

Prosecuting Child Sexual Abuse in Alternative Religions

Andrea Willey^a and Stephen A. Kent^{b*}

^aDuncan Craig LLP, Edmonton, Alberta, Canada; ^bDepartment of Sociology, University of Alberta, Edmonton, Alberta, Canada

Abstract¹

In this article, we identify three different levels of court procedures (criminal, civil, and family) in which child sexual-abuse allegations are most likely to appear within the context of high-demand alternative religions, sometimes called sects or cults. We then specify strategies that these religious groups or their members have used in their defenses, along with appropriate counterstrategies with which prosecutors have responded. Our position is that, if prosecutors can see such cases go to trial without further traumatizing abuse survivors, then they should do so. Trials' conclusions provide opportunities for clear (and often written) decisions that clarify what roles, if any, the alternative religions as organizations played in the abuses. Such decisions likely will impact remaining sect or cult members and even potential recruits about the legal and moral dimensions of the groups themselves. An alternative position, however, is that groups holding responsibility for child sexual abuse should experience pressure from authorities to compensate survivors without costly trials, since such trials may deplete resources away from survivors' assistance.

Keywords: alternative religions, cults, child sexual abuse, pedophilia, child sexual-abuse prosecution

Alternative religions² frequently have tense relationships with mainstream cultures. In

Canada and the United States, their religious dimensions provide them with protections provided by the *Canadian Charter of Rights and Freedoms* and the *United States Constitution*, especially its *Bill of Rights*. Nevertheless, aspects of their doctrines and operations keep the public suspicious of the 'true' natures of such groups. The most damaging allegations that alternative religions can suffer involve ones related to various forms of member harm. Physical and sexual assaults,³ medical neglect,⁴

upheaval, they may hold varying degrees of hostility to mainstream society and its religious traditions. They also may embody the idiosyncratic, and sometimes harmful, beliefs of their founders. *Cults* simply are groups whose beliefs or practices or both are at significant variance from those of the mainstream culture. These terms overlap, and controversies exist about the high demands that many of these groups place upon members' time, resources, and social affiliations. Many of the child sexual-abuse cases that we consider involve new religions or new religious movements (NRMS), which simply mean that the groups formed in the West after the Second World War. For an overview of how some alternative religions use their theologies to justify child sexual abuse, see Stephen A. Kent, "Religious Justifications for Child Sexual Abuse in Cults and Alternative Religions," *International Journal of Cultic Studies*, 2 (2012), 49–73. For a study that assessed risk factors involving child sexual abuse within fundamentalist Protestant families, see Ruth Stout-Miller, Larry S. Miller, and Mary R. Langenbrunner, "Religiosity and Child Sexual Abuse: A Risk Factor Analysis," *Journal of Child Sexual Abuse*, 6(4) (1997), 15–34. It found that, "first, persons coming from a fundamentalist Protestant religious family background were more at risk of being sexually abused by a relative. Second, persons coming from a home with little or no religious involvement were more at risk of being sexually abused by a non-relative" (pp. 30–31). Also see David A. Wolfe, Karen J. Francis, and Anna-Lee Straatman, "Child Abuse in Religiously Affiliated Institutions: Long-term Impact on Men's Mental Health," *Child Abuse and Neglect*, 30 (2006), 205–212. Livia Bardin's 2009 study of the childhood experiences of maltreatment in the Fundamentalist Latter-day Saints and The Family [International] referred to these groups both as cults and isolated authoritarian groups (Livia Bardin, "Recognizing and Working with an Underserved Culture: Child Protection and Cults," *Journal of Public Child Welfare*, 3 [2009], 114–138).

³ Janet Heimlich, 2011, *Breaking Their Will: Shedding Light on Religious Child Maltreatment*, pp. 75–120, 167–214 (Amherst, NY: Prometheus Books); and Karel Kurst-Swanger, 2008, *Worship and Sin: An Exploration of Religion-Related Crime in the United States*, pp. 73–92 (New York, NY: Peter Lang).

*Corresponding coauthor.

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² The term *alternative religions* refers to groups that are outside of the main religious traditions of a particular society. They may represent the faiths of minority populations, sectarian schisms within existing groups, or new religious appearances with little if any precedents in a culture. If they arise within the milieu of social

financial improprieties,⁵ educational deficiencies,⁶ and poor working conditions⁷ can lead to public-relations nightmares and widespread acceptance that the group is a cult. More damaging are allegations of these types of abuses involving children.⁸ Public suspicion about any of these types of abuse likely will lead to increased external scrutiny, which can lead to high-profile media accounts, police surveillance, anticult lectures, and court cases. Groups actually may modify their names, leaders, doctrines, or behaviors in response to that scrutiny,⁹ or they may disintegrate and fade.

Amidst child sexual abuse allegations,¹⁰ group leaders realize the gravity of the situations

confronting them, although they may respond in ways that do not acknowledge the primacy of protecting children from harm. The more astute leaders will make assessments of the circumstances surrounding the allegations (including the positions of the accused in the movements, the number of accusations, and the period in the movements' histories that the violations allegedly occurred). Taking into account the alleged perpetrators' positions in the religions, responses may vary from separating the alleged perpetrators from the groups themselves¹¹ to defending central or key figures/leaders.¹² Some controversial groups

⁴ Cameron Stauth, 2013, *In the Name of God: The True Story of the Fight to Save Children From Faith-healing Homicide* (New York, NY: St. Martin's Press).

⁵ Kurst-Swanger, 2008, pp. 93–94.

⁶ Julia Scheeres, 2015 (September 1), "Children of the Tribes," *Pacific Standard*, pp. 14–15; Available from <https://psmag.com/children-of-the-tribes-5b95e96c4bfa#.yz6tcb141>

⁷ Scheeres, 2015, pp. 13–15.

⁸ On the problem of multiple types of child abuse occurring within religious settings, see Gail S. Goodman, Gette L. Bottoms, Allison Redlich, Phillip R. Shaver, and Kathleen R. Diviak, 1998, "Correlates of Multiple Forms of Victimization in Religion-Related Child Abuse Cases," *Journal of Aggression, Maltreatment & Trauma*, (2)1, 273–295.

⁹ Two of these types of changes took place in 2011, after Guru Prakashanand Waraswati (82), who was the head of the Barsana Dham ashram (in Austin, Texas), was convicted of 20 counts of indecency with two children, each of whom claimed that the abuse started when they were 12 years old. His sentence was to spend 280 years in jail, but before sentencing he skipped bail and has not been located. The group's new leader, who himself had beaten charges of rape in two countries, immediately changed the facility's name to Radha Madhav Dham (Sean Kimmons, 2011 [March 4], "Hindu Guru Found Guilty on 20 Counts of Indecency With Children," *Hays Free Press*; available from <http://haysfreepress.com/2011/03/04/hindu-guru-found-guilty-on-20-counts-of-indecency-with-children/>; Mandy Oaklander, 2011 [April 15], "BarsanaDham Ashram, Once Home to Wanted Felon Guru Prakashanand Saraswati, Changes Name and Appoints a New Leader—Another Accused Rapist," *Houston Press*; available from <http://www.houstonpress.com/news/barsana-dham-ashram-once-home-to-wanted-felon-guru-prakashanand-saraswati-changes-name-and-appoints-a-new-leader-another-accused-rapist-6736029>

¹⁰ The Canadian *Criminal Code* has several sections devoted to identifying illegal sexual acts, and they also pertain to the exploitation of children. For example, the *Code* identifies Sexual Interference as directly or indirectly touching, for sexual purposes, "a part of the body or with an object; any part of the body of a person under the age of 16 years . . ." (*Criminal Code* RS C 2013 c C-151). The indictable offense of Sexual Touching involves

"Every person who, for a sexual purpose, invites, counsels or incites a person under the age of 16 years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of 16 years, (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of 90 days" (*Criminal Code* RSC 2013 c C-152).

In the context of children, the *United States Code* defines "sexual abuse" as including "(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or (B) the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children" (*U.S. Code* › Title 42 › Chapter 67 › Subchapter I › § 5106g—Definitions).

¹¹ For the example of Charles Leadbeater's temporary expulsion (via resignation) from the Theosophical Society (beginning in May 1906) for teaching young and teenage boys about the supposed health benefits of masturbation (sometimes giving that advice to boys who had not asked for it), plus probably touching some of them in an unspecified manner, see Gregory Tillet, 1982, *The Elder Brother: A Biography of Charles Webster Leadbeater*, pp. 83–87 (London, UK: Routledge; Kegan Paul). In December 1908, the Theosophical Society voted Leadbeater back in (Tillet, 1982, p. 100). From his jail cell, leader of the Fundamentalist Church of Latter-day Saints, Warren Jeffs, continued to run the remainder of his polygamous organization of perhaps 10,000 people after his conviction on two counts of sexually assaulting children (Alex Hannaford, "The Evil Preacher Who Runs His Cult From Prison," 2014 [June 17], *Telegraph*; "Convicted FLDS Child Rapist Warren Jeffs Leads Polygamist Sect From Behind Bars," 2015 [September 30], *KYLA5*. Toward the end of this article, we discuss Jeffs further.

¹² For a summary of the discussion within the Branch Davidians over David Koresh's (1959–1993) alleged vision that God had commanded him to have a child with his 11-year-old sister-in-law, and his wife's dream that "David might be destroyed, even die, if he refused the divine command," see David Thibodeau, 1999, *A Place Called Waco: A Survivor's Story*, pp. 108–109 (New York,

may respond to allegations by attempting to compartmentalize the perpetrators as a few “bad apples” or a small number of deviant members.¹³ Reactions to the time in groups’ histories in which the allegations occurred may result in self-presentations by the group as having reformed in relation to a previous period. Accountability may force groups to initiate safeguards.¹⁴ or, in extreme cases (usually involving systemic problems through which leadership perpetrated sexual crimes), will drive groups into oblivion.¹⁵

In this article, we identify the three different levels of court procedures in which child sexual-abuse allegations in controversial alternative religions are most likely to appear. We then present basic strategies that alternative religious defendants have used, and appropriate counterstrategies that prosecutors and plaintiffs’ counsel might utilize. Most if not all of the cases that we examine attracted considerable attention at the time they were argued, so extensive material about them exists on reputable (and in

NY: PublicAffairs). When she was 12 years old, he began sexually assaulting the young girl and had a child by her when she was 14. Soon afterward, he took other girls and young women, aged 13, 14, 17, 19, and 20, as lovers (Thibodeau, 1999, p. 109).

¹³ See, for example, the debate about an admitted child sexual abuser within the Emissaries of Divine Light. In 1990, Ray Mickelic admitted to Loveland, Colorado police “that he had sexually assaulted children over a ten-year period” (Mike O’Keefe, 1990 [February 21–27], “Sunset at Sunrise Ranch: There’s a Dark Side to the Emissaries of Divine Light,” *Westword*, p. 10). A debate ensued about whether Mickelic “found justification for what he did from the Emissaries” (as one former member claimed), versus the belief of a local detective, which was that the Emissaries’ teachings had no role in the perpetrator’s crimes (O’Keefe, 1990, p. 14). From the detective’s perspective, Mickelic simply was a “bad apple” within the group.

¹⁴ For the exposure of extensive child sexual abuse in the Hare Krishnas, and the organization’s establishment of the Association for the Protection of Vaishnava Children in April 1998, see David Wolf, 2004, “Child Abuse and the Hare Krishnas: History and Response,” in *The Hare Krishna Movement: The Postcharismatic Fate of a Religious Transplant*, Edited by Edwin F. Bryant and Maria L. Ekstrand (pp. 321–344) (New York, NY: Columbia University Press).

¹⁵ The second generation’s negative reaction and subsequent defect from the Children of God/The Family played a major role in the group’s decline and eventual extinguishment. See Stephen A. Kent, 2004, “Generational Revolt by the Adult Children of First-Generation Members of the Children of God/The Family,” *Cultic Studies Review*, (1)1, 56–72; Stephen A. Kent, 2005, “Education and Reeducation in Ideological Organizations and Their Implications for Children,” *Cultic Studies Review*, (4)2, 136–139.

almost all cases, official) Internet sites. We obtained additional primary and secondary files on child sexual abuse on alternative religions housed in the Stephen A. Kent Collection on Alternative Religions in the University of Alberta Library system. Further research by us and others will verify whether the cases that we selected are representative of other groups’ legal cases, but our familiarity with the literature on alternative religions suggests to us that they are. We assume that the organizations in which accused parties are members will be assessing how to respond to the allegations in ways that still preserve their respective groups. For these groups, justice for victimized children may or may not be a priority greater than or even equal to preservation. Thus, child sexual-abuse cases are different in kind from other types of religious minority deviance involving such issues as blood transfusions, corporal punishment, fasting, financial donations, and excommunication. Our firm position is that court systems and the attorneys involved in child sexual-abuse cases have a responsibility to ensure that all guilty parties face both legal accountability and social exposure for their actions, and religious groups are no exceptions. Consequently, we advocate that, whenever possible (which primarily means whenever litigation will not further traumatize survivors),¹⁶ child sexual-abuse cases involving members of alternative religions should go to trial, thus producing decisions (and often written judicial decisions) that identify what if any roles the groups themselves played in facilitating the abuses.¹⁷

¹⁶ Both the United States and Canada have Children’s Advocacy Centers, designed to minimize stress to children who give evidence, along with attempting to secure accurate and usable statements from them. See, for example, Melissa Lindsay, 2013 (December 5), “Just Facts,” *Government of Canada, Department of Justice*. Available from <http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/jf-pf/cac-cae.html>

¹⁷ The most dramatic example of a case discussing the role of a group and its leader in child sexual abuse is W 42 In the High Court of Justice, Family Division, Principal Registry in the Matter of ST (A Minor) and in the Matter of the Supreme Court Act 1991, Lord Justice Ward (19 October 1995). We discuss this case following.

In What Cases Do These Allegations Arise?

Allegations of child sexual abuse arise in three forms of cases. The area of law in which these cases arise has a significant impact on the implications of legal decisions that develop from them. First, one form of cases occurs in the criminal field, which means that the charges are limited to alleged Criminal Code violations. In addition, conviction in this field requires that the prosecution meets a heightened burden of proof¹⁸ at the same time that the accused has heightened protections around such issues as search and seizure, disclosure, meeting certain standards in case law, and so on. The criminal system in each country shapes the purpose of these cases, which will involve varying combinations of punishment, deterrence, and rehabilitation. The impact of these cases unfolds through the possibility of convicted perpetrators serving jail time, the significance of guilty decisions (especially from juries), high media attention, and the possibility of establishing legal precedents. Criminal investigations and cases, however, can be long and costly, with any number of procedural mistakes causing them to derail, with potentially guilty persons going free. The aborted criminal case against three members and one leader of the Apostles of Infinite Love (primarily in Quebec, Canada but also in Alberta) provides an example of what can go wrong.

In April 1999, the self-proclaimed pope of the Apostles, Jean Gaston-Tremblay, and three followers

were facing a total of 51 counts of sexual and physical abuse of children. The charges include[d] sodomy, sexual assault, indecent exposure and assault.

The case was dropped [in June 2001] after prosecutors told the court there were “problems” with the evidence. More than 40 documents had gone missing from the records of the Quebec Provincial Police.¹⁹

Officials concerned with child welfare had significant concerns about this group’s childrearing practices dating back to 1966, and “[i]n 1981, the Quebec Child Protection Committee declared that there was nothing it alone could do to tackle cults like the Apostles.”²⁰ Neither the Quebec government nor police provided additional assistance, so no authorities took action. By the time police laid charges in 1999 and were developing their case, officials seem to have lost 20 years of files, which they needed to proceed with the prosecution.²¹

A second form of cases is civil, which means that the involved parties attempt to resolve disputes through compensatory rather than criminal means. The general impact of child sexual-abuse allegations involving cults or high-demand alternative religious movements occurs through the form of the award (monetary), which allows for relatively efficient settlements (in contrast to criminal plea bargains, which often still involve some form of jail time). Victims may pursue civil remedies, in conjunction with criminal proceedings or independently. In contrast to criminal proceedings, the standard of proof in civil cases is on a balance of probabilities, which means that the process by which the plaintiffs collect evidence is less likely to face stringent constitutional analyses, and the case is expected to proceed based upon full disclosure by all parties.

¹⁸ For a discussion of factors that either facilitate or hinder prosecutors pursuing child sexual abuse cases, see Theodore P. Cross, Edward De Vos, and Debra Whitcomb, 1994, “Prosecution of Child Sexual Abuse: Which Cases Are Accepted?,” *Child Abuse And Neglect*, (18)8, 663–677; Delores D. Stroud, Sonia L. Martens, and Julia Baker, 2000, “Criminal Investigation of Child Sexual Abuse: A Comparison of Cases Referred to the Prosecutor to Those Not Referred,” *Child Abuse and Neglect* (24)5, 589–700.

¹⁹ Simon Cooper, 2001 (June 16), “Missing Evidence Stalls Cult Sex-Abuse Charges,” *Globe and Mail*, A1.

²⁰ Simon Cooper, 2001 (July 12), “The System Shields a Sinner,” *Globe and Mail*, A13.

²¹ Cooper, 2001, A13. For a discussion about why some child sexual-abuse cases experience delays in prosecutions (sometimes stretching over decades), see Deborah A. Connolly, Kristin Chong, Patricia I. Coburn, and Danyael Lutgens, 2015, “Factors Associated With Delays of Days to Decades to Criminal Prosecution of Child Sexual Abuse,” *Behavioral Sciences and the Law*, 33, 546–560.

The third legal context in which allegations of religiously tainted child sexual abuse arise is in family law. The subject of these cases is not the sexual abuse itself, but rather the extent to which the abuse is evidence of an unsuitable living situation for children.²² Defending counsel and even members of the public often view allegations of child sexual abuse with skepticism because of their highly prejudicial value. The mere suspicion of child sexual abuse makes it difficult for a court to place a child with a suspected abuser or with a parent who is associated with an allegedly abusive religious movement. The accusing party, therefore, has ample motivation to make unfounded allegations.²³ When allegations are factual, however, then the complainant frequently establishes proof to the court by locating the specific abuse against a child within the broader context of abuses that occurred against other children. In other words, complainants often try to establish that the abuses a particular client or clients suffered were part of a broad, systemic pattern of child sexual abuse.²⁴

Generally, these cases provide the catalyst to further investigation rather than having a singular impact. For example, in February 1987, Christina Mills was a former member of a Hare Krishna schism attempting to obtain sole custody of her three children who still resided with her estranged partner in the sect's commune in New Vrindaban, West Virginia.²⁵ Calling the commune "a dangerous, unhealthy,

and immoral environment,"²⁶ Mills specifically charged that the father of her three children had been involved with "the repeated and systematic oral and anal homosexual rape of schoolchildren."²⁷ These allegations appeared in a lengthy investigative newspaper article about law-enforcement probes into suspected child sexual abuse, polygamy, sanitation, and educational deficiencies at New Vrindaban, even though Mills already had "lost an appeal for temporary custody at a hearing [the previous week], when a local judge ruled that her three children were in no immediate danger with their father at the commune."²⁸ Subsequently a family-law master ruled in Mills's favor,²⁹ but a Supreme Court of Appeals of West Virginia affirmed the earlier court ruling in favor of the father.³⁰ The negative allegations, however, already had appeared in the press.

A second example of a family court case having wide-ranging implications was the early 1992 custody battle over Kiri Jewell (b. 1981) who, along with her mother, lived in the Waco Branch Davidian compound with David Koresh (d. 1993). Jewell went for a Christmas 1991 visit to her father in Michigan, and he had been alerted by former member Marc Breault that she likely was, or was going to be, sexually assaulted by Koresh as one of his underage, illegal wives. Her father, David Jewell, won temporary sole custody of Kiri in early 1992, pending a full custody hearing. In both court proceedings, David Jewell introduced extensive evidence about Koresh's sexual activities with minors, which contributed to the eventual joint custody decision that also prevented Kiri from having any contact with Koresh.³¹ She never visited her

²² Because these matters are extremely private, fewer allegations will reach the public unless the case goes to trial.

²³ A 1997 study found "that cases were not likely to be prosecuted if they were outgrowths (or perceived to be outgrowths) of divorce or custody battles between divorcing or divorced parents" (Kathleen D. Brewer, Daryl M. Rowe, and Devon D. Brewer, 1997, "Factors Related to Prosecution of Child Sexual Abuse Cases," *Journal of Child Sexual Abuse*, (6)1, 106–107.

²⁴ For an article on religiously connected ritual abuse of children published during the height of the so-called Satanic period of the early 1990s, and which used some sources now considered to be suspect, see Barbara Snow and Teena Sorensen, 1990 (December), "Ritualistic Child Abuse in a Neighborhood Setting," *Journal of Interpersonal Violence*, (5)4, 474–487.

²⁵ For a critical look at this commune, see John Hubner and Lindsey Gruson, 1988, *Monkey on a Stick: Murder, Madness, and the Hare Krishnas* (New York, NY: Harcourt Brace Jovanovich).

²⁶ Eric Harrison, 1987 (March 9), "Troubled Paradise: Krishna Site Focus of Probes," *Philadelphia Inquirer*, 1-A.

²⁷ Harrison, 1987, 4-A.

²⁸ Harrison, 1987, 4-A.

²⁹ This ruling is summarized in Christina M. Mills, on Behalf of Premanjana GORRICK, Parasara Muni Gorrick and Raktaka Mills, *Infants v. Dennis F. GORRICK, a/k/a Dharmatma Das*. No. 18916 Supreme Court of Appeals of West Virginia. (May 18, 1989).

³⁰ *Mills v. Gorrick*, 381 S. E. 2d 273 (1989).

³¹ Marc Breault and Martin King, 1993, *Inside the Cult*, pp. 254–282 (New York, NY: Signet).

mother again, who was one of more than 80 members to die in the compound's fire in 1993. Koresh was aware that these court proceedings had exposed some of his illegal pedophilic activities, and this evidence reappeared in an extensive, multiday exposé printed by the local town's newspaper.³² immediately prior to the March 1993 raid initiated by the Bureau of Alcohol, Tobacco, and Firearms (BATF). Subsequently, in 1995, before a congressional hearing on Waco, Kiri Jewel (by then 14 years old) provided detailed and powerful testimony about the sexual abuse she and other girls suffered at the hands of Koresh.³³ The allegations first presented in a family case, therefore, involving the custody of Kiri Jewel, and her subsequent elaboration of those allegations, has played a significant role in interpreting Koresh's refusal to surrender to law enforcement, and his subsequent fiery death. We hypothesize that Koresh, as a publicly exposed pedophile, realized that, if he were to fall into the hands of law enforcement, then he would face significant jail time. Consequently, suicide was preferable because it allowed him to appear (to the public and to his followers) as a religious martyr fulfilling his own prophecies.

A third example of a family-court decision having wide-ranging implications for a controversial alternative religion involves the Lord Justice Alan Ward's decision in the United Kingdom concerning the Children of God/The Family.³⁴ The custody case was between the mother of ST, who was a member of The Family, and the child's grandmother and mother of ST's mother, who feared for the child's

welfare growing up in a controversial group rumoured to allow adult/child and child/child sex, severe corporal punishment, poor education, and a socially closed environment. Ward decided that the mother could retain custody of her child, although with significant restrictions and restraints laid upon her by the court. The decision, however, was a Pyrrhic victory for The Family, because Ward's published decision contained detailed discussions about the group's history of various forms of child abuse.

In the words of a prominent Australian barrister, Ian Freckelton,³⁵ the Ward decision "is highly significant as arguably the most judicial analysis of the practices" of any such alternative religion.³⁶ As Freckelton summarized,

It is one of the most remarkable decisions of the Family Division of the High Court in terms of its methodology in grappling with some complex and conflicting rights and obligations and declining to grapple with others. Lord Justice Ward's unashamed ultimatum to the group [which were

³⁵ Freckelton had a history with The Family, dating back at least to 1992. In that year, Community Services Victoria (CSV) in Australia and their counterparts in New South Wales raided Family homes, and in Victoria a children's court magistrate placed the children in CSV's temporary custody. Parents quickly appealed the custody decision, and a few days later the issue appeared before the Supreme Court. On behalf of CSV:

Dr. Freckleton told the Supreme Court the state's case would include evidence from a child psychiatrist, and overseas expert on the sect, police officers who had investigated the group, and former members.

'Those persons will say that they harbor the most serious of concerns if those children are returned even for an extremely short period in the community,' he told the court.

'They'll say that there is a possibility of significant emotional and physical misfortune befalling these children immediately.' (*Herald Sun*, 2013)

But in a landmark ruling, the court ordered that the children be reunited with their families until a future court hearing (Elissa Hunt, 2013 (March 4), "Children Snatched From Their Homes in Dramatic Raids on the Children of God Sect in 1990s Trials," *Herald Sun* [Australia]. Available from <https://mail.google.com/mail/u/0/h/1jaho2xy9jxrn/?&v=c&th=13d35d04711b5c9c>

³⁶ Ian Freckelton, 1998 (April), "'Cults', Calamities, and Psychological Consequences." *Psychiatry, Psychology and Law*, 5, 13–14.

³² Mark England and Darlene McCormick, 1993 (March 1), "An Incident Involving Vernon Howell and a Young Girl Sparks Marc Breault to Leave," *Waco Tribune-Herald*, 7A.

³³ Statement of Kiri Jewel, Resident at Mount Carmel, accompanied by her father, David Jewell; in *Activities of Federal Law Enforcement Agencies Toward the Branch Davidians* (Part 1), Joint Hearings Before the Subcommittee on Crime of the Committee on the Judiciary, House of Representatives, and the Subcommittee on National Security, International Affairs, and Criminal Justice of the Committee on Government Reform and Oversight, One Hundred Fourth Congress (July 19, 1995), pp. 147–155. For a former member's doubts about aspects of her testimony, see Thibodeau, 1999, pp. 339–340.

³⁴ W 42 In the High Court of Justice, 1995.

acknowledgements and agreements that the group, its leaders, and the mother had to make in order for her to maintain custody] constitutes a dramatic confrontation with a religious group in the context of what was litigation between specific parties, litigation that did not technically include the group. His decision and the reasoning by which he arrived at the decision enunciate a series of potentially highly influential approaches toward risks posed to children by heterodox child-rearing practices on the part of those who are adherents of non-mainstream religions.

From an international perspective, *Re ST (A Minor)* is the most important judicial attempt thus far to analyse the impact of practices of [new religious movements] upon the wellbeing of children. The resolution of the case constitutes an extraordinary intrusion by the State into the functioning of a religious group and the decisions of a mother about the rearing of a young son. In terms of a confrontation between religious freedom and children's rights, *Re ST (A Minor)* is a sophisticated but robust and opinionated balancing of fundamental interests and values. The focus of the decision throughout is upon what are identified to be the best interests of the child. However, the consequences of the reasoning for religious heterodoxy are likely to be the most significant legacy of the decision.³⁷

Nevertheless, problems exist with the decision, some of which go directly to questions about the depths into which the judiciary should enter and direct religious practice.

Some jurists would have wished Ward to have ruled definitively on questions related to the validity of concepts such as "brainwashing," "mind control," and "coercive persuasion."³⁸

³⁷ Freckelton, 1998, p. 14.

³⁸ Freckelton, 1998, pp. 27–28.

More importantly, Ward rested the issue of custody partly on requiring Family leaders to denounce some of their founder's teachings (specifically regarding sex), even though the case itself did not involve the group as one of the parties within the litigation. In Freckelton's opinion, when Ward

crossed the line into requiring assurances from the group as to its future intentions, the legitimacy in his requirements became somewhat questionable. Still further along the spectrum, though, it is doubtful whether Ward LJ had the power to require as a condition for granting custody to a particular litigant that a third party, "The Family," repudiate and denounce its founder.³⁹

These problems aside, and while also acknowledging that Ward's decision only involved a custody dispute, Freckelton concluded that the Ward analysis and decision "will achieve a significant place in both international family law and its 'cult' litigation."⁴⁰ Regardless of any imperfections in Ward's decision, he achieved what we are advocating: an examination and public exposure of a group's role in child sexual abuses.

Difficulty Prosecuting Child Sexual-Abuse Cases in the Cult Context

Although we argue that prosecutors and plaintiffs' counsels need to consider the institutional ramifications of *not* taking cases to trial, they also must weigh the ramifications of court proceedings with the inherent difficulties of gaining convictions on incidents that allegedly had taken place some time ago in private (even sanctified) areas. Child witnesses or victims always present difficulties for both prosecutors and defendants, as do witnesses or clients of any age who formerly or currently are involved with cults themselves.

Child witnesses/victims present a multitude of issues within the courtroom. In Canadian

³⁹ Freckelton, 1998, p. 26; see *Re ST (A Minor)*, 1995, pp. 292–293.

⁴⁰ Freckelton, 1998, p. 25.

criminal cases, a person over the age of 14 is presumed to have the capacity to testify.⁴¹ Opposing counsel, however, may challenge the capacity of the witness. At that point, if the judge is satisfied that an issue of capacity may exist, then the court will conduct an inquiry to determine whether the child is capable of understanding and responding to questions.⁴² If the children are to testify while they are under the age of 14, then the first issue the court will deal with is the child's capacity. In criminal cases, the evidence need not be sworn as long as the witness is able to "understand and respond to questions."⁴³ If the child is allowed to testify, then the judge or jurors or both will consider the testimony for its weight, taking into consideration the credibility and almost certainly the age of the witness.

Child sexual-abuse accounts involving children in cults contain all of the disturbing material that exists in cases where religion is not a factor, but the religious dimensions often add elements to some claims that almost make them surreal. Perpetrators in secular and religious contexts can groom children, threaten them if they tell, and even involve them in abusive actions against themselves or against other children. Religious contexts, however, also allow children (and even their parents) to be blindly trusting to those who have religious status, and subsequently can lead to children fearing reprisals by a supernatural being for disclosing. Children may claim to have been abused in ritual settings, often involving close relatives. These allegations are so unusual and so damning if true that the courts must pay great attention to the conditions under which the children related

the accounts to authorities or caregivers, and more than one case has fallen apart because of unprofessional interviewing techniques by law enforcement or bad therapeutic techniques used by social services personnel. In sum, courts must determine whether adults may have influenced children's memories or (potential) testimonies.

The McMartin case in California provides a stark example of the issues surrounding child witnesses and collaborative evidence. In 1983, Judy Johnson (who was a mother with a young child in the McMartin Preschool) reported to police "that her son's bottom was red and that he had spoken of a man named Ray."⁴⁴ (Johnson died of an alcohol-related illness in 1986, having been diagnosed as a paranoid schizophrenic a year earlier.)⁴⁵ Police then contacted 200 parents who had children at the facility, indicating in their letters that "they were investigating oral sex and sodomy" that might have occurred at the preschool, and which would have involved children. Extraordinary stories poured in, and subsequently most of the 400 children were interviewed by "an administrator turned therapist" Kee MacFarlane.⁴⁶ On March 24, 1984, police arrested four members of the Buckey family who were involved with the school (Ray Buckey, his mother Peggy McMartin Buckey, his sister Peggy Ann Buckey, and his grandmother Virginia McMartin), plus three teachers on a variety of child abuse charges.⁴⁷ In January 1986, a new district attorney dropped the charges against everyone except Ray and his mother, and pursued charges related to lewd and lascivious conduct with minors under 14. The resultant trial against them "was the longest and costliest criminal trial in the United States" up until that

⁴¹ *Canada Evidence Act*, RSC 1985, c C-5 s 16.1(1).

⁴² See the *Canada Evidence Act*, RSC 1985, c C-5 s 16.1. For civil suits in Canada, the relevant provincial evidence act determines the competency of child-witness testimony. The *Alberta Evidence Act*, for example, states that the evidence of a child must be corroborated, and if the child does not understand the oath, then the evidence of children over the age of 14 years of age may be received if the child possesses a sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth (*Alberta Evidence Act*, RSA 2000, c A-18 s 19).

⁴³ *Canada Evidence Act*, RSC 1985, c C-5 s 16.1.

⁴⁴ *Associated Press*, 1990 (January 19), "No Conviction in Three-Year Pre-school Molestation Trial," *Edmonton Journal*, B7.

⁴⁵ Margaret Carlson, 1990 (January 29), "Six Years of Trial by Torture," *Time*, p. 32.

⁴⁶ Carlson, 1990.

⁴⁷ Carlson, 1990; *Associated Press*, 1990.

time,⁴⁸ but it led to their acquittal on 52 counts of child molestation and a deadlocked decision (leading to a mistrial) against Ray on 13 child-molestation charges.⁴⁹

A major factor contributing to their acquittal came because the jury heard how McFarlane and others had coaxed answers out of children, whose accounts had little if any collaborating evidence to support them.⁵⁰ The allegations were wide-ranging, and included an account of what seemed to have been a Satanic ritual in a church in which Ray Buckey “stabbed a rabbit to death on an altar, and made the children drink its blood” and another account of Ray Buckey beating a horse to death with a baseball bat.⁵¹ Importantly,

Children described tunnels under the floor of the preschool which led to an outside exit under the rabbit hutch, and another underground passage to the neighboring building. They explained they would be loaded into vehicles in the garage of that building for transport to other locations of group ritual. They described also a secret room accessed by the tunnels under the preschool.⁵²

Both parents and the district attorney’s office, however, had sponsored limited digs near the preschool in 1985 but found no tunnels, which failed to support the children’s allegations.⁵³ In addition, Charles Buckey, who was the father of Ray and husband of Peggy, testified under oath that “neither subterranean areas nor tunnels existed”—which was knowledge based upon his having designed and supervised construction of the building in 1966.⁵⁴

The accuracy, however, of Charles Buckey’s testimony became a matter of debate. A group of persistent parents believed that they found the kind of collaborating evidence that the prosecution sorely needed, but it never made it into court. In 1990, a new owner of the preschool and its property was about to bulldoze the building when parents hired forensic archaeologist, Dr. Gary Stickel, to examine the preschool and its surrounding land one last time; and he concluded that, in fact, he found underground structures similar to what the children had described. He concluded that one was a 45-foot tunnel that snaked through and under the preschool; another was a 7-foot tunnel that led to a neighbor’s yard. The switches for the fire-alarm system apparently did not work as they were labeled but in fact were part of an internal alarm system. A plastic bag found while excavating contained the date 1982, giving a date when the tunnels may have been hand dug.⁵⁵ By this time, however, the trial against Ray and Peggy Buckey was long over, and Ray was amidst a second trial on some remaining charges (in which he again would receive an acquittal). It was too late to introduce the findings about tunnels into the second trial, so no judge or jury ever heard them. Consequently, the McMartin case has led to completely contradictory conclusions about the extent to which counselors have led children to invent tales of Satanism and horrific abuse. On the one hand, many people believe that McMartin represents a worst-case scenario about unskilled child welfare workers infusing children’s memories with events that never occurred. On the other hand, others insist that McMartin demonstrates the importance of believing children when they speak about having been sexually abused, even if the interview techniques used to solicit this information had been leading and directive. Subsequently, a psychologist who revisited Stickel’s report concluded that he simply had uncovered an old, buried, family

⁴⁸ *Associated Press*, 1990.

⁴⁹ *Associated Press*, 1990.

⁵⁰ Carlson, 1990, p. 32; Kirk Makin, 1990 (January 27), “Listening to the Children,” *Globe and Mail*, D1.

⁵¹ Christopher Reed, 1989 (May 20), “Diabolical Debauchery or Mere Stories From the Mouth of Babes?,” *Globe and Mail*, D5.

⁵² Roland C. Summit, 1994, “The Dark Tunnels of McMartin.” *Journal of Psychohistory*, 401.

⁵³ Roland C. Summit, 1994, “The Dark Tunnels of McMartin.” *Journal of Psychohistory*, 402.

⁵⁴ Norma Meyer, 1989 (April), “Charles Buckey: No Secret Rooms on Campus,” *Daily Breeze*, A3.

⁵⁵ Summit, 1994, pp. 405–409; Doctor Gary Stickel, archaeologist, (n.d.), “The Tunnels Found at the McMartin Preschool: A Preliminary Report,” Edmonton, filed in the Stephen A. Kent Collection on Alternative Religions (Satanism--Articles—Academic—Summit, Roland C.).

trash pit, and that “confirmatory bias” had led him to perceive evidence that was not there, and misinterpret other evidence that was present.⁵⁶

In Canada, a similar concern over leading and biased questions by child welfare workers when interviewing children appeared in a high-profile child welfare case in the Hamilton-Wentworth region of Ontario. In what became Canada’s longest and costliest child welfare hearing, District Court Judge Thomas Beckett heard testimony about

ritual murder, cannibalism, gross sexual abuse and Satanism involving [two girls’] mother, father, and their mother’s boyfriend....⁵⁷ The girls themselves were too young to testify, so their foster mother and other adults (such as Children’s Aid workers) spoke on their behalf in the courtroom.⁵⁸ A police officer, however, who had spent time with the girls testified that they had told him “that their lurid and bizarre allegations about murder and cannibalism were ‘all a big story.’”⁵⁹

Believing that the girls were telling adults what they thought the adults wanted to hear, the officer mentioned in testimony that one of the Children’s Aid Society social workers “offered the girls an inducement in the form of a promise of a future visit to Canada’s Wonderland [which is an amusement park] and threatened them that they would not go home until they found a graveyard where babies were allegedly buried.”⁶⁰ The officer also reported that the children had indicated that adults had used their home’s backyard to temporarily bury bodies, but police were unable to find evidence that the ground had been dug up or disturbed.⁶¹ Despite

the officer’s reservations about the quality of the evidence, the judge (in late March 1987) made the two girls wards of the Crown and prohibited their parents from ever seeing their daughters again.⁶²

Reporter Kevin Marron sat through the entire case, and the year after it concluded he published a book on the whole affair. He concluded,

[i]n the absence of other credible explanations, we cannot afford to dismiss the possibility that these [children’s] allegations point to the activities of groups engaged in satanic ritual, or pornography, or both, and that there may be some communications or connection between such groups.⁶³

In a related book that he published in 1989, Marron continued to reflect upon the child welfare case:

Having observed the Hamilton case first hand and done further research on investigation of the issue, I do not accept the theory that child care workers have invented the concept of ritual abuse or that the child victims have imagined or fabricated their allegations—but I do not know what it all means. Rather than accept the idea of a network of cults, for which there is little evidence, I am more inclined to believe that this kind of abuse is perpetrated by disturbed individuals who have been influenced by Satanism or some other similar beliefs. I think it also is possible that people are using the trappings of Satanism either as a theme for sadistic pornography or as a means of frightening children into complying with sexual abuse.⁶⁴

Although he was not sure about what to make of the children’s allegations and did know about the alleged leading questions posed by at least one Children’s Aid worker, Marron remained

⁵⁶ W. Joseph Wyatt, 2002, “What Was Under the McMartin Preschool? A Review and Behavioral Analysis of the ‘Tunnels’ Find,” *Behavior and Social Issues*, 12, 29–39.

⁵⁷ “Macabre Ritual Murder, Satanism Tales,” 1986 (November 27), *Lloydminster Daily Times*.

⁵⁸ Kevin Marron, 1986 (July 16), “Case Raises Spectre of a Violent Cult,” *Globe and Mail*, A1.

⁵⁹ Kevin Marron, 1986 (July 4), “Officer Says Children Manipulated,” *Globe and Mail*, A14.

⁶⁰ Marron, 1986 (July 14): A14.

⁶¹ Marron, 1986 (July 14): A14.

⁶² Kevin Marron and Drew Fagan, 1987 (March 31), “Ritual-abuse Girls Made Crown Wards,” *Globe and Mail*, A1.

⁶³ Kevin Marron, 1988, *Ritual Abuse: Canada’s Most Infamous Trial on Child Abuse*, p. 239 (Toronto, Canada: Seal Books).

⁶⁴ Kevin Marron, 1989, *Witches, Pagans, & Magic in the New Age*, p. 204 (Toronto, Canada: Seal Books).

convinced that horrific things had happened to the children.

Not everyone shared Marron's conclusion that the children had been through horrific abuses. Author Martyn Kendrick examined the same evidence as did Marron, but took seriously the possibility that adults, through questions, had led the children in their answers, and that little if any evidence supported the children's claims:

The officials of the Hamilton-Wentworth Children's Aid Society had taken only two interviews to reach their decision. At the conclusion of the trial, despite the mother's tragic history and the law enforcement agencies' reluctance to attempt prosecution, [Children's Aid Society] tried to revive the matter within the criminal justice system. Because of lack of evidence, the police concluded that they did not have a case.⁶⁵

Kendrick's clear implication was that the Children's Aid Society also did not have a case, since the Society built it entirely upon uncollaborated children's evidence, possibly created by adults getting them to say what investigators wanted to hear.

Adults' influence of children's accounts is only one of many factors that may impact the reliability of children's reports of abuse. Psychologist, legal consultant, and expert witness Daniel Reisberg developed a helpful "pragmatic guide for the justice system" that included a review of research on childhood memory and appropriate forensic techniques for obtaining them for courts.⁶⁶ That guide spoke favorably about the utility of children's memories, but did so in the context of identifying numerous factors that can compromise their accuracy:

Let's emphasize that memory reports from even very young children can be accurate and

complete provided that the children are questioned properly from the start. Children can (if properly questioned) show impressively detailed memory for day-to-day events and even better memory for distinctive emotional events—presumably the sort of events that might be relevant to a criminal case.⁶⁷

Later he added,

The data are telling us that children can remember the past accurately, completely, and for a long time. Moreover, the types of events relevant to the justice system tend to be especially memorable for children because the events are distinctive, often stressful, and sometimes repeated.⁶⁸

Reisberg offered these conclusions, however, amidst a detailed presentation of factors that influence children's ability to form memories (such as age, language competence, and personality variables),⁶⁹ in addition to a dozen factors that can adversely affect their memory accuracy.⁷⁰

So many circumstances occur when investigators are examining cases that involve children's recollections that trained staff should handle these investigations as quickly as possible. This quick involvement is crucial because "the early conversations with the child, in which an allegation first emerges, are crucial. If these early conversations shape the child's report or, worse, plant ideas in the child's memory, there may be no way to undo this memory."⁷¹ Professionals, therefore, who work

⁶⁷ Reisberg, 2014, p. 255.

⁶⁸ Reisberg, 2014, p. 257.

⁶⁹ Reisberg, 2014, pp. 245–252.

⁷⁰ Reisberg, 2014, pp. 260–267. These factors are using directive questioning; giving children feedback to their answers; asking repeated questions; receiving information from a trusted source; saying that other people (such as mothers) have already told investigators; receiving information from peers; receiving a plausible suggestion; inducing a false memory by stereotyping; receiving a suggestion that has a basis in truth; using delayed reporting and questioning; building upon an initial lie; and confusing imagination or dreams with reality. See also Jon'a F. Meyer, 1997, *Inaccuracies in Children's Testimony* (London, UK: The Haworth Press).

⁷¹ Reisberg, 2014, pp. 271–272.

⁶⁵ Martyn Kendrick, 1988, *Anatomy of a Nightmare: The Failure of Society in Dealing with Child Sexual Abuse*, p. 182 (Toronto, Canada: Macmillan of Canada).

⁶⁶ Daniel Reisberg, 2004, *The Science of Perception and Memory: A Pragmatic Guide for the Justice System*. Oxford Scholarship Online. doi:10.1093/acprof:oso/9780199826964.001.0001

on these cases require formal training in child-interviewing techniques, and then proceed under “careful supervision” to ensure that they “will conduct interviews that are neutral, objective, and nonsuggestive.”⁷² Many (perhaps even most) cases, however, unfold under less-than-ideal circumstances that can provide difficulties for prosecutors and courts.

The “Amish Aunt” cases provide evidence of both the difficulty in relying on children’s testimony and recovered memories to mount a case of alleged child sexual abuse. Children in an Amish community made allegations of sexual abuse, including sexual touching, beatings, attempted suffocations and strangulations, and forced ingestion of manure, dead animals, and urine.⁷³ During testimony, two of the children indicated that they had blocked memories of the alleged abuse, with at least one of the witnesses indicating that she recovered them after her family went to a counseling center.⁷⁴ The Judge declared a mistrial on the basis that the defense did not have an opportunity to call an expert witness on the reliability of blocked and repressed memories. Subsequently at the retrial, the Amish Aunt was acquitted of all charges because “it was too much for the children to testify against their aunt a second time.”⁷⁵

In addition to the issues surrounding the victim’s own testimony, the private nature of sexual abuse often creates an absence of other evidence. Often the cases are of “he said-she said” battles of credibility. Sometimes, however, the evidence of the victims is bolstered by similar factual or circumstantial evidence.

In the specific situation of alternative religious movements, an additional hurdle exists that both parties must overcome. In our opinion, the involvement of a cultic or sectarian group in the proceedings should include an investigation into that group or movement itself. The involved group may be attempting to protect an operational structure that facilitates abuse, or even may be concealing doctrines that condone abuse or its cover-up.⁷⁶ Because people in mainstream culture (who as the judge and jury are the triers of facts) are not likely to understand how these groups operate, counsel must provide evidence about how particular beliefs influence if not direct behaviors that are relevant to particular cases.

With many abusive alternative religions, however, few explanatory resources are available to the court, and any witnesses or experts whom counsel attempts to use likely will undergo intense scrutiny by the opposing side. Plaintiffs and defendants who are selecting potential expert witnesses appearing before a court have three options: current members; former or ex-members,⁷⁷ or professionals with relevant related

⁷² Resiberg, 2014, p. 275.

⁷³ Jane Sims, 2004 (April 27), “Amish Case Ends in Mistrial,” *London Free Press*. Available from <http://www.canoe.ca/NewsStand/LondonFreePress/News/2004/04/27/437562.html>

⁷⁴ Jane Sims, 2004 (April 23), “Amish Girl Recounts Abuse,” *London Free Press*. Available from <http://www.jehovahs-witnesses.net/watchtower.child-abuse.70649/1Amish-Abuse-Case>

⁷⁵ Jane Sims, 2005 (February 22), “Woman Acquitted of Abuse: A Retrial Seen As Too Traumatic for Five Children Who Testified to Mistreatment,” *London Free Press*. Available from http://injusticebusters.org/04/Amish_London.htm

⁷⁶ In late June 2016, for example, “a San Diego Superior Court judge ordered the church of Jehovah’s Witnesses, also known as the Watchtower Bible and Tract Society of Pennsylvania, to pay \$4,000 a day in fines as long as it refuses to produce documents in a sexual abuse case brought by former church member Osbaldo Padron.” Experienced sexual abuse attorney, Gilion Dumas, concluded, “the fact that the Church of Jehovah’s Witnesses has absolutely refused to produce its documents, despite a court order to do so, and now in the face of daily, steep financial fines, shows how desperate the Church is to hide whatever those documents show about the Church’s history of child sex abuse” (Gilion Dumas, 2016 (June 28), “Jehovah’s Witnesses Face Sanctions for Withholding Documents in Sex Abuse Case,” *Dumas Law Group*. Available from <http://dumaslawgroup.com/2016/06/28/jehovahs-witnesses-face-sanctions-withholding-documents-sex-abuse-case/>

⁷⁷ For a generally critical discussion of apostates’ roles in legal cases, see David G. Bromley, 1998, “The Social Construction of Contested Exit Roles: Defectors, Whistleblowers, and Apostates.” In David G. Bromley (Ed.), *The Role of Apostates in the Transformation of Religious Movements* (pp. 42–43) (Westport CT: Praeger).

expertise.⁷⁸ Courts should attempt to determine the extent to which current members can testify truthfully, especially if that testimony causes harm to the group itself.⁷⁹ Similarly, courts should strive to ascertain whether former members are willing to speak truthfully, even if doing so benefits the group's position. In other words, courts will attempt to ascertain whether both types of witnesses are credible and free to speak truthfully without fear of group reprisal.⁸⁰ Hearsay is generally inadmissible, but experts are able to provide opinion evidence as insight into groups' structures, beliefs, and practices. The court will judge the quality of the evidence by the experts' research methodology, their use of current and former members, their relationships with either the groups or their former members, the length and depth of contact with the groups, peer-reviewed publications, and so on. Biased data collection is likely to get experts' testimonies ignored or rejected.

Furthermore, many of the groups in which abuse occurs create another hurdle to prosecution. As sociologist of religion and lawyer James T. Richardson indicated:

[t]he communal, sectarian, and often isolated nature of the groups in question makes it very difficult for authorities to gather the information

needed to assess grievance claims. Current laws dealing with child abuse are based on the assumption that the claims can be readily investigated through social contacts: using corroborating testimony of teachers, neighbors, or friends of the family. Child abuse laws, moreover, assume a reasonable degree of cooperation on the part of the accused.⁸¹

As Richardson realized, however, often groups do not cooperate.⁸²

Even if groups do cooperate, authorities may encounter statute-of-limitation restrictions. They also may discover that groups themselves may have investigated allegations before calling authorities, thereby inadvertently allowing perpetrators to hide or destroy evidence. In a trial itself, a risk always exists that cross-examination will find that key witnesses are unreliable or biased, or that a child cannot understand important questions.

The cumulative effect of the above factors motivates prosecutors' and plaintiffs' counsel to avoid trial. If prosecutors can obtain some accountability for their clients/the victims, then it is likely the prosecutors will encourage their clients to settle for certainty rather than risk the expensive uncertainties of trial. A complete loss at trial for either side may have a devastating impact.⁸³ We argue, however,

⁷⁸ Stephen J. Ceci and Helene Hembrooke (Eds.), 1998, *Expert Witnesses in Child Abuse Cases: What Can and Should Be Said in Court* (Washington, DC: American Psychological Association).

⁷⁹ In W 42 In the High Court of Justice, Family Division, 1995 (which was a child custody case that pitted a nonmember grandmother fighting for custody of her grandchild against her daughter, who was a member of the Children of God/The Family), Chief Justice Ward outlined his initial cautions about being deceived by either side (p. 5), but was compelled to provide a long, detailed list of deceptions, prevarications, and lies that current members told on the witness stand (pp. 13–14), followed by specific criticisms of current members' credibility (pp. 14, 22, 24–25, 41, 81, 83). Alternatively, key former-member witnesses impressed him with their objectivity and honesty (pp. 30–31, 38–39, 47).

⁸⁰ See Stephen A. Kent, 1994, "Misattribution and Social Control in the Children of God," *Journal of Religion and Health*, (33)1, 41.

⁸¹ James T. Richardson, 1999, "Social Control of New Religions: From 'Brainwashing' Claims to Child Sex Abuse Accusations." In Susan J. Palmer and Charlotte E. Hardman (Eds.), *Children in New Religions* (p. 182) (New Brunswick, NJ: Rutgers University Press).

⁸² Richardson, 1999, p. 182.

⁸³ Two convictions against preacher Tony Alamo have led to the dismantlement of a substantial portion of his organization's property. In November 2009, he was convicted on 10 counts to 175 years in jail for transporting five underage girls across state lines for the purposes of sex. In January 2010, a judge ruled that Alamo owed the victims \$42.5 million in restitution, which he did not pay. Consequently, in mid-June 2013, the American federal government filed a suit to obtain Alamo's properties in Arkansas to obtain payment for the victims. Making matters worse for him and his ministry, in early 2014, an Arkansas judge awarded \$525 million to seven women who alleged abuse by him after his church failed to respond to their lawsuit. He also owed \$30 million to two men who, as youths raised in his group, experienced beatings,

that even with these risks, the aggrieved parties involved must consider the potential harms of *not* having their allegations aired in a public court.

Preparing for the Most Extreme Position: Assertions That Adult-Sanctioned Sexuality Involving Children Is Protected if Not Divinely Ordained

Prosecutors—and for that matter, defense counsel—in criminal, civil, or family trials may find themselves involved in cases in which the accused parties defend, in varying degrees, either adult sexual contact with children or adult-sanctioned child-upon-child sex.⁸⁴ A small number of cult members and leaders will believe that adult-sanctioned sexual activity involving minors is acceptable, but at least a few of the offending parties will realize that an attempted public defense of their beliefs would be fatally harmful for their cases.⁸⁵ Whatever variation

starvation, and denial of proper education. By August 2014, some of his 27 owned or controlled properties in Fouke, Arkansas sold at auction, and federal officials already had announced their likely intention to go after properties in Los Angeles. See “US Evangelist Tony Alamo Gets 175 Years for Sex Crimes” (2009, November 14), *Telegraph* [UK]. Available from <http://www.telegraph.co.uk/news/worldnews/northamerica/usa/6565830/US-evangelist-Tony-Alamo-gets-175-years-for-sex-crimes.html>; Paresh, Dave, 2004 (March 1), “Tony Alamo Victims Awarded \$525 Million; L.A. Properties May Be Sold,” *Los Angeles Times*. Available from <http://articles.latimes.com/2014/mar/01/nation/la-na-nn-tony-alamo-arkansas-victims-20140228>; Julie Parr, 2014 (Updated July 23), “Tony Alamo Properties Sold at Auction,” *KTBS* [Shreveport, LA]. Available from <http://www.ktbs.com/story/25764986/tony-alamo-properties-sold-at-auction>; Julie Parr, 2014 (Updated August 23), “Tony Alamo Church Empire Dismantled,” *KTBS* [Shreveport, LA]. Downloaded from <http://www.ktbs.com/story/26274422/tony-alamo-church-empire-dismantled>

⁸⁴ For a sociological analysis of this phenomenon, see Kent, 2012, p. 49.

⁸⁵ A dramatic example of a group that had sanctioned adult/child sex but realized that society disapproved and criminalized such activities was the Children of God/The Family. In an internal publication for members only, written in late 1992 or early 1993, The Family’s leader, Karen Zerby/Mama Maria, wrote a long document to her followers, which contained a section entitled “CONCERN ABOUT CA [child abuse] QUESTIONS: PRESENTING IT TO THE PUBLIC & EXPLAINING IT TO THE FAMILY.” In the section that followed, she shared with followers: “129. I’m sorry that we couldn’t come out a little more forthrightly in the Child Abuse Statement, bringing out the point that all sex between adults & minors in not bad, sinful, harmful or abusive. However, the problem was that we didn’t know how

there may be among criminal, civil, or family court cases, these defenses never work; and even sincerely held beliefs in the sanctity of sex with or between minors never trumps child sexual-abuse statutes. For purposes of illustration, we provide three examples of unsuccessful defenses.

In New Mexico, Wayne Bent of the Lord Our Righteousness Church faced charges that accused him of touching a female teen’s breasts. Throughout the process, Dent insisted that he only had *touched* a teen girl’s sternum, and done so for nonsexual, religiously healing purposes. Convicted in mid-December 2008 “of one count of criminal sexual contact of a minor and two counts of contributing to the delinquency of a minor,”⁸⁶ Bent received an 18-year sentence, with 8 years suspended.⁸⁷ He petitioned the New Mexico Court of Appeals on several points, and he received a reversal on the grounds that the term of service had expired for the grand jury that had indicted him. The New Mexico Supreme Court, however, upheld the authority of the initial conviction.⁸⁸

In a Canadian case, pastor Daniel Cormier of the Church of Downtown Montreal claimed unsuccessfully to a court that he had married his 10-year-old victim. Charged in 2004 with sexual interference, invitation to sexual touching, sexual assault, and two counts of sexual

much we could say without putting the Family at legal risk. We wouldn’t have been afraid to admit more if we had known we could do it legally, but we had to be careful & try to protect the Family, & since at the time we were unable to get any expert advice on that subject, we had to do the best we could” [Maria], *Summit ’93 Mama Jewels!—No. 2* (1992/1993?), 18–19 (underlining in original).

⁸⁶ Deborah Baker, 2008 (December 15), “Leader of NM Sect Guilty in Child Sex Case,” *Huffington Post*. Available from <http://www.huffingtonpost.com/huff-wires.20081215/sect-leader-trial/>; State of New Mexico v. Wayne Bent, Docket No. 33,136 (N Mex Sup Ct 2012).

⁸⁷ Tim Maestas, 2008 (December 30), “Bent Sentenced to 18 Years.” *KRQE News* [NM]. Available from http://www.krqe.com/dpp/news/crime_krqe_clayton_cult_leader_c_all_verdict_cruxifixion_200812291835

⁸⁸ *State of New Mexico v. Wayne Bent*, Docket No. 33,136 (N Mex Sup Ct 2012).

exploitation of girls,⁸⁹ Cormier's initial defense regarding one of his victims was that he had married her according to provisions in Quebec's civil code when she was 10 years old (and he was at least 38 years older), although he had initiated sexual contact when she was 9. A Quebec court rejected his arguments in 2005,⁹⁰ and during part of his 2008 trial he continued to represent himself. The judge, however, prevented him from cross-examining the victim and her mother, assigning a lawyer to conduct the questioning.⁹¹ The victim herself even refused to be in the same room as Cormier, so she testified via a video link from a nearby room.⁹² Nevertheless, Cormier contacted her by e-mail, which led to his arrest because by doing so he broke his bail conditions.⁹³ After the conclusion of the trial (in October 2008), Cormier received a 5-year sentence for assaulting the victim,⁹⁴ and by the end of 2009 he received another conviction for the sexual exploitation of a minor over whom he was in a position of trust. For that second crime, he received an additional 9 months in jail.⁹⁵

In a third instance, Joseph Cardillo of Boulder, Colorado went through two trials concerning the

sexual practices in which he engaged with an 8-year-old girl, which included mutual nudity, use of a vibrator, nude hot-tub events, chest and genital fondling, and drinking the child's urine.⁹⁶ He had met the girl's mother at a Hare Krishna event, and the mother came to consider Cardillo a member of the family. She allowed her daughter to stay at Cardillo's home, even though she never visited it herself. In an affidavit, the mother "said that her daughter told her what was happening, but she emphasized that it was OK as long as everyone is comfortable with it."⁹⁷ Despite the mother's views, authorities charged Cardillo with felony sexual assault, to which he pleaded not guilty. When his trial was about to begin in late March 2009, however, Cardillo jumped bail and failed to appear,⁹⁸ only to be captured days later in Sedona, Arizona.⁹⁹

The trial then proceeded but ended in a mistrial, with one jury member out of 12 refusing to convict. Perhaps the juror was convinced by Cardillo's testimony

that the girl wanted him to drink her urine, and that he had received "urine therapy" training in India and attended nudist schools. He told jurors both are normal practices in "alternative communities" and he was never aroused or gratified by anything that happened when he was with the child.¹⁰⁰

In August 2010, Boulder County officials launched a retrial, this time resulting in a 10-

⁸⁹ "Preacher's Child 'Wife' Won't Face His Questioning at Trial," 2008 (January 11), *The Gazette* [Montreal]. Available from <http://www.religionnewsblog.com/20334/daniel-cormier-2>

⁹⁰ Christiane Desjardins, 2005 (Fevrier 12), "Cormier Cité à Procès Pour Agressions Sexuelles," *La Presse* [Montreal], A19; "le Mariage Réfuté" 2008 (Avril 25), *CBC Radio Canada*. Available from <http://ici.radio-canada.ca/nouvelle/394251/cormier-proces-vendredi>

⁹¹ "Preacher's Child 'Wife' Won't Face His Questioning at Trial," 2008 (January 11), *The Gazette* [Montreal]. Available from <http://www.religionnewsblog.com/20334/daniel-cormier-2>

⁹² "Girl Clueless Montreal Pastor Had Claimed Her As His Wife on 10th Birthday," 2008 (May 2), *Canadian Press*. <https://www.pressreader.com/canada/the-western-star/1948/20080502/textview>

⁹³ Jan Ravensbergen, "Child-bride Accused Back in Jail," 2008 (May 27), A6.

⁹⁴ "Quebec Pastor Who Took Child Bride Sentenced to 5 Years," 2009 (January 26), *CBC News*. <http://www.cbc.ca/news/canada/montreal/quebec-pastor-who-took-child-bride-sentenced-to-5-years-1.816158>

⁹⁵ QMI Agency, 2010 (March 8), "Sentence Extended for Man Jailed Over Child Bride." Available from <http://cnews.canoe.ca/CNEWS/Crime/2010/03/08/pf-13154241.html>.

⁹⁶ "Nudist Accused of Sex Assault, Drinking Girl's Urine," 2007 (November 5), *ABC 7 News* [Denver, CO]. Available from <http://www.dreamindemon.com/forms/archive/index.php/t-16120.html>

⁹⁷ "Nudist Accused of Sexual Assault" 2007 (November 5).

⁹⁸ Vanessa Miller, 2009 (March 24), "Niwt Man Accused of Drinking Girl's Urine Disappears," *Denver Post*. Available from <http://www.dreamindemon.com/forums/archive/index.php/t-16120.html>

⁹⁹ Vanessa Miller, 2009 (March 26), "Man Accused of Drinking Girl's Urine Arrested in Arizona," *Denver Post*. Available from http://www.dailycamera.com/archivesearch/ci_12958545.

¹⁰⁰ Erica Meltzer, 2009 (October 30), "Mistrial: Jury Can't Agree in Niwt Sex Assault Case," *Colorado Daily*. Available from http://www.coloradodaily.com/cu-boulder/ci_13676872?source=rss

year-to-life sentence. Previously the girl's mother had received a misdemeanor child-abuse conviction, a charge that was brought against her in January 2008.¹⁰¹ Rarely do these cases present opportunities for out-of-court settlements because defendants are adamant about their innocence and prosecutors have ample evidence of defendants' undisputed abuses. The only option for prosecutors is to have courts determine the accused's guilt through trials; but in doing so, both the nature and the extent of the crimes, and the unjustified excuses that defendants attempted to use, become public knowledge.

The "Bad Apple" and the Role of Settlement

Generally, resolving a lawsuit prior to trial is ideal. In the civil context, doing this saves a client expense, time, and the emotional stress of a protracted legal process. In the criminal context, it saves court resources and minimizes risk. In the specific case of child sexual abuse, settlements and pleas prevent the victim or victims from further victimization on the witness stand. The court process demands that victims retell the painful events repeatedly. In the courtroom, they must expose these personal details to complete strangers (the police, their lawyers, the accused's lawyers, the judge, possibly jurors, the media), and to family and friends whom they may never have told. In addition, they must retell these personal details in the presence of the accused.¹⁰²

Settlements and plea bargains ensure that the victims receive some form of justice, whereas trial risks a complete acquittal. Settlements provide certainty. For example, when 535 plaintiffs (who had been children in the Hare Krishna/ISKCON movement) sued the International Society of Krishna Consciousness

over the child abuse that they had suffered, the out-of-court settlement obtained \$9 million as a partial payment for them. The plaintiff's attorney, Windle Turley, surmised,

The confirmation of this settlement by the Bankruptcy Court, combined with the explicit apology, issued . . . to the victims, where [the] Krishna [organization] acknowledged wrongdoing, helps provide validation to these innocent young people. Many of them were terribly abused, sexually, physically, and emotionally, for years in various Krishna Boarding Schools.

While the money received by these victims will be of help in securing needed therapy, and for many, vocational training, more important is the self-validation of their own worth brought about by these payments and the unequivocal acknowledgement and apology by this religious organization.¹⁰³

This settlement, therefore, brought compensation to the victims and an organizational apology, which provided plaintiffs with a degree of closure even if individual perpetrators escaped public scrutiny. We argue, however, that despite all the reasons to keep these cases out of courtroom, plaintiffs' lawyers and crown (or other governmental) prosecutors have a responsibility to consider the potential that the perpetrator is not the only guilty party.

Consequently, without a trial to expose the underlying participation of others and the cult organization as an entity, the victims and the public do not receive comprehensive justice. To some degree, settlements and plea bargains allow alternative religions to separate themselves from allegations and continue

¹⁰¹ Laura Snider, "Niwot Urine-Drinker Joseph Cardillo Sentenced to 10 Years to Life in Prison," 2010 (November 23), *Boulder Daily Camera*. Available from http://www.dailycamera.com/rss/ci_16693560

¹⁰² For an early description of courts allowing children to testify through videotape and closed circuit television, see Charles B. Schudson, 1987 (March), "Making Courts Safe for Children," *Journal of Interpersonal Violence*, 120–122.

¹⁰³ Windle Turley, 2016 (June 22), quoted in "Hare Krishna," *LawyersandSettlements.com*. Available from https://www.lawyersandsettlements.com/settlements/03629/hare-krishna.html?utm_expnid=3607522-13.Y4u1ixZNSt6o8v_5N8VGVA.0&utm_referrer=http%3A%2F%2Fint.search.myway.com%2Fsearch%2FGGmain.jhtml%3Fsearchfor%3DHare%2BKrishna%252C%2BWindle%2BTurley%2522%26n%3D782aa8aa%26p2%3D%255EC4P%255Exdm106%255ETTAB02%255Eca%26ptb%3DF3AD3A49-91ED-473D-A9DF-8532886CB091%26qs%3D%26si%3Dflightupdates-2%26ss%3Dsub%26st%3Dtab%26trs%3Dwt%26tr%3DGsb

practices that may condone, contribute to, or cause abuse. Journalistic accounts often attempt to establish links between the perpetrators and their groups, but these links have more consequences when a court identifies and reveals them.

The purpose of settlement is generally aligned with the goals of tort damages. “The basic principle is *restitutio in integrum*, which means that the amount must be such as to put victims in the same financial position as they would have been if the accident had not occurred.”¹⁰⁴ Damage has been done, and legal decisions with financial consequences should put people in monetary positions as if they had not been violated.

Child sexual abuse, however, is not easily aligned with the ideals of civil litigation. It is impossible to repair the damage and calculate its financial harm. Likely the only easily calculable damage involves counselling expenses, but lawyers may be able to convince juries to include pain and suffering within damage awards. The justice that victims seek is more akin to punishment and deterrence, which one finds through criminal-law remedies. If awards are large enough, then they may dismantle organizations. Such a large award is rare, however, since groups would be unwilling to settle for amounts that would be so crippling. The targeted groups likely would take such destructive decisions to trial in the hope of maintaining the groups’ continued existence.

Whether there is a trial or not, the media provides the public with information about the case. In high-profile cases, the media engages the initial allegations against the defendants and follows the stories to the cases’ conclusions and beyond. In general, however, stories are more likely to appear if reporters and editors deem them to be newsworthy—determined in part by their appeal to general readers’ interest and their help in selling papers. Cult stories, especially those involving child sexual abuse, reinforce readers’ feelings of normalcy about their own

lives but outrage about the lives of the alleged abusers. Reporters, therefore, must resist the temptation to sensationalize.

Media sensationalism may be an inevitable consequence of how reporters gather and assess information. Media outlets vary over what their institutions consider to be printable (or suitable for broadcast), what levels of repetition is necessary for verifying facts, and even whether sources can remain anonymous. Consequently, readers (or viewers) may not have enough methodological information about the reporters’ data collection to make a full assessment about its adequacy.

The legal arena provides opportunities for officials to better inform the public about cult-related child-abuse issues, since its rules of evidence and citations are more rigorous than what reporters necessarily use. In instances of judgments by judges or juries, the media can report on the range of facts that the decision makers used to draw their conclusions, which remain authoritative unless overturned by a higher court. Written decisions provide in-depth analyses of allegations. More importantly, judgments by judges or juries offer opportunities for the public to understand the involvement of alternative religions or cults, since inevitably cults’ roles become part of the reasons for judgments. Alternative religions discussed in these decisions are under great pressure to alter their practices if they hope to remain free from continued legal interference.¹⁰⁵

In contrast to written court decisions, private settlements do not provide the media with enough information for their stories to pressure cults to reform themselves regarding the protection of children. Often the only information the media is able to provide is that the parties involved reached an agreement, which includes nondisclosure clauses and financial payments without acknowledging wrongdoing. Consequently, groups may approach the media with attempts to discount or spin the initial allegations.

¹⁰⁴Jean-Louis Baudouin and Allen M. Linden, 2010, *Tort Law in Canada*, p. 93. Alphen aan den Rijn, Netherlands: Kluwer Law International.

¹⁰⁵W 42 In the High Court of Justice, Family Division. 1995.

The Impact of Trials on Leaders, Founders, and Members of Alternative Religions

When alternative religious leaders face child-abuse allegations, they and their groups face difficult decisions. By pleading guilty, they will have admitted that they had been involved in inappropriate if not illegal activities with minors over which they now acknowledge a court's (rather than God's) jurisdiction. Even out-of-court settlements imply that courts have authority over actions that members may have considered to have been godly. By fighting the allegations through a trial, the leaders and their groups risk widespread negative publicity, the possibility of a harmful decision by a judicial entity, and the resultant condemnation of their religious practices and ways of life.

Sometimes, however, the risks of trial provide the best if not only options for leaders and their groups, and they will fight allegations and charges through an array of legal and extralegal actions. If courts convict them, then groups may portray their fallen leaders as martyrs, denouncing the legal institutions that prosecuted/persecuted them. Perhaps these denunciations will be enough to maintain sufficient legitimacy for the groups to continue, sometimes with convicted leaders still in charge from prisons.

Leader Controls From Prison

A remarkable example of a convicted and imprisoned leader still directing followers from prison involved an African-American preacher, Reverend (sometimes called Bishop) Wilbert Thomas, Sr. (b. 1929) from Trenton, New Jersey.¹⁰⁶ Thomas, his wife, and 11 other church members were indicted in 1983 for having perpetrated "sexual assaults, coercion, aggravated and atrocious assault and battery and criminal restraint."¹⁰⁷ His ministry had begun in 1969, attracting members through his musical talents, oratorical skills, and ecumenical

teachings.¹⁰⁸ Within a decade, however, Thomas had taken over people's private lives and made himself the subject of worship.¹⁰⁹ Racial hatred frequently appeared in his sermons, as did sexual comments, often directed at female members.¹¹⁰ Court testimony indicated that he required some female congregants to give him what he called "spiritual nourishment," which was code for sex. All the while he worked members mercilessly in church-owned businesses, and directed severe beatings against those who displeased him.¹¹¹ For these crimes Thomas received a 20-year sentence, while his wife received only a year's probation for lewdness.¹¹²

Over the prison telephone, and through directives sent back to the congregation through members who visited him, Thomas directed and maintained a unique sex-education program, which involved eroticized instructions about women sexually expressing themselves, partly to further please their men. Often the group ended the telephone conversations by members putting down the phone (but not having hung up) so that Thomas could hear congregants' sexual responses to his instructions. The instructions covered a range of topics, often using underage girls in demonstrations in front of others.¹¹³

The best-known example of a cult leader still controlling his flock while serving prison time for crimes related to child sexual abuse is the Fundamentalist Later-day Saints "prophet," Warren Jeffs (b. 1955). Serving a life sentence for forcing two teenage girls into "spiritual marriages" and impregnating one of them while she was 15 years old,¹¹⁴ Jeffs still maintains

¹⁰⁶ Kent, 2012, pp. 52–53.

¹⁰⁷ Indictment, quoted in Lee Pasternack and Tom Torok, 1983 (February 18), "Pastor, Family, Church Members Charged with Sexual Abuse," *Philadelphia Inquirer*, W5-B.

¹⁰⁸ Lisa Hoffman, 1983 (February 27), "Beatings, Sex Inflicted on Faithful, 6 Charged," *Miami Herald*, 1b, 4b.

¹⁰⁹ Laura Hatfield and William Outlaw, 1983 (February 21), "The Cult (Out of the Wilderness)," *Beacon Journal* [Akron, OH], 4ff.

¹¹⁰ Hoffman, 1983, 4B.

¹¹¹ Hoffman, 1983, 4B; Josh Meyer, 1985 (June 28), "Minister Forced Sex on Her, Woman Testifies," *Philadelphia Inquirer*, E2.

¹¹² Joel Siegel, 1986 (December 26), "N.J. Cleric Gets Prison for Assaults," *Philadelphia Inquirer*, 1-B, 8-B.

¹¹³ Haferd & Outlaw, 1983, pp. 9–10, 14.

¹¹⁴ Clayton Sandell and Christina Caron, 2014 (January 24), "Polygamist Warren Jeffs Guilty of Child Rape," *ABC News*.

control of perhaps 8,000 FLDS members and their families. Relaying directives through devout followers who visit him in a Texas prison, Jeffs has issued edicts against children's bicycles and toys, limited the right of paternity to only 15 men, restricted people's diets to beans and water, ordered boys to drop out of school so that they could become laborers on his new home-construction project, and required followers to turn in their automobiles for sales to meet the cult's debts.¹¹⁵ Apparently members believe that he has been persecuted for the religious principles that they shared with him, which they considered to be sacred principles beyond the authority of civil law.

In sum, the power of some leaders over their members cannot be overestimated. Members have invested their lives in these groups, and the most dedicated may stay loyal to leaders even in the face of horrendous accusations and sound convictions. Full exposure, however, of a group's harmful practices (as we are advocating here through trials and their coverage in the media) likely will cause at least some members to remove themselves from potentially being harmed (further) themselves. Likewise, media accounts likely will have the impact of protecting potential members from joining and becoming victims.

Group Disintegration or Division

The starkest example of a cult leader whose criminal conviction led to a movement's disintegration involves Dwight York, who was the founder and spiritual leader of a group known as the United Nuwaubian Nation of Moors (whose members loosely based their beliefs and practices on aspects of Egyptian and Native American cultures). In 2002, York was arrested on charges of 177 counts of child molestation,¹¹⁶ which—according to some

estimates—underrepresented the number of assaults that he had committed.¹¹⁷ Prior to his trial in Georgia, York's attorneys attempted to create a plea bargain, but a federal judge determined that the plea "was simply too sweet."¹¹⁸

The trial began, along with York's attempts to manipulate if not derail it. He declared, for example, that "I'm a sovereign. I'm a Native American. I'm a Moorish Cherokee and I cannot get a fair trial if I'm being tried by settlers or Confederates."¹¹⁹ After some of his victims testified about the countless acts of sexual abuse they had endured, the jury found him guilty on all counts.¹²⁰ In his sentencing, he claimed this was a "religious case" and not a "child molestation case," and he alleged that he was not given a fair trial.¹²¹ Despite this unfounded allegation, he was sentenced to 135 years in a federal penitentiary, and subsequently an appeals case sustained his sentence.¹²² In 2005, the federal government seized and destroyed York's temple at Tama-Re, Georgia.¹²³ The remaining number of Nuwaubian followers is unknown, but only a small number of them attempted to vindicate him.¹²⁴ The trial and the accusations decimated the number of followers York had, and the community complex in Georgia now sits abandoned. As the case of Dwight York and the Nuwaubians suggests, many charismatically centered groups are unable to continue without the presence of their leaders.

Group Division

Together, overwhelming negative evidence and significant punitive sentences, in conjunction

Available from <http://abcnews.go.com/US/warren-jeffs-guilty-child-rape/print?id=14228198>

¹¹⁵ "Warren Jeffs Still Calling the Shots From Prison?," 2014 (January 24), *ABC News*. Available from <http://abcnews.go.com/blogs/headlines.2013/04/warren-jeffs-still-call-the-shots-from-prison/>

¹¹⁶ Bill Osinski, 2007, *Ungodly: A True Story of Unprecedented Evil* (p. 247) (Macon, GA: Indigo Publishing).

¹¹⁷ Osinski, 2007, p. 247.

¹¹⁸ Osinski, 2007, p. 252.

¹¹⁹ Osinski, 2007, p. 252.

¹²⁰ Osinski, 2007, p. 258.

¹²¹ Osinski, 2007, pp. 259–260.

¹²² Osinski, 2005, p. 267.

¹²³ Osinski, 2007, p. 267.

¹²⁴ Osinski, 2007, p. 266. Available from <http://www.nuwaubianfacts.com/nuwaubianfacts.com> and <http://nuwaubian.blogspot.com/Dr.Malachi.Z.York>

with ideologies dependent upon the charismatic whimsies of leaders, increase the likelihood of group disintegration after a devastating verdict. Groups, however, that have routinized the teachings have a greater chance of surviving, especially if some members believe that the now-discredited leader had been acting outside of established doctrinal boundaries. These groups even may rupture during and after their leaders' trials, with some loyalists remaining true to their leaders while others seek to maintain aspects of the beliefs and practices separate from the convicted leadership. For example, Ivon Shearing (b. 1928), who was the leader of a British Columbia-based group calling itself the Kabalarians, received a jury's conviction on 12 counts of gross indecency, sexual assault, and rape concerning seven complainants from events occurring between 1965 and 1990. From a Canadian legal standpoint, the case was important because the defendants applied for access to an alleged victim's diary (as a third-party record), which went through the British Columbia Court of Appeal, then to the Supreme Court of Canada, with the defendant being victorious. The second legal precedent in the case involved reporters successfully petitioning the court to release support letters that various members wrote on behalf of Shearing in an attempt to minimize his sentencing. Sociologically, however, an interesting consequence of the case was that it divided those members who did not renounce their beliefs into two camps. As the judge reported in his ruling,

Having sat as the trial judge for over nine weeks, I have concluded that there are two groups of Kabalarians warring for control of the Society. The groups dislike each other intensely. Most of the harassment of which Ms. Daniel speaks has, I infer, come from the opposing group of Kabalarians.¹²⁵

Even before the conviction, therefore, the trial itself caused a split in the organization between those whom supported Mr. Shearing and those

who wanted to move on and distance themselves from him. Potential members, however, who search the group on the Internet will find information about the conviction, which they then can weigh in their decision to involve themselves with the organization and its followers. Conducting a trial, however, does not guarantee the dismantling of the group or the structures/doctrines that facilitated the sexual abuse.

Conclusion

People's quests for salvation are timeless, with examples of these quests going back millennia. Contemporary religious seekers will continue such quests well into the future. Some seekers immerse themselves in old, even ancient religions; others form or join new religious expressions. To nonbelievers, the content of these faiths may seem implausible and unbelievable; to adherents, that same content may be sublime and revelatory. These adherents will be so taken with their faiths that they likely will want to share them with loved ones, including their children; and the opportunities that some alternative religions provide their young are far more interesting and enjoyable than they are harmful. Harm, however, even of a sexual nature, happens far too often, and many of these incidents of harm lead to charges, court cases, or both. Adults naively assume that others in their flocks are people of integrity, and all members believe that their leaders are above reproach. Both assumptions can be dead wrong, and can have dire consequences for the sexual integrity of children (and for that matter, adults also).

Court cases present victims with a host of potential problems—perhaps having to testify in front of the alleged perpetrator(s); justifying recalled memories from long-ago incidents; experiencing stress from the length of trials; and often incurring extensive legal costs. Nevertheless, we have argued—especially when child sexual abuses are systemic or facilitated by groups—that full trials which lead to court decisions best serve the public good. In family and civil, but especially in criminal cases, the bar for admissible evidence is high; so judges and juries are receiving degrees of evidence that

¹²⁵ R v. Shearing, 1998, CanLII 4952 (BC SC), para 11.

they can weigh against objective standards for admissibility. Innocent group members have to face the reality of abuses inflicted in secret; leaders become accountable for their roles in abuse occurrences; and continuing members (in instances where groups do not simply dissolve) must accept the stigma of association and accede to public pressure regarding internal structural and doctrinal reforms. Moreover, abused members not involved with a particular trial may begin to reassess their experiences and conclude that they, too, have been harmed, and they can see parallels with cases from other groups.

Obtaining justice and appropriate compensation for victims are ideal goals, but these goals are only partially served by out-of-court settlements (especially those with silencing clauses). Beyond justice and compensation for victims, however, public trials and court decisions provide important educational opportunities for society, and possibly even serve as motivations for deterrence, as well. Victims usually feel vindicated, and they may experience enormous burdens of guilt, anger, and frustration lift from their shoulders upon hearing guilty verdicts against those who harmed them.

About the Authors

Andrea Willey BA, LLB, completed her undergraduate studies at the University of Alberta, where she received an Honours Bachelor of Arts in Sociology. She continued her studies at the University of Alberta to obtain her law degree in 2011. Currently she practices law at the firm of Duncan Craig LLP in Edmonton, Alberta, primarily in the areas of family law and mortgage enforcement. E-mail: awilley@dcllp.com (please send all correspondence regarding this article to steve.kent@ualberta.ca).

Stephen A. Kent, PhD, Professor of Sociology, University of Alberta, teaches undergraduate and graduate courses on the sociology of religion and the sociology of sectarian groups.

He has published articles in numerous sociology and religious study journals. His 2001 book, *From Slogans to Mantras: Social Protest and Religious Conversion in the Late Vietnam War Era*, was selected by *Choice: Current Reviews for Academic Libraries* as an Outstanding Academic Title for 2002. In 2012 he received The Margaret Thaler Singer Award for advancing the understanding of coercive persuasion and undue influence from the International Cultic Studies Association. E-mail: steve.kent@ualberta.ca

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