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BYZANTINE CATHOLIC EPARCHY OF VAN NUYS, MARONITE CATHOLIC EPARCHY OF OUR LADY OF LEBANON OF LOS ANGELES

October 3, 2006

Fr. Drew Christiansen, S.J.  
Editor in Chief  
America  
106 West 56<sup>th</sup> Street  
New York, NY 10019-3803

RE: *America* article September 25, 2006: *What the Clergy Abuse Crisis Has Taught Us*

Dear Fr. Christiansen,

We, the bishops of the California Catholic Conference wish to respond to the recent article by Marci A. Hamilton, who is both an attorney for the plaintiffs and a professor at Yeshiva University, New York.

Under the guise of presenting "lessons" from the sexual abuse of minors crisis, *America* magazine (9-25-06) has provided Professor Marci A. Hamilton, one of the most vociferous and bitter critics of the Catholic Church, with a forum to publish a new plaintiffs' brief. In federal court, she has argued the case against the Diocese of San Diego in its challenge to the California law that repealed the Statute of Limitations for the duration of 2003. She opposed the Church in the Portland, Oregon Bankruptcy Case, and, on the advice of SNAP, acted as the consultant to Senator Joan Fitzgerald of Colorado in an attempt to repeal the Statute of Limitations and thus target the Catholic Church in that State. To describe Professor Hamilton merely as having "represented numerous survivors of sexual abuse by members of the clergy of various denominations on constitutional matters" is not transparent and certainly not full disclosure for the readers of *America*.

In repeating the now familiar accusation that the Church "shuttled abusing priests among parishes and dioceses," she completely ignores the great efforts to learn about this problem, especially the John Jay Study, whose Directors describe the data provided them by the Church as "one of the most extensive collections about sexual abuse of minors and one of a very small number not based on forensic content. As such, it is a very valuable source of knowledge about sexual offending." (John Jay 2006 Supplementary Report).

In 2004, Karen Terry, Ph.D., Principal Investigator of the John Jay Study, and James P. Levine, Ph.D., its Administrative Coordinator wrote to Bishop Wilton Gregory as follows: "It is clear that transferring priests [among dioceses] with allegations of child sexual abuse was not a general response to the problem, and was limited to a finite number of cases."

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The 2006 Supplementary Report shows that before 1985 only a very small percentage of abuse cases were known to Church authorities—or indeed to anyone apart from the victims and perpetrators. After 1985, the Report shows that as society became more familiar with the evil of sexual abuse of minors, Church authorities dealt with it vigorously, and that it declined precipitously in subsequent years.

In her book, *God vs. The Gavel* (2005)—as part of her critique of Stephen Carter's, *The Culture of Disbelief* (1993)—Professor Hamilton claims that at the time Carter's book was published, "thousands" of children were being abused by clergy. However, the John Jay Supplementary Report lists 80 accusations of abuse by Catholic clergy during 1993 and fewer than 50 in the remaining years of the decade. She provides no evidence for her extravagant claim of "thousands" of cases in private institutions, because no such evidence exists.

In his comment on the 2004 John Jay Report, Reverend Thomas Reese, former Editor of *America*, noted (March 2004) that "for the country as a whole the number of substantiated sexual abuse cases peaked at approximately 149,800 in 1992 and declined by 2 percent to 11 percent per year through 2000. Since sexual abuse in the church appears to have peaked in the 1970's and declined in the 80's and 90's, the church seems to have been ahead of the rest of American society."

Professor Hamilton avoids all the lessons learned since 2002. She has previously disparaged the John Jay Study and clearly ignores all its findings in her *America* article. To focus on lessons based on actual data would only undermine her argument that the Catholic Church was not targeted for suits arising out of sexual abuse of minors. However, that is precisely what did happen.

In 2002, California repealed the Statute of Limitations for the duration of 2003 for civil cases dealing with the sexual abuse of minors. The Statute was drafted by lawyers suing the Catholic Church. In its hearings, the Legislature heard only from people involved with abuse by Catholic clergy. The Statute resulted in almost one thousand cases against Catholic dioceses and a mere handful against all other entities. Sexual abuse by Catholic Clergy is a terrible tragedy, but it represents a small fraction of one percent of the whole terrible problem of sexual abuse of minors. Clearly, the Statute targeted the Catholic Church. That is how it was drawn up, and that is how it has operated. In fact, the "thousands" of children Professor Hamilton claims were abused in churches during the 1990's were more likely abused in public institutions, but she closes out the possibility of suits against those institutions.

During the challenge to the California statute in the federal Court, the judge asked, "...what if the law targets a Church, but the result of the law is that it doesn't burden the religious practices of the Church, what happens then?" The Court's decision was that a law

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could indeed target a Church as long as it did not target a religious practice. Professor Hamilton agreed, in that she held that under the Free Exercise Clause "the Legislature may govern any conduct it chooses" including making a law when the "legislature has in mind one particular religious group." For example, to ask the question, "could a law target Jews as long as it did not burden a religious practice of Judaism?" is to demonstrate the insidious danger of such an approach. According to that formula, clever legislators could ruin a church financially or manipulate zoning laws to exclude religious groups from neighborhoods provided the laws in question did not target any specific religious belief. Such is the position that Professor Hamilton of Yeshiva University supports and defends.

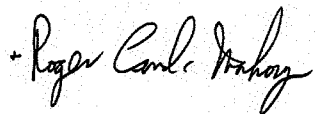
We agree with Professor Hamilton that the protection of children must be an "absolute priority." However, we note that her priority extends only to children abused in private institutions. She argues that repealing statutes of limitations is essential to justice for victims, but in her system, children victimized in public schools (a huge number) are separated and excluded.

One of the lessons that emerges from Professor Hamilton's article is that allowing suits for sexual abuse in public institutions would result in very bad public relations for the lawyers suing the Church. In 1985, a now famous Report prepared by Reverend Thomas, O.P., Mr. Ray Mouton, and Dr. Michael Peterson warned that the Catholic Church could become the next "'deep pocket' now that the trial lawyers have begun to exhaust medical malpractice." That is why the argument for repealing the Statute of Limitations is confined to private institutions, so that lawyers can continue to target the Catholic Church.

We reaffirm our absolute commitment to keeping the Church safe for all, particularly children. We hope that the lessons it has learned and the evidence it has provided regarding sexual abuse will be of universal assistance in dealing with this terrible problem. Our society must go beyond identifying sexual abuse as a Catholic issue. It must treat all victims equally and not just focus on those whom trial lawyers can select to make a great deal of money for themselves. Justice must include all children, not just those who attend private institutions.

We regret that America has lent its support to the propagation of the skewed, inadequate, and partisan "lessons" that Professor Hamilton presents.

Sincerely yours in Christ,



Cardinal Roger Mahony  
Archbishop of Los Angeles



Most Reverend George Niederauer  
Archbishop of San Francisco

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+ Stephen E. Blaire

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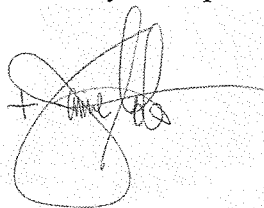
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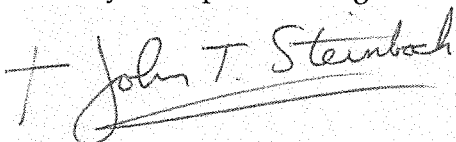
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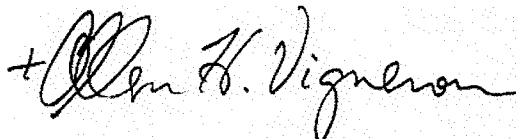
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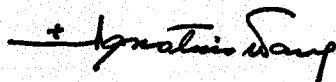
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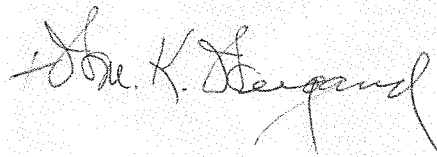
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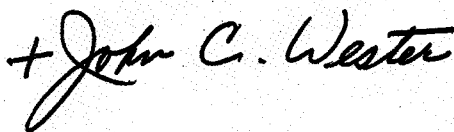
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Most Reverend Gabino Zavala  
Auxiliary Bishop of Los Angeles

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