# Report of the Lokanath Swami Case Panel

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# Report of the Lokanath Swami Case Panel

March 1 2022

This Panel was constituted by the GBC Body in September 2021 for, *inter alia*, the following purposes:

- Establish a shared baseline of facts and evidence regarding this case.
- Assess and review the facts and evaluate the evidence of the case.
- Assess and review the manner in which the previous investigations and adjudications of this case were handled by the GBC, including but not limited, to whether the GBC erred, or otherwise, in such handling and, accordingly, make recommendations on the appropriate action that could be taken.
- Assess and review the sanctions on Lokanath Swami, including, but not limited, the basis of sanctions, taking into consideration expert legal opinions and principled decision making, and the extent these sanctions were complied with.
- Present its findings and make recommendations on the above to the GBC.

We report as follows:

# I. Factual Background[1]

Soon after breaking his right leg during a *sankirtana* procession in Navadvipa in early 1990, Lokanath Swami flew to the US to help organize and inspire Padayatra America, beginning in Philadelphia. He first stayed at the local ISKCON temple, but his room was located on an upper floor and it was difficult for him to negotiate the stairs with his injury. Seeing this, a devotee from the congregation, [redacted] invited Lokanath Swami to come and stay in his home in nearby New Jersey. Lokanath Swami agreed and remained there for a week in April, accompanied by his assistant, Radha Raman Swami (at the time still a brahmachari). Mr. [redacted] requested Lokanath Swami to train and impart Indian culture to his youngest daughter, Satya, who was eleven and a half years old at the time.

On a couple occasions, Lokanath Swami gave harmonium lessons to Satya. They sat right next to each other, and when Satya would play

[1] The main text of this section relays undisputed baseline facts. Regarding additional details for which there are different versions, either internal to one party or between the two parties, the reader is referred to notes at the end of the section. Moreover, because the Panel is evaluating the prior decisions and not coming to a new decision itself, those notes only present versions of events that were presented in 2012 or earlier. (See section on new evidence near the end of the report for discussion of evidence submitted after that time.)

nicely, he would touch her on the leg and say, "Very good." [**See Note 1**.]

Sometime afterward, Lokanath Swami had Satya read aloud from a hardbound one-volume edition of Krishna book. They were seated next to each other on a couch, and he was supporting the book with both hands. Her mother was cooking in the adjoining kitchen [**See Note 2**], and his servant was also in the house. They read for between half an hour and an hour, during which time he would occasionally lower one hand and rest the back of it on some part of Satya's leg while he continued to support the book. At some point during the reading, the back of his hand came in contact with Satya's body (over her clothing) in the upper thigh or crotch area [**See Note 3**] and remained there motionless for some time. [**See Note 4**.] She reacted in a way that made him aware that something untoward had occurred, but she did not touch or push his hand aside. [**See Note 5**.] The reading then continued.

One time, Lokanath Swami noticed that Satya was still wearing her nightdress late in the morning. After she became aware that he had spotted her, she ran away because she was embarrassed. He followed

her, made her come out of hiding, and then patted her on the butt, telling her to "Go and take your shower." [**See Note 6**.]

## Additional Details:

Key to the sources for the information below :

- "Satya 1993" is her interview by Yasoda Devi (**Appendix A**);
- "Satya 2010" is her Facebook post (**Appendix B**);
- "Satya all" is used when both "Satya 1993" and "Satya 2010" are in essential agreement.
- "LOK 1993" is Badrinarayan Swami's documentation of Lokanath Swami's testimony to the original 1993 Committee. (**Appendix C**)
- "LOK letter (original)" is Lokanath Swami's original draft of his 2010 apology letter that was sent on his behalf by an assistant via email. (**Appendix D**)
- "LOK letter (his edits 1)" is one iteration of Lokanath Swami's revisions to his original 2010 apology letter that were sent on his behalf by an assistant via email. (**Appendix E**)
- "LOK letter (his edits 2)" is another iteration of Lokanath Swami's revisions to his original 2010 apology letter that were sent on his behalf by an assistant via email. (**Appendix F**)
- "LOK GBC Oct 2011" is the notes from the Mid-Term Meeting of the GBC that date. (**Appendix G**)
- "LOK all" is used when all the various LOK documents are in essential agreement.

Note 1: What was the nature of the touch?

**Satya all**: The touch was a rub.
**Satya 2010**: The touch went "up and down my leg, inner leg, and out."
**LOK all**: The touch was a pat.

Note 2: Who else was in the room?

**Satya 1993**: "The kitchen is back, you know, where my mother was. She was the only one. And upstairs was his disciple, so it was just me and him in the room."
**Satya 2010**: ". . . any time my mother would walk by the room, he would quickly remove his hand and place it above my head (around me). He did this several times throughout the course of an hour."

**LOK 1993**: "When things were already normalizing, my servant came and sat close to us, listening to the Krsna Book reading."
**LOK letter (his edits 2)**: "My servant was going in and out of the room and Satya's mother, who was cooking in the adjoining kitchen, was also walking by the room."

Note 3: What part of her body did he touch?

**Satya 1993**: She refers to the area touched as "my private area" and her mom reports that Satya said it was her "secret part."
**Satya 2010**: She says it was "my crotch not on my lap."
**LOK 1993: "**My hand landed on her thigh, and it very gently moved across her thigh a few times. This is where my hand spent most of the time. Then, it moved towards the upper thigh, including the private area."
**LOK letter (his edits 1)**: "[M]y hand touched her thigh and moved across between the knee and upper thigh over her clothing several times. In the upper thigh region while my hand was moving, I sensed my hand touched her private part."
**LOK GBC Oct 2011**:
*Badri*: whatever gbc decides, let it be decided on fact. I am very pained to be in this situation. Lok is saintly, it is not pleasant to say this, we have repeatedly been put in this position. I hope I never have to repeat. Here is what happened: lok told me at the time, sesa was not present at the time, many facts have been edited out from both sides, we have danced around the issue. Here is what happened. I hate saying this.

Lok was sitting on the couch with this could, took his hand, felt her vagina, he moved his hand back after she moved it away, and felt her out as they say, he admitted he was overcome by lusty desires, that's what he told me.
That is the core event.
. . .

*Lok*: what I confessed or disclosed in 93, some are here, bkg and some others, it happened in san diego. I don't know if you were on the team or privately. I am not going back on what you described. It was not written down in 1993. That was the subcommittees decision. . . . Same subcommittee of 93 wrote a report. Then because that paper of 97 was to be shown to disciples, I was doing some negotiation, but I was standing by what I had stated. Rvsd was the author, he interviewed me, others' input was there and the subcommittee was released. The facts did not change but on paper it was not mentioned what part was touched, just mentions upper thigh.

Note 4: How long did the touch last?

**Satya 1993**: "So I finally, you know, said, I can hold this myself. And he just...." / "So I finally got the courage to say, 'I can hold this myself.' And he just smiled and he said, 'Yes, okay, read, keep reading.'"
**Satya 2010**: "And after that sick feeling inside me became the most prominent thing for me, I told him I was tired, and I left the room."
**LOK 1993**: "My hand was there for not more than a couple of minutes, once or twice."

Note 5: Was the touch deliberate?

**Satya 1993: "**And second of all, you know, he should have kept his hands to himself."
**Satya 2010:** "I am keeping the book from touching you there, so just keep reading." / ". . . any time my mother would walk by the room, he would quickly remove his hand and place it above my head (around me). He did this several times throughout the course of an hour."
**LOK 1993:** "The hand withdrawal took place as the girl interrupted her reading and looked at me a few times. This is when the feelings of shame and guilt emerged in me. I tried to overcome the attack, by fighting it back with my spiritual strength and prayers."
**LOK letter (original):**

"When I found myself put into close association with Satya, some feelings unexpectedly arose, but this experience was new to me and I did not know exactly how to acknowledge them or cope with them. I yielded, momentarily, to impulse, and acted in an inappropriate manner."

"My transgressions were not consciously planned. They were accidental mistakes for me in very unusual circumstances."

Note 6: What was the extent of the touching?

**Satya all**: He "hit me on the butt" once after pulling her out of a closet.
**Satya 2010**: He "patted me on the butt" once before she ran away and again "touched me on my butt" after, at which time he also "held my hands and put his arms around me."

# II. Procedural History

## A. Initial decision

### 1. *Process followed*

Satya first made allegations against Lokanath Swami in 1993. After receiving her complaint, Virabahu Dasa, the GBC Chairman for 1993-94, appointed a seven-member committee ("the Committee") to meet with Lokanath Swami, consisting of himself, Bir Krishna Goswami, Badrinarayan Dasa, Mukunda Goswami, Sridhar Swami, Madhusevita Dasa, and Ravindra Svarupa Dasa. They immediately suspended Lokanath Swami from initiating further disciples and restricted his movements while they undertook a complete investigation.

The Committee arranged for Satya to be interviewed on June 3, first by Saudamani Devi Dasi, wife of the Philadelphia temple president, Ravindra Svarupa Dasa, and then by Yasoda Devi Dasi, a licensed clinical social worker. (**Appendix A**)

Later that month, the Committee sent Lokanath Swami to Child Abuse Prevention Behaviour Associates, Inc. ("the CAP team"), a group of mental health professionals specializing in evaluating and treating clergy from a variety of religious traditions who had been implicated in child molestation. The CAP team was given a victim report written by

Yasoda Devi and was paid $2,500 to perform a two-day assessment on Lokanath Swami.

After the evaluation was completed, the CAP team met personally with some members of the committee, explained their findings, and answered questions.

All of these proceedings were kept confidential. In response to later rumors, however, Bir Krishna Goswami informed the entire GBC body via email in 1997 of the basics of the allegations and the actions taken in response. (**Appendix H**) In March 1999, an official statement written by Ravindra Svarupa Dasa was published more broadly ("Information Release"). (**Appendix I**)

2. *Decision made*

The CAP team made the following findings:

a. Lokanath Swami is not a pedophile. He presents no danger to children.

b. Although the girl was young, she had begun the transition to womanhood, and Lokanath Swami did not sexually relate to her presence as that of a child.

c. Lokanath Swami had been brought up in a way that kept him entirely innocent of the experience of sexuality. He had not undergone the normal (or, at any rate, western) adolescent struggle of coming to grips with sexuality and sexual feelings. Thus, when he found himself put into close

association with this young girl, some sexual feelings unexpectedly arose, but these feelings were new to him, and he did not know exactly how to acknowledge them or cope with them. The normal, reflexive restraints and inhibitions that experience would have established in him were not in place, and he yielded, momentarily, to impulse, and thus acted in a transgressive manner.

d. Certain circumstances conspired to disassociate Lokanath Swami from his usual sense of himself and his normal behavior and to make him unusually vulnerable. First, his leg was broken, a serious disability for one's [*sic*] whose main service and raison d'etre was Padayatra, walking. Second, his immobility confined him for a prolonged period to an unfamiliar domestic atmosphere, full with family interactions and emotions. Third, the strong desire of the father for Lokanath Swami to administer discipline and instruction to the girl also drove him into closer association with a female than he would ordinarily venture [*sic*].

e. The episodes offensive to the girl were therefore anomalous, brought about by a highly "unusual concatenation of circumstances." They arose fortuitously, and with a minimum of precautions, such occasions should be easy to avoid in the future.

f. Lokanath Swami's entire identity and sense of self is built upon his role as a religious leader, and it is a role to which his personality is exceptionally well-suited. Given the unique conditions that prompted the episodes and given the fact that there is no reason to expect such episodes to occur again, Lokanath Swami should remain in his role as a religious leader. (However, this does not negate the girl [*sic*] legitimate feelings of violation and abuse.)

Accordingly, the CAP team concluded:

> Thus, given the above detailed character and personality analyses we do not believe that Swami Lokanath suffers from any paraphiliac condition and does not pose a danger of overt sexual violence toward women and children. These findings do not negate the fact that he acted in a clearly inappropriate manner or that the girl who was a recipient of these acts may have experienced many traumatic sequelae common to victims of sexual abuse.
>
> We believe that Lokanath's actions were not consciously planned but resulted from his own lack of any experience of the intimacy and/or sexuality and the internalized awareness of boundaries which such experiences provide. This dearth of experiential knowledge would have been compensated had Lokanath adhered strictly to the tenets of his religious beliefs about the proper boundaries to be observed by males with a females. However, Lokanath found himself in a very unique setting which evoked feelings of early family ties coupled with feelings of vulnerability due to his physical limitations and took him briefly out of his usual sense of himself as defined by his religious persona. In order to best assure that such a set of circumstances could not reoccur we strongly suggest that Swami Lokanath not allow himself to be alone with a woman or child, that he continue his religious works of service as they are absolutely necessary for maintenance of a healthy sense of himself in the world, that he not spend more than one day/night with any one family while travelling, and that he seek the on--going support of his colleagues via communications with him during his travels.[2]

Having received this evaluation and reviewed the notes from Satya's interview, the Committee concluded:

> Lokanath Swami's fault quite exactly exemplified what Srila Prabhupada termed an 'accidental' mistake (B.G. 9.30-31).

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[2] Unfortunately, the Panel was unable to obtain an original copy of the CAP report. But its contents were reproduced in the Information Release and no one to date has contested the accuracy of those representations.

> Lokanath Swami's transgression was not planned or premeditated. It was, to use Prabhupada's terminology, unconscious, not wilful [sic], unknowing. (See for example, the conversation of May 10, 1969, in Columbus, Ohio and the morning walk of January 9, 1976 in Madras.)

3. *Restrictions and requirements imposed*

In 1993, the Committee directed Lokanath Swami to seek forgiveness from Satya and to spend at least two months in Vrindavan in a mood of repentance, praying to Srila Prabhupada and Lord Krishna for forgiveness. He was also suspended from giving initiations until Gaura Purnima 1996. In 1997, the GBC (having been apprised by then of the basics of the allegations and actions taken in response via Bir Krishna Goswami's email) further decided that all prospective disciples should be informed of the incidents orally following a specific script. (**Appendix J**)

**B. GBC review**

In July 2010, apparently triggered by Lokanath Swami's leading a kirtan during the New York City Ratha-yatra parade, Satya, now aged 32, posted online, correcting what she saw as inaccuracies and minimizations in the Information Release of 1999. (**Appendix B**)

In relation to her 1993 testimony, she made the following additions/changes:

| Issue | 1993 interview | 2010 post |
|---|---|---|
| | *Harmonium lessons* | |
| The nature of the touch | The touch was a rub. | The rub went "up and down my leg, inner leg, and out." |
| How she reacted to the touch | She "really didn't think anything of it" at the time, but after the Krishna book incident she became concerned in retrospect because "I thought that if he could do something, you know, as he did in the living room." | She "asked him 'What are you doing?' to which he replied 'Nothing, just concentrate on the harmonium.'" |
| | *Krishna book* | |
| Who else was in the room | "The kitchen is back, you know, where my mother was. She was the only one. And upstairs was his disciple, so it was just me and him in the room." | ". . . my mother would walk by the room . . . several times throughout the course of an hour." |
| What part of her body he touched | She refers to the area touched as "my private area" and her mom reports that Satya said it was her "secret part." | She says it was "my crotch not on my lap." |
| How long the touch lasted | "So I finally, you know, said, I can hold this myself. And he just...."<br><br>"So I finally got the courage to say, 'I can hold this | "And after that sick feeling inside me became the most prominent thing for me, I told him I was tired, and I left the room." |

| | | |
|---|---|---|
| | myself.' And he just smiled and he said, 'Yes, okay, read, keep reading.'" | |
| Whether he seemed aware of the touch | "And second of all, you know, he should have kept his hands to himself." | "I am keeping the book from touching you there, so just keep reading."<br><br>". . . any time my mother would walk by the room, he would quickly remove his hand and place it above my head (around me). He did this several times throughout the course of an hour." |
| *Shower* | | |
| What the extent of the touching was | He "hit me on the butt" once after pulling her out of a closet. | He "patted me on the butt" once before she ran away and again "touched me on my butt" after, at which time he also "held my hands and put his arms around me." |

Hearing from Satya directly for the first time, several members of the GBC Body called for the case to be revisited, feeling that the version of events in Satya's post was more severe than that conveyed to them by the Committee and that, as a result, the original sanctions were not sufficiently severe. Because of this concern—as well as the publicity the post had generated and allegations that Lokanath Swami had not complied with the

requirement to inform disciples—the entire GBC body discussed the case over the course of two years and several GBC meetings.

First, Lokanath Swami was permitted to keep initiating but was asked to draft a letter to show prospective disciples explaining the incidents.[3] At the 2010 Mid-Term meeting, this letter was presented and approved. (**Appendix G**) At the Annual General Meeting in Mayapur in 2011, however, some GBC members felt more should be done and various restrictions on his ability to continue initiating were discussed. (**Appendix H**) Ultimately, at the request of the GBC, he agreed to stop initiating of his own volition.

Some disciples and leaders in India expressed strong reservations about this, feeling that Lokanath Swami had been unfairly pressured. As a result, he chose to address the GBC body at the 2011 Mid-Term meeting and asked to be released from his self-imposed restriction on initiating, particularly in light of the

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[3] It appears that, as to the factual substance of what occurred, Lokanath Swami actively participated in an iterative process—via email and through an assistant—sending an original draft and responding to comments and edits from various individuals, but that some of the final word choice in terms of characterizing the events and his feelings about them was decided upon by editors towards the end of that process.

final version of the letter, which he believed gave the impression that his acts were more serious than they were and some of the wording of which was not his. His proposal was rejected. (**Appendix G**)

At the Annual General Meeting in Mayapur in 2012, the GBC passed Resolution 502, imposing, among other things, the following:

1. A two-year moratorium on initiations, which would be completed in October 2012;[4]
2. Restriction to initiating thereafter only in the sub-continent of India;
3. Requirement that all future disciples receive a letter written by him explaining the 1990 incidents;
4. Restriction to travelling outside of the Indian Subcontinent only upon invitation of the RGB, or National Council in that area.
5. Minimum 5-year restriction on travelling to North

[4] Though imposed only in February 2012, the ban ended in October of that same year. It appears this is because Lokanath Swami had—through a combination of informal pressure, formal vote, and voluntary submission—essentially been restrained from initiating beginning October 2010.

America.

(**Appendix K**)

In 2017, all mandatory requirements and restrictions from the International GBC were lifted. (**Appendix L**) The North American Council, however, required that, for 5 years, Lokanath Swami could visit there only when invited by the local temple president and GBC and if he avoided the New Jersey and Philadelphia area and minimized his public programs in the New York City area. (**Appendix M**)

## III. Applicable Law

If Satya made her complaint today for the first time, the matter would be referred to the International Child Protection Office of ISKCON ("CPO"), the entity authorized by the GBC to conduct internal disciplinary processes in response to allegations of "intrusive conduct and abusive behaviour" towards children. But this is not the case; her allegations have been investigated and adjudicated on two prior occasions.

Similarly, if those earlier decisions had been made by the CPO itself, the current Guidelines (last revised in 2018) provide explicit

procedures for further review of prior adjudications. (**Appendix N**) Firstly, a case can be appealed to a CPO Appeal Review Panel on an allegation that either:

1) Procedures used in the original review prevented a fair and impartial hearing; or

2) there is new and compelling additional evidence.

Likewise, a new trial is allowed if new individuals come forward with allegations against the same respondent or if the respondent submits overwhelming evidence showing innocence. But since the 1993 and 2012 decisions were not made by the CPO, these procedures do not apply.

Nevertheless, the GBC did have in place at one time a mechanism for addressing the exact situation presented here, namely determining when to send to the CPO a case of child abuse that had been previously adjudicated by another ISKCON entity. This procedure was set up when the CPO was first established.

The GBC first approved what would later be called the Task Force in a 1996 Annual General Meeting resolution.[5] The Task Force, in turn,

[5] "312. That a Committee be appointed to study the current child protection guidelines and present a revised comprehensive version (with regional variations) by next year's meeting. The Chairman will be Bir Krsna Maharaja. Members will include Yasoda devi dasi, Murlivadaka dasa, Bhurijan dasa, Jayapataka Swami, Amarendra dasa, Sesa dasa, and all current members of the board of Education."

developed the plan and policies to establish the CPO late in 1997 (this document was known as the ISKCON Child Protection Task Force Report), and this proposal was approved by the GBC at the 1998 Annual General Meeting. (**Appendix O**) To aid in the transition period until the CPO was fully operational, the Task Force was continued until the end of April 1999. One of its roles, as described in that original report, was to decide how cases pre-dating the CPO should be handled:

> b. Case of child abuse which have been dealt with in the past by the GBC or one of its agents (ministry of justice, ministry of education etc.) are subject to review by these judges including cases were guilt has been admitted and a sentence decided.
>
> c. The members of the GBC appointed child protection task force (Badrinarayan dasa, Sesa dasa, Laxmimoni dasi, Yasoda dasi, Anuttama dasa, Dharmaraj dasa, Manu dasa, Pancaratna dasa, and Dhira Govinda dasa) along with the chairman of the child protection central office, by a majority vote, will determine which of these old cases, previously decided, are to be opened for review.

- *Note: Some cases may have already had thorough documentation or an admission of guilt or no new complaint from a victim, and a sentence determined and being carried out. All that needs to be done in a case like this is [*sic*] be sure there is a complete record with the central office. Other cases may have been partially researched, no clear records, a sentence that is not being followed or clearly inappropriate etc. Such cases need to be reopened and resolved via the above*

*justice system, in order to have a final official record and to put these cases to rest once and for all.*

There was to be a six-month window for reviving cases, but cases raised later could be considered with the approval of the Task Force.

It is not clear to what extent the named Task Force members ever performed this function in actuality, as Dhira Govinda Dasa was selected as the first CPO Chair (a position title later changed Director) just a few months later and it appears he took on this function, albeit in a *de facto* manner. In any event, the 1998 Task Force Report provided a process for actually re-adjudicating such cases and a number of cases were indeed reopened, including several that had been criminally prosecuted. (**Appendix P**)

Under this scheme, the Task Force should have evaluated whether or not to refer this case for re-adjudication in 1998. It did not. Instead, Dhira Govinda was informed by Ravindra Svarupa that it should not be re-opened for two reasons: (1) it had been "grand-fathered in," in that it had already been dealt with by the Committee, which had procured a professional assessment and made a decision, so they should not "start all over again," even if the new system has "superior

features"; and (2) there were reasons to keep it confidential, in that the alleged abuse occurred in a private home not in a temple or gurukula and Mr. [redacted] was understood to be a violent individual and a public investigation might provoke him to rash acts (indeed, the family had explained that they had never informed him of the incidents for this reason). (**Appendix Q**) Dhira Govinda responded that these reasons were "very reasonable" and that "there's no good reason to reverse or reconsider the decision of the committee." (**Appendix R**)

Notwithstanding this exchange, the Panel suggests that it is appropriate for it, under the current mandate, to act as an advisory ad hoc Task Force and to recommend whether the GBC body should exercise its review authority over its own prior decisions to re-open this matter and send it to the CPO.[6] First, Dhira Govinda did not have the unilateral authority to make this decision as that power was vested in the Task Force, of which the CPO Chair had but one vote among many. And we do not know what the vote of the other members would have been. Second, the reasons provided do not address the actual factors that the Task Force should have considered (see bullet points below

[6] The Panel suggests that this would have been the appropriate way to handle the case in 2010 as well.

taken from italicized language above). Indeed, they seem unconvincing, as all past cases could be considered "grandfathered in," and one imagines the case could have been re-opened in a way that kept it confidential from Satya's father.

To that end, and drawing from the criteria used in the Task Force guidelines on prior external adjudications, as well as (for sake of completeness) the current CPO Guidelines on appeals, the Panel suggests the following questions are germane:

- Is there adequate documentation of an earlier process?
- Was the process fair?
- Was a sentence determined?
- Was the sentence "clearly inappropriate"?
- Was the sentence followed?
- Are there new parties alleging abuse?
- Is there new evidence from any of the original parties?

These will be used to review both the 1993 and 2012 adjudications.

**The preceding sections represent the unanimous views of the Panel. What follows, in contrast, is broken into majority and minority views.**

## IV. Discussion - Majority

The Panel did not reach complete consensus in two critical sections. An asterisk (*) indicates there was disagreement as to that particular subsection, in which case the minority view is presented in brief *in italics* within this majority opinion itself and more fully in separate minority opinion sections that follow.

### 1. Is there adequate documentation of an earlier process?

This is a threshold inquiry: If there is not a record of what happened earlier, it is impossible to evaluate it and so the case must be re-adjudicated. If there is, then the other steps of the review can occur.

*1993*

Between Yashoda Devi's interview notes and the 1999 Information Release, there is a record of what was done in terms of investigating

and adjudicating Satya's allegations, who did it, and what the outcome was.

Yes. There is adequate documentation of an earlier process, so this consideration favors CLOSING the case.

*2012*

The notes of the various Mid-Term and Annual General Meetings of the GBC provide a record of the deliberations on this matter, including what was considered, who participated, and the interim and final decisions.

Yes. There is adequate documentation of an earlier process, so this consideration favors CLOSING the case.

**2. Was the process fair?***

Apart from the correctness of any decisions made, this consideration focuses on how that decision was arrived at. (Flipping a coin, to use an extreme example, might end up giving you the right answer, but it's hardly a reasonable way to make important decisions.) The difficulty here is that what is a fair process when the GBC makes an administrative decision (power-based decision) and when a CPO panel adjudicates a case (rights-based decision) are different. For

example, under the current CPO Guidelines, cases are heard and decided by Review Panels, whose three members are "chosen from a list of devotees that have undergone training in the recognition and response to the abuse of minors in understanding child abuse, evaluating evidence, and the psychology of abusers and victims." And these members must "promptly disclose . . . any circumstances that might cause doubt regarding [their] independence or impartiality"—such as "bias, interest in the result of the adjudication, and past or present relations with a party or its counsel"—and this can be basis for either party challenging that individual's participation. When the GBC as a body decides a disciplinary case, in contrast, it does not appear that there are provisions in place to exclude a particular member from voting based on lack of qualification or familiarity with the subject matter at hand or personal relationship with the individual being disciplined. Likewise, a CPO panel follows a rigorous evidentiary process, considering written testimony from the alleged victim and accused as well as "interviews with the victim and accused, statements of witnesses, character witnesses, reports from civil and legal authorities, and psychological assessments," before issuing an official

decision as to whether the accused is culpable. A GBC vote can be made on any basis the GBC deems acceptable.

In any event, the essence of due process is an opportunity for both parties to present their side of the story and for a third party to hear them, make a decision based on the evidence rather than any prejudice or agenda, and then explain that decision.[7]

*1993*

A Committee of seven GBC-appointed members heard from both sides, procured an analysis and risk assessment from three experienced and qualified professionals at CAP, and then made a decision. Viewed from the perspective of a GBC disciplinary action, this process was substandard in that the Committee made the final decision rather than

[7] Though not relevant to whether or not ISKCON's internal process was fair, it does appear that the incidents in question should have been reported to local law enforcement and/or other governmental authorities. *See* New Jersey Statute § 9:6-8.10 (2009) (reflecting requirement in place since at least 1990 that "[a]ny person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse" to "report the same immediately to the Division of Youth and Family Services by telephone or otherwise"); GBC Resolution 74 of 1989 (stating "incidents of child molestation within ISKCON or ISKCON related organizations must be reported by the ISKCON authority to the local governmental agency or agencies for civil or criminal action, as appropriate"); GBC Resolution 119 of 1990 (stating "[s]uspected or confirmed cases of child abuse must be reported to local government authorities for investigation and/or prosecution"). *But see* GBC resolution 86 of 1992 (stating that only "[c]ertified cases of an obvious nature should be turned over to the local governmental authorities and follow the normal criminal system of justice").

making a recommendation to the entire GBC. And to the extent that the GBC did ratify this decision in 1997, it appears this was done based on the summary in Bir Krishna Goswami's email rather than a full review of all the evidence. Viewed from the perspective of a CPO panel, this process was substandard in that the members of the Committee were not vetted for bias. This is the unanimous view of the panel.

Notwithstanding these observations, a majority of the Panel believe that the Committee should be viewed as a hybrid under more general principles of due process rather than strictly under the two distinct approaches discussed above. Seen in that light, the majority is of the view that its process seems adequate in that a multi-membered group (less than the entire GBC but more than three) made a well-informed decision based, in part, on expert input. The majority therefore concludes that the earlier process was fair and that this consideration favors CLOSING the case.[8]

*The dissenting view is that this is based on fallacious reasoning as the committee was firstly not vested with the authority to make a decision and secondly, the GBC having not been placed with the full*

[8] For what it is worth, Dhira Govinda, in his capacity as CPO Chair, appears to have approved of this process. (**Appendix S**)

*facts by the committee, was placed in an insidious position that resulted in the ratification of the recommendations, further compounding an unfair process. Accordingly the process was not fair.*

*The dissenting view wishes to emphasize that the committee could NOT have been the final trier of fact – GBC adjudications on misconduct cases are almost always decided by the full GBC, after input and recommendations from a committee. In this case, the full GBC, which endorsed the Committee report, was NEVER given the full information, NOT provided with the girl's testimony, nor presented any contrary opinions which were strongly held by some Investigative Committee members (e.g. Badrinarayan Swami and Yasoda devi.).*

*In amplification of another point raised above regarding the GBC process not having excluded any potential bias, it must be noted that neither the Committee nor the GBC could be considered objective adjudicators. Lokanath Swami, as GBC Minister, sannyasi, and guru, attends every GBC meeting, and is good friends with many members. At minimum, there is the appearance of* ***conflict of interest*** *with many of the Investigators and GBC. For both of the above reasons, the dissent finds that the process was not fair as envisaged by the critera which finds its genesis in the re-opening of cases clause in the Task Force*

*Report / CPO Guidelines. Moreover, the very same document repeatedly emphasizes impartiality and independence of judges as a qualification and grounds for challenging of a judge. This has been totally ignored in the process adopted by the GBC and therefore can be categorically termed an unfair process.*

*2012*

The subsequent review was deliberately undertaken following normal GBC decision-making protocols, so it makes sense to evaluate it under those standards alone, under which it does not evince any deviations or deficiencies. In any event, even under a more exacting judicial standard, Satya's 2010 post can properly be considered her testimony and the notes of the GBC proceedings show that there were discussions with Lokanath Swami as well as participation, presentations, and input from various GBC members—some in favor of further restrictions and others not— with the final outcome the result of a vote. Accordingly, it cannot be said the process was lop-sided, arbitrary, or decided by a single individual.

Yes. The earlier process was fair, so this consideration favors CLOSING the case.*

*Here again, the minority differs with the majority as the GBC, for reasons stated in the assessment of the 1993 process described above, lacked impartiality. This view is further supported by the fact that other cases involving devotees of equal stature of Lokanath Swami i.e. sannyasis, gurus and holding positions of leadership eg. GBC members were referred to the CPO despite the fact that these cases were previously dealt with by the GBC eg. Dhanudhara Swami.*

*Hence, the process remained inconsistent and accordingly unfair.*

**3. Was a sentence determined?**

In the current CPO paradigm, the Official Decision of a Review Panel must "clearly state any Restrictions, Requirements, and Recommendations it deems appropriate."

*1993*

The CAP team made suggestions, including that Lokanath Swami "not allow himself to be alone with a woman or child, that he not spend more than one day/night with any one family while travelling, and that he seek the ongoing support of his colleagues via communications with him during his travels." Subject to these restrictions, they said he "should remain in his role as a religious leader

. . . [g]iven the unique conditions that prompted the episodes, and given the fact that there is no reason to expect such episodes to occur again."

The actual sentence, however, was issued by the seven-member Committee in 1993, ratified by the GBC in 1997, and formally presented in the 1999 Information Release. That document outlines various requirements and restrictions, including a roughly two-and-a-half-year ban on initiating (until early 1996) and a mandate that, once he resumed, he disclose the incident to prospective disciples so they could make a fully-informed decision.

Yes. A sentence was determined, so this consideration favors CLOSING the case.

*2012*

By resolution, the GBC imposed further restrictions, including the following:

- A two-year ban on all initiations;
- A requirement that once he resumed, he do so only in India and only after showing a GBC approved letter to prospective disciples;
- A minimum five-year ban on travelling to North America;

- A requirement that he receive an invitation from national or regional GBC bodies before traveling to other parts of the world.

Yes. A sentence was determined, so this consideration favors CLOSING the case.

**4. Was the sentence "clearly inappropriate"?***

*A. Standard of review*

The phrase used is instructive. The 1998 Task Force was not asked to decide if the sentence that was imposed in a prior adjudication of a case was *appropriate*, i.e. what they would have imposed if they had been adjudicating it. Rather they were asked to determine if that sentence was *clearly inappropriate*. In other words, even if they would have done things differently, is what was done so obviously out of the bounds of propriety that the case should be re-adjudicated.

As it happens, this approach exactly mirrors that taken in the federal criminal justice system. Under the United States Supreme Court's *Booker* case, when either side is appealing a sentence, the reviewing court simply decides if what the trial court did was reasonable. And reasonableness is a range, not a point. That is to say,

the reviewing court may not reverse the trial court simply because it would have imposed a different sentence; on the contrary, it must affirm the trial court's judgment so long as the sentence falls within the realm of rationally available choices. Under this standard, the challenging party can undo the sentence only if they show no reasonable person would adopt the trial court's view.

Though other sanctions were imposed, we'll focus here on the primary one at issue, namely temporary restrictions on serving as an initiating guru.

*B. Nature of conduct*

1993

The CAP team found that Lokanath Swami had acted in a "transgressive" and "clearly inappropriate manner." Specifically, when "some sexual feelings unexpectedly arose" within him "he yielded, momentarily, to impulse."

But these acts were "not consciously planned" and instead were "brought about by a highly unusual concatenation of circumstances"—namely his broken leg, his confinement "for a prolonged period to an unfamiliar domestic atmosphere," and "the strong desire of the father

for Lokanath Swami to administer discipline and instruction to the girl" which "drove him into closer association with a female than he would ordinarily venture"—all of which "evoked feelings of early family ties coupled with feelings of vulnerability due to his physical limitations and took him briefly out of his usual sense of himself.

At bottom, they opined that he was "not a pedophile" and "[did] not pose a danger of overt sexual violence toward women and children." Rather, "with a minimum of precautions," such transgressions "should be easy to avoid in the future."

Based on this analysis and input, the Committee concluded:

> Lokanath Swami's fault quite exactly exemplified what Srila Prabhupada termed an 'accidental' mistake (B.G. 9.30-31). Lokanath Swami's transgression was not planned or premeditated. It was, to use Prabhupada's terminology, unconscious, not wilful [sic], unknowing. (See for example, the conversation of May 10, 1969, in Columbus, Ohio and the morning walk of January 9, 1976 in Madras.)

Because the CAP team never used the terms "sexual abuse" or "molestation" and because the Committee used the term "accidental," the Panel feels it is important to clarify what these two bodies believe occurred. Broadly speaking, there are three possibilities:

1) PREMEDITATED: Lokanath Swami intentionally planned to be at Satya's home and/or arranged occasions where the two of them would be in close proximity so that he could gratify himself sexually by touching her.

2) ACCIDENTAL: At no point preceding any of his touches did Lokanath Swami have any sexual motivations. The harmonium and shower touches were intentional but done in a fatherly mood, and the Krishna book touch was done unconsciously and innocently, with him removing his hand as soon as he realized what he had done.

3) SITUATIONAL/OPPORTUNISTIC: Lokanath Swami was circumstantially put into an unprecedented situation, staying at Satya's house full-time while he was injured and under instructions to interact with her. Over the course of these interactions, sexual feelings unexpectedly arose and, unprepared for how to manage them, he gave in and touched Satya to gratify them.

Both scenarios one and three constitute abuse, though scenario one would merit a more severe reaction given the abuser's mentality, while scenario three, though likely having the same effect on the victim, could justify a more lenient sentence. Scenario two, in contrast, does not

constitute abuse. The Panel believes that the third scenario is the only logical interpretation of what both the CAP team and the Committee found, and this is also consistent with several versions of Lokanath Swami's testimony. (**Appendices C, E**)

The CAP team explicitly ruled out scenario one. And their word choice rules out scenario two. (In other words, if he had claimed total innocence before them and they had believed him, we cannot see how they would write the report they did.) Rather, their extensive discussion of Lokanath Swami's background, the unusualness of the situation he found himself in, and the unlikelihood of his acts recurring indicate that they concluded scenario three was applicable. In other words, he did do something wrong in his touching of Satya, but it was situational to an extreme degree and would thus be easy to avoid in the future.

The Committee also ruled out scenario one. Beyond that, the Committee's understanding can best be explored by examining the quotes from Srila Prabhupada they cite. (**Appendix T**) True enough, in the Gita purports, he uses the term "accidental." But the context shows that he does not mean it in the literal sense. For one thing, he uses synonyms for accidental falldown that convey something other than

happenstance, such as "temporary falldown" and "occasional falldown." More importantly, he explains the reason behind such a falldown in terms that show it is not an innocent mistake but rather a genuine—if unexpected and short-lived—giving in to temptation. For example, "[t]he material contamination is so strong that even a yogī fully engaged in the service of the Lord sometimes becomes ensnared." Or this passage:

> this verse only refers to an accident due to the strong power of material connections. Devotional service is more or less a declaration of war against the illusory energy. As long as one is not strong enough to fight the illusory energy, there may be accidental falldowns.

This interpretation of accident implying something volitional but unplanned is consistent with the other sources cited. (**Appendix U**) On his morning walk in 1976 in Madras, Srila Prabhupada explains:

> [a]ccident . . . He had former habit, and unknowingly he has done something wrong. That is accident. That is explained by Bhaktivinoda Ṭhākura. Not purposefully doing wrong. That is aparādha. Nāmnād balād yasya hi pāpa-buddhiḥ.

A true accident (scenario two) has nothing to do with one's past habits; a momentary lapse (scenario three) does. This is contrasted with what he calls purposefully (scenario one), which he equates with committing sinful activities on the strength of chanting.

The same contrast is presented in the 1969 conversation in Columbus, depicting an accidental falldown on one hand:

> He is not doing any wrong consciously, but due to habit... Suppose just like most of you were, in your former life, you were smoking or taking intoxication. But by some influence, if you sometimes take to it, . . . that is excused if you have done unconscious.

With a premeditated one on the other:

> But if you think that "Now I am Kṛṣṇa conscious. Whatever I do, it is right," then it is great sin.

In the end, the strongest evidence that both the original Committee and the CAP team found the conduct fell under scenario three is that they both suggested some restrictions and requirements (incompatible with scenario two) but these were relatively limited (incompatible with scenario one).

2012

Though the GBC did not make any explicit findings, it is clear from their actions that they agreed with the finding of culpability in the earlier Committee decision and re-opened the case because they found that the allegations, though still concerning the same basic acts at issue earlier, were more severe than originally understood.

*C. CPO Guidelines*

Under current CPO Guidelines, Lokanath Swami's conduct (as determined by the Committee in 1993 and ultimately the GBC in 2012) would constitute sexual abuse, specifically a kind of fondling, because he "use[d] a child to meet [his] own sexual needs." (**Appendix N**)

The 2006 Guidelines (but not later versions) offer a way to classify offenses, including under Category 1:

> Precursors to sexual abuse, i.e., the "private parts" were not touched but the child's body space was violated with the clear intent of being sexual if the progression had not ceased. (For example, the legs were caressed. It is a misdemeanor as long as there was no threat, coercion, intimidation, or psychological trauma to the child.

and under Category 2:

> Sexual abuse, including kissing, fondling, voyeurism, exhibitionism, oral sex, sodomy, pornography, forced masturbation, and intercourse.

Under this categorization, Lokanath Swami's transgression would fall at the least severe end of the spectrum of sexual abuse under Category 2. (**Appendix V**)

The only special classification under the current Guidelines is what is deemed "serious sexual abuse," namely unusual cases that warrant a "zero tolerance" sentence, i.e. a lifetime ban on any

participation with ISKCON. Such extreme cases include "evidence of some of the following elements":

> The sexual abuse includes instances where violence, force, or the threat of violence is used; the sexual act itself is of a very invasive nature, the acts are repeated, and where there is great physical or psychological distress experienced by the victim.

Lokanath Swami's conduct could potentially but probably does not qualify. Clearly there was no violence involved and it was not of a very invasive nature. At the same time, the allegations involve multiple touches over the course of a week. As for psychological distress on the part of Satya, it is expected that any victim of abuse will suffer some such distress but it is unclear whether Satya's was more than the average victim such that it should qualify as "great."

At bottom, given the range of sexual abuse described in the Guidelines as well as the historical context of actual CPO cases, it is hard to dispute that the allegations here fall somewhere at the less severe end of the spectrum. And "[i]n instances of less severe case of abuse, the Panel may modify select restrictions as appropriate," including "time limitations on restrictions" and "limiting restrictions to certain temples or areas."

*D. Other CPO cases*

The CPO routinely imposes lifetime leadership bans on devotees found culpable of child sexual abuse, even where the allegations involve relatively mild conduct, such as kissing on the mouth or caressing of the legs. Indeed, the Panel was not able to find any case in which the CPO imposed anything less on a devotee found culpable of any kind of child sexual abuse.

*E. Secular law*

Under New Jersey law at the time, one or more of Lokanath Swami's acts would constitute sexual assault because they involved touching Satya's genital area, inner thigh, or groin; were done intentionally; and were for the purpose of sexual gratification.[9] The presumptive sentence for such a crime is (and was) 7 years, which can be increased or decreased based on a list of mitigating or aggravating factors.

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[9] The Panel secured a legal opinion as to the exposure of any ISKCON entities based on Lokanath Swami's acts, and they found the risk of civil or criminal liability to be very low. (**Appendix X**)

F. *Professional opinion*

The CAP team, a group of professionals, was aware of the 1993 allegations and found that the incidents both occurred and constituted volitional transgressions, but they nevertheless recommended that Lokanath Swami continue to serve as a guru because it was not the result of predatory tendencies or even everyday temptation but the practically unforeseeable product of a one-time "perfect storm" of circumstances.

G. *Conclusion*

A majority of the Panel concludes that Lokanath Swami was found in the prior adjudications to have committed one or more acts of child sexual abuse (as defined by the CPO) but that these acts were relatively less severe and resulted from an extreme one-time set of circumstances. Although it is likely that the CPO, had it made the decision, would have permanently banned Lokanath Swami from initiating in the future, in light of all the above considerations, the Panel finds that doing so only temporarily and on a geographic basis was within the spectrum of reasonable sentences and so, under the

applicable legal standard, that decision should not be reversed or altered.[10]

No. The sentence was not "clearly inappropriate", so this consideration favors CLOSING the case.*

*Whilst the Minority does not agree with the restrictive interpretation of the "clearly inappropriate" sentence as applied herein (and our views thereon are expressed in great detail in the Dissent presented at the end of the this report), we concur with the Majority opinion in its determination that the evidence points toward some type of child sexual abuse committed by Lokanath Swami. In fact, applying the standard definitions as found in the CPO Policies and Procedures, Lokanath Swami's conduct clearly does qualify as sexual abuse, as he exerted a position of power (age, sannyasa, guru status) on a fairly innocent 11 year old girl. His actions include "fondling" which is specifically mentioned in this section.*

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[10] One of the purposes of a restriction on initiating or taking other leadership roles is to prevent and deter the individual found culpable from committing anything similar in the future. When a sentence is imposed shortly after the conduct, it is impossible to know if this will happen, and so caution urges being over- rather than under-restrictive. Where, as here, we have the benefit of over 30 years of hindsight, the case for restricting on this basis is weak. In other words, we would be remiss to ignore the fact that no further allegations or complaints have been made against Lokanath Swami, despite various periods when he was able to travel and even initiate.

*As mentioned, this is also considered a Second Degree Felony in New Jersey, which carries a standard prison sentence of seven years.* ***Lokanath Swami's conduct clearly would qualify by all ISKCON and criminal legal standards as an act of child sexual abuse.***

*Our concerns, however, are the Majority's:*

*1. Characterizing of the actual activity as "the allegations here fall somewhere at the less severe end of the spectrum" which mitigates against a severe sentence, thereby concluding that temporary or regionally localized restrictions are appropriate.*

*This conclusion not only minimizes the impact of abuse, but is inconsistent with other cases adjudicated by the CPO, where rather strong lifetime restrictions were placed where there was "less severe" instances of abuse.*

*This point is discussed at length with several examples in the main Dissent at the end of this Majority report.*

*2. Overall, we find little consideration for the psychological impact on the victim. The Majority report states we cannot determine this impact, but yet the victim herself at the age of 14 years old in 1993 reports how the incidents made her feel:*

*Victim: "So I finally got the courage to say, "I can hold this myself." And he just smiled and he said, "Yes, okay, read, keep reading." And I was* ***so scared,*** *and you know, finally, about a* ***half and hour later,*** *I guess, I didn't know how it ended. I guess he let me go, or I don't know, but I* ***felt very disgusted and terrible. I can't describe the feeling, it's just like I felt very dirty...*** *"*

*These would be exactly the feelings described by the CAP report:*

- *the girl had legitimate* ***feelings of violation and abuse***
- *She may experience traumatic sequelae common to* ***victims of sexual abuse***

*One must also bear in mind that it is undisputed there were three different incidents of varying degrees of touches complained of and which occurred over a span of a week. Hence, we differ with the majority's conclusion that the sentence was not "clearly inappropriate."*

**5. Was the sentence followed?**

Lokanath Swami complied with all restrictions and requirements imposed in 1993, save the duty to inform aspiring disciples. He admitted that he stopped doing this around 2000 at the urging of disciples but did not consult with the GBC in making this decision. **(Appendix G)**

It appears that Lokanath Swami has complied with all restrictions and requirements imposed in 2012.[11]

Yes. Given his lapse in following all terms of the 1993 sentence, this consideration possibly favored re-opening the case when the GBC reviewed in 2010. But his substantial compliance since then favors CLOSING the case now.

**6. Are there new parties alleging abuse?**

No. This consideration favors CLOSING the case.

**7. Is there substantial new evidence from any of the original parties?**

A. *Satya*

2012

In 2010, Satya spoke on her own behalf and presented a new version of her story. (She did this in response to the version presented in the 1999 Information Release.) As a threshold matter, this was not technically additional evidence but rather a change in testimony. Moreover, her original interview was taken when she was 14 years old

[11] The Panel's understanding is that he did visit Alachua in 2019 to perform initiations on the invitation of a disciple without securing permission from the temple president. However, it appears the disciple had a management role (Congressional Development Director), Lokanath Swami had assumed his disciple had secured permission, and that the temple president did not cancel the visit even though she did learn of it beforehand.

and the contents indicate she was willing and able to provide her views in full. In any event, assuming this post did indeed constitute new evidence, was it substantial?

To answer that question, we must compare it not to that 1999 document (which was an after-the-fact representation of the incidents made to ISKCON at large), but rather to her original 1993 interview, as that was the information used by the CAP team and the Committee in actually adjudicating the case. Looking at the chart earlier in this report, we note that she does not mention new or different incidents, and that many core details of the existing incidents remained consistent, including the nature of the touch during harmonium lessons (a rub), the area touched during the Krishna book reading (private area/crotch), the duration of this touch (long enough for her to work up the courage to say something), and the nature of the pre-shower touch (a pat on the butt).

The biggest difference was the portrayal of Lokanath Swami's consciousness of the touches. In the 1993 version, neither of them seemed aware of or disturbed by the harmonium touches, but in the 2010 version she points out her discomfort and he continues regardless.

He similarly expresses awareness of what body part he is touching during the Krishna book reading but continues, even replacing his hand there several times after interruptions by her mother.[12]

Given all of the above, this consideration possibly favored re-opening the case when the GBC reviewed it between 2010 and 2012.[13] In any event, the question is moot because that is exactly what they did, addressing the matter themselves, holding discussions (some with and some without Lokanath Swami), deciding additional restrictions were warranted, and imposing them.

Now

As for the present, Satya herself has not provided any additional information this time around and, indeed, is not involved at all. And those advocating on her behalf and urging that the case be re-opened point to procedural issues with the prior adjudication and/or concerns

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[12] Another difference is that she elaborated on the extent of the harmonium and shower touches, and, at least with the former, the elaboration may have been significant because the inner thigh is an area that would make the act sexual abuse under NJ law. But overall those changes do not seem substantial for purposes of re-opening the case.

[13] Although such information is not reflected in the 1993 interview transcript, it appears that Yasoda Devi was aware of the more extensive conduct Satya described in 2010 and conveyed that information to the Committee and CAP team, in which case re-opening the case would not have been warranted. (**Appendix Y**)

about the restrictions imposed and do not present any additional substantive information.

Conclusion

No. Because those seeking referral of this case to the CPO have not supplied compelling new evidence, this consideration favors CLOSING the case.[14]

## V. Conclusion and Recommendation - Majority

In conclusion, a majority of the members of the Panel feel the Committee's original response to Satya's allegations in 1993 was reasonable, but that the Task Force as a whole should have decided that question in 1998 in considering whether to re-open the case rather than just a couple members. It was another error when the GBC in 2010, having presumably decided that there was sufficient new evidence to re-examine the case, did not leave that process to the CPO.

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[14] Various individuals have submitted information to the Panel for consideration. Most prominently, representatives of Lokanath Swami have submitted several lengthy documents. All of this information has been read and reviewed and has, to the extent relevant, informed our analysis. That being said, factual allegations about the underlying events contained in these documents have not been incorporated. Lokanath Swami did not instigate the current review. Accordingly, we view that information as something he would want considered *if* his case was reopened but not part of an independent request *that* the case be reopened. And so we do not here offer an analysis of whether the documents convey new and compelling evidence that would warrant such re-opening.

For all that, a majority of the Panel deems what the GBC did do in terms of process and decision as sufficient and, further, does not find that any new evidence or other exceptional circumstances warrant re-opening the case. In other words, the interests of justice do not here require overriding the bedrock legal principles of finality and closure and it would be wrong for the GBC to take any further action on this matter, such as issuing further restrictions or referring to the CPO.

The majority offers a few final thoughts in light of the minority opinion, which we find well-considered and well-meaning but ultimately unconvincing:

- We do not agree with the minority's conjecturing potential criteria for re-evaluating the GBC's 1993 and 2012 decisions in this case on the grounds that they were administrative rather than judicial decisions because the original Task Force Report provided explicit criteria for deciding which previous child abuse decisions should be re-opened, in full awareness that these were administrative decisions, namely "Case[s] of child abuse which have been dealt with in the past by the GBC or one of its agents (ministry of justice, ministry of education etc.)."

- The "clearly inappropriate" standard that the Task Force Report thus provided for reviewing the prior sentences is not a technicality or loophole, but rather a fundamental principle of law. One can only imagine the chaos if every punishment issued by decision-makers in our world—be they criminal judge or ecclesiastical body—were subject to increase or decrease merely because another decision-maker, years later, believed a different punishment was more appropriate;

- We cannot sanction re-writing the 2007 GBC resolution concerning leadership restrictions on cases *decided by the CPO* to cover any child abuse decisions.[15] If that was what the GBC intended, it should have said so. And if that is what it wants now, it should amend that resolution. In any event, the restrictions placed on Lokanath Swami were temporary and have all expired, so any restriction on him initiating would also have expired.

- Even accepting the dissent's analysis, we note that it does not

[15] GBC Resolution: "Whenever the ISKCON Central Office of Child Protection rules that an offense is such as to restrict a person from serving in ISKCON in positions of leadership (including but not limited to offices of GBC, minister, zonal secretary or temple officer), the restriction must include the position of initiating guru. This restriction shall apply to all previous and future decisions of the Central Office of Child Protection."

suggest referring this case to the CPO or placing restrictions on Lokanath Swami beyond prohibiting future initiations.

- Finally, we point out that, notwithstanding the analysis presented here in the majority opinion, a very strong argument could be made that the exchange between Dhira Govinda and Ravindra Svarupa cited earlier in this report could be considered conclusive in and of itself in terms of ending this matter once and for all. In actuality, Dhira Govinda acted in place of the full Task Force and in his capacity as CPO Chair in considering which past cases should be re-opened and agreed that this one should not be. By that logic, what the Panel has done here (i.e. acting as an ad hoc Task Force) already occurred and it was therefore wrong to re-open the case in 2010 and continues to be wrong to do it now. (Importantly, the entire GBC body may have not known all the facts until 2010, but the Committee—who made the actual decision of which Dhira Govinda approved—did have those facts.)

## VI. Discussion – Minority (Two Panelists)

We acknowledge and appreciate the work of our fellow panelists which has resulted in the opinion of the Majority Report. We, of the

Dissent, also closely participated in the research, discussion, writing, and final presentation of the majority opinion. And while we appreciate and agree with many of the individual points and even the conclusion of several sections, we differ with the final conclusion and recommendation as well as with other aspects that will become evident from our below submissions.

Some of the principles underlying the Majority opinion rest on 1) the procedure of due process, while flawed in the GBCs previous handling, was adequate, particularly as the GBC has reviewed the case three times, and 2) that the standard for any re-opening or re-examination of the case has not been met. We understand this is a legitimate position, but also feel that this may be overly restrictive, and we should also look at other principles.

<u>The following sections will advance the following positions of the Dissent:</u>

1. We feel another conclusion may better support the goal of achieving justice.
2. We feel that there are additional grounds for re-visiting cases.
3. We also discuss double jeopardy exceptions in CPO cases.
4. We address the principles of finality and closure
5. We discuss differences between an administrative decision and judicial decision.

6. We then present our recommendations and possible remedies to the current situation for the GBC to consider.

**BASIS OF DISSENTING OPINION:**

**1. Need for justice and correct conclusions**

One perspective involves the difference between a *rights based (judicial) system,* and **a** *power based (administrative) decision.* This has been discussed previously in the main body of this paper. Broadly speaking, a GBC decision is more administrative (which it should be, as the GBC is the highest administrative body in ISKCON), whereas the CPO is more of a rights based judicial system. Our view is that the rights based principle of justice has not been served, and provides one strong reason to re-examine the case.

We need to determine if past adjudications of the case incorporated both *due process*, and a *just process*; it must be fair, and it must make the right decision.

*Throughout the various sections of the Panel report, both the Majority opinion and the "Dissenting views" have been largely in agreement regarding the following pertinent points:*

1. Some type of child sexual abuse was perpetrated by Lokanath Swami.

2. CPO case precedents have consistently restricted abusers from positions of leadership for offenses no more severe than alleged of Lokanath Swami.
3. Previous decisions have ignored that he committed a criminal felony of child sexual assault in the jurisdiction where it happened.

*And the dissent finds these additional points to be clearly established as well:*

4. The CPO should have handled this case from 1998 onward. In fact, it was deliberately withheld.
5. The case was decided on administrative standards (although ethical and spiritual standards are certainly considered by the GBC) rather than a rights-based approach.
6. There were definite conflicts of interest in that most of the GBC knew Lokanath Swami well and had worked with him on the GBC.
7. The sentence was very light, and inconsistent with other CPO cases which lead to restrictions on leadership.

This all leads to a conclusion of the Dissent that the Lokanath Case was deliberately handled differently than every other case of abuse in ISKCON; it gives the perception of preferential treatment, and used a very light standard that was more administrative in nature, rather than a judicial proceeding.

*Thus, it is reasonable to conclude that the current position of no further restrictions on Lokanath Swami should be reconsidered.*

***This consideration favors re-opening the case.***

**2. The standard of "clearly inappropriate" may be applied in other ways.**

As one perspective of the Majority opinion is that the past handling of the case was *not* "clearly inappropriate," we discuss this at some length in the following section. *While this is a somewhat technical legal argument, it is necessary to include, as the Majority opinion does advance this as one argument.*

**Analysis of "clearly inappropriate"**

The standard of "clearly inappropriate" should be assessed on the basis of being outside the bounds of propriety as suggested by the Majority of the panelists, is respectfully disagreed with.

In considering whether a case previously dealt with by the GBC or one of its agents should be re-opened by the Task Force / CPO particularly that of whether a sentence that has been imposed is "clearly inappropriate" warrants more than a literal interpretation of the words that form this criteria.

Here's the exact wording and context with texts boldfaced for discussion hereunder:

b. Case of child abuse which have been dealt with in the past by the GBC or one of its agents (ministry of justice, ministry of education etc.) are subject to review by these judges including cases were guilt has been admitted and a sentence decided.

c. The members of the GBC appointed child protection task force (Badrinarayan dasa, Sesa dasa, Laxmimoni dasi, Yasoda dasi, Anuttama dasa, Dharmaraj dasa, Manu dasa, Pancaratna dasa, and Dhira Govinda dasa) along with the chairman of the child protection central office, by a Majority vote, will determine which of these old cases, previously decided, are to be opened for review.

*Note: Some cases may have already had thorough documentation or an admission of guilt or no new complaint from a victim, and a sentence determined and being carried out. All that needs to be done in a case like this is be sure there is a complete record with the central office. Other cases may have been partially researched, no clear records, a sentence that is not being followed or clearly inappropriate* ***etc.*** *Such cases need to be reopened and resolved via the above justice system****, in order to have a final official record and to put these cases to rest once and for all.***

When drawing on how the courts interpret statutes, they are required to apply the literal approach i.e. ordinary meaning of the words. However, the ordinary meaning is just the starting point and only used

to make certain that the interpreter does not accord artificial, strained or unnatural meaning to a text. The interpreter is to be mindful that the context, both inside and outside of the text could influence the meaning.

To interpret a text in its context includes the intra-textual context and the enactment as a whole (in this case to ascertain whether the case should be re-opened) as well as the extra-textual context i.e. the rest of the existing law and other contextual considerations that might be applicable (in this case the purpose of the task force and the establishment of the CPO for the addressing of allegations of child abuse to be dealt with properly and consistently). The Task Force Report can be viewed as an attempt by the GBC to establish policies and procedures for attending to child abuse complaints and to provide guidelines on, inter alia, "sentencing." This would assist in establishing clear standards and consistency in the handling of complaints. The part to be interpreted has to be construed in the context of the bigger picture. Text and context cannot be separated. Hence, the criteria, "clearly appropriate" is not intended to be restrictively interpreted.

Moreover, the inclusion of "etc." at the end of the list of considerations definitely supports the view that the criteria is not exhaustive and leaves room for discretion to be applied.

Additionally, one has to consider the purpose of this criteria i.e. the intention of the drafters, and that has been made clearly known (Appendix O at Pg. 105).

In law, when interpreting statutes, the historical context of the particular legislation is used to place the provision in question in its proper perspective. This historical context is known as the mischief rule. It is one of the cornerstones of the text in context approach. It poses four questions to help establish the meaning of legislation.

Hereunder are the four questions and answers as applied to this provision in the CPO Guidelines:

*i. What was the existing law (the legal position) before the legislation in question was adopted?*

GBC Resolutions authorized the Board of Education to deal with the investigation of child abuse cases.

*ii. Which problem (mischief or defect) was not adequately addressed before the new legislation (in this case the CPO Guidelines) was adopted?*

a) Cases were being dealt with on an ad hoc basis by the Board of Education and it was becoming apparent that cases of child abuse did not only occur in gurukulas.

(b) Cases were being investigated yet did not have formal decisions

*iii. What remedy is proposed by the new legislation to solve this problem?*

(a) Defining what constitutes abuse and the different types of abuse;

(b) CPO be established to attend to all cases;

(c) Delineate investigative and adjudicatory processes giving due cognizance to fair and due processes; and

(d) Sentencing guidelines and Appeals (double jeopardy and exception)

*iv. What is the true reason for the proposed remedy.*

To create a separation of powers by establishing an office to attend to cases and for the objective handling of all cases resulting in consistency in investigations, adjudications, sentencing and appeals.

Hence, in this circumstance, the criteria for re-opening a case should also include whether the sentence is inconsistent with other comparable cases.

The moral dilemma if not allowed to use value judgment but simply give effect to provisions in CPO Guidelines based on literal interpretation, would result in the Task Force (and subsequently the CPO in this case) being simply enforcers of the letter of the law without taking into consideration the spirit / purpose of the office and a miscarriage of justice prevailing. Hence, even if it argued that the drafters intended the literal meaning of "clearly inappropriate" it would be remiss from a value judgment application in the context of the Task Force Report, to not review the merit of this criteria in alignment with appropriateness of the sentence in comparison with other similar cases.

Past CPO rulings have consistently prohibited abusers from any position of authority.

Further, even if we characterize the Lokanath Swami case as "less severe," these types of cases normally lead to similar restrictions.

Some examples:

**Similar cases of less severe child sexual abuse, or precursors of abuse (names with-held in instances which would lead to the identity of the victim becoming known):**

A report dated November 5, 1996, states that D dasa caressed and kissed his 13 year old step-daughter put his hand on his step-daughter's chest, though he didn't touch her breasts, and that he kissed the girl on the lips. CPO Decision Restriction: **Lifetime leadership ban**

ICOCP has received reports that H dasa sexually molested a 9 year old girl. H has

admitted to this allegation. CPO Decision Restriction: **Lifetime leadership ban**

I das - found responsible for precursors of sexual abuse, including kissing a young girl

CPO Decision Restriction: **Lifetime leadership ban**

M das – responsible for caressing the legs of an 11 year old girl (at his home, daughter of friend) CPO Decision Restriction: **Lifetime leadership ban**

There seems no doubt that the offenses committed in the Lokanatha Swami case would certainly lead to a restriction on leadership positions.

The GBC resolution of 1997, which was added to CPO Policy, confirmed that a "position of leadership" included the position of initiating guru.

***This consideration favors re-opening the case.***

### 3. Other appeal criteria included for re-opening the case

Whilst the CPO Guidelines' grounds for requesting an appeal are very limited and have been correctly applied in enquiring whether this case should be re-opened, having adduced sufficient grounds for the broad interpretation of the criteria and the discretion to add other criteria by virtue of the phrase "etc." one could also consider adding another appeal criteria.

In the ordinary course of appeal hearings (NB. not CPO) in respect of sentencing, the test would be: Would an appeal body (this could be extrapolated to be the Task force / CPO judges) hearing the same evidence have arrived at a different sentence, and if so, then the appeal body has the authority to impose a sentence it believes the previous trier of fact ought to have imposed.

With reference to this criteria and the comparable case decisions, ***this consideration favors re-opening the case.***

### 4. Exception to double jeopardy provision in the 2006 task force report/ CPO guidelines

Once again adopting the discretion conferred by "etc." and the text in context approach, one can consider applying the exception to double jeopardy as contained in Section K of the 2006 Task Force Report/CPO Guidelines:

Exception: If new evidence arises which is so convincing and points to offenses which are so egregious, the executive director of the central child protection office and the three member of the GBC executive committee, by Majority vote, can reopen a case and initiate a second hearing.

Therefore, if one were to apply the standards contained in the 2006 Report for assessing the re-opening of a case, then the above in light of the fact that Satya's complete complaints point to offences that are so egregious ***would favor re-opening the case.***

However, it can be argued that when applying the 2009 CPO Guidelines which were in place when the GBC body were fully aware of the allegations, this provision for re-opening had been removed and *would favor CLOSING the case.*

**5. Re-opening the case and the principle of finality of judgment (decisions)**

Notwithstanding the fact that, in our opinion, there are grounds as identified above, for the re-opening of this case, one has to also

consider the objective of re-opening as stated and re-iterated here: *"in order to have a final official record and to put these cases to rest once and for all."*

Finality of judgments is an embellished rule that cannot be ignored.

Lokanath Swami's case had been reviewed by the GBC body in 1997 (arguably without full knowledge of the facts), in 2012 and then again in 2017. The intention of the re-opening provision in the 2006 Task Force report would be to bring finality to a matter. This matter had been repeatedly reviewed and the GBC body in 2012 passed a resolution in full knowledge of all the facts and should not as a result of its remarkable ineptitude now be allowed to re-open the case.

Finality should have prevailed in 2012. It would be procedurally unfair to re-open the case (which would entail the CPO investigating and adjudicating this matter de novo) after it having been subjected to two reviews, post the GBC body being fully acquainted with the matter in 2010.

However, *instigating a full CPO adjudication procedure is quite different than an administrative decision to correct an error*, as explained below.

**6. Differences between administrative and judicial processes:**

While there seems to be sufficient argument to discourage a full judicial finding, nonetheless, the decisions made by the GBC herein are

*not judicial decisions but administrative decisions,* and in accordance with its right to do so as the ultimate managerial authority, and it can be argued that as such, although not ideal, its decision can be further reviewed.

*This discussion often raises the question of "double jeopardy."* The first question is whether the prior processes that took place were adjudicatory processes and if so, whether the processes were established and made known to all parties.

It appears that the processes *were administrative and not adjudicatory* in nature and as *such both res judicata and double jeopardy are not applicable herein.*

*Res judicata* is applicable in civil cases whilst double jeopardy is the equivalent in criminal cases. Both enshrine the principle that a person cannot be tried for the same matter more than once (based on same parties and same cause of action/offence).

However, *administrative decisions can be taken on review.* There is no limitation for an administrative body re-visiting, changing, or implementing new decisions.

Of course, changing decisions cannot be totally arbitrary. Principles of due process and fairness should prevail. For an administrative disciplinary decision to be taken on review, it would have to be shown that the decision was unlawful, unreasonable or

procedurally unfair.

Grounds for review could include bias, lack of procedural fairness, review of the decision-making process and applicability of the law (CPO Guidelines in this case when the role of the CPO was usurped by the GBC in an administrative capacity). In short, there are many valid and acceptable reasons why an administrative decision can be changed or amended.

Although this was not an adjudicatory process akin to that of the CPO or even the courts, it is interesting to note that countries with progressive legislation permit automatic reviews in limited instances in criminal proceedings e.g. where (i) the sentence appears to be completely at variance with sentences in similar cases which come before the court on review; and (ii) if the sentence is unduly light, i.e. in the sense that an appeal court will interfere, then steps should be taken to rectify the matter.

These criteria when applied to this case, notwithstanding the fact that this was not an adjudication, certainly provides guidance and sustains grounds for the GBC as an administrative body to substitute its previous restrictions in alignment with its resolution of 2007, discussed below.

***This consideration favors re-opening the case.***

## VII. Conclusion and Recommendation - Minority

The case is not an easy and straightforward one, and requires balancing varying, and at times, conflicting principles and policies. While we respect the Majority opinion that the case should simply be ended as it currently stands, we feel that there are other more nuanced perspectives as has been outlined above.

The GBC critically erred in not imposing the sentence that ought to have been imposed and that is no fault of Lokanath Maharaja. The restrictions imposed on him are inconsistent with that generally imposed in cases of this nature. Their handling of the case instead of turning it over to the CPO, together with the imposition of temporary instead of permanent restrictions prohibiting the holding positions of leadership, which includes the position of initiating guru, smacks of partisanship.

Despite these perceived errors, the process of the GBC handling should be *sufficiently equivalent* to the standard of a CPO adjudication, or at least must not disregard general principles of due process. As this is an administrative decision of the GBC, it should follow the GBC's own laws. One of the more important GBC laws pertaining to this case is discussed below.

In 2007 the GBC passed a resolution that anyone found responsible for child abuse by the CPO, and who was restricted from

positions of leadership, would also be restricted from acting as an initiating guru, including retroactive application to past decisions. As this paper has clearly established a case for child abuse on the part of Lokanath Swami, and these facts are well known to the GBC, the GBC could correct this omission and simply invoke this provision of ISKCON law and *at minimum restrict him from serving in a position of leading including serving as an initiating guru.* This would not be a new examination or adjudication, but simply correcting past failure to apply ISKCON law properly.

*The GBC has not complied with its own resolution of 2007:*
"Whenever the ISKCON Central Office of Child Protection rules that an offense is such as to restrict a person from serving in ISKCON in positions of leadership (including but not limited to offices of GBC, minister, zonal secretary, or temple officer), the restriction must include the position of initiating guru. This restriction shall apply to all previous and future decisions of the Central Office of Child Protection."

## SPECIFIC RECOMMENDATIONS FOR CORRECTION OF CURRENT SITUATION

*To remedy its wrongdoing, it is recommended that the GBC make amends by this action:*

1. *The GBC should strongly encourage Lokanath Swami to stop initiating and to resign/retire from all positions of leadership that he currently holds (eg. Minister of Padayatra).* It is evident that

Lokanath Swami did co-operate with the process throughout the many times that his case was revisited and that he complied to the best of his knowledge and ability (bar the period where he provides an explanation for not sharing the letter with prospective disciples). It is hoped that he will co-operate with the GBC's directive as recommended above, should the GBC accept such recommendation.

Furthermore, the GBC should in consultation with its General Counsel, consider reaching out to Satya with a good faith offer to assist her in obtaining any professional help that she may require as a result of the consequences of Lokanath Maharaja's misconduct towards her.

***2.*** Should Lokanath Swami not accede to the GBC's request to resign from his positions of leadership and retire from initiating, then further administrative action, limited to the reviewing of the appropriateness of the restrictions imposed, could be explored by the GBC in consultation with its General Counsel. ***Specifically, the 2007 Resolution gives sufficient grounds to simply enforce this provision such that Lokanath Swami would no longer initiate new disciples.*** This would not impact on his previously initiated disciples who may wish to continue to take spiritual guidance from him.

Ultimately, a delicate balance must be struck between the need to ensure certainty and finality in administrative action on the one hand,

and the need to vindicate the vulnerable, uphold the credibility and sanctity of the GBC and its decisions which need to reflect consistent application and compliance of its own resolutions and laws.

To prevent injustice and remedy the current imbalance, the GBC should be permitted to reconsider its earlier decision in this case, bearing in mind the following extract from its 2007 resolution as well as the statement from the Task Force Report:

"Within the spiritual society of ISKCON, the GBC must strive to balance the spiritual needs and rights of its members with those required by their society. In this matter, a restriction placed on a certain member as a social requirement cannot be taken automatically to imply a judgment on that individual's current spiritual status. Nor does that restriction limit that devotee's right and ability to inspire and enlighten other people with Krishna consciousness.

Moreover, a devotee does not have to hold titles such as GBC, temple president, diksa-guru, etc. in order to advance—and to help others advance—in Krishna consciousness. And at times, it is necessary to restrict access to such official positions in order to protect the reputation of Srila Prabhupada and the integrity of his society.

The GBC asks the members of ISKCON to give serious consideration to these reflections, and it begs for their understanding and cooperation as it attempts to balance the needs of individuals in ISKCON with those of ISKCON as a society."

From Section G of Task Force Report (2006 CPO Guidelines):

"Further, if they become involved in any type of leadership positions (regardless of the degree of actual risk), it will become an embarrassment to our Society, bring about further loss of faith in our second generation and other devotees, and constitute needless legal risk to ISKCON."

Finally, and solely for the purposes of ease of reference, here are the reasons that underpin the re-opening provision as provided by the drafters of the Task Force Report and as contained in Appendix O:

"Why open up the past?

There has been much discussion over what to do about abuses from the past. One argument is that we should learn to forgive and forget. 'Let the ghosts of the past sleep and get on with the future.' We are not alone in finding our-selves at such a crossroads, nor are we the first society to be exercised by such questions. We would do well to study the experience of others.

When issues of injustice and abuse are unresolved, they lay under a society like a vast underground pool of toxic waste. This seeps into the 'water table' of the culture and poisons the wells of faith in the leaders and in the moral character of the institution. We are seeing these same effects in ISKCON. Victims are calling for an accounting and justice, families are uncertain of the ISKCON's commitment to their well being (the oft heard complaint is that while ISKCON is very good at constructing new buildings, it is lacking in caring for the people who

live in those buildings), and the general public questions whether we have a moral compass and the ability to face up to and correct our errors.

These ghosts do not go away but rather continue to re-surface and take their toll again and again. Paradoxically, the only way to really close the door on a dark chapter and move on is to first open it up and air it out. This basic truth has been confirmed again and again."

Although written almost three decades ago, this holds true today as we find ourselves revisiting this case and the manner it was dealt with in the past.