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Commentary Introduction

Clergy sexual abuse scandals and alleged cover-ups by the Roman Catholic Church have shocked and outraged the public for over two decades. Recent public attention has focused on apparent inaction by the Church leadership and efforts of lay Catholic groups to press for reforms. As abusers receive criminal convictions and Bishops feel pressure to resign for failing to prevent abuse, the abuse has become more than a scandal, but a genuine crisis for the Church.

In addition to negative publicity from the scandals, litigation by victims of clergy sexual abuse has imposed immense financial judgments against many dioceses. While providing compensation to many victims, these judgments have forced some dioceses to close schools and congregations, and in a few cases, declare bankruptcy. Victims' litigation has arguably done far more than transfer funds from the Church to plaintiffs, however, because it generates publicity and pressures the Church to reduce its future liability by improving supervision of priests.

In this Commentary, Professor Timothy Lytton of Albany Law School examines how clergy sexual abuse litigation contributed to publicizing the scandal and influencing the policy agendas of prosecutors, legislators, and the Church. In his article, *Clergy Sexual Abuse Litigation: The Policymaking Role of Tort Law*, he explores how victims' tort litigation framed the scandal as the Church's institutional failure to prevent abuse, a perspective that influenced media coverage and the responses of both the Church and government. By emphasizing the role of tort litigation in spurring policy changes to address the scandal, Lytton presents clergy sexual abuse litigation as a case study of the societal benefits of tort law. Unlike most tort scholarship, he analyzes the policy impact of the *process* of litigation, not its deterrent effects. In particular, he highlights that the discovery process publicizes otherwise confidential information about abuses and how litigants frame their claims to expose institutional failings. He demonstrates the impact of litigation by analyzing three major scandals

as case studies where litigation influenced media coverage and ultimately, policy responses.

Connecticut Law Review is fortunate to have two distinguished practitioners offer their thoughts on Professor Lytton's view of the policy benefits of clergy sexual abuse litigation. In *A Response to Timothy Lytton: More Conversation is Needed*, Mark E. Chopko, General Counsel of the United States Conference of Catholic Bishops, questions the causal relationship between the litigation and policy reforms. First, he details the Church's independent efforts to prevent abuse, discipline abusers, and compensate victims. Second, he observes that the litigation's emphasis on Catholic clergy abuse distorts public debate about the much broader problem of child abuse, which unfairly burdens the Church without benefiting society.

In *A Response to Timothy Lytton: Staunch Resistance to the Inclusion of Laity in Priest Discipline has Stymied Permanent Change to the Structure of the Roman Catholic Church*, Stephen C. Rubino, of Ross & Rubino, LLP, a prominent attorney for clergy sexual abuse victims, challenges whether victims' tort litigation has produced genuine reforms in the Church. Instead, he shows how Church leaders resisted pressure for increased transparency and lay oversight over abusers, ultimately enacting far weaker changes than those advocated by victims and the press. When the Church did make reforms, moreover, Rubino contends that they did so in response to lay Catholics or clergy, not because they were pressured by victims' litigation or publicity.

A rejoinder by Professor Lytton to Attorneys Chopko and Rubino will be posted on the web at *Connecticut Law Review's* new online presence *CONNtemplations*, at www.conntemplations.org, and at www.albanylaw.edu/faculty/tlytton.

On behalf of *Connecticut Law Review*, I would like to thank Professor Lytton and the commentators for their insightful pieces. We are honored to have the privilege to publish their articles in this Commentary issue.

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