

# **Bishop: Balance needed when deciding liability claims in civil cases**

WASHINGTON - Multimillion-dollar awards in civil lawsuits place a burden on the free exercise of religion and undermine the Catholic Church's ability to continue its charitable works, Auxiliary Bishop Thomas J. Paprocki of Chicago told the National Diocesan Attorneys Association.

Speaking at the association's annual meeting April 27 in Arlington, Va., Bishop Paprocki said balance must be achieved between providing adequate compensation to plaintiffs in cases of wrongdoing and "preserving charitable viability" for the church.

"My point is that the pendulum has swung from the complete protection of charitable immunity to the complete exposure of charitable liability, and, in some cases, all the way to charitable bankruptcy," Bishop Paprocki said.

The Chicago auxiliary is chairman-elect of the U.S. bishops' Committee on Canonical Affairs and Church Governance and will begin a three-year term as chairman in November.

Bishop Paprocki's presentation comes in the midst of financial turmoil in many dioceses across the country as they face massive payouts in settling claims and lawsuits filed in connection with the clergy sexual abuse scandal. Large-award amounts in other cases involving church-sponsored agencies, employees and volunteers also have placed a strain on the church financially, he said.

Payouts to abuse victims, treatment for priests and victims and legal expenses totaled \$472 million across the country between 1950 and 2002, according to a 2004 study commissioned by the U.S. Conference of Catholic Bishops and conducted by the John Jay College of Criminal Justice in New York.

Additional settlements in the archdioceses and dioceses of Boston, Los Angeles, San

Diego, Orange, Calif., Oakland, Calif., and elsewhere during the last six years have totaled another \$1 billion. Because of the settlements, the Archdiocese of Portland, Ore., and dioceses of Tucson, Ariz.; Davenport, Iowa; San Diego; and Spokane, Wash., have filed for bankruptcy protection.

Applying the same liability rules to the church or other nonprofit agencies as those meant for a for-profit corporation serves no purpose, Bishop Paprocki said.

He also said “unchecked monetary damages” in cases of abuse or medical malpractice seriously limit the ability of the church and its sponsored agencies to carry out their mission.

At the same time, he acknowledged that the victims of abuse particularly deserve to be fairly compensated. He quoted at length from Pope Benedict XVI’s comments on the abuse crisis as well as the need to heal the pain the scandal has caused for victims and the church alike.

But the bishop also noted that those responsible for abuse – priests and bishops alike – are not the ones paying the monetary settlements stemming from any court cases.

“If one understands the nature of a diocese it would be apparent that a lawsuit against a diocese doesn’t really punish its bishop,” he said. “It punishes the church’s charitable and social outreach.

“So a lawsuit against the diocese is really a suit against the ‘people of God’ and ultimately, of course, it is they who actually pay its bills, not the bishop,” he said.

Asserting that the church has a constitutional right to engage in charitable activities – which he called the corporal works of mercy – Bishop Paprocki said such practices are a requirement of preaching the Gospel in order to carry out the church’s mission.

“Here ‘religious practice’ must mean more than the right to conduct worship services as one pleases. It must go beyond this purely privatized understanding of religion that some would wrongfully impose on our constitutional order,” he said.

Bishop Paprocki also discussed the concept of charitable immunity, which had been

adopted in 1876 by states to limit the liability of charities in cases of wrongdoing. By the middle of the 20th century the safeguards of charitable immunity began to erode as malpractice claims against hospitals increased, he said. Over the last five decades, he claimed, the concept of charitable immunity waned to the point where only about 14 states have retained a significant form of immunity.

“The complete elimination of charitable immunity threatens to inhibit or even eliminate certain services provided by charitable institutions such as Catholic Charities and other diocesan agencies,” he said.

“Now we must ask whether we are seriously eroding the charitable patrimony of American society that has done so much to feed the hungry, to educate and care for children, and to otherwise provide for the basic human needs of the poor,” he said. “We must also ask as a matter of public policy if society is prepared to shoulder the cost of the increased demand for government to provide such services if charitable institutions can no longer afford to do so.”