

# The Religious Wall of Silence

**Prosecutors try different methods to pursue sex assault cases in insular communities**

ABA Journal December 2013

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The victim was 12 when child sex offender Nechemya Weberman first assaulted her. Last January, at age 18, she dabbed at tears in her eyes as she spoke in a Brooklyn courtroom.

For years during and after the abuse, the woman said she would look in the mirror and see “a girl who didn’t want to live in her own skin,” the *New York Times* reported. “I would cry until the tears ran dry,” she told the court. But now, she said, she can see someone “who finally stood up and spoke out,” on behalf of both herself and “the other silent victims.”

Weberman, an unlicensed therapist, was found guilty in December 2012 of 59 counts of sexual abuse, which carry a maximum combined sentence of 117 years. He was convicted of engaging in sexual misdeeds that included oral sex, groping and acting out pornographic videos, all during the therapy sessions that were meant to help the girl become more religious. The abuse lasted three years.

But as painful as the appearance was at Weberman’s sentencing hearing, so too was the harsh cultural ostracism that the victim and her family suffered for her testimony. As members of the Orthodox Jewish Satmar Hasidic community, the victim told the court, she and her family were harassed and shunned for reporting Weberman, also a member of the Hasidic community. And, according to trial testimony, her parents’ business was threatened, leading to fears that the family would no longer be able to support itself.

The Weberman case is symptomatic of the difficulties that government prosecutors face in bringing sexual assault charges against a member of an insular religious community. As with many communities, the majority of sexual abuse crimes against children go unreported. But in religious communities, the fear of ostracism carries additional weight.

Child abuse experts also say that when there’s one child sexual predator in a religious organization, there could also be more. Sexual predators, they say, tend to hide within a culture or religious hierarchy that either ignores or in some way condones their crimes. Members of religious communities that prefer to resolve their problems internally are particularly disinclined to report sexual predators within their midst, experts say.

“In some ways, religion is a family,” says San Diego forensic psychologist Glenn Lipson, who specializes in sexual misconduct issues. “In families, people can deny something is going on because they don’t want to see it and because admitting it would mean their world would

collapse. The same can be true for religious communities, where people celebrate births and marriages together. There can be the same response—deny it, ignore it, reassign people.”



Jack Schaap, the disgraced former pastor of an Indiana megachurch, is serving a 12-year sentence after pleading guilty to taking a young parishioner across state lines with intent to engage in criminal sexual activity. AP Photo/The Times, Kyle Telechan

Recently in Indiana, former First Baptist Church of Hammond pastor Jack Schaap pleaded guilty to having sex with a girl who attended his church. In an investigative piece, *Chicago* magazine laid out accusations that the church has a history of “what some call a deeply embedded culture of misogyny and sexual and physical abuse.” Furthermore, the piece discussed a culture that allows for cover-ups of transgressions. “We were taught to not question and to take the ‘man of God’s’ [Schaap’s] word over everything,” said one former member, according to *Chicago* magazine.

This July, 19 former Yeshiva University High School students filed a federal lawsuit claiming two school rabbis abused them in the 1970s and 1980s. The lawsuit accuses the school’s leadership of ignoring the abuse.

And the vast Roman Catholic Church sexual scandal has shown that childhood sexual abuse can be found in any culture, including one that is founded on religious tenets.

## CHANGING POLITICAL EQUATION

“There is a problem that needs to be addressed in society,” says New York City attorney Nathan Dershowitz. “Many religious communities have cultural factors that affect how they react to certain behavior within their community. We in the United States talk about freedom of religion, but we fail to appreciate the way religion affects a community and how it responds to the secular world.”

Marci Hamilton, a law professor specializing in religion and the law at the Benjamin N. Cardozo School of Law at Yeshiva University, says there’s mounting political pressure on prosecutors to pursue child sexual abuse cases, no matter what religious group or powerful person is involved.

“My view is that for a long time the public had a Pollyanna attitude toward religion and that Pollyanna attitude toward religion gave cover for religious groups to engage in activities that we now find totally unacceptable,” says Hamilton, author of *God vs. the Gavel: Religion and the Rule of Law*.

“But now that we know—through repeated cases and media coverage—that religious leaders are capable of covering up for child predators, the political equation has changed,” Hamilton says.

“It is now more politically dangerous to permit the cover-up to continue than it is to prosecute abusers and those who have let abusers have access to children.”

In the Brooklyn case, Kings County District Attorney Charles J. Hynes heralded Weberman’s conviction as a major victory. His office also charged seven Hasidic men with bribery and intimidation of Weberman’s victim, who testified over four days at the trial, the *Times* reported. Prosecutors say they know of more victims who were too afraid to testify.

“If there is one message to take away from this case, it is that this office will pursue the evil of sexual abuse of a child no matter where it occurs in this county,” Hynes said in a statement. “The abuse of a child cannot be swept under the rug or dealt with by insular groups believing only they know what is best for their community.”

Prosecutors say they were able to encourage the victim to testify by gaining her trust through their Kol Tzedek program, established in 2009 to reach out to ultra-Orthodox communities in a culturally sensitive manner. The program also educates the Orthodox communities about sexual abuse issues and the criminal justice system.

“We put measures in place to make the criminal justice system more responsive to the needs of this community,” says Rhonnie Jaus, chief of the Brooklyn district attorney’s Sex Crimes and Crimes Against Children Division. She adds that her division has been seriously pursuing child sexual abuse cases within Orthodox circles.

But to scholars who study the connection between religion and the law, the Roman Catholic Church’s child sex abuse scandal exemplifies the wall of silence religious organizations can build. It also provides a valuable lesson, they say, about the enormous consequences of failing to contact outside authorities.

Between 2001 and 2010, the Holy See, the Catholic Church’s ruling body, reviewed allegations concerning about 3,000 priests and covering a 50-year time span. In the U.S. alone there may have been 100,000 victims of clerical sexual abuse, according to the *National Catholic Reporter*.

The scandal broke in 2002 when the *Boston Globe* reported a pattern of sexual abuse and cover-ups within the church in the Boston area. Stories that had originally appeared to be about individual cases morphed into a shocking scandal with worldwide implications.

Thousands of adults are still struggling with the psychological damage of childhood abuse at the hands of the clergy. Some estimates suggest that the American church has doled out at least \$2.2 billion settling litigation related to the crisis.

The extent of the scandal is still unfolding. The Roman Catholic Archdiocese of Los Angeles announced in March that it would pay nearly \$10 million to settle claims of sexual abuse perpetrated by a former priest.

Hamilton says that the Catholic Church scandal has taught the country that sometimes an organization chooses concern over its public reputation over that of the children in the organization.

“We got a wake-up call,” says Hamilton. “Thanks to the public airing of sex abuse cases within the Catholic Church and elsewhere, the public in general—and prosecutors in specific—are less tolerant of allowing religious communities to ‘clean their own dirty laundry.’ ”

The most recent landmark case came last year, when Philadelphia prosecutors convinced a jury to find Monsignor William Lynn, the former secretary for the clergy for the Philadelphia Archdiocese, guilty of child endangerment.

Prosecutors accused Lynn of helping to cover up allegations of child sexual abuse by priests in Philadelphia. Lynn received a three-to-six-year jail sentence. However, the jury acquitted Lynn of conspiracy and a second endangerment count. Philadelphia District Attorney Lynne M. Abraham led the initial investigation; R. Seth Williams, the current district attorney, took over when he stepped into office in 2010.

“The Philadelphia district attorney’s office set the gold standard for institution-based child sex abuse cases. It fearlessly investigated the Philadelphia Archdiocese’s practices,” Hamilton says.



Lynne Abraham, a former Philadelphia DA, convened a grand jury investigation that ultimately led to the first conviction of a senior U.S. Catholic official for covering up sexual abuses of children. Photo by David Fonda.

Abraham arranged a special group to pursue allegations against the church. She lined up a team of aggressive prosecutors who also were raised Catholic, so they were familiar with church liturgy and procedures. A grand jury report in 2005 accused the church of a cover-up of sexual abuse by priests.

The investigation continued after Abraham left office. A 2011 grand jury report gave a detailed analysis of how the Philadelphia Archdiocese continued to protect abusive priests. After the report, prosecutors charged Lynn with the cover-up, and four priests and a parochial school teacher with sexual abuse crimes.

The probe took years, Abraham says: “It was hard pick-and-shovel work. That’s what it was—years of digging around. You just have to keep digging. You have to be willing to expend the effort on it.”

Abraham also points out that the team gained the trust of victims by “letting them know that we knew that they had been wronged.”

The Archdiocese of Philadelphia declined to comment for the story.

### **AN 'ALTERNATIVE AGENDA'?**

The issue of politics also comes into play, observers say, especially when the district attorney is sensitive to the prospects of re-election.

Abraham is proud of the work her office did and says it led to a re-evaluation of how the church hierarchy handles priests who are accused of molesting children. “If you are looking at the next election,” she says, “then obviously you are not going to do it.”

“Prosecutors have to be very brave,” says Abraham, now a partner at Archer & Greiner. “It’s very simple: There’s a lot of lack of guts out there because people don’t want to tangle with a powerful group.”

One of the criticisms of Brooklyn’s Weberman case was that DA Hynes did little for years to aid sex abuse victims in the ultra-Orthodox communities.

“The problem in Brooklyn is that the elected district attorney viewed a group that he knew had a problem with abuse as a voting bloc,” Hamilton says. “He worked very hard to avoid offending them. For years, he deferred to their own demands for secrecy and isolation.”

As for allegations of political pandering, Jaus replies: “Nothing could be further from the truth.”



Rhonnie Jaus, chief of the Brooklyn DA's sex crimes division, takes issue with charges that the office failed to aggressively pursue sexual abuse cases within the area's ultra-Orthodox communities. Photo by Arnold Adler.

Yet prosecutors were concerned that the ultra-Orthodox communities were failing to report sexual abuse cases. Agudath Israel of America, an ultra-Orthodox policy organization, has stated that observant Jews shouldn't report allegations of abuse to the police unless specifically permitted to do so by a rabbi.

"Some Orthodox communities do not foster a culture of going to the [secular] authorities, nor criticizing another Jew in public. Therefore, there is no outlet for a vulnerable child to report abuse," Hamilton says.

According to the *New York Times*, Rabbi Chaim Dovid Zwiebel, executive vice president of Agudath Israel, explained, "You can destroy a person's life with a false report."

Members of the Satmar Hasidic sect were angry that Weberman was dragged through the secular court system. Michael C. Farkas, one of Weberman's attorneys, says that a "substantial percentage" of the community questioned the girl's motive and the truth of her testimony.

After the Weberman verdict, Hynes wrote in an opinion piece published in the *New York Daily News* that he hoped the verdict and sentence "sends a very clear and unmistakable message to people in certain parts of the Orthodox community—it is time to start protecting victims rather than defendants."

Yet the news headlines, fairly or not, depicted a community that banded together against a victim who chose to speak out against her abuser.

Farkas says that the "popular misconception has been that the community is simply blindly rallying around a member of its own ranks because they don't want to air their dirty laundry."

"The truth is that they believe Mr. Weberman to be an innocent man who has been set up."

Dershowitz claims Hynes has been pursuing an "alternative agenda" of sending a message to the ultra-Orthodox community, rather than doing what prosecutors should be doing—searching for truth.

Jaus responds that "if there is any message, it is that a victim can get justice."

Dershowitz points out that Weberman's initial 103-year sentence was "counterproductive to any attempt to get the ultra-Orthodox community to trust the civil authorities." Farkas declared the sentence "objectively and professionally inappropriate."

And, in fact, the state's corrections department cut the sentence by more than half.

Certainly, advocates are concerned that religious organizations have enough autonomy to govern themselves without vendettas by outside law enforcement agencies.

But Jaus says that people in these communities who try to press charges against child sex abusers have faced all kinds of intimidation, including threats against their children's ability to get an education and the success of their family businesses.

To break through the traditional reticence to submit to secular authorities, prosecutors must be respectful but relentless at the same time, forensic psychologist Lipson says.

Lipson urges caution for prosecutors approaching religious groups.

"You have to realize the building of these relationships will have to be gradual and done with respect for the traditions and convictions of the religious communities," he says.

In jurisdictions throughout the country, prosecutors have started establishing special programs similar to Brooklyn's Kol Tzedek to pursue cases within particular religious communities. Abraham advises that prosecutors set up these programs armed with individuals who either are from that religion themselves or have taken the time to learn about the group's beliefs and culture.

The Catholic Church has enacted numerous policies and procedures to protect children and encourage victims to report the conduct of clergy and church members. The National Review Board, a lay group advising the U.S. Conference of Catholic Bishops, recently reported that children are safer now than a decade ago, because of a "striking improvement in the church's response to and treatment of victims."

Of course, it's impossible to know how many crimes go unreported and, as part of that, how many crimes occur within religious communities. Some estimates say that one in every four girls and one in every six boys will experience sexual abuse before the age of 18.

"There is a certain slice of the population that commits this crime, and it's obvious that working with youth gives you an opportunity," says University of Virginia law professor Douglas Laycock, a leading authority on the law of religious liberty. "Religious organizations are a place where you can work with youth."

Lipson says that within certain organizations, "those in religious authority will at times abuse their position."

"In some of these organizations that are very hierarchical and authority-based, leaders are less subject to scrutiny," he says. "Just as you would not question the center of the belief system, it's not easy to question those who represent it. Faith gets intertwined with challenging your capacity to question a leader's conduct."

But prosecutors, Abraham says, have a duty to break through a community's inclination to hide from the truth and help conceal an accused molester within their midst. As part of that, prosecutors must hunt down and charge any administrators or religious leaders who fail to protect their most vulnerable members in favor of protecting an accused molester, she says.

## CHANGE FROM WITHIN

Besides feisty prosecutors, there are other ways to ensure that religious communities appropriately handle any pedophiles or other sexual predators within their midst and report them to the proper authorities, scholars say.

For example, Hamilton suggests denying tax-exempt status to any organization that makes sex abuse possible. And she believes that the insurance industry needs to do a better job of mandating policies in religious organizations to protect children. In addition, Hamilton and others also propose expanding state statutes of limitations in child sex abuse cases.

One major point of contention concerns those who have a duty to report suspected criminal behavior. Some victims' rights advocates say that clergy should be required to report suspected criminal behavior, such as child abuse. Generally, lawyers and clergy have to report child abuse if they see it being committed. But traditionally, neither must report child abuse if they learn of it as part of a confidential communication.

In recent years, several states have changed their rules to make clergy the mandated reporters of child abuse and neglect.

"We're in the midst of a revolution to protect children," says Hamilton. "Adults are not discounting children's reports the way they used to, and victims are coming forward more confidently than they ever have before. Judges and juries are believing and supporting victims. But it's not over yet—there is still much to be done to protect every one of our children."

But perhaps the biggest change of all needs to come from within the religious groups themselves, according to Lipson.

He advises religious organizations to make changes from within, so that they are already ensuring an appropriate attitude toward reporting crime. Religious organizations should opt for transparency and accountability, according to Lipson.

"Religious institutions must have clearly stated policies and procedures. The policies must set up a structure for people to report issues, maintain boundaries and address problems," Lipson says. "There must be supervision of individual conduct, and the clergy should be even more accountable because of the authority they have and the vulnerability people have when they approach a clergy member. People within an organization need to be trained to recognize red flags—in themselves and others.

"We know evil thrives when good people stand by and do nothing."

*This article originally appeared in the December 2013 issue of the ABA Journal.*