

Cambridge University Press

978-1-107-67312-0 - Justice Denied: What America Must do to Protect its Children

Marci A. Hamilton

Frontmatter

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Justice Denied

There is a silent epidemic of childhood sexual abuse in the United States, and a legal system that is not effectively protecting children from predators. Recent coverage of widespread abuse in the public schools and in churches has brought the once-taboo subject of childhood sexual abuse to the forefront. The problem extends well beyond schools and churches, though: the vast majority of survivors are sexually abused by family or family acquaintances with 90 percent of abuse never reported to the authorities. Despite increasing awareness of the problem, current law does little to identify predators. Popular legal fixes, like sex offender registries, increased sentences, and pedophile-free zones, are ineffective without that knowledge. Marci A. Hamilton proposes a comprehensive yet simple solution: eliminate the arbitrary statutes of limitations for childhood sexual abuse so that survivors past and present can get into court. Most states have such short statutes of limitations that survivors cannot get to court before the doors are locked shut. Removing this arbitrary barrier would permit survivors to unmask their perpetrators, and open a path to justice and public vindication. Standing in the way, however, are formidable opponents such as the insurance industry and the hierarchy of the Roman Catholic Church.

In *Justice Denied*, Hamilton predicts a coming civil rights movement for children and explains why it is in the interest of all Americans to allow victims of childhood sexual abuse this chance to seek justice *when they are ready*.

Marci A. Hamilton is one of the United States' leading church/state scholars, as well as an expert on federalism and representation. Hamilton is Visiting Professor of Public Affairs at the Woodrow Wilson School and the Kathleen and Martin Crane Senior Research Fellow in the Law and Public Affairs Program, Princeton University, and holds the Paul R. Verkuil Chair in Public Law at the Benjamin N. Cardozo School of Law, Yeshiva University. She is the author of the award-winning *God vs. the Gavel: Religion and the Rule of Law* (Cambridge University Press 2005). Hamilton is a former clerk to Justice Sandra Day O'Connor and is also a columnist on constitutional issues for www.FindLaw.com.

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*I dedicate this book to the millions of survivors of
childhood sexual abuse, who deserve their day in
court.*

*I also dedicate it to my wonderful husband,
Peter Kuzma, our two terrific children,
Will and Alexandra, and my mother, GrandCarol.
Thanks for your love, patience, and support!*

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What America Must Do to Protect Its Children

MARCI A. HAMILTON

Princeton University



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Preface to the Paperback Edition

In 2012, we know that institutions, and particularly powerful men, cover up child sex abuse: Penn State, The Citadel, Syracuse University, and the Boy Scouts, not to mention the Roman Catholic Church. We also know that victims need time to come forward, and only about 10 percent do. So there are silent victims and busy pedophiles all over the United States. This book describes the only tried-and-true method there is to identify them.

The *Boston Globe* had issued the news story ten years earlier that changed our worldview: child sex abuse in the Roman Catholic Church was furthered by the bishops who shuffled priests from parish to parish. A shocked America focused on the largest religious organization in the United States, but it did not take long for stories about the concealment of abuse in other religious groups to appear, including

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the Church of Jesus Christ of Latter-Day Saints (the Mormons), the Jehovahs Witnesses, Orthodox Jews, Chasidic Jews, and the Fundamentalist Church of Jesus Christ of Latter-Day Saints. The story extended not only to all of the United States, but all over the world, and it became clear that responsibility lay at the very top, in Rome.

When *Justice Denied: What America Must Do to Protect Its Children* was published in 2008, the legislative battle lines for child sex abuse victims were just being drawn. At that point, the fight was mostly between Catholic victims and Catholic bishops. We knew for a fact that bishops had covered up abuse by their clergy by shuffling them from one parish to another, and that many victims had remained mute over their lives because they believed they were the only one. By 2008, it had become apparent that the coverup had delayed prosecutions and lawsuits in many instances, beyond the states' arbitrary deadlines for prosecution and filing lawsuits – the statute of limitations (SOLs).

As I describe in *Justice Denied*, California enacted a “window” to remedy the unfairness of shutting out victims before they were ready to come forward. The window permits victims with expired statutes of limitations to sue those responsible for their abuse. The California window was open during 2003, and more than 1,000 victims of a variety of institutions came forward, with 300 previously unidentified child predators named.

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As I explain here, survivors seeking windows were defeated by their most devoted and motivated enemy, the Catholic bishops, in Colorado and Ohio.

Then in 2007, Delaware passed a window and eliminated both criminal and civil SOLs, despite the bishops' objections. Guam followed, as did Hawaii, though the Hawaii governor vetoed the bill because he opposed an aspect of the bill not involving the window. In 2012, windows are actively being considered in Pennsylvania, New York, and Wisconsin.

If you add up all of the religious groups and universities with child sex abuse coverups, you get a disturbing message: the pattern is powerful men callously ignoring strong signals about children suffering. There is no reason to think it is limited to churches and colleges.

It is a well-established fact that 1 in 4 girls and 1 in 5 boys are sexually abused. That means between 20 and 25 percent of the American population are victims. Most victims need decades to come forward, and during that time, pedophiles benefit the most from the silence. But you can't blame the survivors for their inability to come forward, because child sex abuse leads to disabilities including drug and alcohol addiction, a raft of psychological disorders, and the inability to form healthy, close relationships.

The fault for the secrecy that has surrounded pedophiles lies in state laws, not victims. **States have made the world a brighter place for pedophiles by setting statutes of limitations shorter than victims can meet.**

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For all the years that victims have been prevented from seeking justice and that pedophiles have benefited from the law and the disregard of those in power, the states need to enact legislation that will reverse these injustices. The solution is obvious: enact a “window” in every state and then eliminate the civil and criminal statutes of limitations going forward. Pedophiles don’t stop abusing children as they age, so the pedophile identified at age 60 is a pedophile worth stopping.

The truth is that pedophiles go where children are, and they seek jobs and avocations to further their sexual goals. So if you know where kids gather, you can assume that pedophiles are not too far away. Here is where they find kids:

- Schools, public and private, day and boarding
- Sports teams, clubs, and leagues, varsity and intramural
- After-school programs
- Summer camps
- Dance studios
- Hospitals
- Scout troops
- Community centers
- Gyms
- Churches
- Synagogues
- Shuls
- Mosques
- Temples
- Theaters
- Shopping malls

Preface to the Paperback Edition

Day care centers
Orphanages
Juvenile detention centers
Shelters
Modeling agencies
Families

If you want to learn how to identify the perpetrators in your state, read this book.

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