

SOCIETY OF THE MISSIONARIES OF AFRICA

GUIDELINES TO ACT AGAINST FINANCIAL SCANDALS

ROMA - 2024





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Society of the Missionaries of Africa

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TO ACT AGAINST FINANCIAL SCANDAL
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INTRODUCTION AND PROMULGATION

The 2022 Chapter, when it spoke about Integrity in Ministry, recommended the drafting of clear procedures for dealing with cases of financial scandal (CA p.34). In following up this recommendation, we the General Council began by rereading the Apostolic Constitution *Pascite Gregem Dei* with which Pope Francis promulgated the reform of Book VI of the Code of Canon Law (CIC¹). We here below quote from it two passages which state the *raison d'être* of the guidelines presented in this booklet:

- In the past, great damage was done by a failure to appreciate the close relationship existing in the Church between the exercise of charity and recourse – where circumstances and justice so require – to disciplinary sanctions.
- The observance of penal law is binding on the whole People of God, but responsibility for its correct application – (...) – lies specifically with the bishops and the superiors of individual communities.

We add paragraph 2 of Canon 1311 as it spells out the different ways to express pastoral charity and brings out the objectives pursued in sanctioning:

- The one who is at the head of a Church must safeguard and promote the good of the community itself and of each of Christ's faithful, through pastoral charity, example of life, advice and exhortation and, if necessary, also through the imposition or declaration of penalties, in accordance with the provisions of the law,

¹ CODEX IURIS CANONICI

which are always to be applied with canonical equity and having in mind the restoration of justice, the reform of the offender, and the repair of scandal.

A first draft of the guidelines was presented to the Provincials, Section Superiors, Provincial and Section Treasurers and a couple of confreres were consulted on the basis of their expertise. Having taken into consideration the reactions and suggestions received, we publish here the guidelines for dealing with financial scandals on the understanding that they are for internal use of the Society only and ad experimentum for two years.

Please note, that the procedures set out below do not deal with the issue of how to prevent such scandals in the Society. The subject of prevention could be found in other documents of the Society especially in the Vademecum of Treasurers.

Rome, 1st March 2024
The General Council



1. GENERAL DEFINITION AND APPROACH

By financial scandals are meant here practices and actions that cause serious damage to the Society and the Mission, both financially and morally, and whose perpetrators are guilty of a serious breach of the obligations of their Missionary Oath. In order to help these confreres to amend their ways, Superiors are to warn or to admonish them, and if necessary sanction them, always with a view to their repentance, the restoration of justice and the reparation of the scandal caused. In doing so, Superiors follow the procedures laid down in the Code of Canon Law and implement the relevant canons.

2. INSTANCES OF FINANCIAL SCANDALS

Taking into account of the current experiences of various financial scandals, the following instances were identified in the Society:

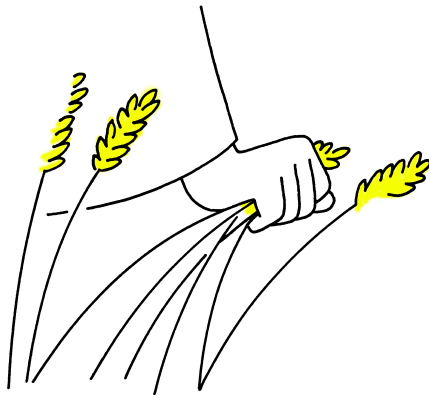
- MISAPPROPRIATION**
- INORDINATE BORROWING AND WAYS OF GETTING MONEY**
- MISMANAGEMENT**

2.1. MISAPPROPRIATION

The following are some instances of misappropriation of funds which incur censures and expiatory penalties.

- Stealing of money and material things.**
- Taking property, funds, money without the consent of the owner.**

- **Using money, funds of the Society for personal benefit.**
- **Taking funds of the Society, of the parish, of a training center, of projects, of any third party for personal benefit.**
- **Taking gifts given for the Mission (C&L art. 104), except C&L 87, 3.**
- **Taking money received for the Ministry, Salary etc. (C&L art. 104).**
- **Mortgaging Society or Parish property for personal gain.**
- **Taking pecuniary advantage of the Society's assets.**





2.2. INORDINATE BORROWING AND WAYS OF GETTING MONEY

In recent times, the Society has known cases of confreres engaging willfully into inordinate borrowing and other inordinate ways of getting money which compromise our identity and mission. The confrere who engages in these acts is sanctioned by either censures or expiatory penalties. The following are the instances of inordinate borrowing and other inordinate ways of getting money that lead to financial scandal.

- Soliciting [borrowing] money for personal benefit from parishioners, neighbors, confreres and any other third party.**
- Gambling.**
- The search for easy and quick money in the internet.**
- Extortion with threat and violence [verbal or physical] or with emotional manipulation.**

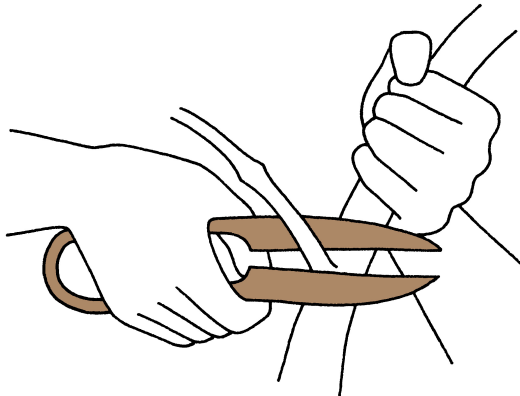
2.3. MISMANAGEMENT

Some confreres in exercising their responsibilities in financial matters have not been faithful to the duties assigned to them. Consequently, through their actions or inactions, jeopardize the reputation of the Society. Mismanagement of any kind while holding public office is punishable by law. The following are some instances of mismanagement which incur censures and expiatory penalties.

- **Not following ordinary administration procedures as laid down in C&L, Vademecum for Treasurers, Project Management Handbook; in particular C&L art. 295 and 302.**
- **Not fulfilling one's duties of ordinary administration.**
- **Using funds for purposes other than the ones they were allotted for.**
- **Accounting with lies for missing funds or Falsifying figures and/or documents.**
- **Overspending: spending money on top and above the budgeted amount without obtaining the proper approval.**
- **Signing a blank cheque.**
- **Managing alone project's funds without reporting to competent authorities.**
- **Doing Society transactions online alone without prior authorization or justification.**
- **Lack of transparency (lack of information, communications and common deliberation) in dealing with funds, property belonging to the Society, Parish or any third party.**
- **Aiding and abetting a financial scandal by any confrere with or without authority.**



- **Selling property of the Society, project, parish or any third party without the necessary consent and permission (Can. 1376 §1. 2°).**
- **Culture of impunity [failing to sanction confreres Can. 1341] on the part of those in authority who should act and do not.**
- **Mortgaging Society or Parish property without prior approval.**



3. MEASURES AND REMEDIES

Sector, Section and Provincial Treasurers remain vigilant as to the implementation of set procedures in all matters which pertain to their field of responsibility. They duly keep informed the Sector, Section and Provincial Councils as well as the Provincial Superior. The Provincial Superior/Section Delegate is to act as soon as signs of possible mismanagement, misappropriation or inordinate borrowing and ways of getting money are in one form or another communicated to him. He first ensures that facts are clearly stated and documented with the misbehavior clearly and precisely defined [Preliminary investigation, Can. 1717 – 1719].

3.1 PENAL REMEDY OF WARNING AND CORRECTION

In consultation with his Council and according to the seriousness of the matter and the danger of relapsing in the same practices he will:

- *Give a warning (Can. 1339 § 1);*
- *Correct the concerned (Can. 1339 § 2);*
- *Set out clearly what is to be done or avoided in case of the ineffectiveness of the above (Can. 1339 § 4);*
- *Impose a measure of vigilance (Code of Conduct) (Can. 1339 § 5).*

In doing so, the Section Delegate or the Provincial Superior follows the laid down procedures: in writing (decree), stating the reasons for the warning (Can. 1339 § 3) and the consequences of noncompliance with the imposed measures (Can. 1376).



3.2 PENALTIES

When the Section Delegate or the Provincial Superior perceives that neither by the methods of pastoral care, especially fraternal correction, nor by a warning or correction, can justice be sufficiently restored, the offender reformed, and the scandal repaired, he has to proceed to the imposition or the declaration of penalties. This he does following either a judicial or an administrative procedure (Can. 1341).

It is to be remembered that no one can be punished with a sanction unless he is proven guilty and is imputable (Can. 1321).

To lawfully impose sanctions or penalties proper procedures have to be followed:

If an administrative procedure is to be followed: Can. 1342, 1720 (refer also to Can. 1721 – 1728).

If the judicial procedure is to be followed: Can. 1721 – 1728.

3.2.1. THE RESTORATION OF JUSTICE

- *Recovery and Repayment of the funds stolen or borrowed:* The confrere will repay the stolen or borrowed funds as soon as possible. In case of public scandal and pastoral judgement requires it, all parties concerned are duly informed of the restoration of justice. All or part of the monthly allowance is withheld to repay the stolen or borrowed funds [Can. 1336 § 4, 5°]. If he has invested money somewhere or kept in a bank account etc., it is to be used to repay the stolen or borrowed funds.

- *Deprivation of Office:* The confrere who has misappropriated funds or inordinately borrowed funds and caused scandal or mismanaged his responsibility in financial matters will be deprived of his office [Can. 1336 § 4.1° and 3°] and the Provincial Superior will make proper arrangements to restore order in the office.
- *Police Case:* Where there is a judicial and civil procedure engaged for aggravated financial scandal, the confrere concerned will solely face the procedures and its outcome. Where the law of the state provides a mandatory requirement to report such financial crimes, the superior concerned has to collaborate and the confrere can be excluded temporarily from the exercise of the ministry [Can. 1722].
- *Personal Responsibility:* If a confrere enters into a contract relating to money such as borrowing, he must answer solely and not the Society [Can. 639 § 2].
- *Dismissal:* In a grave situation whereby a confrere persistently refuses to amend his behavior concerning financial matters for the good of the Society and the Church, the Society can be lead to pronounce his dismissal [Can. 1336 § 5 and C&L 318].



3.2.2. THE REFORM OF THE OFFENDER

- *Change of Place for appropriate Care or Treatment:* The confrere who has misappropriated or mismanaged funds or inordinately borrowed or acquired money and caused a scandal will be sent for correction and reformatory purposes in line with accompaniment, counselling etc. for a determined period of time with the sole aim of working on himself for conversion [Can.1336 § 2].
- *Pay Fine:* The confrere will pay a fine as prescribed by the Provincial Superior to the Society for misappropriating funds or inordinate borrowing of money and causing a scandal as a way of correcting his behavior. [Can. 1336 § 2, 2°].
- *Partial or Full suspension from holding public office and ministry:* The confrere will be suspended from all or some of the acts of governance, ministry and pastoral work. [Can. 1336 § 3. 4°].
- *Deprivation of Office:* The confrere who caused a financial scandal will be deprived of his office, either perpetually, for a prescribed time, or for an indeterminate time [Can. 1336 § 4.1° and 3°].
- *Allowance Withheld:* All or part of allowance will be withheld from the confrere so as to pay the damage done and in order to reform himself [Can. 1336 § 4. 5°].
- *Loses Right to Vote and to be Voted:* The confrere who caused a financial scandal will lose the right [temporarily or permanently] in all voting exercises. He is neither eligible to vote nor to be voted [Can. 1336 § 3. 6°].
- *Withheld from Wearing Religious Dress:* For correction and reform purposes for a confrere who inordinately

borrowed money and caused a scandal is sanctioned against wearing ecclesiastical or religious dress [Can. 1336 § 3. 7°].

- *For the Conversion of the Confrere:* The Provincial Superior imposes penance on a confrere for personal conversion by some work of religion or piety or charity [Can. 1340 § 1].

3.2.3. THE REPAIR OF SCANDAL

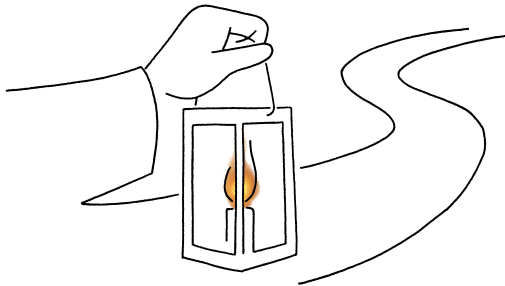
- *Partial or Full Restriction of Ministry:* The confrere will be restricted from exercising either partially or in full his ministry or functions [Can. 1336 § 3. 2°].
- *Rectification of Error:* Whatever wrong has been done by the confrere with regard to mismanagement of financial responsibility is to be rectified where possible by the competent authority as soon as possible.
- *Deprivation from Benefits:* The confrere is not to benefit from the fruits of the scandalous act.
- *Refund:* The confrere involved in lying and falsifying figures, breaching of trust and mismanagement of project refunds will refund what went missing.
- *Project Management:* When a confrere refuses obstinately to work with others in the Society's project, the confrere concerned is removed by the competent authority.
- *Dismissal:* In a grave situation whereby a confrere persistently refuses to amend his behavior concerning financial matters for the good of the Society and the Church, the confrere is dismissed [Can.703, C&L 318, 332-340].

CONCLUSION

Integrity in ministry is part of our vocation to live the Gospel radically in all areas, in line with our missionary oath to follow Jesus Christ. We do this by giving witness to God's love for all and living in fraternal communities, showing concern for the wellbeing for all as the 29th General Chapter reminded us². This document is meant to help Provincials and other confreres in leadership to act promptly and deal with what leads to financial scandals, i.e. misappropriation, mismanagement, inordinate borrowing and acquiring money. They aim at the restoration of justice, the reform of the offender and the repair of scandal.

*Whoever abides by discipline, walks towards life,
whoever ignores correction goes astray.*

Proverbs 10:17



² Capitular Acts, Integrity in Ministry, p 33.

APPENDIX

THE FOLLOWING CANONS AND CONSTITUTION & LAW OF THE SOCIETY PRESCRIBE GUIDELINES TO ACT AGAINST FINANCIAL SCANDALS

- Canon 282 §1:** Clerics are to foster simplicity of life and are to refrain from all things that have a semblance of vanity.
- Canon 285 §1:** Clerics are to refrain completely from all those things which are unbecoming to their state, according to the prescripts of particular law.
- §2.** Clerics are to avoid those things which, although not unbecoming, are nevertheless foreign to the clerical state.
- §4.** Without the permission of their ordinary, they are not to take on the management of goods belonging to lay persons or secular offices which entail an obligation of rendering accounts. They are prohibited from giving surety even with their own goods without consultation with their proper ordinary. They also are to refrain from signing promissory notes, namely, those through which they assume an obligation to make payment on demand.
- Canon 286** Clerics are prohibited from conducting business or trade personally or through others, for their own advantage or that of others, except with the permission of legitimate ecclesiastical authority.
- Canon 1311 § 2:** The one who is at the head of a Church must safeguard and promote the good of the community itself and of each of Christ's faithful, through pastoral charity, example of life, advice



and exhortation and, if necessary, also through the imposition or declaration of penalties, in accordance with the provisions of the law, which are always to be applied with canonical equity and having in mind the restoration of justice, the reform of the offender, and the repair of scandal.

Canon 1321 § 1: Any person is considered innocent until the contrary is proved. No one can be punished unless the commission by him or her of an external violation of a law or precept is gravely imputable by reason of malice or of culpability.

§ 2: A person who deliberately violated a law or precept is bound by the penalty prescribed in that law or precept. If, however, the violation was due to the omission of due diligence, the person is not punished unless the law or precept provides otherwise.

Can. 1336 § 1. Expiatory penalties can affect the offender either forever or for a determined or an indeterminate period. Apart from others which the law may perhaps establish, they are those enumerated in §§ 2-5.

§ 2. An order:

1° to reside in a certain place or territory;

2° to pay a fine or a sum of money for the Church's purposes, in accordance with the guidelines established by the Episcopal Conference.

§ 3. A prohibition:

- 1° against residing in a certain place or territory;
- 2° against exercising, everywhere or inside or outside a specified place or territory, all or some offices, duties, ministries or functions, or only certain tasks attaching to offices or duties;
- 3° against performing all or some acts of the power of order;
- 4° against performing all or some acts of the power of governance;
- 5° against exercising any right or privilege or using insignia or titles;
- 6° against enjoying an active or passive voice in canonical elections or taking part with a right to vote in ecclesial councils or colleges;
- 7° against wearing ecclesiastical or religious dress.

§ 4. A deprivation:

- 1° of all or some offices, duties, ministries or functions, or only of certain functions attaching to offices or duties;
- 2° of the faculty of hearing confessions or of preaching;
- 3° of a delegated power of governance;
- 4° of some right or privilege or insignia or title;



5° of all ecclesiastical remuneration or part of it, in accordance with the guidelines established by the Episcopal Conference, without prejudice to the provision of can. **1350 § 1.**

§ 5. Dismissal from the clerical state.

Canon 1339 § 1. When someone is in a proximate occasion of committing an offence or when, after an investigation, there is a serious suspicion that an offence has been committed, the Ordinary either personally or through another can give that person warning.

§ 2. In the case of behavior which gives rise to scandal or serious disturbance of public order, the Ordinary can also correct the person, in a way appropriate to the particular conditions of the person and of what has been done.

§ 3. The fact that there has been a warning or a correction must always be proven, at least from some document to be kept in the secret archive of the curia.

§ 4. If on one or more occasions warnings or corrections have been made to someone to no effect, or if it is not possible to expect them to have any effect, the Ordinary is to issue a penal precept in which he sets out exactly what is to be done or avoided.

§ 5. If the gravity of the case so requires, and especially in a case where someone is in danger of relapsing into an offence, the Ordinary is also to subject the offender, over and above the penalties imposed according to the provi-

sion of the law or declared by sentence or decree, to a measure of vigilance determined by means of a singular decree.

Canon 1341

The Ordinary must start a judicial or an administrative procedure for the imposition or the declaration of penalties when he perceives that neither by the methods of pastoral care, especially fraternal correction, nor by a warning or correction, can justice be sufficiently restored, the offender reformed, and the scandal repaired.

Canon 1376 § 1: The following are to be punished with the penalties mentioned in can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm:

- 1° a person who steals ecclesiastical goods or prevents their proceeds from being received
- 2° a person who without the prescribed consultation, consent, or permission, or without another requirement imposed by law for validity or for lawfulness, alienates ecclesiastical goods or carries out an act of administration over them.

Canon 1376 § 2: The following are to be punished, not excluding by deprivation of office, without prejudice to the obligation of repairing the harm:

- 1° a person who through grave personal culpability commits the offence mentioned in § 1, n. 2;



2° a person who is found to have been otherwise gravely negligent in administering ecclesiastical goods.

Cannon 1377 § 1. A person who gives or promises something so that someone who exercises an office or function in the Church would unlawfully act or fail to act is to be punished according to the provision of can. 1336 §§ 2-4; likewise, the person who accepts such gifts or promises is to be punished according to the gravity of the offence, not excluding by deprivation of office, without prejudice to the obligation of repairing the harm.

§ 2. A person who in the exercise of an office or function requests an offering beyond that which has been established, or additional sums, or something for his or her own benefit, is to be punished with an appropriate monetary fine or with other penalties, not excluding deprivation of office, without prejudice to the obligation of repairing the harm.

Canon 1378 § 1. A person who, apart from the cases already foreseen by the law, abuses ecclesiastical power, office, or function, is to be punished according to the gravity of the act or the omission, not excluding by deprivation of the power or office, without prejudice to the obligation of repairing the harm.

§ 2. A person who, through culpable negligence, unlawfully and with harm to another or scandal, performs or omits an act of ecclesiastical power or office or function, is to be punished according to the provision of can. 1336 §§ 2-4, without prejudice to the obligation of repairing

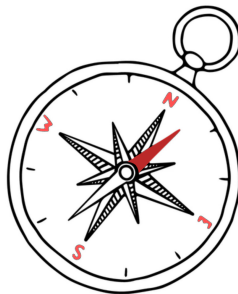
the harm.

Canon 1393 § 1. A cleric or religious who engages in trading or business contrary to the provisions of the canons is to be punished with the penalties mentioned in can. 1336 §§ 2-4, according to the gravity of the offence.

§ 2. A cleric or religious who, apart from the cases already foreseen by the law, commits an offence in a financial matter, or gravely violates the stipulations contained in can. 285 § 4, is to be punished with the penalties mentioned in can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm.

C&L art. 150: In its exercise, authority is concerned with promoting the spirit of the Society and its essential features, especially its apostolic character and community life.

C&L art. 206: [The Superior General] confirms his brothers in their faithfulness to their apostolic vocation according to the spirit of the Society. He is attentive to the well-being of members and communities.





BE APOSTLES AND
NOTHING BUT APOSTLES