they have created, even if it means struggling with their memories, and protecting the men who abused them.

The silence is deafening!

The silence of the authorities when cases are reported to them. The silence of the findings of investigations never being made known. The silencing of the victims and their supporters with veiled threats of dire consequences. The silence fostered by religious politics and the deep-seated belief that women have little value.

Sadly, the Catholic Church has no clear measures in place to investigate and punish bishops who themselves abuse or allow abusers to remain in their ranks. The Church has focused much of its attention recently on protecting children. Vulnerable adults deserve the same protection. In early February this year, the pope acknowledged that the Catholic Church had faced a persistent problem of sexual abuse of nuns by clergy members. Reports have surfaced worldwide, and the pope admitted that nuns have spoken out for years. In November 2018, the International Union of Superiors General, representing 500,000 nuns, had urged its members to bypass the Church and report to law enforcement agencies directly, citing a “culture of silence and secrecy.” It is imperative that mechanisms be created by which sisters can break their silence, voice their pain and be heard.

The #MeToo movement has emboldened some nuns to find their voice and break the silence. This is buoyed by the growing recognition that adults can be victims of sexual abuse when there is an imbalance of power in a relationship. The sisters are going public in part because of years of inaction by Church leaders, even after cases of abuse have been reported to local conferences and even the Vatican.

What can we do when the Church talks the talk, but doesn't walk the walk?

We cannot throw up our hands in helplessness and say ‘We

will pray for the Church’ or ‘God alone is responsible for justice’ or ‘Culture is responsible, we can’t change that’. Let us remember that culture is not static. As thinking human beings and as Christians called to permeate the secular sphere with the Gospel, we cannot choose inaction as it would make us promoters of a culture that is against gospel values of equality, respect, dignity and justice. We have no choice but to exercise our agency and challenge existing systems that deny these values. For us to be able to hand over a different culture to future generations, we must proactively work to transform culture.

The problem is symptomatic of a deeper and more widespread “spiritual abuse” perpetrated upon women by the male-dominated Church. Women have been relegated to second-class status in the Church. How can we bring about a change? Cultural transformation begins with the personal transformation of the leaders. Organisations don’t transform. People do.

The Church is supposed to be the world’s largest organisation, and **we** are the members who make up the **Church!** We can work together to envision and create the Church we want that will reflect the vision of Christ. A church’s organizational culture might be described as the Church’s DNA, personality, or simply “the way we do things around here.” It’s a combination of the visible symbols and the invisible values and expectations that are shared by the people within a congregation.

Thus we – all Christ’s disciples, have to change for the Church to be transformed. To do that, we not only have to **change** our own values and behaviours or the values and behaviours of the current leaders, managers and supervisors, we also have to **change** the institutional legacy of past leaders—the values that are embedded in the Church’s structures, policies, systems, procedures and incentives.

The process will be slow, challenging, demanding and testing. But to be true to one's divine calling, congregational charisms, vision and ministry, there is no choice but to challenge this culture of silence and servitude and the systems that perpetuate and sustain it. Religious women have to break out of cultural norms that force them to depend on priests and move toward a free expression of their thought, their potential and their mission.

“We have done little for women who are in very difficult situations: despised, marginalized, and even reduced to slavery,” Pope Francis said, stressing that “we must condemn sexual violence against women and remove the barriers that prevent their full integration into social, political and economic life.” [CNA 3 May 2016].

During his ministry Jesus encountered so many women who were despised, marginalized and cast aside and with great sensitivity he restored their dignity. Can we allow His spirit to help us discern how to respond to this situation to transform it into the reign of God that he envisioned? Can we raise our voices together to break the culture of silence that pervades the Church and hides its woundedness? It is only then that we can honestly claim to be Christ's followers when we work to restore wholeness to His visible body – the Church!

Going Beyond Boundaries – The Prophetic Agency of Women Religious

*Manju Kulapuram **

Religious life is a call, to be a sign in the Church and in the World of the liberative action of God in history. Religious have a prophetic role to fulfill within the Church and society at large. To be like Jesus, denouncing injustice and enslavement, being in solidarity with the oppressed to be harbingers of a just and free society.

Religious are challenged to live a radical and prophetic spirituality as men and women living the Gospel by responding to cries of the poor, marginalized, increasing dehumanization of people and degradation of creation. Such spirituality enables them to experience the presence of God in the midst of the poor and exploited with whom they struggle for liberation. They need to integrate the experience of the life struggles of the marginalized and exploited into their spirituality so that they can incarnate themselves into the lives of people to accompany them on their journey to justice and freedom.

Often Women Religious are called to challenge the exploitative clerical culture and domination in the Church as part of their radical and prophetic role. The story of the CMC Sisters at Narakkal, MJ Sisters at Kuravilangad, Kerala and many other such stories are examples of Sisters who dared to go against the will and the order of the authorities in their attempt to proclaim the truth, playing their prophetic role.

The times and circumstances of our modern life are very complex. Knowingly or unknowingly we get into the worldly

* Manju Kulapuram SCSC belongs to the Congregation of the Holy Cross of Hasaribagh. She is the National Executive Secretary of the Forum of Religious for Justice and Peace.

systems that are at work, with money, status, power, comfort, patriarchy, greed and selfish ambitions as priorities. We must remember the words of St. Peter, “Like a roaring lion, your adversary the evil one prowls around, looking for someone to devour.” (1 Peter 5:8). Sometimes, without realizing it, we become a scandal to our generation. But Jesus always assures us that he will calm the storm and bring us to safety and new life.

Since justice must be done in all fairness and brotherly and sisterly love, we should not compromise with injustice and exploitation. Becoming aware of the injustice done and harm inflicted, may lead to honest apologies and genuine forgiveness on the part of everyone.

From my own experience in accompanying Sisters who were standing for justice, I would say that for dynamic peace to return, all concerned have to take time, to understand one another, accept and forgive one another to be healed of all hurts and to continue to grow into a Christian community of love and service. The experience of the recent cases in the Church should teach us and give us insights into the complexities of life and ecclesiastical matters and should lead us to keep the greater good of the people of God in mind, in our discernments and decision makings, so as to avoid such hurtful and scandalous situations, giving priority to the brotherly and sisterly love and service following the mind of Jesus Christ.

By this all will know that you are my disciples if you love one another (Jn. 13: 35)

The Normative Framework and criteria for dealing with issues of the Christian community ought to be drawn from the divine interventions in human affairs according to our

faith, because, Religious Constitutions, Canon Law and other legal frameworks derive their legitimacy from the divine. The Old Testament is full of instances of God's manifestations in human history that were always marked by insistence on righteousness and justice in order to safeguard the integrity of the human person and that of the community, and to witness to the holiness of Yahweh.

In the Gospels Jesus taught that the law of love is written in the hearts of men and women by the Holy Spirit that should permeate all our deliberations, decisions and actions. Indicators of the gifts of the Spirit operating in the members of Christ's body are a sure sign of life in the Spirit. Some of the Gifts of the Spirit poured out on the Christian community that can guide its way forward in problems are the following:

Wisdom: Human mind, assisted, inspired and illumined by the Holy Spirit sees and judges everything in the light of and obedience to the Spirit;

Understanding: The human mind prone to error due to sinfulness and selfish impulses, guided by the Spirit, penetrates issues, problems and facts in the divine light and seeks the divine will in righteousness and justice;

Counsel: Human deliberations assisted by the Divine Spirit, judges correctness or otherwise of things, and moves to the divine will by Discernment;

Fortitude: Assisted by the Divine Spirit, the person adheres unflinchingly to the divine will, in spite of counter influences, resistance and obstacles, and even persecution;

Life in the Spirit: Spirit-generated affinity for God and a habitual bend of the mind and will to be attuned to God's presence and will;

Fear of God: With the affinity the human mind receives from the Spirit of God, the human will stands by the will of God of love, compassion, righteousness and justice in all dealings.

Therefore we should earnestly invoke the Biblical sources for our criterion for narrating, understanding, interpreting and coming to relevant conclusions and implications. The demands of the faith community are therefore clear. In the rules and customs of the community, the Constitution, the Charism, Canon Law, and juridical normativeness, it is Righteousness and Justice that has to be always normative. Conscientious and flawless observance of these will protect the Christian community, especially when disputes and contentious issues vex the mind, and vested interests and selfish considerations try to deflect it.

Genuine love seasons deliberations, decision making and their execution, in spite of formidable difficulties. When contentious issues arise, a non-biased committee from the larger Faith Community needs to get involved. The Forum of Religious for Justice and Peace (FORUM) has volunteered in several cases to get involved and carefully sift through the issues to seek a solution in Spirit and in Truth. What is important is that a lot of unwinding of the heightened and hasty steps, high tension affectivities, and wounded feelings, have to be attended to in order to be FREE of the cloud that darkens the minds of all concerned. Only then can correct Christian decision be arrived at. For Christian problems we should apply Christian solutions drawing from the Christian sources, especially core Gospel sources. To be detected and eliminated are the evil of vindictiveness, arrogance, obstinacy, reasoning bereft of Faith demands, male chauvinism, slavish female submission, ecclesiastical highhandedness, manipulation and such as are listed by Paul as unspiritual. These should not in any way tarnish the integrity of Christian and Religious life.

A resolution of the problem has to be based on genuine Christian Love which includes brotherly and sisterly Understanding, Righteousness, Justice, Truth, and Fairness and Integrity on the part of all concerned, and for the good of all concerned. The Bible is our source book.

The creation of fraudulent documents to appropriate property, encroachment of property owned by Women Religious, physically and sexually assaulting Women Religious, and the orchestrated vilification campaign unleashed by some are not only unchristian, but are also grave criminal offences punishable under the law of the land and of the Church. But these were brushed aside as ‘minor aberrations’ by the very people who are responsible for maintaining discipline and Christian spirit. It is important that all those responsible for offences as described above are called to an appropriate Forum and action taken to meet the demands of Christian decorum.

There is a saying, “There is no problem that cannot be solved if YOU, ME and the LORD work together.” It may be easy to work with the Lord. But YOU and ME working together is difficult. Therefore the difficulties like: exaggerated clericalism, and male chauvinism and domination in the Church are the cause of many ills. We need a different mindset if we want to fulfill our mission handed over to us by Christ. If we believe that we have a common mission mandated by Christ, then we cannot accept incidents such as those happened at Narakkal and now at Jalandhar/Kerala. While allowing room for human error, sometimes incidents go beyond all canons of human decency or any civilized way of doing things. While these cases can be argued in many ways depending on one’s own inclinations, the Christian community cannot ignore its very basic ethos and principles when seeking justice and solutions to problems.

Respect for the autonomy and rights of all, especially when resolving disputes is fundamental to communion and

witnessing by the Christian community. Religious as well as others in the Church have to keep in mind that, “Men and women who under the guidance of the Spirit have made discipleship of Jesus the core of their consecrated life have their own special place among the people of God.” (M.R. 4) “Religious, especially Women and Religious brothers must be treated with genuine respect in their own life and in many spheres of collaboration with priests, recalling that they are partners in the mission of the Church” (M.R.12).

Religious Congregations whether pontifical or otherwise, especially that of women, should realize that slavery of any form under the rubric of obedience is unacceptable, and violations of human rights of individuals cannot be condoned in any manner. In the case of Jalandhar/Kerala, the Sisters themselves have become a divided house, and it has become a cause of internal conflict. Religious life cannot be prophetic if one does not make efforts to correct internalized oppression and false notions of ‘obedience’ and ‘peace at any cost’. All, no matter what responsibility we hold, share a common mission mandated by Christ, and this is to be carried out in mutual respect, collaboration and responsibility. Freedom and autonomy that respects the charism and mission of each, especially of the Religious Communities, need to be respected by all.

As leaders of the local Church, Bishops bear a special responsibility to see all in the light of Christ, and resolve disputes that may arise in the community in love, justice and fairness. Caving in under pressure by the more powerful in the community or by external threats, to the detriment of the rights of the disadvantaged and the weaker ones in the community, is a grave failure on their part.

Disputes over property between Dioceses and Religious Congregations have become common place in the Church in

India in the recent years. Often it ends up in acrimonies and even violence. Many times it is Religious communities that are at the receiving end of such disputes. A lack of appreciation and respect for Religious life and their contribution to the holiness and mission of the Church, greed and profiteering, a loss of the sense of mission, and others can be counted among reasons for this sorry state of affairs. Mechanisms to resolve disputes when they occur in a Christian spirit have to be devised. But even more important, all, whether clergy, Religious or laity, need to recover the Christian spirit in our life and mission.

The Religious have a right to sacramental ministry as per their need, and this cannot be subject to the whims and fancies of parish priests. Even more important, it is a grave sacrilege to use the sacramental ministry to punish them or others because of the ego problems of individuals. It is the responsibility of those in authority to take appropriate measures when issues of this nature occur.

Conclusion

The Njarakal and Jalandhar/Kerala and such other incidents are unfortunate whichever way we look at it. That it involves a Church hierarchy, women Religious and Christian community as a whole is even more unfortunate. But as people who believe in Christ, it is our faith that God will turn the human weakness and the perversity that caused such incidents to occur, into strength for the whole community. We also believe that God who uses the weak and the foolish to manifest God's glory, will use the very people involved in the incidents to manifest God's compassion, love, justice and truth.

The one big lesson we can all learn is that while we keep away from everything that causes division, we have to cultivate the courage and conviction necessary to conscientiously stand by

truth. Truth unites, never divides. It is inspiring to recall the words of Pope John Paul II in this context. When criticized for his active involvement in an inter-religious prayer at Assisi, he said, “What unites is divine; what divides is not.” That is a sentiment that can build an authentic Church of tomorrow.

***Note:** Material for this article was drawn from the Report of the Fact Finding Team of the Forum of Religious for Justice and Peace. Published jointly by FORUM and Streevani in 2009.*

Religious Joining Hands with People's Movements

*Dorothy Fernandes pbvm**

As people chosen and called for a special mission, we are invited to move into frontiers to become the Good News and restore the dignity of humanity. It is by reflecting deeply on this call and the unfolding story of my journey of life that I found myself responding to the stirrings of the Spirit to leave the familiar and go where life lies raw.

Yes, though I felt compelled to move out of an institutional and traditional way of living Religious Life, I had no blue print and no idea what the future had in store for me. I just knew one thing, that once I made this choice, which was not without paying the cost, there was peace of mind.

To be directly engaged with people made poor, was a choice I had made. Being from an institutional background there was so much of unlearning to be done and so much of openness needed to become part of people's struggles. My baptism into life with the tribal Gonds of Madhya Pradesh in Basuriya village of Chindawara district was the best part of my Religious years. There were profound lessons which I will never want to trade. It was incarnational living, with the bare minimum, just like the people. Those insights and experiences have contributed to my learnings and have given me the conviction to be where I am.

* Dorothy Fernandes belongs to the Congregation of Presentation of the Blessed Virgin Mary. Currently she is the Director of Jankalyan Gramin Vikas Samiti, Patna and the Chairperson of the Women's Commission of Patna Archdiocese.

These experiences taught me a profound lesson – to choose from the various models of working with people. My exposure to a wide range of networks sharpened my perception and enabled me to see what’s best for people. Many opportunities enabled me to delve deep into the Resources the almighty has endowed on me which I drew upon as we worked in a team. I looked at the various models of working with people – from charity to emergency to developmental and finally the Transformational model (people’s movement). It did take me some time to understand what the Transformational Model was all about.

Moving among great stalwarts like Medha Patkar and the late Fr. Thomas Kocherry, I came to gradually understand what the people’s Movement is all about. My privilege to spend two months at Cape Town (South Africa) at The Graille center further convinced me what can happen once we work on the People’s Movement model. There were some serious questions that I had to ask myself and those answers became the platform from where I operate. As a religious woman my search for the essence of Religious Life paved the way to move into people’s issues.

Essence of Religious Life

Somehow down road of time, religious life has become more regimented prioritizing on discipline, commitment and distancing from the world. While these are important values there are aspects which call for introspection. I have come to the deep realization and belief that we cannot live a monastic life in a highly volatile and transitional world. It is imperative to revisit some of our practices if we really wish and desire to work towards the transformational model. It is a myth that we should be detached from people and ministry... maybe in a sense yes; but we need to be passionate about our engagement with people.... this invites us to dwell on the real issues we are

involved in and how far we need to go? In this context we need to relook at the whole issue of constant transfers which does not fit in with our work with people and share deeply in their sacred stories. Commitment to the people with competency and courage can take us a long way. Commitment for me is the number of years we are with communities. Rapport building and trust are two very vital factors in our work with people- these two provide us the relationship wherein we are accountable to communities. So when there are frequent transfers the relationship is constantly being broken. Relationship is vital for working with communities; trying to enter into their struggles and trying to raise the consciousness of communities. People judge us by our integrity and fidelity to the cause.

Studying the Issue

Studying the issue means spending time with people, being available when they are...listening to them, their pain, their agony and then to communicate to them that they matter. This way we get hold of the real issue from people's lived experience. For me this has been the greatest learning: to start where people are, and then build from there.... This calls for flexibility, for long hours, without any other agenda, spending qualitative time to get to know what people are saying. Coming back, trying to understand their pain and sharing to build strategies; understanding that some of our strategies may not work; taking stock of what we have learnt and what we need to do differently to address issues.

When we sit with different groups working on similar issues we gain a wealth of knowledge which cannot be contained in books. There is a bonding that takes place, we speak the same language...moving out of our personal identities and relating as people committed to a cause...there is a support system, there's a reaching out and there's synergy which

strengthens us to take the struggle forward. I have always been overwhelmed by the commitment and courage of people with whom I have been engaged with...how they are prepared to stretch themselves to reach the unreachable.

People's Power

Investing a lot in educating people about their rights and building their self confidence has been part of the success story of coming this far. Once we speak their language, are transparent about their issues, there's not much to hold back. It has been my good fortune that through these learnings we have been very successful in organizing sit-in protests and using democratic means enshrined in our Indian constitution that we have successfully raised the issues of land grab in the form of eviction – smart cities etc. It is heartening to hear people speak out for their rights. When we march on the roads, we do not know what will unfold but I have witnessed the deep conviction of people; there's no limit to what they can face even the law enforcement agencies...this is people's power...this is the Transformational Model. Yet at times.. we tend to back down because we are religious;...we don't have permission....we are religious. My premise is that once we have awakened people and invited them to know their rights, can we back out from their struggle? We cannot afford to sit on the fence...we cannot be lukewarm...we must not give people fish to eat...we teach them to fish so we need to accompany them and be part of their struggle.

Women Finding a Foothold in the Age of the #Me Too movement

By *Virginia Saldanha**

I remember when I was young I received an unwelcome tight hug from a male family member of the boarding house I was living in. I screamed. The lady of the house came to me and said “Why are you screaming? Is anyone killing you?”. The message that remained with me was: Men have the freedom to do what they want with you, you just have to go with it and stay silent. It is a message most girls receive, that grooms them to be victims of sexual harassment and abuse.

So down the years as men continue to touch, brush against women ‘accidentally’, pass lewd remarks, stare, grab a hug or steal a kiss, we bear it with stoic and muffled silence. As angry and upset women are, we accept it as part of our misfortune of being a woman. Men are given the status of a superior gender, and boast that they can use their sexuality with no negative consequence for themselves. They “sow their wild oats”!! Men wear the tag of “ladies man” with pride. But a woman who has several male friends is derided. Women just accept that men are at liberty to fool around, but we women have to stay virtuous and chaste. Women accept sexual harassment as part of being a woman!

With women being pushed out into the workplace during and after World War II, they began to experience great difference

* Ms. Virginia Saldanha is a women’s rights activist and a Theologian. She is a former Executive Secretary of Federation of Asian Bishops’ Conference (FABC) Office of Laity and Family, and of Women’s Desk of the CBCI. She is one of the founder members of Indian Women Theologians Forum.

in the way they were treated in relation to man especially in the workplace. The women's movement gained momentum with the declaration of Universal Human Rights. They created the slogan, "Human Rights are Women's Rights", and began to articulate the differences in the treatment of men and women. The rapid development of information technology in the 20th century helped to spread the movement to every corner of the world especially during the UN decade on women from 1975-85.

The Universal Declaration of Human Rights did not seem to adequately cover the discriminations and violence experienced by women. The need to articulate a more detailed declaration of women's rights was strongly felt at the 1993 Vienna World Conference on Human Rights. The Declaration at the Conference stated that the "Human Rights of Women and of the Girl-child are an inalienable, integral and indivisible part of universal Human Rights," and declared a commitment to eliminate "Violence against Women in Public and Private Life." Victims of violence gave personal testimony of their experience at the Vienna conference. Their stories highlighted the need for a clearly defined instrument to protect the rights of women. The Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) was thus born.

Articulating and analysing the continued experience of violence to women in all sphere of life, the women's movement began to demand more detailed laws to protect women from violence.¹

Sexual harassment was described as harmless "eve teasing". You had to be a good sport to accept it and smile. Although eve teasing is a crime covered by the CrPC, it was very difficult to implement. In the workplace men took advantage of their superior positions to put women in² a 'corner' and demand sexual favours from them. These advances would be

subtle, like an ^{3:4}invitation to a dinner, movie, or outing where an opportunity would present itself to get intimate with the woman. Women found themselves in all sorts of awkward situations, and did not know how to deal with it. They were caught between their need for the job and standing up against their boss. Many decided to drop out of the workplace. Others continue to stay on and suffer emotional and mental trauma because of the need for an income. When women became aware of how sexual harassment affected their performance in the workplace and their general mental health the women's movement lobbied for a law to protect women in the workplace.

We got legislation to protect women from Sexual Harassment in the Workplace in 2013. This Act was hailed by women and seen as a way to put an end to this harassment so that women could work in peace. But sadly, the Act was not as effective as we believed it would be. The Internal Complaints Committee mandated by the Act to deal with complaints of harassment in house, consists of a majority of persons from within the organization and only one external member. It was found that many of the members of the committee, even the women, were not willing to put their own jobs at risk by making an unfavourable decision that would show management in poor light. So women are slowly realising that the ICCs are ineffective in the present patriarchal structure.

Sadly we also have sexual harassment and abuse of women in the Church as well. The Church is the workplace of priests and religious sisters. The women who come to the priests for various services like counselling and confession are the clients of the priest and are also covered by the Sexual Harassment at the Workplace Act. But till date there is no known ICC created in the Church. Many women and sisters also work alongside priests on various projects and jobs.

Sexual harassment occurs because the male is in a position of power over the woman. Women are most vulnerable in the workplace as most often the boss is a male. Sexual harassment is all about the inequality between the man and the woman concerned. In the Church the ordained are in a higher position than the women since they are ordained and known to take the place of Christ. This position gives them a lot of reverence and respect. Anyone speaking about the bad behaviour of priests is censured instead of censuring the priest. So we have silence on sexual abuse by the ordained in the Church.

Sexual Harassment and abuse affects victims mentally. They are unable to function normally and carry on their work. Women's participation in the workforce dropped from 41% to 30% and sexual harassment was the most important reason for leaving. 48% of women move jobs because of sexual harassment. The mindsets of those handling cases of sexual abuse tend to trivialise abuse, instead of empathising with the victim and demanding respect for a woman's body and dignity.

The **Me Too movement** (or **#Me Too movement**), is a movement against sexual harassment and sexual assault that women are expected to tolerate. The movement was born out of women's helplessness to indict their harasser. Women decided the best way was to go public taking advantage of the various social media platforms available for easy communications. Name and shame is the only way to call attention to their abuser.

#Me Too spread virally in October 2017 as a hashtag used on twitter in an attempt to demonstrate the widespread prevalence of sexual assault and harassment, especially in the workplace. It followed soon after the sexual misconduct allegations against Harvey Weinstein the Hollywood celebrity. Tarana Burke, an

American social activist and community organizer, began using the phrase “Me Too” as early as 2006, and the phrase was later popularized by American actress Alyssa Milano, on Twitter in 2017. Milano and Michael Baker encouraged victims of sexual harassment to tweet about it to “give people a sense of the magnitude of the problem”. This was met with success that included many well known figures from around the world.⁵

In India, the @Me Too was started when several lists of alleged rapists and harassers started spreading on social media. The crowd sourced List of Sexual Harassers in Academia (“LoSHA”) which initially included the names of about sixty highly-respected academic men was posted on October 24, 2017 by activist InjiPennu and an Indian student in California named Raya Sarkar, who alleged they personally confirmed every incident. Blogger Sheena Dabolkar’s viral #MeToo tweet resulted in the boycott of Khodu Irani’s popular Pune pub, High Spirits, by several well-known performers. Several women mentioned Mahesh Murthy, which initiated a police case in January 2018.

More recently Tanushree Dutta accused Nana Pathekar of Sexual Harassment on 27th September, 2018 which is believed to have been the catalyst for the #Me Too Movement in India. It stirred many women from media, politics and the film industry to come forward with their #Me Too stories.

In October 2018, the Minister of state for External Affairs, MJ Akbar was accused of sexual harassment by several female colleagues through the ‘#Me Too’ Movement in India. He finally had to step down because the number of women who broke their silence, started a powerful campaign against him flexing his power muscle to try and silence them.

On October 21, 2018, former music director Anu Malik was suspended from the jury panel of Indian Idol 2018, after facing

multiple allegations of sexual harassment made through the movement. The power of the #Me Too movement has begun to be used by several women to expose their harassers.

Since July 2018 a lone voice in the Church was raised against sexual harassment of sisters by a bishop. She was joined by more voices from within her congregation. But the patriarchal power and hierarchal structure of the Church has managed to contain the #Me Too movement in the Church upto now. While the sister has received extensive support from some people in the Church and wider society, it is ironic that the CRI Sisters Section who are aware that sisters are the most vulnerable to sexual harassment by the powers that be within the Church continue to remain silent.

It is indeed very sad to see the congregation of Sisters of Missionaries of Jesus, turn against the survivor sister and her small band of supporters. They went to the extent of going against the law by divulging her name and publicising her photograph. They marginalize the group like they do not belong there anymore. But the group has been bolstered by the support of women's groups both within the Church and secular society as well as some men among the lay faithful. These are people who are aware and conscious of the rights and dignity of women and feel strongly that these rights should be respected and upheld even in the highly hierarchical and patriarchal structure of the Catholic Church in the very conservative society of Kerala.

On 27th November 2018, the Voices of Faith, a Catholic organization of women that works to empower women in the Church and poor sections of society, organized an event "Overcoming Silence – Women's Voices in the Abuse Crisis", in Rome. Three survivors of abuse from the United States of America, Europe and Peru share their stories of abuse. Their stories are so powerful that the videos of their stories have

gone viral. Hopefully it will trigger a much needed #Me Too movement in the Church as well.

Following the event a statement was released asking Pope Francis for transparency in the forthcoming meeting of Presidents of Bishops Conferences in February 2019 which would involve divulging the names of participants, their credentials, and the agenda of the meeting in advance; for proceedings and voting on any documents during the meeting to be made public in order to facilitate transparency; for diverse voices of women survivors and advocates to be invited to participate and be heard at this meeting. As the absence of women's voices in the decision making structures of the Church has created numerous problems for women in the Church.

The conservative stance of Religious Sisters in the Church in India with regard to dealing with the sexual abuse of women religious has to change. I feel they need to learn from the #Me Too movement, and provide a space and platform for religious women abused by clergy in the Church to come out and speak so that this toxic culture is put to an end.

Unless voices are raised this culture of abuse will continue with the same impunity that has kept it alive over the centuries. This is the age of communication, solidarity, and the recognition of women's rights. We have to take advantage of this time to liberate women religious and all vulnerable women from the oppressive attitudes that keep them shackled to hierarchical and clerical power. Speaking up is the only way.

The #Me Too movement has provided all women with a platform to speak up. It has succeeded in creating widespread awareness about the need to end the impunity of men in positions of power to freely abuse women. Women have the law on their side, and widespread support to speak up. Women should not feel worried about their reputation as

today it is recognized that men in power take advantage of the vulnerability of women under their power and control to abuse them. It is when victims remain silent, that abusers take advantage of their fear and continue to abuse turning their victims into mental wrecks.

The silence thus far has emboldened abusers to maintain an appearance of respectability, often pretending to be “wonderful” people. They slowly build their web of sexual aggression over a period of time. Just like the Jalandhar rape survivor pointed out that over a period of 2 years her abuser continued his sexual intimidation till finally he raped her.

I am aware that there are a number of whispers going around of sexual assault/abuse especially of religious sisters. These whispers should turn into louder noises so that the abusers are called out and their ability to harm others is halted. Women also become aware of the sexual predators through these whispers that becomes a warning to others. So let the whispers become a shout out for this kind of behaviour to stop. Some even should reach court if need be so that the lesson is clear to all to desist from such unwanted behaviour.

Women should not remain helpless and sink into mental depression for no fault of their own. They should begin to trust each other as sisters, as many women face sexual harassment/abuse at sometime in their lives. You owe it to yourself and future generations of women to stop sexual harassment/abuse. Unless women speak up NOTHING will happen!!

Wikipediahttps://en.wikipedia.org/wiki/Me_Too_movement, accessed on 7th Nov, 2018.

Background to the Church Guidelines on Sexual Harassment at Workplace Policy

Streevani, Pune, spearheaded a series of National Consultations on Gender Relations in the Church, in collaboration with Satyashodhak, a Mumbai based feminist Collective, Montfort Social Institute (MSI), Hyderabad, and Indian Women's Theological Forum (IWTF). These Consultations had a twofold agenda: 1) to disseminate the CBCI Gender Policy of the Church of India and promote its implementation, and 2) address the complex issue of sexual abuse of women, particularly in the Church. As part of the action plan of our Consultation held in 2011, a draft 'Policy Regarding Sexual Misconduct, Sexual Harassment and Sexual Abuse' was prepared and submitted to the CBCI Commission for Women for further action. The same was tabled at the CBCI Standing Committee meeting held earlier in 2013 by the CBCI Commission for Women.

After our 3rd National Consultation in August 2013, however, it was decided to further revise this Policy. Consequently the team worked closely with Bishop Agnelo Gracias, who together with Archbishop Lumon was a participant at our Consultation, to produce the draft 'Norms for Dealing With Cases Involving Sexual Abuse by Church Personnel' which was presented to the Chairperson of CBCI Commission for Women for consideration. It was recommended that these proposed Norms be used to complement the existing CBCI 'Norms for Dealing with Cases Involving Sexual Abuse of Minors'. They would serve as a visible sign of the Church's proactive approach to the problem, and pastoral concern for all. Since a Code of Conduct for all Church personnel and procedures for redress of grievances are clearly set out in the proposed Norms it would also serve to convince people that the Church is committed to

high morals in its ministry, and that victims of exploitation can be assured of justice within the Church.

In addition to the theological and ecclesiological imperatives, the Act, 2013 also made it urgent for the Church to have systems in place to address sexual abuse by Church personnel. The Criminal Law (Amendment) Act, 2013, and The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, have widened the definition of sexual abuse to include stalking, voyeurism, unwelcome advances with sexual overtures, and showing pornography without consent. All of these are now punishable under law. Thanks to these new laws and the awareness that led to them, instances of sexual abuse are less likely to be tolerated, and it was important for the Church to be seen as a supporter of this progressive legislation.

In lieu of the above the team requested that the CBCI Standing Committee to review and revise if necessary, the proposed Norms, and take the necessary action to ensure that they are placed on the agenda of the CBCI Plenary Assembly, 2014. The team felt that urgent action by the CBCI would go a long way towards speedy justice for victims of abuse, and help to reduce such offences as well as the negative publicity that results from delayed and confused action, or inaction.

Despite the repeated efforts to draw attention to the urgency of the matter, the CBCI did not issue any Norms or Policy to prevent and address sexual abuse in the church, it was decided to publish them under the banner of *Streevani*, in their bulletin of 2014¹. The team continued to pursue the matter with CBCI Women's Commission and the President of CBCI till finally they took up the issue and brought out the policy in September, 2017.

¹ Astrid Lobo Gajiwala, Foreword to the Norms, Birthing a New Vision, Vol.22, December, 2014, Published by Streevani, Pune p 102.

Sexual Harassment Policy at Workplace: A Comparative Study of the Church Policy Vs Government of India Act, 2013

*Sheeba Jose UMI**

Introduction:

Women are leaving the security of their homes to enter diverse fields but given the cultural attitudes towards women, sexual harassment at the workplace has assumed serious proportions. Women do not report the matter to the concerned authorities in most cases due to fear of reprisal from the harasser, losing one's livelihood, being stigmatized, or losing professional standing and personal reputation. Women continue to be victims of harassment at work because of the unchanged and archaic attitudes that are rooted in social structures within the framework of a patriarchal society. In recent months the attention of the nation has been riveted to salacious allegations of sexual harassment by politicians, entertainment industry executives, and network news anchors, with some saying the worst is yet to come. While Churches are not immune to incidents of sexual harassment, Church leaders have failed to address the issue adequately.

The elimination of gender-based discrimination has been one of the fundamentals of the Constitutional edifice of India. The principle of gender equality is enshrined in the Article 14 of our Constitution, though workplace sexual harassment in India was for the very first time recognized by the Supreme Court of India in its landmark judgment of *Vishaka vs. State*

* Sheeba Jose UMI is a Member of the Congregation of Ursulines of Mary Immaculate. She is a Senior Lawyer practicing in the High Court of Allahabad. She is known for getting justice for people through Public Interest Litigation.

of *Rajasthan* (“**Vishaka Judgment**”). The *Vishaka* ruling is easily among the landmark judgments for working women in India. Indian legal luminary Zia Mody says: “Judicial activism reached its pinnacle in *Vishakha v. State of Rajasthan*.” *Vishaka* triggered a national consciousness on an issue that was, until then, not given its due importance. Following up on *Vishaka*, the Supreme Court of India enlarged the scope of sexual harassment by ruling that physical contact was not essential to be considered an act of sexual harassment.

What was the need for the Church to respond to Sexual Harassment When the Act Already Existed?

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the Act) — India’s first codified legislation specifically dealing with prevention, prohibition, and redressal of sexual harassment of women at the workplace mandates that “Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. An employer has been defined as any person who is responsible for management, supervision, and control of the workplace and includes persons who formulate and administer policies of such an organization under Section 2(g).

While the “workplace” in the *Vishaka* Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organizations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation.

Penalties have been prescribed for employers for non-compliance with the provisions of the Act which shall be

punishable with a fine of up to ₹ 50,000. Repeated violations may lead to higher penalties and cancellation of license or registration to conduct business

The Catholic Church in India acknowledges and considers violence against women and children as a special area of concern in its Gender Policy and advocates zero tolerance to any act of violence towards women and children (Gender Policy, Part III 5(iii)).² Understanding the gravity of the issue of sexual harassment at workplace the Catholic Bishops Conference of India (CBCI) has formulated ‘CBCI Guidelines to deal with Sexual Harassment at Workplace’. The Policy seeks to address the problem in the hope of creating a safe and healthy workplace for all employees and those being served by Church institutions. All citizens are bound by this law and the Church takes this responsibility seriously and is trying to implement it in all its institutions.

The Church has to be in the forefront in executing this, as sexual harassment violates the sacredness of the human person and is against the ethos of the Scriptures.

² Prepared and Published by CBCI COUNCIL FOR WOMEN, Published on 14 September 2017, www.cbci.in

The Sexual Harassment at work Place Act, 2013

V/s

CBCI Sexual Harassment at Workplace Guidelines, 2017

Issues	SHW Act, 2013	CBCI, 2017
Definition of Sexual harassment	<p>The Act defines '<i>sexual harassment</i>' in line with the Supreme Court's definition of 'sexual harassment' in the Vishaka Judgment and provides safeguards against false or malicious charges. The Act covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment if it occurs in connection with an act or behavior of sexual harassment.</p> <p>The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organized or unorganized sectors, public or private and covers clients, customers and domestic workers as well.</p> <p>Gender specific Law, only women are allowed to file a complaint under this Act</p>	<p>The definition of sexual harassment has been extended to include allusions to sexual preferences, jokes, blackmail, threats, comments on appearances or body, intimate references, obscene language, sexual innuendoes etc. Gestures and behaviour would include caresses, fondling, indiscrete glances, kissing, obscene gestures, pinching, unsolicited advances, etc. It also includes threats, humiliation, intimidation that creates a hostile working environment likely to affect the health and safety of the person.</p> <p>The CBCI Policy is gender neutral and includes all forms of harassment to include the third gender and men.</p>
Duties of employers	<p>Law mandates every employer to:</p> <ol style="list-style-type: none"> 1. Provide a safe working environment, which shall include safety from persons coming to the workplace; 2. Display the penal consequences of workplace sexual harassment, and the order constituting the IC, at any conspicuous place at the workplace; 3. Conduct training programs to create awareness and sensitization 4. Conduct orientation programs for the members of the IC; 	<p>a) Create a harmonious working environment free of intimidation, hostility, offence and any form of harassment and abuse of authority. In order to achieve such an environment, all those who are in-charge of the institution must act as role models by upholding the highest standards of conduct.</p> <p>(b) Ensure only eligible, well reputed and morally upright persons are recruited and appointed as the staff of the institutions and they should be trained, supervised and supported at their work place which should promote genuine and mature human behaviour.</p>

	<p>5. Provide necessary facilities for the members of the IC and assist in any manner required to enable the aggrieved woman to secure justice under the IPC; and,</p> <p>6. Monitor the timely submission of the reports by the IC and assist in any manner required to enable the aggrieved woman to secure justice under the IPC.</p> <p>7. It also requires the employer to arrange for the following under the SHW 2013, Rules:</p> <ul style="list-style-type: none"> • Publish the Law related policies over the company website, which shall include the contact details and names of the IC members; • Carry out capacity building and skills development programs for IC members; and, • Use modules published by the state governments to generate awareness amongst employees 	<p>(c) Communicate the zero tolerance policy on sexual harassment at workplace and abuse of authority to all the members of the institution and ensure that they are given training on gender sensitivity and prevention of sexual harassment.</p> <p>d) The root causes arising from various factors of behavior patterns of all persons that provoke a person to see the other only as an object of sexual satisfaction are to be addressed, made aware of and eradicated through awareness program/training.</p> <p>(e) All the members of institution should be given the proper knowledge and training with regard to the moral and social behaviour expected in an institution or work place of the Catholic Church. Those who exercise leadership roles should be trained to understand the implications of the Guidelines and to have the skills to deal with adverse situations.</p> <p>(f) Display at a conspicuous place in the workplace, the details of the grievance redressing authority that should be approached by a victim in the event of sexual harassment and the penal consequences of sexual harassment.</p> <p>(g) Ensure that staff members supervising others do not engage in harassment at workplace. Take measures consistent with the Guidelines, should they witness any acts of harassment at workplace.</p> <p>(i) Ensure that incidents of harassment at workplace or abuse of authority are promptly addressed. In such cases, all those who are in-charge of the institution must demonstrate fairness, impartiality and avoid any form of intimidation or favouritism.</p> <p>(j) Ensure that all discussion, communication and activities are handled with extreme sensitivity and utmost confidentiality.</p>
--	--	---

		<p>(k) Ensure that no employee is retaliated against.</p> <p>(l) Ensure compliance with the provisions of this ‘Guidelines’, including appointment of ICC, preferably within a period of 60 days of the publication of these guidelines.</p> <p>m) Provide necessary facilities to the ICC for dealing with the complaint and conducting an inquiry.</p> <p>(n) Assist in securing the attendance of Respondent and Witnesses for ICC.</p> <p>(o) Make available such information to ICC as it may require having regard to the complaint made.</p> <p>(p) Monitor the timely submission of annual reports by ICC.</p> <p>(q) Organize workshops and awareness programs at regular intervals for sensitizing the employees with the provisions of this ‘Guidelines’ and the present civil law in force.</p>
<p>Procedure for resolving claims in a timely manner</p>	<p>Filing of the complaint — the aggrieved woman is required to file the complaint with the IC, in writing, within 3 months from the date of the alleged incident of sexual harassment, or 3 months from the date of the last alleged incident of sexual harassment, if there’s a series of incidents.</p> <p>Completion of the inquiry — All complaints submitted to the IC must be adjudicated and the recommendations finalized by the IC within 90 days of the receipt of the complaint.</p> <p>Submission of report — The IC must submit the report within 10 days of completion of the inquiry to the employer. Further, if the parties to the incident so desire, the report can be made available to such parties.</p>	<p>Every institution under the Diocese or Provincial or Congregation of the Catholic Church in India shall be bound to respond to every incident of sexual harassment regardless of its extent or magnitude, in a swift and time bound manner. It shall be the duty of every institution to provide a supportive environment to resolve concerns of sexual harassment.</p> <p>Informal Process</p> <p>(a) Whenever possible, all must try to resolve the issues in an informal and amicable manner</p> <p>(b) Approach the Respondent: It can happen that an individual is not aware that the person’s behaviour is sexually offensive. In such cases one of the members should inform the respondent that such conduct is unwelcome and request that it should cease</p>

	<p>Implementation of recommendations — The employer must implement the recommendations shared as part of the report prepared by the IC within 60 days of receipt of such recommendations by the employer.</p> <p>Appeals — All appeals under the Act must take place within 90 days of the recommendations being formulated on specific issues only, such as</p> <ul style="list-style-type: none"> a) no sanctions/sanctions of misconduct or deductions of wages; b) false/malicious complaints or false witnesses or forged documents; c) penalty for contravening the non-disclosure guidelines of the Act; or d) Non-implementation of recommendations. 	<ul style="list-style-type: none"> (c) Support by a Colleague: The complainant may request a colleague to be present at a meeting with the respondent (d) Mediation: When parties have arrived at a settlement the ICC shall record the settlement and make recommendations for the institution to take action as specified. (e) When a settlement has been arrived at, no further enquiry shall be conducted by the ICC.
Jurisdiction	All over India	<ul style="list-style-type: none"> a) Any juridical entity like department, organization, undertaking, establishment, institution, office, branch or unit which is established, owned, or controlled, wholly or partially financed by funds provided by the Catholic Church (Dioceses, Religious Congregations, individuals) b) Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.
Complaint Cell	<ul style="list-style-type: none"> • The SHW Act prescribes the following punishments that may be imposed by an employer on an employee for indulging in an act of sexual harassment: • Punishment prescribed under the service rules of the organization; 	<ul style="list-style-type: none"> • “Diocesan/Provincial Complaints Committee” (D/P CC) means the Complaint Committee to be constituted by every Diocese and Province of a Religious Congregation of the Catholic Church in India.

	<ul style="list-style-type: none"> • If the organization does not have service rules, disciplinary action including written apology, warning, reprimand, censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service, undergoing a counseling session, or carrying out community service; and • Deduction of compensation payable to the aggrieved woman from the wages of the respondent.³ 	<ul style="list-style-type: none"> • “Internal Complaints Committee”(ICC) means the complaints committee to be set up by every institution under a Diocese or Province of Religious Congregations of the Catholic Church in India, which employs 10 or more employees. • “Respondent” means an employee against whom the complainant has made the complaint.
--	--	--

CBCI Gender Policy on issues of Sexual Harassment

The Catholic Church in India deeply cherishes the bond of sacred trust among the people of God, the clergy, religious and lay faithful. The Church teaching of the basic equality of dignity of every individual is based on the biblical account of creation. Every person is created in the image and likeness of God (Cf. Gen 1:26-27). The New Testament develops this ethos in Jesus’ invitation to women’s discipleship and St. Paul’s exhortation that “there is no male and female, for all are one in Jesus Christ” (Gal 3:28). Sexual abuse which includes sexual misconduct and sexual harassment violates the sacredness of the human person. It destroys the trust reposed in persons of authority or influence. It acts as counter witness to all that the Church stands for, namely, love of God and love of neighbor.

The Catholic Church in India is seriously concerned about the increasing violence against women and girl children in Indian society. The CBCI acknowledges and considers violence against women and children as a special area of concern and advocates zero tolerance to any act of violence towards women and children (*Gender Policy, Part III 5(iii)*). Sexual Harassment is a violation of right of women to equality

³ Section 13 of the Prevention of Workplace Sexual Harassment Act, 2013

under Article 14 and 15, Right to Life and Liberty under Article 21 and the Right to Work under Article 19(1)(g) of the Constitution of India.

SHW Act, 2013 and CBCI Policy: A Comparison

1. The SHW Act is an act backed by legal enforcement obligation. While the CBCI refers to a policy of the Church to cater the emerging issues of the sexual harassment cases within its jurisdiction.
2. The CBCI policy provides a uniform policy for implementation at the all the diocese and church organizations while the SHW Act is applicable for cases all over India.
3. Jurisdiction: This ‘Guidelines’ obligates every Diocese and Province of a Religious Congregation of the Catholic Church in India to have a Diocesan/Provincial Complaints Committee (D/P CC) and an institution under a Diocese or Province which employs 10 or more employees should constitute an Internal Complaints Committee (ICC). In the case of institutions with less than 10 employees, as well as complaint against institution’s head like Manager, Head Master, Director, Principal etc., complaint should be given to the Diocesan/Provincial CC which will carry out the functions of ICC.
4. Differences in Punishments and Redressal of the Complaints at the CBCI level –

It shall be the duty of every institution to provide a supportive environment to resolve concerns of sexual harassment as under:

- Whenever possible, all must try to resolve the issues in an informal and amicable manner ensuring that justice is done to the satisfaction of the victim.

- When parties have arrived at a settlement the ICC shall record the settlement and make recommendations for the institution to take action as specified.
- If the respondent resigns in the middle of an investigation, the committee will “notify the respondent and make sure to enter a note in the service record of the individual in question, disclosing that the person resigned while under investigation for allegation of sexual harassment at work place.”
- Where the victim is unable to make a complaint on account of physical or mental incapacity or death or otherwise, any other person related/known to/legally authorized by the victim may make a complaint.
- Care of the hurting community (Whether a family, Parish, a Diocese, or a Congregation): The community where the violation occurred is also wounded and need healing. Efforts must be made to restore the faith and confidence of the victim as well as of the community.
- Care and Healing for the Victims:- When sexual abuse is proved, the following pastoral and spiritual assistance must be provided.
- Care of the victims: Pastoral care must encompass justice, compassion, protection and restitution for the victim. The Diocese/Province must ensure that medical, financial, spiritual and any other necessary help is provided to the victim(s) to gain back control of their lives.

Conclusion

The Indian Catholic Church has 171 dioceses across the country. Every Catholic institution with more than 10 employees is mandated to adhere to the new measures.”There are hundreds of congregations, social service centers and groups as well as

institutions run by individuals. This would be applicable to all,” said Bishop Jacob Mar Barnabas of Gurgaon. The CBCI compliments the Sexual Harassment at Workplace Act, 2013 ensuring its strict implementation at all diocesan levels. The Church has vowed to execute this act as sexual harassment violates the sacredness of the human person and is against the ethos of the Bible. Thus, we may safely conclude that the CBCI policy if not adhered in its true spirit remains as a whimsical policy that may be modified or adjusted suiting the whims of the Churchmen or representatives in hierarchical order. In fact, it may pave the way to evade the original SHW Act, 2013 which has legal binding on offenders. Therefore, though the policy seems to be a proactive move to ensure security of the women but there remains enough scope for the manipulations by Church clergy who still remain chauvinists.

Sexual Harassment at the Workplace and the Practical Aspects of its Implementation

*Ms. Audrey Dmello**

Hard Facts

We perceive India to be a progressive nation which provides a congenial working environment for women. Hence it may come as a shock to many that out of 131 countries surveyed regarding female labour force participation, India ranked a low 120th. Cultural norms, assigned gender roles where women are viewed primarily as child bearers and home makers, as well as hostile work situations keep women away from paid work.

Sexual harassment at workplaces is also a major factor that hinders women's access to workforce participation. The absence of viable mechanisms of redressal and uncertainty of justice compels women in India to remain silent over sexual harassment for fear of losing their jobs and facing social stigma.

Since it is identified as one of the main factors which causes women extreme humiliation at the workplace, the U.N. General Assembly Resolution 48/104, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action have all acknowledged sexual harassment at the workplace as gender-based discrimination and have directed States to enact and enforce laws and develop anti-harassment policies and preventive measures. The law on prevention, prohibition and redressal of sexual harassment at workplace must be viewed against this background.

* Ms. Audrey Dmello is the Director of Majlis, an NGO based in Mumbai which provides support to victims of sexual and domestic violence and has served as an external member of various ICs.

History of legislation on Sexual Harassment in India

When we go into the history of the legislation in India to deal with sexual harassment at the workplace, a name that stands out is Bhanwari Devi, a lower class woman, employed on a contract basis by the Women's Development Program (WDP) of the Rajasthan government to work on prevention of child marriage among rural communities where this practice is rampant. When she tried to prevent a child marriage in an upper class Thakur family, the men were enraged that a dalit woman had dared to call the police and prevent the marriage in their family. In retaliation, on Sept 22, 1992, five men from the Thakur clan gangraped her.

She was determined to seek justice against her assailants. After a great deal of perseverance and support from local NGOs, she finally managed to lodge an FIR. But her worst humiliation came when in 1995, the Jaipur District and Session court acquitted the five men on the grounds that "dominant caste men could not rape a lower caste woman".

A positive outcome of her struggle was a PIL petition filed by a local NGO Vishakha, in the Supreme Court of India claiming that since Bhanwari Devi was a government employee who was raped in the course of carrying on her official duty, the government was bound to provide her a safe working environment.

In 1997, the Supreme Court in *Vishakha vs State of Rajasthan* acknowledged that sexual harassment at the workplace constitutes a human rights violation, defined what constitutes sexual harassment at the workplace, and pronounced preventive, prohibitive and redressal mechanisms. The guidelines made it mandatory for every employer, from the government and the private sector to set up preventive and redressal mechanisms to address the issue of sexual harassment at the workplace. The Supreme Court also issued

directives to bring in a statute to incorporate these guidelines and declared that the 'Guidelines' will have the same effect as a statute until the Parliament enacts a law to this effect.

A grave lacunae in the guidelines was that the guidelines were applicable only to formal sector and left out of its purview the informal sector to which Bhanwari Devi belonged. They did not provide any protection to the huge number of poor vulnerable women who work as contract labour in various government, semi-government and non-government sectors.

Though some organisations set up Internal Complaints Committees and took some action against the perpetrators when a woman approached them with her grievance, overall there were no efforts to monitor the implementation of the guidelines within both government or private sectors. So organizations flouted the Guidelines with impunity. In a rare instance when a woman complained of sexual harassment at the hands of her boss or a colleague, she faced hostility and continued or intensified harassment.

Salient Features of the 2013 Enactment

Sixteen years after the Vishakha Guidelines, finally in 2013, the government enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and made the Act applicable to both formal and informal sectors. The primary objective of this Act is to prevent sexual harassment at workplace and provide a mechanism for redressal. This Act is gender specific and only women can file complaints under it.

- The Act defines sexual harassment as physical contact or advances; or a demand for sexual favours; or making sexually coloured remarks; or showing pornography; or any other physical, verbal or non-verbal conduct of a sexual nature.

- A woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent can file a complaint.
- The definition of workplace is wide and includes any place visited in the course of a woman's employment, etc. It also defines dwelling place or a house as a workplace thus bringing domestic workers within its purview.
- It mandates workplaces with more than 10 employees to set up an Internal Committee (IC) for the redressal of cases.
- For workplaces with less than 10 employees, or where the respondent is highly placed within the organisation, the victim can approach the Local Committees (LC) which is set up by the State government in every district under the authority of the district collector. Women working in the unorganized sector (agricultural, construction workers etc.) and domestic workers can also approach the LC.
- The composition of the IC should have representation from the management as well as from the staff. At least half its members must be women. The Presiding Officer has to be a woman employed at a senior level at the workplace. It is mandatory to have one external member either from an NGO which is working on women's rights or a legal expert who is concerned with this issue.
- The composition of the LC requires the Chairperson to be nominated from amongst eminent women in the field of social work and committed to the cause of women; one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district; two Members, of whom at least one shall be a woman, to be nominated from amongst NGOs or Associations committed to the cause of women or a person

familiar with the issues relating to sexual harassment (these members should have a background in law or have legal knowledge: and at least one member shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time; the district women and child development officer, shall be the *ex officio* member.

- The tenure of the IC and LC committee members is for three years.

Procedure for lodging the Complaint

A written complaint of sexual harassment must be sent to the IC / LC. The Committee is duty bound to enquire into the complaint and take action as per the provisions of the Act.

If the aggrieved woman herself cannot make the complaint, the committee shall render all reasonable assistance to the woman. Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity, a complaint may be filed by her support person.

In order to help women in the taluka or ward level to reach the LC at the district, the District Officer can designate a nodal officer in every block, taluka and tehsil to receive complaints and forward the same to the LC.

There is a time limit of three months from the date of the incident (and if there are a series of incidents, from the last incident) for making the complaint. However, the Committee has the power to extend the time limit by another three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

Procedure for conducting the enquiry

Make attempt to settle the dispute: As a first step, at the request of the woman who has filed the complaint, the IC / LC may, before initiating an inquiry, take steps to settle the matter through conciliation.(No monetary settlement shall be made as a basis of conciliation.)If a settlement is arrived the same shall be recorded and forwarded to the concerned authority / District Officer to take action as specified in the recommendation. The IC / LC shall provide the copies of the settlement as recorded to the aggrieved woman and the respondent. If a settlement is arrived at, no further inquiry shall be conducted by the Local Committee.

Procedure for Enquiry: During the enquiry the opposite party (Respondent or the person against whom the complaint is filed) must be given a chance to reply to the allegations. Both parties should be given an opportunity to produce documents or witnesses before the committee. The principles of natural justice must be followed.

After the enquiry: If the allegations made by the woman are proved to be correct, the IC / LC may ask the employer / District Officer to:

- Take action against the respondent in accordance with the provisions of the service rules.
- Deduct from the wages of the respondent the sum to be paid to the aggrieved woman for the mental trauma, loss of wages or career opportunity caused to her or for reimbursement of medical expenses incurred, etc.
- Forward a complaint to the police to take action as per the relevant IPC sections

Protection to the Complainant during the Enquiry: The complainant is entitled to make a request to be transferred or

the respondent to be transferred. She may also ask for leave or any other relief during the period of enquiry.

Preventive Measures: The Act provides for measures that are preventive – like awareness creation regarding women’s rights, women’s dignity and women’s autonomy, so that instances of sexual harassment are minimized or completely done away with.

It is illegal for the employer not to have an ICC. A fine can be levied which may extend up to Rs. 50,000/- for non-compliance. In repeated offences, the fine will be doubled. It may also result in withdrawing of registration/license.

Obstacles to implementation of the law

As a member of various IC committees of institutions including the Sessions Court Mumbai and having advised scores of victims/survivors who have approached Majlis with their complaints, I have observed very closely the challenges and obstacles in effective implementation of this Act.

Definition of SH: The definition is very wide and all inclusive but since it is vague, it is very difficult to prove these wide variety of actions, behavior and innuendos which come within purview of ‘sexual harassment’.

The IC members are from within the organization: There is a conflict of interest here. As people concerned with the overall progress of the organisation, the IC members tend to take decisions in the interest of the organisation and give serious consideration regarding the repercussions their recommendations may have on the reputation of the organization. They also get influenced by the senior management if the Respondent is part of the senior management team.

Influence of the External NGO Member upon the IC: Even the

mandate of appointing an external NGO member to the IC does not have much impact, unless this member is able to influence the committee. If he/she harbours the same sexist biases, the complainant has no hope of getting justice. The external NGO member is hired on a retainer basis and can be replaced at any time. They have no status and very little influence on the IC. On various occasions when I gave a dissenting view, it had very little impact on the final outcome of the enquiry.

Maintaining Confidentiality: Though the statute provides for this, it is difficult to maintain confidentiality. Both the victim and the respondent need to inform their colleagues who will act as witnesses in order to prove their respective case, which itself sets tongues wagging within the confined office work environment.

Bias of committee members: Usually the members of IC hail from the same social group and have very traditional and stereotypical view about how a woman should behave at the workplace. At times they harbor class biases either against the victim or the perpetrator if he comes from a lower strata. Since the members are not legally trained, these biases often creep into their decisions.

Degree of proof required: Since it is a quasi-civil proceeding, the degree of proof required is 'preponderance of probabilities' and not 'proof beyond reasonable doubt' as in a criminal trial. However, IC members try to act as judges in a formal court and conduct the enquiry as a criminal trial and are always looking for 'strict evidence' to establish the guilt of the respondent, which is seldom possible. In some cases the IC committees function as a court allowing the victim and accused to face each other and even bring legal representation. They would need training as to how evidence has to be appreciated, but very few go through this exercise. It is worse when there is a lawyer who is a member of the IC or advises the IC because

the lawyer will expect the IC members to conduct the enquiry like a criminal trial. So not only is there a need for training but the training must be conducted by a person who is well versed with the provisions of this Act and the spirit beneath exacting this statute.

Vulnerabilities of victims - power imbalance: We have observed that the victims of sexual harassment are usually vulnerable women who also lack confidence. At times they are also facing problems within their domestic sphere. The perpetrator usually occupies an influential position sometimes he is the head of the organization. This makes it extremely difficult for the victim to resist the advances and there is also a fear that when it is 'his word against hers' no one will believe her. It is for this reason, she is also not able to lodge a complaint within the stipulated time frame of three months.

The Respondent has to be within the same organization. If he has resigned, it is very difficult to implement the recommendations.

Conciliation: Section 10 of the Act provides for conciliation and settlements. This is a good option because most women who file a complaint do not wish to go through a full length enquiry and are satisfied if the respondent acknowledges the sexual harassment and renders an apology. This provision can be used to avoid a long drawn inquiry, however most committees do not make use of it and conduct the enquiry like a criminal court, sometimes even permitting lawyers of the respondent to conduct cross examination of the complainant. However caution needs to be exercised to ensure that the complainant is not forced into conciliation and this must be done only when the woman demands it and not otherwise.

Mixing of SH and workplace misconduct: Sometimes respondents are from lower class and caste and the IC members use the complaint of sexual harassment to settle other scores

against the accused person. The IC members must restrain themselves from using this mechanism to settle other scores against the respondent.

False cases: Section 14 of the Act provides for punishment for false or malicious complaint and giving false evidence. Many women's groups are opposed to this provision as it might act as a deterrent to women filing complaints. However it is important to know that for a case to be declared false it has to be proved. A mere inability to substantiate a complaint or provide adequate proof does not attract action against the complainant under this section. A malicious intent on part of the complainant needs to be established after an inquiry in accordance with the procedure prescribed, before any action can be recommended. Usually only the fact that false cases are punishable is publicized but the fact that mere inability to prove does not constitute 'false case' is not well publicised.

Time frame: The time period of reporting within three months is not practical as women take time to complain. As the recent 'Me Too' campaign has brought out, at times even women in well-established positions take years to gain confidence and file a complaint. The time frame makes it impossible for them to register complaints under this Act.

'#Me Too' Movement

The recent #MeToo movement has brought out in no uncertain terms how the SHW Act has been a non-starter. The naming and shaming device is a result of the failure of our justice system to redress their grievances. The law on sexual harassment at the workplace stipulates clearly, it is not the intention of the abuser but the perception of the violated that is relevant. And it is here the graphic details contained in the personal narratives posted in the social media will come to their aid.

When women started using social media to share their experiences of sexual abuse and sexual harassment at their workplaces, the first hurdle they met was to respond to the query, “but why did she not complain earlier?” If she did not complain earlier, the insinuation was that it was a figment of her own imagination. This was in line with the response of the perpetrators who denied that such an incident had taken place. Those who raised this query appear to be oblivious of the fact that around two decades ago, awareness about redress mechanisms was totally lacking. Only in 1997, the Supreme Court had issued the Vishaka guidelines providing an in-house redress mechanism. But impact of the guidelines was minimal as corporates routinely flouted them.

But the MeToo campaign has shaken the corporate world and has forced them to hurriedly set up “internal committees” (IC) and organise trainings by gender experts. It has also forced the government to sit up and take notice about the inadequacies of the Act. The lacunae within the Act has now become glaring.

The Way Forward

The Act deals only with situations where the complainant and perpetrator work in the same organisation. If the accused has moved, the IC lacks the power to conduct an inquiry. So, women who came out in the social media had virtually no remedy in law.

A suggestion made by Justice Sujata Manohar, the retired Supreme Court judge who was part of the bench that issued the Vishaka guidelines, was to set up industry-wise committees, for example, the film industry, the media, financial institutions, educational institutions, small and medium scale industries etc. which the woman can approach if she is not comfortable about filing a complaint in her own organisation or is not satisfied with the procedure adopted by the IC or its verdict.

These committees could act as appellate authorities. This will also address the problem of small and medium enterprises within a particular sector who employ less than 10 women.

Justice Manohar made these suggestions at a national seminar organised by the National Commission for Women on 17th November, 2018.

Even at this level, members of such committees would need training to act efficiently and to shed their own sexist views. Engaging a lawyer well versed with criminal or civil litigation would not be of much use to them.

Another suggestion is to broaden the definition of “sexual harassment” to include gender discrimination and sexism at the workplace. Gender-based discrimination has no remedy under the current statute as there is no “sexual” motive. However, this would broaden the scope of the Act and bring in a wide range of issues within its ambit, which the IC may not be equipped to deal with.

Another drawback is that the ICC lacks the power to implement its own recommendations. If the employer chooses to ignore them, nothing much can be done about it. The appellate body should have the power to impose penalties on the employer for non-implementation of the recommendations.

Though the Act is meant to prevent, prohibit and redress sexual harassment, the aspects of prevention and prohibition are generally ignored. Whether the government will concede to the recommendations and amend the statute to incorporate these suggestions is yet to be seen.

Church Policy on Sexual Abuse: A Critical Appraisal

*Shaji George Kochuthara, CMI**

Introduction¹

The Church rejects any violence and abuse. Sexual violence and abuse are among the most serious violations. They are considered not only sins, but also crimes. However, the pertinent question would be whether the teaching of the Church and related policies are reflected in the actual practice. There are also complaints that processes lack transparency, especially in a hierarchical system, which adversely affects the implementation of even existing laws and policies.

Sexual abuse, especially that carried out by Church personnel, can be mainly against minors and women. In recent decades, the abuse of minors has received greater attention, since a number of such cases have been reported, and in many countries this has become the most serious problem that the Church is facing. As a result, more responses by the Church have been on the abuse of minors. However, sexual abuse of women by Church personnel has also gained attention. There are reports that sexual abuse of women is rampant in the

* Shaji George Kochuthara CMI holds a Doctorate in Moral Theology. He is the Editor-in-Chief, Asian Horizons (Dharmaram Journal of Theology). Currently he is the Dean of Theology, Dharmaram Vidya Kshetram, Bangalore.

¹ I would like to thank Sr Katarina Schuth, OSF (USA), who has been a seminary professor for decades, for carefully reading the draft of this paper, and for her valuable comments and suggestions. She was entrusted by the US Bishops' Conference with the task of preparing many documents to deal with the abuse crisis; many of those documents are available on the website of US Bishops' Conference.

Church, especially in some countries.² There are also reports of sexual abuse of nuns by the clergy.³

Evidently, we shall not be able to undertake a detailed study and analysis of the issue, since it is so vast, and in recent decades a significant number of papal addresses and Church documents have dealt with it. In this paper, let us have a brief discussion on the issue especially in light of the policies of the Church, presentations made in the recently concluded Vatican meeting on “The Protection of Minors in the Church” (21-24 February 2019), and the *CBCI Guidelines to Deal with Sexual Harassment at Workplace*.⁴ Since most of the norms, guidelines and policies promulgated during the last few decades have been regarding the abuse of minors, the focus of our discussion will be on that topic.

Abuse of Minors: Canonical Norms, Church Responses

Canon Law treats cases of sexual abuse as grave. However, taking into consideration the seriousness of the abuse of minors, and the number of cases, and the ineffectiveness of the law in tackling such cases, the norms regarding sexual abuse were revised a few times.

In 2001, John Paul II issued a letter stating that “a sin against the Sixth Commandment of the Decalogue by a cleric with a minor under 18 years of age is to be considered a grave sin or

² See for example, “Sexual Abuse of Women in the Church,” *Tessera* 12 March 2010, <http://tessera2009.blogspot.com/2010/03/sexual-abuse-of-women-in-church.html>

³ See for example, Lucetta Scaraffia, “Without any Touching: A Serious Wound,” *L'Osservatore Romano*, Feb. 1, 2019, <http://www.osservatoreromano.va/en/news/without-any-touching>

⁴ <https://www.cbci.in/Policies/Policy221153016794.pdf>, accessed 12.3.2019. CBCI=Catholic Bishops’ Conference of India.

'delictum gravius.'”⁵ All cases of sex crimes by priests were to be placed under the Congregation for the Doctrine of the Faith (CDF) which, in most cases, would authorize the bishops to conduct trials themselves.⁶ The Norms were revised on 21 May 2010.⁷ On 22 March 2014 Pope Francis instituted the Pontifical Commission for the Protection of Minors, within the Roman Curia, to deal with the issue of the abuse of minors.

The new norm (2010) increases the statute of limitations from ten years to twenty years from the age of 20, with the possibility of extension even beyond that period. Another Norm intended to simplify earlier problems and to take account of the evolution of the situation in the Church concerns the possibility of having not only priests but also lay persons as members of the tribunal staff, or as lawyers or prosecutors. Likewise, in order to undertake these functions it is no longer strictly necessary to have a doctorate in canon law, but the required competency can also be proved in another way; for example, with a licentiate. Another significant aspect is establishing parity between the abuse of mentally disabled people and that of minors, and the introduction of a new category — paedophile pornography: “the acquisition, possession, or distribution by a cleric of

⁵ *The Norms of the Motu Proprio “Sacramentorum Santitatis Tutela”* (2001), http://www.vatican.va/resources/resources_introd-storica_en.html

⁶ There are also doubts whether this is too much centralism, whether a bit more decentralization would ensure speedier justice. See for example, the Address by Cardinal Oswald Gracias at the recent Vatican meeting: “Accountability in a Collegial and Synodal Church,” Meeting on the Protection of Minors in the Church” (Vatican, 21-24 February 2019), http://www.vatican.va/resources/resources_card-gracias-protezioneminori_20190222_en.html#, accessed 11.3.2019

⁷ Norms on *delicta graviora* approved by the Holy Father Benedict XVI on 21 May 2010, http://www.vatican.va/resources/resources_norme_en.html

pornographic images of minors under the age of eighteen⁸, for purposes of sexual gratification, by whatever means or using whatever technology” (Substantive Norms, Art. 6, § 1, 2°).

The “Guide to Understanding Basic CDF Procedures Concerning Sexual Abuse Allegations” explains briefly the procedures which have been derived from the 1983 Code of Canon Law and put in place since April 30, 2010. Among the points made, the following deserve special attention:

- Civil law concerning reporting of crimes to the appropriate authorities should always be followed.
- Every allegation of sexual abuse of a minor by a priest is investigated by the local diocese and, if there is even a “semblance of truth” the case is referred to the Congregation for the Doctrine of Faith (CDF). “The local bishop always retains power to protect children by restricting the activities of any priest in his diocese.”
- The CDF may authorise the local bishop to try the case. If a priest (who has the right of appeal to the CDF) is found guilty, a number of canonical penalties are possible, including dismissal from the clerical state. “The question of damages can also be treated directly during these procedures.”
- Some cases can be referred directly to the Pope, who can issue a decree of dismissal from the priesthood *ex officio*.⁹

⁸ The age was raised to 18 from 14 announced by Abp. Charles Scicluna, Secretary of CDF, at the Press Briefing on the last day of the Summit of Bishops on Sex Abuse in February 2019, https://www.youtube.com/watch?v=s2bNaI8_1TE accessed 16.04.2019ss

⁹ Substantive Norms on *delicta graviora* approved by the Holy Father Benedict XVI on 21 May 2010, http://www.vatican.va/resources/resources_norme_en.html

A circular letter sent on 3rd May 2011 from the CDF “To Assist Episcopal Conferences in Developing Guidelines for Dealing with Cases of Sexual Abuse of Minors Perpetrated by Clerics” affirms further these norms.¹⁰

On 4 June 2016 Pope Francis issued a *Motu Proprio*, “As a Loving Mother,”¹¹ according to which a hierarch can be removed from the office “if he has through negligence committed or through omission facilitated acts that have caused grave harm to others, either to physical persons or to the community as a whole.” “In the case of the abuse of minors and vulnerable adults it is enough that the lack of diligence be grave” (Article 1). This applies also to religious major superiors.

Misuse of the Sacrament of Penance

Art. 4 of the Substantive Norms lists what is said in the Code of Canon Law regarding grave delicts by which a priest incurs *latae sententiae* (ipso facto/automatic) excommunication reserved to the Apostolic See. Among the more grave delicts against the sanctity of the sacrament of penance reserved to the Congregation for the Doctrine of the Faith are the absolution of an accomplice and solicitation to sin against the sixth commandment. By knowingly attempting to absolve his accomplice of either sex in an external sexual sin, as mentioned in CIC can. 1378 § 1, and CCEO 1457, a priest is ipso facto excommunicated. This is a grave delict reserved the CDF (Substantive Norms, Art. 4, § 1, 1^o). According to

¹⁰ Congregation for the Doctrine of Faith, “Circular Letter to Assist Episcopal Conferences in Developing Guidelines for Dealing with Cases of Sexual Abuses of Minors Perpetrated by Clerics,” (3 May 2011), http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20110503_abuso-minori_en.html

¹¹ http://w2.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio_20160604_come-una-madre-amorevole.html

the canon law, such an absolution is invalid except in danger of death.¹²

CIC can. 1387 and in CCEO can. 1458 speak about the sin of solicitation in confession: A priest who in the act, on the occasion, or under the pretext of confession solicits a penitent to sin against the sixth commandment is to be punished, according to the gravity of the delict, by suspension, prohibition, and privation; in graver cases he is to be dismissed from the clerical state. Substantive Norms include this also among the grave delicts reserved to the CDF (Art. 4 § 1, 4^o). What underlies here is the concern about the integrity of the priest-penitent relationship.¹³ The Church upholds with utmost care the sanctity of the sacrament of penance, and seriously deals with attempts to misuse the sacrament. That the sacrament of penance, forgiveness and peace is made into an occasion of sin is considered as particularly serious by the Church. The confessor who is supposed to be a father, teacher and healer should not become a wolf that steals the sheep.¹⁴

In fact, these have been the traditional norms in the Church, safeguarding the sanctity of the sacrament of penance and to defend it against possible misuse especially in matters related to sexuality, particularly against the sacrament being misused for sexual abuse by the clergy/confessors.

¹² John P. Beal, James A. Coriden and Thomas J. Green, ed. *New Commentary on the Code of Canon Law* (Commissioned by the Canon Law Society of America), Bangalore: Theological Publication in India, 2003, 1586.

¹³ *New Commentary on the Code of Canon Law*, 1591.

¹⁴ Pio Vito Pinto, ed., *Commento al Codice dei Canonici delle Chiese Orientali (Studium Romanae Rotae – Corpus Iuris Canonici II)* Citta' del Vaticano: Libreria Editrice Vaticana, 2001, 1147.

CBCI Child Protection Policy & Procedures

The CBCI Child Protection Policy & Procedures approved by its Standing Committee meeting of Bishops held from 23 to 25 September 2015 is a landmark document.¹⁵ The document acknowledges that child abuse is widespread in India and that as per the ‘Study on Child Abuse in India 2007’ conducted by the Ministry of Women and Child Development, 53.22% of children reported one or more forms of sexual abuse.¹⁶ The document enlists guidelines for dioceses/provinces, institutions, staff members, guidelines for parents/guardians, details of the constitution of the Child Protection Committee. Moreover, it deals with the rehabilitation of victims and the preventive measures to be taken. As a whole, it is a very helpful document. It should be ensured that school personnel, teachers, school principals undergo training programmes. It is also important that children are trained in recognizing and resisting sexual abuse.

There is no doubt that abuse of minors should not happen in the schools and other institutions run by the Church. *The CBCI Child Protection Policy & Procedures* has the scope of ensuring the protection of minors in the educational institutions

¹⁵ Unfortunately, the printed version (for private circulation only) available does not give the publisher’s details or the date and year of publication. Moreover, the document is not available on the website of the CBCI.

¹⁶ See, “Study on Child Abuse: India 2007,” published by Ministry of Women and Child Development, Government of India, 2007, <https://www.childlineindia.org.in/pdf/MWCD-Child-Abuse-Report.pdf>. Another study says that the prevalence of child sexual abuse could be between 18 and 50%: David K. Carson, Jennifer M. Foster and Aparajita Chowdhury, “Sexual Abuse of Children and Youth in India: An Anthropological Perspective,” *The Oriental Anthropologist* 14, 2 (2014) 149-170, DOI: 10.1007/s12646-013-0198-6, https://www.researchgate.net/publication/271951215_Child_Sexual_Abuse_in_India_Current_Issues_and_Research/download

run by the Church only. Child protection policies published by some of the religious congregations also address mainly the protection of children in the schools and other institutions run by the congregations. There is no doubt that such policies are commendable. These policies are applicable to priests and religious who are working in the educational institutions. However, it does not deal with the possible abuse of minors by the clergy, the religious and other Church personnel. Considering the fact that abuse of minors by the clergy and other Church personnel has been widespread in different parts of the world, and that the present crisis in the Church is due to that frequency, it is important to address the issue directly. We do not know how widespread it is in the Indian Church. However, it may not be convincing to hold that it is absent in the Indian Church. Hence, it is of vital importance that the Church undertakes serious studies including surveys to understand the situation. The Indian Church can learn from studies conducted by the Bishops' conferences in countries like the United States. The website of the US Catholic Bishops gives details of such studies. For example, the teaching modules, especially module D, developed by Sr. Katarina Schuth OSF, who has been a seminary professor for decades, and who is a well-recognised expert in sociological studies, give details of the clergy sexual abuse which had taken place in the parish setting.¹⁷ Through strenuous efforts to ensure accountability and transparency, the US Church could regain to a great extent the trust of the faithful and the society as a whole. We still have a tendency to consider such issues as 'Western' problems. If we sincerely and impartially look into the number of cases reported in the last few years, we can easily understand that it is not any more a 'Western' problem, but it is our own problem as well. Hence,

¹⁷ <http://www.usccb.org/issues-and-action/child-and-youth-protection/reports-and-research.cfm>. See "Teaching Modules," especially Module D.

the willingness to undertake processes to understand the real situation and to take preventive measures is the first step to be taken by the Indian Church. Reluctance to address the issue of the abuse of minors by the clergy and other Church personnel, especially in the context of the parish and other pastoral settings, may be considered as negligence or defensive. Or, perhaps, we have to think that besides the present policy to ensure protection of minors in the educational institutions, a similar document of a code of conduct for the clergy and other Church personnel will be formulated by the Indian Church, taking into consideration the requirements of the Indian law, as well the norms regarding abuse of minors in the Canon Law.

CBCI Guidelines to Deal with Sexual Harassment at the Workplace

The *Guidelines* defines the important terms, and describes the responsibility of the institutions to provide a safe environment, and to ensure protection against sexual harassment, and the procedures to be taken to address it. The main source for the *Guidelines* is “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013,” passed by both the Lok Sabha and Rajya Sabha (the two houses of the Indian Parliament), and which is statutory in India. Although this act pertains to sexual harassment of women at workplace, the CBCI Guidelines includes also harassment of men, youngsters and people belonging to third gender.¹⁸ It also gives a very comprehensive definition and description of what is meant by sexual harassment (*Guidelines*, Definitions, g, pages 4-5).

¹⁸ *CBCI Guidelines to Deal with Sexual Harassment at Workplace*, “Scope,” pages 2-3, <https://www.cbci.in/Policies/Policy221153016794.pdf>, accessed 12.3.2019. Hereafter *Guidelines*.

Although the *Guidelines* is a commendable document as it is aimed at defending people in the Church institutions against sexual harassment, one of its shortcomings is that it does not include bishops, priests, religious and other Church personnel under its purview – at least explicitly. Hence, revised, or additional Guidelines that includes under its purview the bishops, priests, deacons, religious, seminarians and lay people who are involved in the Church ministry is necessary. The same can be said about the definition of ‘workplace.’ Among the workplace are included, “Any juridical entity like department, organization, undertaking, establishment, institution, office, branch or unit which is established, owned, or controlled, wholly or partially financed by funds provided by the Catholic Church (Dioceses, Religious Congregations, individuals)” (*Guidelines*, Definitions, h, i, pages 5). That is, parishes, religious houses, other ecclesiastical offices, etc. are not directly and explicitly included in the workplace which come under the purview of the *Guidelines*. Only minimally it acknowledges that the context of spiritual services also can be used for sexual harassment: “Sexual abuse can also take place in the context of spiritual or psychological guidance or services. Hence, appropriate professional boundaries must be maintained between members of all sections of ministry or service at all time and in all places” (*Guidelines*, Professional Ethos, c., page 8).

Considering the crisis in the Church and the depth and vastness of sexual abuse in various forms by the Church personnel and in the ecclesial context, it is necessary to have guidelines or policies directly including the Church personnel under their purview. Many dioceses in the United States and other countries have already published such policies.¹⁹ So, first of

¹⁹ For example, see *Restoring Trust: The Sexual Abuse Policies of the Archdiocese of Louisville* (2018 Revision), Louisville: Archdiocese of Louisville, 2018, https://www.archlou.org/wp-content/uploads/2018/10/Restoring-Trust-2013_rev_oct_18_wo_acknowledgement.pdf; *Policy for the Prevention of and Response*

all, a national policy or guidelines for this purpose should be formulated. Based on the national policy, policies by the dioceses and congregations in India are to be formulated, especially considering the increasing number of abuse cases reported in the last few years. This will only enhance the credibility of the Church.

A Few Remarks and Proposals

Certainly, the Indian Church has not dealt seriously enough with the abuse of minors. In spite of reports that abuse of minors is likely widespread in the Indian society, only a few systematic studies have been done on this area. Sometimes there are reports of abuse by clergy as well. However, so far no attempt is made to understand how widespread it is, or how to prevent such happenings. *The CBCI Child Protection Policy & Procedures* is a major step forward. However, it is important to assess how it is implemented. Redressal committees and Grievance cells are formed in many Church institutions since they are mandatory. But, are they really functional? Are they really effective? Or, are they formed just for name's sake to fulfil the requirement of the law? Do people know that such Grievance Cells and Committees exist? Do they know the role and function of such Cells and Committees? On these questions there are more questions than answers.

In the Latin rite and in some of the Oriental rites (including

to Sexual Abuse, Sexual Misconduct and Sexual Harassment: Archdiocese of Seattle (1 October 2007, 3rd revision January 2018), http://www.seattlearchdiocese.org/Assets/SEP/6326_SEPOLICY-ENG122018-R2.pdf; “Code of Ministerial Behaviour for the Archdiocese of Boston,” https://www.bostoncatholic.org/uploadedFiles/BostonCatholicorg/Offices_And_Services/Offices/Sub_Pages/Child_Advocacy/2014CodeofMinisterialBehavior.pdf. Many helpful documents can be found on the website of the US Catholic Bishops: <http://www.usccb.org/issues-and-action/child-and-youth-protection/resources/index.cfm>

the two Oriental rites in India – Syro-Malabar and Syro-Malankara), celibacy is a requirement for priests. So, any sexual act or attempt for sexual act with a person of either sex would be considered a violation of the norm of celibacy. In the case of married clergy in the Oriental rites which permit marriage, any such act with someone other than the marital partner would be considered as against the priestly duty as well as the marital chastity. However, the issue of violation of celibacy and chastity, and the issue of sexual violence and abuse of adult women (as well as of men) are to be discerned differently.

As explained above, the Church foresees the possibility of the sacrament of penance being abused by the confessors for sexual advantages and deals with such cases with utmost seriousness. Moreover, since priests exercise a lot of power, both secular and spiritual, it is also possible that the power is misused for sexual favours, though the context may not be that of the sacrament of penance. For example, priests and religious are heads of many institutions run by the Church, and hence they possess and exercise a lot of power as well as control of finances. Besides, based on the very concept of ordination and priesthood the faithful consider priests as persons with special powers and authority and this conception may be misused by the priests.

One of the difficulties in the case of a sexual affair between a priest and an adult person is to determine whether it is consensual or not. Even when it is claimed that it is consensual, it has to be remembered that the borderline between ‘consensual’ and ‘coercive’ is very narrow, when power – direct or indirect – is involved. Even when it is claimed that it is consensual, it has to be investigated whether power or authority – whether secular or spiritual or both – has been used by the priest. What the *Guidelines* says is noteworthy in this regard: “In general, it is presumed that there is no meaningful consent between a person in authority and the subordinate in this regard” (*Guidelines*, Professional Ethos, c., page 8).

Another important distinction to be made is between sin and crime. All sins may not be considered as crimes, though crimes can be said to be also sins. When there is coercion or violence and when there is abuse of power, it has to be dealt with as crime, not only according to the requirements of the Church law, but also according to the law of the land.

1. It is necessary to ensure that Redressal Committees and Grievance Cells are formed, and that their proper and effective functioning is ensured. Every case should be investigated and undue delays must be avoided. Civil and ecclesiastical laws should be obeyed in proceedings.
2. It is urgent that religious congregations and dioceses provide codes of conduct to their members now so as to avoid sexual exploitation and violence. It is also recommended that such documents are accessible to the public.
3. Church documents and guidelines regarding protection of minors and prevention of harassment/sexual violence should be included in the curriculum of theological studies and formation programme in the seminaries. It is important that future priests and Church personnel get a clear idea of their responsibilities in this regard. It is commendable that many seminaries and theological faculties have already included such subjects in the curriculum, though many have not. Here again I would like to refer to the teaching modules prepared by Sr Katarina Schuth, OSF. Adaptations according to cultural and local needs can be made, but those modules can be immensely helpful for teaching in the Indian seminaries as well.²⁰
4. Institutions should impart through training programmes

²⁰ <http://www.usccb.org/issues-and-action/child-and-youth-protection/reports-and-research.cfm>. See “Teaching Modules.” The same can be found on <http://www.usccb.org/issues-and-action/child-and-youth-protection/resources/index.cfm>, “Diocesan Resources”

a clear awareness of the various guidelines from the government such as POCSO Act, Sexual Harassment of Women at Workplace Act, etc. as well as the guidelines from the Church. Participation in such training programmes should be made mandatory for those who are already employed, and should be a requirement for those who are to be employed. It should be ensured that those in administrative positions are not exempted from such training programmes.

5. Clericalism is a fertile ground for abuses, including sexual abuse. Clericalism is against the very concept and meaning of priesthood itself. Priesthood should not be seen as a position, or privilege. The theology of priesthood that argues for an ontological difference brought about by the ordination also needs reconsideration. Unfortunately, some of the new ecclesial movements have the tendency of glorifying priesthood, and elevating the priests to a superhuman level. Priests are part of the community; they are given the charism of serving the community. Not only the priests but also the community needs to understand this. It is noteworthy how Pope Francis, in his latest Apostolic Exhortation, links sexual abuse of minors to clericalism: “Clericalism is a constant temptation on the part of priests who see ‘the ministry they have received as a power to be exercised, rather than a free and generous service to be offered. It makes us think that we belong to a group that has all the answers and no longer needs to listen or has anything to learn.’ Doubtless, such clericalism can make consecrated persons lose respect for the sacred and inalienable worth of each person and of his or her freedom.”²¹

²¹ Francis, *Christus Vivit*: Post-Synodal Apostolic Exhortation to Young People and to the Entire People of God, 25 March 2019, no. 98, http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20190325_christus-vivit.html.

6. The Church has to become more participatory. One of the ways is to ensure greater involvement of the laity in the temporal administration of the Church. Is it necessary that the priests are entrusted with authority in financial matters as well? For example, the Syro-Malabar Church had the tradition of *Palliyogam*,²² which had the authority over the temporal administration of the parish. At the diocesan level as well the bishop was not in charge of the temporal affairs, but only of the spiritual matters. Limiting the power of the priests over temporal affairs will avoid too much concentration of power on the priests. Power corrupts, and too much power may lead to too much corruption and abuses.
7. Many cases of abuse and harassment also are crimes. When it is a case of crime, reporting to the police according to the demands of the law of the land should be followed. Similarly, Church authorities should be willing to cooperate with the investigations conducted by the police. This practice has been pointed out in the various norms and guidelines from the Vatican as well as from various dioceses. In his presentation at the meeting on the Protection of Minors in the Church held in Vatican, Archbishop Charles J. Scicluna has emphasised it.²³
8. One of the defects in the proceedings of the ecclesiastical courts is the lack of transparency. The public can know the details of the proceedings of a civil court, how the judge/s came to a conclusion and so on. But, this is not

²² *Palliyogam* is much different from the Parish Council in the Latin rite; Parish Council is rather optional, and it has much limited powers.

²³ Archbishop Charles J. Scicluna, "Taking Responsibility for Processing Cases of Sexual Abuse Crisis and for Prevention of Abuse," Meeting on the Protection of Minors in the Church" (Vatican, 21-24 February 2019), http://www.vatican.va/resources/resources_mons-sciicluna-protezioneminori_20190221_en.html#, accessed 11.3.2019

possible in the case of an ecclesiastical court, except for those in authority. This lacuna gives greater possibility of overriding or ignoring the procedures in favour of those who wield power, and denying justice to the victims. In the recent Vatican meeting, Cardinal Marx pointed out this problem and called for transparency and traceability in the proceedings of the ecclesiastical courts.²⁴

9. It is significant that the faithful also take the responsibility of reporting sexual misconduct. As Archbishop Charles Scicluna has said, “It is essential that the community be advised that they have the duty and the right to report sexual misconduct to a contact person in the diocese or religious order.”²⁵ It is also important that an atmosphere of trust and listening is created so that the victims and their relatives feel the freedom to report such abuses. It is not rare that those in power consider the victims who report abuses as enemies of the Church, that those in power including the perpetrators publicly attack the victims who report abuses. As Cardinal Cupich has emphasized, “Victims and their families, as well as persons who report the allegation, need to be treated with dignity and respect, and should receive appropriate pastoral care.”²⁶

The Sexual Abuse crisis has severely damaged the credibility of the Church. This crisis is felt very acutely in

²⁴ Reinhard Cardinal Marx, “Transparency as a Community of Believers,” Meeting on the Protection of Minors in the Church” (Vatican, 21-24 February 2019), http://www.vatican.va/resources/resources_card-marx-protezioneminori_20190223_en.html#, Accessed 11-3-2019

²⁵ Archbishop Charles J. Scicluna, “Taking Responsibility for Processing Cases of Sexual Abuse Crisis and for Prevention of Abuse,”

²⁶ Cardinal Blase Joseph Cupich, “Synodality: Jointly Responsible,” Meeting on the Protection of Minors in the Church” (Vatican, 21-24 February 2019), http://www.vatican.va/resources/resources_card-cupich-protezioneminori_20190222_en.html#, accessed 11.3.2019

some countries, but that does not mean that other countries are immune to it. An increasing number of cases that have been reported in India in recent years may be an indication that the Indian Church has to take this issue more seriously. Although there have been a few steps already taken, more decisive steps to prevent abuses and to ensure transparency, accountability and traceability are necessary. This also implies formulation of clear policies to directly deal with abuse by the clergy and other Church personnel in the pastoral context. Besides formulating policies, mechanisms to implement them and to monitor the implementation are needed. All the members of the Church — the clergy and the laity — have to participate in this process.

The 21 Reflection Points by Pope Francis

Virginia Saldanha

At the start of the Summit of Bishops in Rome on 21st February, 2019, Pope Francis said to the bishops gathered at the Summit before distributing his 21 Reflection Points, “As a help, I would share with you some important criteria formulated by the various Episcopal Commissions and Conferences – they came from you and I have organized them somewhat. They are guidelines to assist in our reflection, and they will now be distributed to you. They are a simple point of departure that came from you and now return to you. They are not meant to detract from the creativity needed in this meeting.”

During the Press Briefings Archbishop Charles Scicluna, Adjunct Secretary of the Congregation for the Doctrine of Faith, said that the 21 points are a road map to deal with cases of abuse at the diocesan level, which has to be worked upon by bishops in their dioceses as a follow up to the meeting. Policy and law will be based on the 21 points. The 21 points have to be worked on and implemented synodally. He stressed that “Synodality is important in the context of the pilgrim Church. Therefore, the participation of laity is fundamental. We are on a pilgrimage together and Accountability is lived in the context of communion.” This underlines the importance of accountability and synodality in dealing with sex abuse cases.

It was disconcerting to hear at the Press Briefing on the first day that the Bishops from Asia and Africa were more concerned with the issues of child soldiers, child labour, sex trafficking, etc. and that sex abuse in the Church was not their problem. This is very symptomatic of the cover up that victims in other countries and a few in Asia and even Africa are raising their voices against. The bishops quoted cultural

differences to divert from the issue of sex abuse. A Nigerian nun from Africa Sr. Veronica Openibo, spoke out strongly on the issue. She said, “many Africans and Asians say that ‘this is not our issue in countries of Africa and Asia, it is the problem in Europe, the Americas, Canada and Australia.’ She referred to her work in the area of sexuality education for nine years when she heard the stories and counselled many people who were abused. She recounted for the bishops some of the stories that she had some across. “So, let us not hide such events anymore because of the fear of making mistakes. Too often we want to keep silent until the storm has passed! This storm will not pass. Our credibility as a Church is at stake,” she warned the bishops.

On the third day it was reported that the dynamics of the meeting were changing the mindsets of bishops and making them more positive to move forward in openness and honesty. Cardinal Reinhard Marx, President of the German Bishops’ conference said that bishops had come around to acknowledge the truth and bring it to light. There was a willingness to accept reality, to understand what has happened, go into the causes why it happened in order to devise strategies to address the abuse. He stressed, “We can’t use culture as a justification for the situation, we need to follow the gospel. We need to move to healing. The Church is multi-cultural. In the light of what happened we need to move forward. We need emotional maturity for healthy relationships in formation of seminarians, also for the baptised people. As the body of Christ is wounded because of sinfulness so we need to move forward with faith in the resurrection.”

At the Press Briefing on the 3rd day Sr. Veronica said “I thank God that something is happening. When we heard the testimonies of victims something changed. We are all part of it. Some of us witnessed abuse but did not have the courage

to talk. In collegiality and synodality all have to walk together to do something concrete to protect the young and vulnerable. Listen, empathize and do something about it. As Church we are people of hope and the resurrection. We are committed to plans to make children safe – both boys and girls.” When she was asked by a journalist why it was taboo to report sex abuse in Africa she said “There has been secrecy and silence all over but recently the US and Europe have come out and spoken openly. We hope this openness spreads.”

For the first time three women addressed a meeting of bishops at the Vatican. Their inputs were greatly appreciated. Abp. Scicluna said “The last 24 hours saw the extraordinary contribution of women to the Church. Women bring wisdom.” He also said that problems of transparency exist ad extra and within the Church. With proper processes and more communication with victims this should improve.

The Archbishop said that the communication between the Church and victims has not been the best. Every Bishop’s Conference should offer counselling service where victims can be heard. Listening service is very important. There should be places where victims can report so bishops can intervene. Transparency means rules and procedures are put in place.

On the last day it was reported that the Holy See’s guidelines have 3 documents that are linked, to be published in the near future. It is a matter of drafting and publication in a Handbook to help bishops of the world. It is specific from a legal standpoint. He said that there has been progress in terms of awareness. The Vatican is establishing of a taskforce of competent persons to help those countries with limited resources in the universal Church.

Abp. Scicluna summarised the proceedings as follows:

1. It is clear in Church policy that abuse of minors as well as its cover up is an egregious crime. We were concentrating on the crime, but the cover up is equally egregious.
2. We thank the vocal presence of survivors. We met with victims here and at home. We need to continue to listen to survivors.
3. We announce the change in canon law to raise the age of children in pornography to 18 years. The marriageable age is being raised to 16 years.
4. There has been a change of heart, a correct motivation. This has been a pilgrimage in our collegial responsibility – listening to voices – especially of women. Church is mother so voices of women are vital.
5. Communication – We have problems in Church communication – between dioceses, between diocese and the Holy See and with the world.
6. Listen to victims – to be like the Good Shepherd taking care of the most vulnerable.

The Jesuit priest from the Organizing Committee Fr. Hans Zolner pointed out that the meeting was a qualitative and quantitative leap forward. He noted the attitudinal change that took place especially in the Asians and African bishops. The sharing in the working groups helped bring about a transformation. He said that the Church is like a big ship and it takes a lot of process and energy to turn it around. “We have to focus on systemic roots with responsibility, transparency and accountability in structural and institutional terms.”

Cardinal Oswald Gracias said “Implementation has to be done at the Bishop’s Conference and diocesan levels. Conferences have guidelines. I am thinking of a National Centre for Protection of Minors in India. Internally all want to do this, but we have to go home to implement it.”

Abp. Scicluna said that “Cultural shifts are necessary. People have to be empowered to act. Pope Francis insists that the 21 points need to be addressed.”

In his closing address Pope Francis referred to UN statistics and talked about the abuse of children in families and society. “Yet,” he pointed out “this evil is in no way less monstrous when it takes place within the Church. It becomes all the more grave and scandalous in the Church, for it is utterly incompatible with her moral authority and ethical credibility”

He ended with these words: “*The holy and patient, faithful People of God, borne up and enlivened by the Holy Spirit, is the best face of the prophetic Church which puts her Lord at the centre in daily giving of herself. It will be precisely this holy People of God to liberate us from the plague of clericalism, which is the fertile ground for all these disgraces.*”

The best results and the most effective resolution that we can offer to the victims, to the People of Holy Mother Church and to the entire world, is the commitment to personal and collective conversion, the humility of learning, listening, assisting and protecting the most vulnerable.

I make a heartfelt appeal for an all-out battle against the abuse of minors both sexually and in other areas, on the part of all authorities and individuals, for we are dealing with abominable crimes that must be erased from the face of the earth: this is demanded by all the many victims hidden in families and in the various settings of our societies.”

Here are some comments on the 21 points:

1. *To prepare a practical handbook indicating the steps to be taken by authorities at key moments when a case emerges.*

This will be released about a month or two after the meeting.

2. *To equip oneself with listening structures that include trained and expert people who can initially discern the cases of the alleged victims.*

Listening to victims was found to be of paramount importance. It should be a team of people sensitive to the issue, both professional and naturally inclined listeners – like women.

- *3. *Establish the criteria for the direct involvement of the Bishop or of the Religious Superior.*
- *4. *Implement shared procedures for the examination of the charges, the protection of the victims and the right of defence of the accused.*
- *5. *Inform the civil authorities and the higher ecclesiastical authorities in compliance with civil and canonical norms.*
- *6. *Make a periodic review of protocols and norms to safeguard a protected environment for minors in all pastoral structures: protocols and norms based on the integrated principles of justice and charity so that the action of the Church in this matter is in conformity with her mission.*

An evaluation should be done after each case from the perspective of the accused and the victim to ensure that protocols are effective.

- *7. *Establish specific protocols for handling accusations against Bishops.*
- *8. *Accompany, protect and treat victims, offering them all the necessary support for a complete recovery.*
- *9. *Increase awareness of the causes and consequences of sexual abuse through ongoing formation initiatives of Bishops, Religious Superiors, clerics and pastoral workers.*

- *10. *Prepare pathways of pastoral care for communities injured by abuses and penitential and recovery routes for the perpetrators.*

Unless there is absolute transparency when a case comes up and people are kept informed about the case, especially if the priest is from a particular parish, this point will be ineffectual. There will always be a few who are working on the case who often try to draw attention of the community to the abuse, but they are demonised by the clergy and suffer marginalization, when clergy try to cover up the case.

11. *To consolidate the collaboration with all people of good will and with the operators of mass media in order to recognize and discern real cases from false ones and accusations of slander, avoiding rancour and insinuations, rumours and defamation (cf. Pope Francis' address to the Roman Curia, 21 December 2018).*

While it is possible that there will be allegations that are false, one should remember that very rarely would people actually come forward with a malicious and false complaint. Interacting with survivors for almost a decade now, I realise that for a victim/survivor to come forward and make a complaint is not at all easy. They come forward only with support or when the abuse has become too much of a burden for them to carry. They understand what they are up against. They know that the power of the priest and the Catholic Church itself is formidable vis a vis the survivor who is generally a vulnerable person as well as coming from a vulnerable background. False cases are easily detectable.

12. *To raise the minimum age for marriage to sixteen years.*

This point is questionable, as we would expect the

Church to set an age that encourages at least high school education, maturity and independence. Is 16 years an age when a person can be deemed responsible to take on the responsibility of starting a family? The minimum age for marriage is 18 years in most countries. Human rights are universal. Universal norms should apply.

13. *Establish provisions that regulate and facilitate the participation of lay experts in investigations and in the different degrees of judgment of canonical processes concerning sexual and / or power abuse.*

It is hoped that the majority of persons appointed in investigations of sexual and power abuse will be lay people who are impartial, as you cannot expect the clerics to police themselves.

14. *The right to defence: the principle of natural and canon law of presumption of innocence must also be safeguarded until the guilt of the accused is proven. Therefore, it is necessary to prevent the lists of the accused being published, even by the dioceses, before the preliminary investigation and the definitive condemnation.*
15. *Observe the traditional principle of proportionality of punishment with respect to the crime committed. To decide that priests and bishops guilty of sexual abuse of minors leave the public ministry.*

When it comes to abuse of minors or vulnerable persons, there should be no compromising their safety especially in the Church. It would be prudent to err on the side of protection rather on the side of protecting the priest.

16. *Introduce rules concerning seminarians and candidates for the priesthood or religious life. Be sure that there are programs of initial and ongoing formation to help*

them develop their human, spiritual and psychosexual maturity, as well as their interpersonal relationships and their behaviour.

17. *Be sure to have psychological evaluations by qualified and accredited experts for candidates for the priesthood and consecrated life.*
- *18. *Establish norms governing the transfer of a seminarian or religious aspirant from one seminary to another; as well as a priest or religious from one diocese or congregation to another.*
- *19. *Formulate mandatory codes of conduct for all clerics, religious, service personnel and volunteers to outline appropriate boundaries in personal relationships. Be specific about the necessary requirements for staff and volunteers and check their criminal record.*
20. *Explain all information and data on the dangers of abuse and its effects, how to recognize signs of abuse and how to report suspected sexual abuse. All this must take place in collaboration with parents, teachers, professionals and civil authorities.*

A similar programme connected to violence against women was inaugurated with much fanfare in the archdiocese of Bombay by the Commission for Women. A manual was created by an NGO Abacus for use in the schools with plans for follow up. But nothing ever went beyond the inauguration. Why? Follow up and monitoring mechanisms are absolutely necessary for any programme of action.

21. *Where it has not yet been in place, establish a group easily accessible for victims who want to report any crimes. Such an organization should have a certain autonomy with respect to the local ecclesiastical authority and*

include expert persons (clerics and laity) who know how to express the Church's attention to those who have been offended by improper attitudes on the part of clerics.

Numbers 6,7,8,9,10, 18 & 19 involve consultation, planning and decision making. It is hoped the People of God who have been working on these issues already will be involved in the process so that they can contribute their experience in this field. The consultations have to be widely inclusive. The hierarchy will also have to adopt an attitude of humility and inclusiveness in this process and listen carefully, rather than come in with a pre planned process and expect it to be endorsed without consultation. The hierarchy have to remember that advocates and survivors are equally interested in the well being of the Church as People of God, not in maintaining the clericalism that has led to this problem in the first place.

In the final analysis it is left to each bishop's conference and every diocese to put in place mechanisms, structures and procedures to deal with allegations of sex abuse by priests. They have to follow the 'handbook' that will be brought out soon. However, with monitoring mechanisms not spelt out, will it be business as usual? It is finally left to the activism of advocates and survivors in each country to ensure that something concrete emerges in the Church. The media will continue to be a reliable partner in this long pilgrimage towards wholeness in the Church.

UISG Declaration Against any kind of Abuse

By the Union of International Superiors General (UISG)

The Union of International Superiors General (UISG), whose memberships consists of 2000 Superior Generals of Congregations of Women Religious throughout the world, representing more than 500,000 sisters, expresses its deep sorrow and indignation over the pattern of abuse that is prevalent within the church and society today.

Abuse in all forms: sexual, verbal, emotional, or any inappropriate use of power within a relationship diminishes the dignity and healthy development of the person who is victimized.

We stand by those courageous women and men who have reported abuse to the authorities. We condemn those who support the culture of silence and secrecy, often under the guise of “protection” of an institution’s reputation or naming it “part of one’s culture”. We advocate for transparent civil and criminal reporting of abuse whether within religious congregations, at the parish or diocesan levels, or in any public arena.

We ask that any woman religious who has suffered abuse, report the abuse to the leader of her congregation, and to church and civic authorities as appropriate. If UISG receives a report of abuse, we will be a listening presence and help the person to have the courage to bring the complaint to the appropriate organizations.

We commit ourselves to work with the church and civil authorities to help those abused to heal the past through a process of accompaniment, of seeking justice, and investing in prevention of abuse through collaborative formation and education programs for children, and for women and men. We wish to weave solidarity in these situations that dehumanize and to contribute to a new creation around the world.

<http://www.internationalunionsuperiorsgeneral.org/uisg-declaration-abuse-kinds/>

Transformative Power of the Constitution and a Nation in Flux

*Jacob Peenikaparambil**

Introduction

Why do we say that India is in a flux? The word flux has many meanings like fluctuation, change, instability, unrest etc. All these are applicable to the situation the people of India face today. India is passing through very critical period, an unprecedented period of insecurity and anxiety. Attacks on minorities, lynching of innocents by the cow vigilantes, rising inequalities, increasing atrocities on dalits, tribals, and women, muzzling of freedom of expression and speech are indeed worrisome signs of erosion of democratic rights. New definitions are given to what it means to be anti-national. All these developments are violations of the values enshrined in the Indian Constitution. Hence there is an urgent need for re-establishing the constitutional values, principles and practices.

1. Transformative Power of the Indian Constitution

One of the reasons for the survival democracy in India for more than 70 years is the constitution of India. As described by Cedric Prakash SJ in his write up '*We must defend our Constitution*', "It is the bulwark of fundamental rights and directive principles, which are a prerequisite for any healthy democracy. The Preamble, with its emphasis on justice, liberty, equality and fraternity; and its commitment to India being and remaining a "sovereign socialist secular democratic republic" spells out the vision and the intrinsic character of the Constitution". The constitution has provisions to keep the

* Jacob Peenikaparambil CMI is a Social Activist and a prolific Writer. He is the conveyor of the Forum of Religious for Justice and Peace.

balance of power among the three wings of the government: The legislature, the Executive and the Judiciary. This balance of power coupled with the independence of judiciary is also essential for the survival and strength of democracy and protection of the rights of the individuals.

The beauty and power of Indian constitution are reflected in its inclusiveness, pluralism and recognition of multiple groups defined by religion, language, caste and tribe. The constitution has recognized the rights of the groups. For example Article 30 of the Constitution protects the right of minorities to establish and administer educational institutions. It provides that “all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice”. This specific provision of the Indian constitution is in tune with its civilizational heritage of unity in diversity. The Constitution of India defines all aspects of the Indian political system including its basic objectives. It has provisions regarding (a) the territories that India will comprise, (b) citizenship, (c) fundamental rights, (d) directive principles of state policy and fundamental duties, (e) the structure and functioning of governments at union, state and local levels, and (f) several other aspects of the political system. It defines India as a sovereign, democratic, socialist and secular republic. It has provisions for bringing about social change and defining the relationship between individual citizen and the state.

1.1. Inclusive Vision of India

The preamble of the Indian Constitution presents a broad and inclusive vision of India and the goals towards India has to strive. It is entirely different from the vision of Hindutva that is exclusive. The vision of India is a sovereign, socialist, secular, democratic republic.

PREAMBLE OF INDIAN CONSTITUTION

WE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Being **sovereign** means having complete political freedom and being the supreme authority. It implies that India is internally all powerful and externally free. It is free to determine for itself without any external interference (either by any country or individual) and nobody is there within to challenge its authority. This feature of sovereignty gives India the dignity of existence as a nation in the international community. Though the Constitution does not specify where the sovereign authority lies but a mention of 'We the People of India' in the Preamble clearly indicates that sovereignty rests with the people of India. This means that the constitutional authorities

and organs of government derive their power only from the people.

Socialism has been made a constitutional value aimed at promoting social change and transformation to end all forms of inequalities. Our Constitution directs the governments and the people to ensure a planned and coordinated social development in all fields. It directs to prevent concentration of wealth and power in a few hands. The Constitution has specific provisions that deal with inequalities in the Chapters on Fundamental Rights and Directive Principles of State Policy. Articles 38 (2) and article 39 enjoins the state to adopt measures to minimize inequalities among the individuals and groups and prevent concentration of wealth and means of production and equal pay for equal work for both men and women.

Secularism allows all its citizens to profess, propagate and practise any religion they follow. At the same time, it ensures that the state does not have any religion of its own. Constitution strictly prohibits any discrimination on the ground of religion. Article 25 of the Constitution states, *“The State shall not discriminate against any citizen on the ground of religion only and that the State shall have no religion of its own and all persons shall be equally entitled to the freedom of conscience and the right freely to profess, practise and propagate religion”*.

Democracy means that the people elect the rulers of the country and the elected representatives remain accountable to the people. The people of India elect them to be part of the government at different levels by a system of universal adult franchise, popularly known as ‘one man one vote’. It allows dissent and encourages tolerance. And more importantly, it is based on the principles of rule of law, inalienable rights of

citizens, independence of judiciary, free and fair elections and freedom of the press.

Republic refers that the head of the state, president, is elected and every citizen of India above the age of 35 is eligible to be elected as the president of India.

2. Goals of India

The four core values: Justice, Liberty, Equality and Fraternity are the four goals toward which India has to strive for. In order to realize the vision of India these four goals are to be achieved.

Justice: The constitution envisages a country in which the people will enjoy social, economic and political justice. The political freedom granted to Indian citizens has to be instrumental in the creation of a new social order, based on socio-economic justice. Justice must be availed to every citizen. This ideal of a just and egalitarian society remains as one of the foremost goals of the Indian Constitution.

Liberty: The Preamble prescribes liberty of thought, expression, belief, faith and worship as one of the core goals. These have to be assured to every member of all the communities. It has been done so, because the ideals of democracy cannot be attained without the presence of certain minimal rights which are essential for a free and civilized existence of individuals. The fundamental rights provided in the constitution are the means for ensuring liberty.

Equality: Equality is another significant constitutional goal. The Constitution ensures equality of status and opportunity to every citizen for the development of the best in him/her. As a human being, everybody has a dignified self and to ensure its full enjoyment, inequality in any form present in our country and society has been prohibited.

Fraternity: Fraternity stands for the spirit of common brotherhood among all the people of India. In the absence of fraternity, a plural society like India stands divided. Therefore, to give meaning to all the ideals like justice, liberty and equality, the Preamble lays great emphasis on fraternity. In order to realize fraternity the constitution abolishes untouchability. Fraternity also envisages abolition of all communal or sectarian or discriminatory practices which stand in the way of unity of India.

The twin objectives of Fraternity are Dignity of the Individual and promotion of the Unity and Integrity of the Nation.

3. Fundamental Rights:

Democracy does not make any sense in the absence of basic human rights for the citizens. The governments in power has tendency to restrict the rights or encroach upon the rights of the people. Hence the constitutions of various democratic countries specify the fundamental rights of the citizens. The framers of Indian constitution also have taken special care to delineate the fundamental rights the citizens.

Part of III of the constitution (Articles 12 to 35) provides certain fundamental rights to all citizens of India. They are grouped under six categories as 1) Right to equality 2) Right to freedom of religion 3) Cultural and educational rights 4) Right to freedom 5) Right to constitutional remedies and 6) Right against exploitation. They are applicable to all citizens irrespective of race, place of birth, religion, caste, creed, or gender. They are enforceable by the courts, subject to specific restrictions. The fundamental rights are considered as basic human rights of all citizens.

Right to Equality ensures equal rights for all the citizens. The Right to Equality prohibits inequality on the basis of caste, religion, place of birth, race, or gender. It also ensures equality of

opportunity in matters of public employment and prevents the State from discriminating against anyone in matters of employment on the grounds only of religion, race, caste, sex, descent, place of birth, place of residence or any of them.

Right to freedom provides us with various rights. These rights are freedom of speech, freedom of expression, freedom of assembly without arms, freedom of movement throughout the territory of our country, freedom of association, freedom to practice any profession, freedom to reside in any part of the country. However, these rights have their own restrictions.

Right against Exploitation prohibits human trafficking, child labour, forced labour and any act of compelling a person to work without wages where he was legally entitled not to work or to receive remuneration for it.

Right to Freedom of Religion guarantees religious freedom and ensures secular states in India. The Constitution says that the States should treat all religions equally and impartially and that no state has an official religion. It also guarantees all people the freedom of conscience and the right to preach, practice and propagate any religion of their choice.

Cultural and Educational Rights protects the rights of cultural, religious and linguistic minorities by enabling them to conserve their heritage and protecting them against discrimination. Educational rights ensure education for everyone irrespective of their caste, gender, religion, etc.

Right to Constitutional Remedies ensures citizens to go to the supreme court of India to ask for enforcement or protection against violation of their fundamental rights. The Supreme Court has the jurisdiction to enforce the Fundamental Rights even against private bodies, and in case of any violation, award compensation as well to the affected individual.

4. Fundamental Duties

The Fundamental Duties of citizens were added to the Constitution by the 42nd Amendment in 1976, upon the recommendations of the Swaran Singh Committee that was constituted by the government earlier that year.

Indian Constitution prescribes 10 duties to be performed by the citizens. They are given in Article 51A of the constitution. These duties are not enforceable in the court of law like the fundamental rights are, but these duties are to be performed by citizens. Fundamental duties reflect certain basic values like patriotism, nationalism, humanism, environmentalism, harmonious living, gender equality, scientific temper and inquiry, and individual and collective excellence.

5 Salient Features of Indian Constitution

5.1. Written Constitution: As has been stated earlier, the Constitution of India is the longest written constitution. It contains a Preamble, 395 Articles in 22 Parts, 12 Schedules and 5 Appendices. The framers of Indian Constitution have taken inspiration from the constitution of other countries like UK, USA, France etc.

5.2. A Unique Blend of Rigidity and Flexibility: As regards Constitutions, generally written constitutions are rigid. It is not easy to bring about changes in them frequently. Indian Constitution reflects the value of continuity and change. There are three ways of amending the Constitution of India. Some of its provisions can be amended by the simple majority in the Parliament, and some by special majority, while some amendments require special majority in the parliament and approval of States as well.

5.3. Balancing Fundamental Rights with Fundamental Duties: Fundamental Rights protect citizens against the arbitrary and absolute exercise of power by the State. The

Constitution guarantees the rights to individuals against the State as well as against other individuals. The Constitution also guarantees the rights of minorities against the majority. Although fundamental duties are not enforceable as the fundamental rights, these duties can make citizens of India responsible.

5.4. Directive Principles of State Policy: Part IV, Articles 36 to 51, of the Constitution deals with Directive Principles of State Policy. It is a unique feature of Indian Constitution. It is aimed at ensuring greater social and economic reforms and serving as a guide to the State to institute laws and policies that help reduce the poverty of the masses and eliminate social discrimination. These provisions are directed towards establishment of a welfare state.

5.5. Integrated Judicial System: The Indian Constitution has established an integrated judicial system. Although the Supreme Court is at the national level, High Courts at the state level and Subordinate Courts at the district and lower level, there is a single hierarchy of Courts. At the top of the hierarchy is the Supreme Court. This unified judicial system is aimed at promoting and ensuring justice to all the citizens in uniform manner. Moreover, the constitutional provisions ensure the independence of Indian judiciary which is free from the influence of the executive and the legislature. Independence of judiciary is fundamental to democracy.

5.6. Single Citizenship: Indian Constitution has provision for single citizenship. Every Indian is a citizen of India, irrespective of the place of his/her residence or birth in the country. This is unlike the United States of America where there is the system of double citizenship. A person is a citizen of a State where he/she lives as well as he/she is a citizen of U.S.A. This provision in the Indian Constitution definitely reinforces the values of equality, unity and integrity.

5.7. Universal Adult Franchise: The values of equality and justice are reflected in yet another salient feature of the Constitution. Every Indian after attaining certain age (at present 18 years) has a right to vote. No discrimination can be made on the basis of religion, race, caste, sex, descent, and place of birth or residence. This right is known as universal adult franchise.

5.8. Federal System and Parliamentary Form of Government: Another salient feature of the Indian Constitution is that it provides for a federal system of states and parliamentary form of government. The federal system reflects the constitutional value of unity and integrity of the nation, and more importantly the value of decentralization of power. The constitution has provided distribution of powers between the Union and the States. There are three lists which provide for distribution of legislative powers under 7th Schedule to the constitution:- 1) Union List-97 items 2) State List-66 items 3) Concurrent List-47 items.

The parliamentary form of government reflects the values of responsibility and sovereignty vested in the people. The core principle of a parliamentary government is the accountability of the executive to the legislature consisting of the representatives of the people. If the ruling party or coalition loses majority in the Lokh Sabha, the government has to resign.

India: A Nation in Flux

In these times where money and market rules, there have been many harmful and destructive changes in the country mainly due to the policies focused only on business.

Most prominent among them has been insecurity and fear among the minorities due to the hatred, revenge and violence unleashed by fundamentalist forces, who have injected

the venom of hatred and revenge into the veins of Indian society. The horrible crimes against the minorities and their justification by the right wing groups are the result of a large scale poisoning of the social fabric with hate.

Love *Jihad* and cow protection have been used as ploys to create hatred against other communities. Most of India's 29 states have either banned or restricted the killing of cows. Beef ban by some states in fact encouraged the cow vigilantes to indulge in violence. As per the website of India Spend over the six years since 2012, 33 people have been killed in cow-related hate violence and most of these deaths took place during the present regime. These deaths occurred due to the failure of the state and it is nothing but a violation of human rights. The right to life of the people is being violated.

The gravity of the scenario was vividly reflected in an open letter written to the Prime Minister by 49 retired civil servants on April 16, 2018, concerning Kathua and Unnao rape cases in which leaders from the ruling party were involved. They wrote, "The bestiality and the barbarity involved in the rape and murder of an eight year old child shows the depths of depravity that we have sunk into. In post-independence India, this is our darkest hour and we find the response of our government, the leaders of our political parties inadequate and feeble. At this juncture, we see no light at the end of the tunnel and we hang our heads in shame".

Not only the innocent people but also those who performed their duty of maintaining law and order when the cow vigilantes indulged in violence became the victims of the hate mongers. A police officer, Subodh Kumar Singh, was brutally murdered by a mob in Bulandshahr of UP in the first week of December 2018. The police officer was trying to control the crowd that was indulging in violence against the alleged killing of cows. The authorities termed the death of the police officer as an

accident. For them the death of cow is more serious than the killing of an honest and responsible police officer. The culture of impunity that has grown around cow vigilantes, from the days of the first lynching of Mohammad Akhlaq in Dadri is definitely a sign of lawlessness.

After this gruesome incident, 83 former bureaucrats wrote an open letter, demanding the resignation of Yogi Adityanath. They strongly criticized the central and state governments for their failure to act against the killers of a police officer. “Our Prime Minister, who is so voluble in his election campaigns and who never tires of telling us of how the Constitution of India is the only holy book he worships, maintains stony silence even as he sees a Chief Minister handpicked by him treats that same Constitution with sheer contempt.”

The constitution of India guarantees freedom of expression to all citizens. Liberty of thought, expression, belief, faith and worship is a core value highlighted in the preamble of Indian Constitution. Article 19 of the Constitution guarantees the freedom of speech and expression. Innumerable are the examples of violation of this right by the extremists. The cold blooded murder of Govind Pansare, M M Kalburgi and Gauri Lankesh shows that the governments have failed to implement the rights guaranteed by the Constitution. Often the state itself becomes the violator of the freedom of expression.

After three years’ of investigation the Delhi police filed charge sheet on 14th January 2019 against former JNU students Union Chairman, Kanhaiya Kumar and others. The main accusation against them is raising seditious slogans. Many political observers and the opposition parties see the charge sheet politically motivated, as Kanhaiya Kumar is a vehement critic of the system and a popular speaker.

Maharashtra police on 28th August raided the homes of prominent Left-wing activists in several states and arrested

four of them, accusing them of having Maoist links. Near simultaneous searches were carried out at the residences of prominent Telugu poet Varavara Rao in Hyderabad, activists Vernon Gonzalves and Arun Ferreira in Mumbai, trade union activist Sudha Bhardwaj in Faridabad, and civil liberties activist Gautam Navlakha in New Delhi. Subsequently, Rao, Bhardwaj and Ferreira and Navlakha were arrested. They are still behind the bars. Others whose residences were raided are Kranthi Tekula, Father Stan Swamy in Ranchi and Anand Teltumbde in Goa. The raids were carried out as part of a probe into the violence between Dalits and upper caste Peshwas at Koregaon-Bhima village near Pune after an event called Elgar Parishad, or conclave, on December 31, 2017.

What is their crime? They stand for the rights of the disposed: the Dalits, Adivasis, and women. They are branded as “Urban Naxals” and “Half Maoists” by not only members of the ruling party, including eminent ministers, but also by sections of the television, digital and social media. The health of democracy depends on dissent. By killing dissent the Government is killing democracy.

The strength of a democratic state cannot be measured only by periodic elections. It mainly depends on the independent functioning of institutions like judiciary, investigation agencies like CBI, Election Commission, Reserve Bank of India etc. That is why Judge Gurfein during the Watergate scam said, “The security of the nation is not at the ramparts alone. Security also lies in the value of our free institutions”. There have been instances of the government tampering with these institutions.

In January 2018, four senior most judges of the Supreme Court (including Justice Ranjan Gogoi, currently the Chief Justice of India) held an unprecedented Press Conference asserting that unless things are set in order and that the Government stops

interfering in the judiciary, “*democracy will not survive in the country!*” The way the Government procrastinated on the appointment of Justice K. M. Joseph to the Supreme Court, is a textbook example.

The Government has not only tried to interfere in the Judiciary, but has spared no effort to destroy the independence and the autonomous functioning of other Constitutional and statutory bodies. The Central Bureau of Investigation (CBI) has become a ‘caged parrot’ apparently because of the inclination of the CBI Director to open investigations into the dubious Rafale fighter jet deal and the alleged corruption involved in it.

The Reserve Bank of India (RBI) is browbeaten to bend backwards to cater to the whims and fancies of a Government that has sent the country into an economic spiral downwards! Media, the fourth pillar of a vibrant democracy, has been made impotent. Only a handful of those in the electronic and print media will dare take on the Government today. Other important bodies, like the Information Commission, have been made toothless and filled only with their pliable henchmen!

Mobilizing people to violate the verdict of the Supreme Court (SC) regarding the entry of women between the age of 10 and 50 in Sabarimala temple is another instance of the Politicians challenging the most important institution in a democracy, the Judiciary. In fact, Judiciary is the very foundation in a democracy.

Prime Minister on 15th January during his visit to Kerala attacked the left front government for implementing the Supreme Court verdict. He described the action of the Kerala government with regard to “Sabarimala most shameful”. For the central government implementing the SC verdict, allowing women of all ages to enter Sabarimal shrine, is a shameful act. Preventing women from entering the Sabarimala by using force and violence, indulging in violence and destroying

public and private property to protect a tradition, which is blatantly discriminatory, seem to be spiritual and religious acts for the government.

The ultimate goal of the Sangh Parivar is the establishment of Hindu Rashtra where the Muslims and Christians will be treated as second class citizens without any rights even the citizenship right. Some leaders including a central minister had openly declared that the constitution would be changed when the party gets the required numbers in both houses of the parliament. Even without changing the constitution the central government and a few state governments have been implementing policies towards the realization of Hindu Rashtra. Beef ban, overt and covert support to cow vigilantes, changing the names of the cities and towns, rewriting and distorting history and openly favouring one particular religion are nothing but steps towards realization of Hindu Rashtra. Hence a blatant violation of secularism, a core value of Indian Constitution.

Proposals for Restoring the Constitutional Values and Principles

While addressing the General Plenary Assembly of the CMI Congregation on 4th January 2019 Justice (Retd.) Kurian Joseph appealed to the CMI Congregation to focus on promoting the values of Indian Constitution, which are nothing but the Gospel values: Justice, Liberty, Equality and Fraternity. He said that Hindutva is entirely different from Hinduism which is inclusive and embracing all. On the contrary Hindutva is an exclusive political agenda which does not allow anyone to come in or go out of the Hindutva fold. In the context of India the followers of Jesus are called to build communities based on the values enshrined in the preamble of the Indian Constitution. They are indeed, the Gospel values.

As it is described in the first part of the presentation, constitution of India is the very foundation of a secular, democratic and inclusive India. Prime Minister Narendra Modi while speaking in the Parliament in November 2015 had said, “For the government, the only *dharma* is India first, the only *dharma granth* (holy book) is the Constitution”. The overall socio-political atmosphere in India indicates that there is a huge deficit of knowledge and awareness among the people, particularly among the young generation, about the core values enshrined in the Indian Constitution. Hence educating the citizens on the constitution is essential not only to protect and safeguard it, but also to motivate the citizens to fulfil their duties.

As the leaders of the Church are expected to have thorough knowledge of the Constitution of India, the study of the Constitution should be part of the syllabus of the seminaries and the formation houses of religious congregations. The catechism taught to the Catholic students also shall include the core values of Indian Constitution. Many religious congregations have the practice of reading the constitution of their congregation in their communities. Why not the religious congregations and dioceses discuss in their meetings and monthly recollections the issues related to Indian Constitution?

Along with teaching students and the members of the Church the Constitution of India, the Church has a bounden duty to practice the constitutional values. Pluralism and inclusiveness are the two core values of Indian Constitution. Pluralism is not tolerance but acceptance, appreciation and celebration of differences especially in culture, religion and language. In fact, pluralism is the heritage of India and the legacy of Jesus of Nazareth. The Church institutions, especially those institutions serving the general public, may adopt the following practices to promote the values of Indian Constitution.

- Display the preamble of Indian Constitution at prominent places in all our institutions
- Conduct essay competition, speech competition and quiz competition for the students and youth on the Indian Constitution.
- Select the preamble of Indian Constitution as the theme of school and college anniversary and put up cultural programmes to disseminate the core values of Indian Constitution.
- Organize seminars and workshops on the authentic identity of our nation founded on pluralist, socialist, democratic and secular values.
- Network with other like- minded groups against any policy that interferes with the secular character of our democracy which treats people of different races, cultures, religions and languages equally.
- Defend the rights of the victims, particularly the vulnerable groups such as Tribals, Dalits, women, migrants, refugees, etc.
- Network with NGOs and people's movements and strengthen our common cause for upholding human dignity and justice.
- Educate people on political issues so that they are able to exercise their franchise and elect the leaders who will safeguard the constitution of India.

Conclusion

The core values enshrined in the Indian Constitution: Justice, equality, liberty and fraternity are the values of the Kingdom of God as per the teaching of Jesus. The Kingdom of God is not a place, but a situation in which God is accepted as

loving father and mother and all human beings are brothers and sisters, enjoying equal human dignity, equal rights and opportunities. By promoting the values of the Constitution of India the followers of Jesus will be contributing to the building of the Kingdom of God.

Programs, Reflections and Celebrations.... Glimpses from Streevani's Journey during 2018 - 19

Rose Thomas SSpS

a) Christian women in the Age of #MeToo

On 8th December, 2018 Streevani in collaboration with Women's Commission, Pune Diocese organized a program on **Christian women in the Age of #MeToo** for 30 women professionals who are Teachers, Counsellors, Lawyers and Social Workers, including Religious Women. The group discussed that for #MeToo to sustain itself and be converted into a permanent attitudinal shift in real terms, we need to move beyond hash tags and tokenism. Some of the women shared their MeToo experience which shocked many and discussed in details how we could alter such situations by using the justice system available to us.

b) An Alternative Narrative and Strategies for a Prophetic Mission"- Capacity Building Program for Women Religious in Chennai

Today we stand at a moral choice point and our future depends on an awakening that transcends all barriers. The recent judicial interventions on various issues have been largely progressive and liberal. Certain awakening is happening, but at a far slower pace than our times require. At the same time divisive social identities which are premised on nationalism, ideology, religion and patriarchy/machismo emerge as the most resilient and potent challenges to a just and humane society. We are struggling against multiple injustices that stem from economic inequalities, gender inequalities, caste discrimination and cultural hegemony etc. Today women's lives are affected by this shameless display of patriarchal impunity and regressive form of religious machismo.

Sustainable change will evolve when we are able to deliver effective interventions to positively alter the situation, attitude, mind set, and environments in order to become a change maker. Therefore Streevani in collaboration with Forum for Justice and Peace organized two capacity building programs for women religious in Chennai and Mumbai respectively.

The Chennai program was held on 18th to 20th January, 2019 at Don Bosco Provincial House. Fr. Jerry Rosario SJ spoke on the theme ‘Alternative Narrative and Strategies for a Prophetic Mission’ in detail. The capacity building program included various topics such as facilitating human rights in the Contemporary Indian Reality, transformative power of the Constitution, Media, Shrinking Space of Civil Society and its impact on our mission, Women finding a foothold in the age of #Me Too and Creating sacred spaces for women in every religion - in the light of Sabarimala and other similar situations within all religions.

Our eminent speakers Jacob Peenikaparambil CMI, Varghese Thecknath S.G, Maria Arul Raja SJ, Ms. Oviya Raja Moni, and others enlightened the group on the above topics. On both days the second half of the day was spend in reflection, group discussion and sharing by each participant which helped them to interiorize the learning.

c) “In Defence of the Indian Constitution, Strategies for Prophetic Mission”

On 23rd March, 2019 Streevani in Collaboration with the Forum for Justice and Peace organized a capacity building programme for the women religious in Mumbai. There were 42 participants. Our resource person Fr. Ceredic Prakash, SJ explained the nuances of living in India today and asked us to come out of our Church Compound/Convent Mentality (CCC) and to learn how to encounter the injustice that is happening around us.

The afternoon we had brainstorming sessions on how should we respond to the situations and in what ways can we mainstream the values of the constitution in our congregation and in our institutions. Some of the responses were that we need to educate ourselves about the constitutional rights and create awareness among others i.e. students, employees, women, and youth. To include Constitution in the syllabus of the formation for Religious/ Priesthood, Move away from comfort zones to the peripheries and get involved with the social issues and respect all religions.

Our prophetic response to each of these questions was shared by every participant thus enabling everyone to reflect deeply on the issues dealt with and to plan for building solidarity.

d) Celebration of women's day

In line with this year's theme for the International Women's Day, 2019 "**Think Equal, Build Smart, and Innovate for Change**", our domestic workers, unlike other years planned the women's day celebration in a very different manner and it was celebrated on 6th of March 2019. Streevani paved the way for women to be innovative and more participative in the celebration. Hence the women planned to put up stalls of different items prepared by them and accordingly there were 13 stalls consisted of various items. The women were encouraged to sell every item for

Rs. 10/- per plate or per piece. Streevani supported the women by giving every woman two coupons worth Rs. 20/-. The coupons were used by all the participants to



purchase the items from the stalls. Some of the stalls were managed by various Self Help Groups.



There was immense joy on the faces of women, forgetting the daily chores and the tensions of the house and the workplaces and they enjoyed the day. There were folk dances by the children of domestic workers and women too joined in dancing to the tune of rhythmic songs. Many of them earned rather well through their stalls. Thus it was a day of economic empowerment as well as women empowerment.

e) Central Board for Workers Education Felicitates Streevani

“Alone we can do so little; together we can do so much”, says Helen Keller. This is the mantra of today’s world and Streevani believes in the power of such networking and collaboration. Streevani networks with around 16 Governmental and Non-Governmental agencies and the Central Board for Workers’ Education (CBWE) is one of them.



The Central Board for Workers Education (CBWE) is an autonomous body under the Ministry of Labour and

Employment, Government of India. Past six years Streevani in collaboration with CBWE, organizes two days training programs for 40 women each in different areas of Pune. The participants are given Rs. 200/- per day for their participation in the training. Hence our women domestic workers who attend the program learn for life as well as receive monetary benefit, which motivates them to attend again.

Taking into consideration our collaboration with CBWE as well as the active involvement in educating women domestic workers, Streevani was felicitated by CBWE on 19th August, 2018. We received the memento and certificate from Mr. Anil Shirole, the Member of Parliament in the presence of many eminent personalities.

Forum for Justice and Peace
National Workshop
on
‘In Defence of the Indian Constitution’
Statement

We, 63 members of the Forum for Justice and Peace (FORUM) and a few of our associates, gathered from all over India, at the NEDSSS, Guwahati for the National Workshop on the theme, *“In Defence of the Indian Constitution”* (23-25 February 2019) deliberated on the vision and core values of the Indian Constitution.

We journeyed together convinced that in the context of the realities that have gripped the Church and society in India today, we have no option but to respond proactively to the challenges of our times, as women and men deeply rooted in the person, message and mission of Jesus.

During the three days together, we listened to resource persons who challenged us on the different dimensions of the Constitution, shaking us out of our complacency and comfort zones. We reflected on the vision and the values that are enshrined in the Constitution, the stranglehold of religious fundamentalism that threatens to compromise its premises, the pro-corporate and anti-people economic policies that dilute the rights embodied in it, the role of the media in defending the Constitution and the struggles of the minorities, marginalized and other sub-altern groups in the country.

Besides several other concerns, our journey together has enabled us:

- To pledge our unconditional defence of the Indian Constitution; to mainstream the values enshrined,

particularly those in the Preamble; to protect and promote the rights of all

- To implement the call of Pope Francis in his message for *'World Day of Peace 2019'*: to engage in the political process for good governance and sustainable peace
- To renew the mandate we have : that is to play our prophetic role both in the Church and society; to be visible and vocal in our stand for human rights, justice and peace -particularly of the poor, the marginalized, the minorities, the Dalits, the Adivasis/Tribals, the children and women of our country
- To call upon our bishops, Religious superiors and all those involved in positions of leadership in the Church, to be faithful to the teachings of the Church especially the exhortations and encyclicals of Pope Francis, the statements of the CBCI and the CRI, and the final conclusions of our recent General/Provincial Chapters
- To accompany our Adivasis/Tribals/Forest dwellers, in every way possible, in their struggle against eviction from forest lands and the denial of their legitimate rights
- To support all victims of sexual abuse, of children and vulnerable adults; to ensure greater gender sensitivity at every level and not to become agents of a patriarchal Church and society
- To uphold the work of human rights defenders and join them wherever possible
- To network, collaborate and synergise with all, especially the Civil Society groups concerned about the challenges of our times. We shall join hands with them and keep our institutional spaces open to them.

In professing our love and loyalty to the Church and to our country, we are motivated by the words of Jesus, "*Fear no*

one". Above all, we are inspired by his unequivocal "No" to the privileges, power and possessions when tempted by Satan. This same attitude prompts our choices today.

Finally, we pledge, that beginning with ourselves, we shall leave no stone unturned, to help build a Church and a nation that are imbued by the spirit of justice and peace as enshrined in our Constitution and in the Gospel of Jesus.

(Approved by the participants of the National Workshop organized by the Forum of Justice and Peace at Guwahati, 25 February 2019)

