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SECTS, CULTS, AND THE ATTACK ON JURISPRUDENCE¹

Stephen A. Kent and Robin D. Willey***

ABSTRACT

This article examines the anti-judicial doctrines and actions of various religious and religiously-related sects and cults in the United States and Canada. When these groups reject the “rules of the legal game,” they then follow their own laws, including ones about legal procedures and decorum. These self-established procedures and their related court decorum easily translate into outright hostility toward the law and those who enforce it. Moreover, once they are operational, some sects and cults develop or acquire professionals (such as lawyers, police, and other law enforcement personnel) whose commitments to the welfare of clients may conflict with their own loyalties to their respective groups. Widespread in North America, for example, are variations of the “Sovereign Citizens” movement, whose members have delegitimized federal, state, and provincial governments and who act aggressively toward law enforcement and court officials. Using different tactics, Scientology has abused the law to harass opponents, including opposing counsel and presiding judges. Most serious are cases of attempted murder and homicide against police, lawyers, judges, and other law enforcement personnel. The type and range of cultic-based or sectarian-motivated acts of aggression against people in the legal system coincides with growing safety concerns for their welfare throughout North America for reasons not related to sectarianism or religious violence.

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1. First author Kent presented a version of this article as the keynote address at the Law Review Banquet and Silent Auction on March 10, 2010. Both authors extend their appreciation to Val Campbell, Ann Normand, Alan Schefflin, and Andrea Willey for their comments and suggestions.

I. INTRODUCTION

Although Canada and the United States have different positions on the issue of religious establishment, both countries share universal values about the protection of religious beliefs and the right to practice and speak about such beliefs unless doing so causes harm to others. Reflecting Canada's dual history involving the French and English, Catholic and Protestant education had an established role in the country's founding document, *The Constitution Act, 1867*, that differs from the United States' Establishment Clause of the First Amendment in the Bill of Rights and the related Fourteenth Amendment to the Constitution, which outlaws individual states' impairment of due legal process to all citizens.² In fact, a large portion of American legal cases and related scholarship regarding religion deals with establishment questions, while Canada's establishment position has led to numerous court challenges involving the scope and range of public funding for religiously-driven institutions (such as private and secondary schools). Indeed, "Section 93 is the only provision in the *Constitution Act, 1867*, that deals expressly with religion and it has proven to be one of the most litigated sections in the Act."³

Federal legislation, however, in both countries protects religious liberty, at least in relation to government actions, but rest upon slightly different legal assumptions.

While [Canada does] not have an established church as in England, [it has] inherited the same common law view of state supremacy over the church, which is different from the separationist doctrine in the United States, where the courts have often refused to hear cases because to do so would mean crossing the boundary into church jurisdiction.⁴

Nevertheless, the religious clauses that protect religious freedom in both countries do not necessarily extend into a number of private matters. In Canada, for example,

2. For one of many discussions of the First and Fourteenth Amendments, see PETER IRONS, *GOD ON TRIAL: DISPATCHES FROM AMERICA'S RELIGIOUS BATTLEFIELDS* 16-43 (2007).

3. M.H. OGILVIE, *RELIGIOUS INSTITUTIONS AND THE LAW IN CANADA* 120 (3d ed. 2010).

4. Alvin Esau, *Living by Different Law: Legal Pluralism, Freedom of Religion, and Illiberal Religious Groups*, in *LAW AND RELIGIOUS PLURALISM IN CANADA* 111 (Richard Moon ed., 2008).

most of the legal issues . . . that threaten freedom of religion in the sphere of church affairs, such as the judicial review of private associations, and various private law matters such as property, contract, and tort law, are areas of law that do not deal with *Charter* guarantees of freedom of religion because the *Charter* simply does not apply to these private disputes.⁵

Looking below the border, “[w]hile American courts also limit the application of the Bill of Rights to the actions of the state and not to private entities, the creation and enforcement of common law rules by the courts have also been held to be state actions.”⁶

Despite differences in some legal assumptions, however, the laws of both countries are liberal toward religion, which creates legal and moral dilemmas when some of the religions themselves are illiberal, and even possibly harmful, towards their members. These illiberal religions present real challenges to democracies, but even more difficult are (usually) illiberal groups that come into contact with liberal law and attempt to subvert, undercut, or otherwise destroy it. These groups can cause considerable harm to society and to persons in the judicial system that are sworn to enforce societal laws. From both a legal and a common sense perspective, “[w]hile harm is a controversial concept, groups that ‘harm’ non-members are obviously less likely to be accommodated than those that ‘harm’ only their own members.”⁷

From a sociological perspective, every modern society contains a number of religions that, for historical and/or demographic reasons, are morally normative within it. These religions usually support the basic socio-political order, even if their members protest certain elements in it (often involving inequality, human rights, etc.). Other religions, however, do not share the assumptions of normativeness in which the mainstream groups operate and therefore generally have tense or even antagonistic relationships with the dominant social order. In extreme instances, that tension toward normative society spills over into court proceedings, with members of these marginal groups, often called sects or cults, engaging in a wide array of disruptive or disreputable behaviour against the legal system and the police, lawyers, court officials, and judges who operate it.

5. *Id.* at 123.

6. *Id.* at 124.

7. *Id.* at 132.

This disruptive, disreputable, harmful, and even dangerous behaviour that some sects and cults direct at the legal system is our concern here. In this article, we discuss office burglaries, cult-agents serving as employees, character assassinations, relentless and overwhelming litigation, cult-lawyers' conflicts of interest, assassination plots against legal officials, and murder and attempted murder of lawyers and other law enforcement officials either handling oppositional cases or simply doing their jobs. Moreover, we describe how these attacks are part of larger, ideologically justified attempts to subvert the legal system and its secular consequences. By highlighting actions in which sects and cults engage in order to subvert the legal system, we have an opportunity to examine what can happen when a sectarian vision of social reality clashes with the functionally sacred assumptions that most citizens hold about normative law and its imposition. We do not deny that cults "have experienced varying degrees of discrimination and persecution by law enforcement officials,"⁸ but in far too many cases these officials have been on the receiving end of abuse, harassment, and attacks by these same groups.

A. Understanding Sects and Cults

Data for this article comes from material filed in a large research collection on alternative religions housed as a closed-to-the-public collection in the University of Alberta Library system.⁹ The senior author of this study, Stephen A. Kent, has collected most of the material and currently oversees the collection, and the junior author, Robin D. Willey, has worked extensively in the collection in an archival capacity. Moreover, Willey, like many other graduate students, has used material from the collection throughout his graduate career. The material covered in this collection, and hence in this article itself, involves non-mainstream groups whose beliefs have some relation to religion.¹⁰ We call these groups "sects" and "cults," knowing that social scientists do not always agree about what these terms mean. A brief discussion, however, about widely shared meanings of these terms will help clarify why

8. CHRISTOPHER THOMAS ANGLIM, *ENCYCLOPEDIA OF RELIGION AND LAW IN AMERICA* 146 (2d ed. 2009).

9. The research collection encompasses an estimated 5,000 linear feet of material but is closed to the public for security reasons.

10. By relation to religion, we mean possessing belief-claims that assume either supernatural gods or supernatural forces and any rites or rituals associated with them.

we chose to use them to describe the groups whose actions we use as examples.

In a widely used sociology of religion text, sociologist Meredith McGuire provides definitions for groups that take a sectarian stance in society and others that take a cultic stance. Sectarian religious collectivities:

Consider themselves to be uniquely legitimate [and] are in a relatively negative relationship with the dominant society. The sectarian stance does not accept the legitimacy claims of other religious groups, [and] the sectarian stance proclaims itself the only way. Having a sectarian stance is often correlated with a group's emphasis on a transcendent deity who judges the moral actions of humans. The group's dissent from the larger society is both a pronouncement about the evils of society's ways and an effort to structure believers' lives to protect them from immoral thoughts and actions.¹¹

Sect members' sense of unique legitimacy, including their tension with mainstream society and their sense of exclusivity amidst an immoral world, contribute to their frequent antagonism toward the law.

Sharing some of the same characteristics as sects, cults are:

[C]haracterized by acceptance of the legitimacy claims of other groups but a relatively negative tension with the larger society. . . . Like sectarian collectivities, cultic groups are a form of social dissent; however, their dissent is likely to be less extreme because of their pluralistic stance [toward other groups].¹²

For our purposes, both types of collectivities involve degrees of social dissent.

Although not included in McGuire's definition of either a sect or cult, a widespread sense exists among many scholars that these groups, especially when called cults, are "high-demand, manipulative and frequently harmful . . ." ¹³ involving intense indoctrination into beliefs that most members of society consider to be odd or spu-

11. MEREDITH B. MCGUIRE, *RELIGION: THE SOCIAL CONTEXT* 156 (5th ed. 2002).

12. *Id.* at 157.

13. DONI WHITSETT & STEPHEN A. KENT, *Cults and Families*, 84 *FAMILIES IN SOC'Y* 492, 502 n.1 (2003).

rious. Even the Supreme Court of Canada has used the term “cult,” usually in this latter sense.¹⁴

In this article, we show that sectarians and cult members who dissent from their respective societies often do so against their societies’ legal systems in ways that threaten the emotional and physical well-being of legal staff. These dissenting actions may even challenge or reject the very foundations of the legal system itself, thereby constructing encounters between the dissenters and normative legal and judicial staff that can be violent if not deadly. Our hope, therefore, is that our summary of various dissenting challenges to the legal system will result in greater awareness of legal staff’s safety amidst general efforts to extend fair legal representation to all citizens. While we agree that judicial personnel must not use sect and cult labels to deny groups legal protection,¹⁵ sometimes groups that carry those labels put those personnel at significant risk regarding their own rights and personal safety.

B. How and Why Sects and Cults Emerge

A brief analysis of how sects and cults emerge will give insight into why some of them detest society in general and the legal system in particular. One set of circumstances in which sects and cults appear is when significant numbers of people feel deprived relative to their expectations concerning social, political, and/or economic changes that they consider to be legitimate and obtainable.¹⁶ If social channels (such as elections, protests, lobbying, etc.) fail to bring about these changes, then people may turn to religion with the expectation that God will initiate the transformations that they were unable to catalyse through their own efforts.¹⁷

Under these circumstances, the law is among the oppressive burdens of the dominant, but ungodly, powers. Law is the oppressor; therefore, law is the enemy. Certainly these attitudes are

14. R. v. Shearing, 2002 S.C.C. 58, ¶ 1, [2002] 3 S.C.R. 33 (Can.).

15. W. Cole Durham & Elizabeth A. Sewell, *Defining Religion, in* RELIGIOUS ORGANIZATIONS IN THE UNITED STATES: A STUDY OF IDENTITY, LIBERTY, AND THE LAW 78 (James A. Serritella ed., 2006).

16. See Charles Y. Glock, *On the Origin and Evolution of Religious Groups, in* RELIGION IN SOCIOLOGICAL PERSPECTIVE 207, 210-12 (Charles Y. Glock ed., 1973). We limit our discussion to what Glock called economic deprivation, social deprivation, and ethical deprivation (which includes political deprivation), and do not discuss psychic deprivation and organismic deprivation.

17. See, e.g., STEPHEN A. KENT, FROM SLOGANS TO MANTRAS: SOCIAL PROTEST AND RELIGIOUS CONVERSION IN THE LATE VIETNAM WAR ERA 25-43 (2001).

common among the various anti-government groups, some of which we highlight in this article. As a widely distributed study about them concluded, "regardless of the name attached to the beliefs and the people who follow them, one common denominator exists: a feeling of despair, rooted in personal and pecuniary loss, and manifested in a new, defiant mistrust and spite for the ways of the current government."¹⁸

A second way that sects and cults can develop is as the result of social implosion, or what sociologists William Bainbridge and Rodney Stark refer to as "subculture evolution."¹⁹ In this scenario, group members, often in psychotherapeutic groups, spend increasingly long periods of time with themselves and decreasing amounts of time with the outside world. As they do, they establish their own mini-societies, with rules, sometimes even laws, status, authority structures, values, and degrees of exclusive language. Members believe social laws matter less and less as their own norms and obligations matter more and more. Among the groups whose actions we highlight, Synanon is a good example of a group that imploded. It began in the late 1960s as a drug treatment program, but through use of intensive encounter sessions in which participants attacked one another verbally and emotionally, it evolved around the ideas and teachings of its most skilled participant, Charles Dederich (1913-1997).²⁰

A third way in which sects and cults can appear is around a charismatic leader who often suffers from a mental illness or personality disorder.²¹ Followers misattribute/misrecognize leaders' unusual behaviours and claims as indicators of divinity when in fact they are manifestations of mental imbalance. Most common among the personality disorders are narcissism, antisocial personality disorders, and delusional disorders, especially involving paranoia. Among the characteristics of narcissism are "a pervasive pattern of grandiosity (in fantasy behaviour), need for admiration, and lack of empathy," including beliefs in one's special and unique

18. NAT'L CTR. FOR STATE COURTS, *THE ANTI-GOVERNMENT MOVEMENT GUIDEBOOK 16* (Chuck Erikson ed., 1999). See also JOEL DYER, *HARVEST OF RAGE: WHY OKLAHOMA CITY IS ONLY THE BEGINNING* 1-7 (1997).

19. RODNEY STARK & WILLIAM SIMS BAINBRIDGE, *THE FUTURE OF RELIGION: SECULARIZATION, REVIVAL, AND CULT FORMATION* 183-187 (1985).

20. See WILLIAM OLIN, *ESCAPE FROM UTOPIA: MY TEN YEARS IN SYNANON* 32-66 (1980).

21. *Id.* at 173-177; Stephen A. Kent, *Scientific Evaluation of the Dangers Posed by Religious Groups: A Partial Model*, in 3 *CULTIC STUD. REV.* 101, 104-12 (2004).

nature along with a sense of entitlement. When criticized, “they may react with disdain, rage, or defiant counterattack.”²² In this study, several of the groups from which we provide anti-judicial examples—Scientology, Rajneeshism, and polygamist Mormons—likely had narcissists as founders.²³ Another group that provides an example in this article is Aum Shinri Kyo, whose founder, Shoko Asahara (b. 1955), likely suffered from a narcissism-related syndrome termed *pseudologia phantastica*. This syndrome is characterised by “a peculiar type of lying that originates primarily from the liar’s fanciful desire to enhance the liar’s perceived value and prestige, and which often results in criminal, antisocial behaviour involving the deception of others.”²⁴ Antisocial behaviour also can target court officials, as we soon shall see.

C. Cults and the Juridical Field

In attempting to theorize about why so many sect and cults abuse and detest the legal system, we have found concepts useful in some of the theoretical work produced by the French social theorist, Pierre Bourdieu (1930-2002). Bourdieu did not write extensively on the subjects of law and religion,²⁵ but academics have been able to mine a considerable amount of insight from a relative-

22. AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 658-659 (4th ed. 2000).

23. On the narcissistic characteristics of Scientology’s founder, L. Ron Hubbard (1911-1986), see Jodi M. Lane & Stephen A. Kent, *Politiques de rage et narcissisme malin*, in 41 CRIMINOLOGIE 117-155 (Dominique Robert & Guy Lemire eds., 2008). On the narcissistic characteristics of the founder of the Rajneeshis, Bhagwan Shree Rajneesh (1931-1996), see Ronald O. Clark, *The Narcissistic Guru: A Profile of Bhagwan Shree Rajneesh*, in OSHO RAJANEESH & HIS DISCIPLES: SOME WESTERN PERCEPTIONS (Harry Aveling ed., 1988). On the narcissism of the polygamous founder of the Latter-day Saints, Joseph Smith (1895-1844), who the fundamentalists use to justify their practice of polygamy, see ROBERT ANDERSON, *INSIDE THE MIND OF JOSEPH SMITH* (1999).

24. Haruo Akimoto, *Two Cases of Pseudologia Phantastica: Consideration from the Viewpoint of Forensic Psychiatry*, in 51 PSYCHIATRY & CLINICAL NEUROSCIENCES 185, 185 (1997).

25. See Pierre Bourdieu, *The Force of Law: Toward a Sociology of the Juridical Field*, 38 HASTINGS L.J. 805 (1987) [hereinafter *Force of Law*]; Pierre Bourdieu, *Legitimation and Structured Interests in Weber’s Sociology of Religion*, in MAX WEBER, RATIONALITY AND MODERNITY 119 (Scott Lash & Sam Whimster eds., 1987); Pierre Bourdieu, *Genesis and Structure of the Religious Field*, in 13 COMP. SOC. RES. 1 (Craig J. Calhoun ed., 1991).

ly small body of theory.²⁶ In *THE PASCALIAN MEDITATIONS*, Bourdieu argued that over the past several centuries the state has replaced religion as the primary agent of consecration in society.²⁷ In other words, the state is now the primary agent of “legitimation and naturalization of social difference.”²⁸ Said differently, the state is the primary mechanism through which society establishes its hierarchies of agents, groups, and institutions. The law, or the “juridical field,” as Bourdieu described it, plays an integral role in this process.²⁹

Bourdieu defined the juridical field as “a social space organized around the conversion of direct conflict between directly concerned parties into juridically regulated debate between professionals acting by proxy. It is also the space in which such debate functions.” Bourdieu continued to elaborate that the “professionals” who participate in this field “have in common their knowledge and their acceptance of the rules of the legal game, that is, the written and unwritten laws of the field itself, even those required to achieve victory over the letter of the law.”³⁰

More specifically, as law “consecrates the established order,” it simultaneously distributes and regulates “differing amounts of different kinds of capital” to the actors and/or institutions involved.³¹ In sum, the law for Bourdieu has the power to “name,” legitimize, and consecrate.

Thus only a realist nominalism (or one based in reality) allows us to account for the magical effect of naming as the term has been used here, and thus for the symbolic imposition of power, which

26. See e.g., Steven Engler, *Modern Times: Religion, Consecration and the State in Bourdieu*, in 17 *CULTURAL STUD.* 445 (Lawrence Grossberg ed., 2003); Lucille A. Jewel, *Bourdieu and American Legal Education: How Law Schools Reproduce Social Stratification and Class Hierarchy*, 56 *BUFF. L. REV.* 1155 (2008); Remi Lenoir, *Bourdieu and the Law: An Intellectual and Personal Encounter*, in 29 *RETFÆRD ARGANG* 7 (2006); Terry Rey, *Marketing the Goods of Salvation: Bourdieu on Religion*, in 34 *RELIGION* 331 (2004) [hereinafter *Marketing the Goods*]; TERRY REY, *BOURDIEU ON RELIGION: IMPOSING FAITH ON LEGITIMACY* (2007); Mauricio García Villegas, *On Pierre Bourdieu's Legal Thought*, in 56-57 *DROIT ET SOCIÉTÉ* 57 (Juridiques Associées ed., 2004).

27. PIERRE BOURDIEU, *THE PASCALIAN MEDITATIONS* 245 (2000).

28. Engler, *supra* note 26, at 446.

29. *Force of Law*, *supra* note 25, at 838.

30. *Id.* at 831.

31. *Id.* at 838.

only succeeds because it is fully based in reality. Juridical ratification is the canonical form of all this social magic.³²

Contra Bourdieu, this article describes those individuals and groups involved in sects and cults who, for both religious and sometimes strategic reasons, do not agree to the “rules of the legal game.” As such, the examples that follow describe agents who cheat, obscure, attack, and/or refuse to participate in the game of law. Some of these agents fear the axe of delegitimation and deviantization that the law wields, while others fail to even recognize the law as a legitimate institution and thus attempt to disregard, yet not always to escape, the “magical effect” of juridical ratification.

II. STRATEGIES FOR ATTACKING JURISPRUDENCE

A. *Conflicting Allegiances*

We have mentioned in passing the intensive indoctrination processes that most people consider an aspect of high-demand cults. Never underestimate the power of some of these programs to transform ordinary individuals into potentially dangerous cult operatives. The prosecuting attorney in the Charles Manson case, Vincent Bugliosi, completely misunderstood social science when he claimed that the Manson women had a rot—a darkness and evil—inside of them that the rest of us lack.³³ The processes of indoctrination and resocialization are well established, and the literature suggests how easy it is for many ordinary people to go through profound personality transformations.³⁴ Bourdieu and others might explain the processes of indoctrination and resocialization through a materialist interpretation, arguing that the extreme alteration of one’s material existence can have a profound effect on one’s *habitus*, and vicariously on one’s habits and practices.³⁵ More common,

32. *Id.* at 840 (alteration in original) (emphasis omitted).

33. *ABC Turning Point: The Manson Women: Inside the Murders* (ABC television broadcast Nov. 1994) (on file with the Stephen A. Kent Alternative Religions Collection).

34. See e.g., Philip G. Zimbardo, *The Stanford Prison Experiment: A Simulation Study of the Psychology of Imprisonment Conducted at Stanford University*, STANFORD PRISON EXPERIMENT, <http://www.prisonexp.org/> (last visited Mar. 27, 2013); Alex Haslam & Steve Reicher, *Introduction*, THE BBC PRISON STUDY, <http://www.bbcprisonstudy.org/> (last visited Mar. 27, 2013).

35. According to Bourdieu, *habitus* is what provides agents with the knowledge and the tools to participate in this struggle for capital—providing in-

however, are social psychological interpretations that discuss group identification, reference groups, and a variety of interpersonal and intrapersonal pressures brought to bear by the converters against their targets.

We mention the social psychology of indoctrination in part because it often becomes the focus of litigation by angry former members. Perhaps more significant, however, for the legal system is that many of the larger cults have members who have been called to the bar and have been through cult indoctrinations. In other words, people who have been through these transformative indoctrinations and processes also have taken oaths to uphold the law while providing their clients with the best possible legal defenses. The problem, of course, is that their allegiance to their cult provides potential conflicts with their allegiance to the law. An examination of the restrictions that North American Jehovah's Witnesses lawyers operate under provides an example of this situation.

1. Jehovah's Witnesses

According to a January 1, 2002, internal, and presumably secret, Jehovah's Witness document from the group's American headquarters, the group established what it called the "Order of Special Full-Time Servants of Jehovah's Witnesses." Its lawyers are among its full-time servants in both the United States and Canada. They were to sign a revised Vow of Obedience and Poverty, which indicated their "whole-souled desire to devote all of one's energies to the advancement of Kingdom [that is, Jehovah Witnesses organizational] interests, following the principles set out in God's Word, the Bible, and the directions of the Governing body of Jehovah's Witnesses."³⁶ Among the governing body's most controversial decisions is that members must refuse blood transfusions.³⁷ Herein lays the potential conflict of interest.

These lawyers are the ones who fly all over the world, representing and advising members, including underage teens, about their options concerning alternative medical treatments to trans-

dividuals with a "feel for the game." PIERRE BOURDIEU, *PRACTICAL REASON* 25 (1998). It is a matrix of perceptions that predisposes an agent to act in a certain fashion. *Marketing the Goods*, *supra* note 26, at 335.

36. Internal release from Religious Order of Jehovah's Witnesses (Jan. 1, 2002) (on file with the Stephen A. Kent Alternative Religions Collection).

37. See Kerry Louderback-Wood, *Jehovah's Witnesses, Blood Transfusions, and the Tort of Misrepresentation*, 47 J. OF CHURCH & ST. 783 (2005).

fusions. They can never advise, however, that with particular diseases, transfusions may be the best, if not the only, treatment because they have sworn allegiance to an organization whose policy against the procedure is absolute.

Pushing the consequences of this allegiance further, Jehovah's Witnesses' lawyers may find themselves representing members who engage in the practice of what the organization calls, *theocratic warfare*. This warfare involves anything from telling a complete falsehood to lying "according to the court's definition—not telling 'the whole truth and nothing but the truth,' which means that the court requires the whole story, not half-truths or deception."³⁸ When they believe that the welfare of their organization is at stake, then Jehovah's Witnesses leaders condone members lying in court and in other social situations.³⁹

Child custody issues, for example, are so common that the organization published a booklet that coaches members concerning doctrinally appropriate answers to potentially harmful questions concerning child-rearing practices. One scholar who was familiar with the booklet and its use concluded unequivocally "the Witnesses and their attorneys regularly and routinely follow the booklet's advice to deceive the court on the stand."⁴⁰

Doctrines such as *theocratic warfare* are necessary if issues that are potentially harmful to a group are introduced in a trial. Far more effective is a strategy that some cults have used to ensure that such issues never reach the courts.

2. Fundamentalist Latter-day Saints

To further the goal of blocking material that is potentially harmful to a cult from reaching the legal system, the Fundamentalist Latter-day Saints—the FLDS—in the southern Utah/northern Arizona area vertically integrated polygamist men into the legal system. The police were polygamists; the local doctor who would see cases of underage marriages and sexual abuse was a polygamist; at least one polygamist group named the King-

38. Jerry Bergman, *Lying in Court and Religion: An Analysis of the Theocratic Warfare Doctrine of the Jehovah's Witnesses*, in 1 CULTIC STUD. REV. 1, 2 (2002).

39. *See id.* at 27.

40. *Id.* at 17.

stons had members who were lawyers handling their cases,⁴¹ and one local judge had several wives.⁴² The fact that the police forces of Hildale, Utah, and Colorado City, Arizona were staffed for decades with polygamists meant that abused women and children had nowhere to go with complaints about issues like physical and sexual abuse, which seemed to be endemic in those communities. Even if victims went to the police, a good chance existed that no one would have done anything. For example, when polygamist police officer Sam Roundy lost his police certification in 2005, he admitted that he had failed to turn over between twenty and twenty-five child abuse investigations to the Utah Division of Child and Family Services, claiming he did not know that this was his responsibility.⁴³

3. Rajneeshees

Bearing some similarities to the FLDS, the Rajneeshees took over the tiny town of Antelope, Oregon, in the 1980s, and the group built a police force entirely out of its own members. Heavily armed, the police and the group's lawyers initiated a relentless harassment campaign against the forty-three original (and mostly elderly) residents of the town in a largely successful effort to drive them away so that the Rajneesh organization could acquire their property.⁴⁴

41. Ray Rivera, *Utah Attorneys Key Figures in Polygamist Kingston Clan*, SALT LAKE TRIB. (July 19, 1998), <http://www.rickross.com/reference/polygamy/polygamy3.html>.

42. Linda Thomson, *Polygamist Unfit for Bench?*, DESERET NEWS (Oct. 31, 2005), <http://www.deseretnews.com/article/635157499/Polygamist-unfit-for-bench.html?pg=all>; *In re Inquiry of a Judge, The Honorable Walter K. Steed*, 2006 UT 10 (Feb. 24, 2006), available at http://www.childbrides.org/Judge_Walter_Steed_UT_Supreme_Court_opinion-2-24-2006.pdf.

43. Mark Shaffer, *Ex-Marshal Failed to Report Abuse*, ARIZ. REPUBLIC (June 14, 2005), http://www.childbrides.org/cops_azcent_ex-marshal_failed_to_report_abuse.html. See Stephen A. Kent, *Mormonism: Harm, Human Rights, and the Criminalization of Fundamentalist Mormon Polygamy*, in FUNDAMENTALISM, POLITICS, AND THE LAW 176 (Marci A. Hamilton & Mark J. Rozell, eds., 2011); Stephen A. Kent, *A Matter of Principle: Fundamentalist Mormon Polygamy, Children, and Human Rights Debates*, 10 NOVA RELIGION 7, 19 (2006) [hereinafter *Kent, A Matter of Principle*].

44. LEWIS F. CARTER, CHARISMA AND CONTROL IN RAJNEESH PURAM 150 (1990).

4. Scientology in Clearwater, Florida

Scientology's approach to police in Clearwater, Florida was unique. The controversial group has been a major presence in downtown Clearwater since 1976, but in January 2000 a counter-Scientology organization, the Lisa McPherson Trust, opened its office literally across the street from Scientology facilities. Loud, raucous, street pickets ensued, with the Clearwater police attempting to manage both sides. Within the same month, however, that the counter-Scientology organization opened, Scientology began hiring Clearwater police for off-duty work, much of which involved intervening against Lisa McPherson Trust protesters. In response, members of the Trust insisted that the hired police were ignoring Scientology violations and instigations and were unduly biased against the anti-Scientology picketers. In a July 4, 2001 court case between members of the Trust and Scientology, the court learned that Scientology "has paid off-duty officers more than \$150,000 since January 2000 to provide security daily" on one of the most contested streets.⁴⁵ Ruling in the case, Judge Thomas E. Penick "stated that the practice 'has raised serious legal and ethical questions about [the police officers'] responsibilities and the source of the funds paying them.'"⁴⁶ Not long afterward, the police bowed to pressure and disallowed the practice.

B. Contesting the Legal Authority of the Courts and its Officers

1. American Freeman and Militias

In addition to the groups that subvert the legal process by systematic lying and strategically placing members throughout the legal system, a number of groups simply deny the authority and legitimacy of the legal system altogether. In the United States (and also, as we shall see, in Canada), most of these groups have some relation to

the so-called "Sovereign Citizen" movement. Stated simply, adherents of the Sovereign Citizen ideology believe that at one time in United States history every individual was "free," a "sovereign" unto himself or herself, unburdened by governmental regulation.

45. Christina Headrick, *Chief May Bar Off-Duty Work for Scientology*, ST. PETERSBURG TIMES, July 4, 2001, at 3B.

46. Robert Farley, *Judge Rebukes Scientologists, Critics*, ST. PETERSBURG TIMES, July 28, 2001, at 1B, 7B.

In many cases, this manifests into a distinctive disdain and contempt for governmental authority.⁴⁷

The contempt for governmental authority manifested in various anti-government, anti-tax, anti-judicial, and often para-military organizations that gained ascendancy during the American farm crisis of the late 1970s and 1980s. Murder threats and plots against law enforcement officials and their families were common with the American branch of the movement. Try as they do, however, to ignore or destroy the legal system and its officers, invariably the actions of their members necessarily brought them into the very juridical field that they hate.

Best known of these movements is the *Posse Comitatus*, which began in Portland, Oregon in 1969 and by the late 1970s had seventy-eight chapters in twenty-three states.⁴⁸ The name, *Posse Comitatus*, means “power of the county,” and members believed “that the true intent of the country’s founders was to establish a Christian Republic where the individual is sovereign and that has as its first duty to promote, safeguard, and protect the Christian faith.”⁴⁹ Members believe that they follow Old English Common Law in their insistence that no legitimate government exists beyond the county level, and that the sheriff is the highest legitimate law enforcement official. They sought to “interpret God’s laws with common-law associations and Christian grand juries, composed of only white, Christian males. (Jews, minorities, and women have no legal standing in a Posse government).”⁵⁰ Any officials associated with state or federal courts, therefore, are agents of illegitimate governments attempting to impose supposedly illegal laws upon the people. Therein lays the threat to judges and other court officials. Among the groups to espouse these views are the Freemen,⁵¹ some of whose Montana members were involved in an

47. David Fleishman, *Paper Terrorism: The Impact of the ‘Sovereign Citizen’ on Local government*, 27 PUB. L. J. 7, 7 (2004).

48. JAMES CORCORAN, BITTER HARVEST: GORDON KAHL AND THE POSSE COMITATUS: MURDER IN THE HEARTLAND 29 (1990).

49. *Id.* at 26.

50. *Id.* at 27.

51. “The term ‘Freeman’ applies to anyone claiming to be a sovereign. In some instances a group of sovereigns will band together on one or more pieces of property that they believe have been removed from the jurisdiction of the United States. Once the Freemen have established a piece of property as their own ‘country’, they create their own laws, courts, and militias.” DYER, *supra* note 18, at 193. For brief but informative articles on the Freemen and related groups, see

eighty-one day standoff with the Federal Bureau of Investigation (“FBI”), beginning in late March and ending in mid-June 1996.⁵² When the final sixteen people in the compound turned themselves in (a number of others had trickled out during the standoff), they faced charges ranging from threatening public officials to financial fraud.⁵³ Interestingly, among the members was a fifty-four-year-old former Calgary, Alberta police officer and former farmer, Dale Martin Jacobi, who faced “several fraud, conspiracy, and weapons charges.”⁵⁴

Additional events that occurred in Cascade, Montana (near Great Falls) in 1995 further illustrate the threat that these anti-government groups posed to judges, lawyers, and law enforcement personnel. A court order that prohibited the county clerk from accepting Freeman documents was in effect, so the clerk refused to accept some papers that a Freeman attempted to file on behalf of a local militia supporter who had lost his property to the Internal Revenue Service for failure to pay taxes. After failing to file the papers, the Freeman and his like-minded friends walked through the courthouse and went very close to a judge’s chambers. This

generally STEPHEN E. ATKINS, *ENCYCLOPEDIA OF RIGHT-WING EXTREMISM IN MODERN AMERICAN HISTORY* (2011).

52. People who refuse to pay taxes are called anti-taxers or detaxers, and they range from pacifist Quakers who object to their taxes supporting war efforts to radicals who believe that either taxation or the governments themselves imposing them are illegal. As a journalistic discussion of the movement surmised:

Many of today’s detax gurus, including Irwin Schiff and Eldon-Gerald: Warman [sic], have been linked—in ideology if not hypertext—to earlier anti-government movements like Christian Identity and the Posse Comitatus. These ultra-right wing movements terrorized the Midwest in the 1970s, advocating the murder of IRS agents and, well, pretty much anyone not white. Oklahoma City bomber Timothy McVeigh got his introduction to wacko-hood through tax resistance associations. David Icke, the superstar conspiracy theorist who wrote *The Biggest Secret: The Book That Will Change the World*, is a longstanding hater of both taxes and the Zionist-vampire-lizards who supposedly control the global banking industry.

Mike Drach, *Screw the Taxman: The Weird Ideas of Tax Cheaters*, DIGITAL J. (Apr. 24, 2006), <http://www.digitaljournal.com/article/36197>. For an example of the way in which detaxing and other anti-government and anti-judicial movements may evolve into militant operations, see B. A. BROOKS, *THE AMERICAN RESISTANCE MOVEMENT: A.R.M. PATRIOT HANDBOOK* (2009), available at <http://trevoc.webs.com/American%20Resistance%20Movement.pdf>.

53. Tom Kenworthy, *Freemen Standoff Ends With Peaceful Surrender*, WASH. POST, June 14, 1996, at A1, A30.

54. Rick Mofina & Larry MacDougall, *Freemen: Apostles of Hate*, CALGARY HERALD, Mar. 31, 1996, at A1-A2.

action made law enforcement officials nervous, because they had a tip “that [F]reemen were planning to kidnap a judge or prosecutor, try him, convict him, and hang him [, and] the whole sequence [was] to be videotaped.”⁵⁵

As events unfolded, police availed themselves of several opportunities to arrest Freeman members. In the pocket of one of the Freeman members, police found a map that “showed the way to the homes of the sheriff and the county prosecutor in nearby Jordon, Montana.”⁵⁶ More arrests followed, and in early March 1995 the right-wing newspaper, SPOTLIGHT (published by the Liberty Lobby) carried inflammatory headlines and an article about the police actions. Fax machines and the Internet also carried anti-government interpretations of events. The county prosecutor then related what happened to him and his staff:

[T]elephone calls began coming into the jail from all over Montana, and other states as well. In the week that followed, the jail received hundreds of telephone calls from all over the United States demanding that the arrested individuals be released and making threats against the Sheriff and his deputies . . . My office telephone was ringing continuously and my secretary and I received approximately 40 threats on our lives and threats that included my secretary’s adopted Korean daughter . . . Because of the racial comments made by some of the callers, my secretary drove to another state during the night to hide her daughter. One of the deputies sent his family out of town after he received a call that neither of the two arresting deputies [of a high profile militia member] could . . . find a hole deep enough to hide in.⁵⁷

Other court officials around the state had received similar threats. One county attorney, for example, reported that “Freemen ‘told me they weren’t going to bother building a gallows. They were just going to let me swing from the bridge.’”⁵⁸

In 2002, Montana police uncovered a militia plot by a group calling itself “Project Seven,” “to assassinate as many judges, prosecutors, and police officers as possible, amassing a weapons cache

55. KENNETH STERN, *A FORCE UPON THE PLAIN: THE AMERICAN MILITIA MOVEMENT AND THE POLITICS OF HATE* 91 (1996).

56. *Id.*

57. *Id.* at 92-93.

58. *Id.* at 94.

that included 30,000 rounds of ammunition.”⁵⁹ The arsenal “included fully automatic weapons, survival equipment, booby traps, body armour and explosives materials.” In addition, authorities found “‘intelligence files’ on the officials and their families,” plus a hit list of “local law officers, a prosecutor and judges.”⁶⁰

In a different state, former California clerk-reporter, Karen Mathews, found herself on the list of another anti-government group and she suffered terrifying consequences simply because she had been doing her job. In a 1997 letter to the NEW YORK TIMES, she recounted:

“Lady, you would be so easy to kill.” More than three years later, these words still haunt me. My assailant growled this threat as I lay in the darkness on the floor of my garage, stunned and dazed from being beaten, kicked and knifed. Then he put a gun to my head and dry-fired it several times.

This was no random attack or botched burglary. The man who all but killed me was a member of a disciplined organization with a specific mission. And bizarre as it may seem, I was a target because of my job. I am the elected clerk-recorder of Stanislaus County in central California, a sleepy-sounding title until paramilitary groups discovered that harassing and intimidating officials like me is a way to attack the basic workings of government. One of their tactics is to try to file liens against the property of Internal Revenue Service employees and other officials they regard as the enemy.

In California alone, clerk-recorders in 49 of the state’s 58 counties have reported incidents ranging from fist-pounding intimidation to threats of physical harm. This is part of a guerrilla war against democracy going on far below the level of an Oklahoma City bombing. I often felt while following the trial of Timothy McVeigh that the events are related in spirit if not in fact.

It is difficult to comprehend or convey the anger and crazy sense of misguided patriotism embraced by these people. For example, after I refused to record one man’s illegal “common law” lien, he told me, “You are guilty of treason.” He then snarled, “I am a sovereign citizen of the Republic of California, not the cor-

59. *Officers Uncover Militia Plot: Did group plan to assassinate Montana officials?*, DESERT NEWS (Feb. 28, 2002), <http://www.desertnews.com/article/898738/Officers-uncover-militia-plot.html?pg=all>.

60. *Id.*

porate United States, and the laws you enforce restrict my God-given rights.”

I find it hard to discuss some of the details of what happened to me. But I feel an anger that won't go away, not only against the self-styled patriots who harass us, but also against those who express or tolerate a certain “populist” support for anti-government extremism.⁶¹

The nine persons who eventually were convicted of assaulting Mathews and committing related crimes were members or associates of the Juris Christian Assembly, a religious-sounding group whose members actually were radical detaxers.⁶² The detaxing movement is one of several anti-government/anti-judicial efforts among the self-proclaimed “Sovereign Citizens” movement that has migrated into Canada.

2. Canadian Sovereign Citizens and the Church of the Ecumenical Redemption International

Evidence of cross-border fertilization among Sovereign Citizens, detaxers, and anti-judicial advocates, sufficiently concerned the Royal Canadian Mounted Police (“RCMP”) that someone in the police force issued a secret memo in January 2000 (eventually released under Freedom of Information legislation). It warned, “[I]ncreasing militancy by members and associates of anti-tax and other anti-government groups in Western Canada has led to a pattern of criminal activity relating to harassment of, and confrontation with, police officers, judges and officials of Canada Customs and Revenue Agency.”⁶³ The memo also indicated that the RCMP's concerns were about groups that:

61. Karen Mathews, Op-Ed., *June 1, 1997: The Terrorist Next Door*, N.Y. TIMES (Sept. 25, 2010), http://www.nytimes.com/2010/09/26/opinion/etc-mathews.html?_r=0.

62. U.S. v. Hopper, 177 F.3d. 824, 828 (9th Cir. 1999). For additional background on the organization, see Erin Hallissy, *Lien and Mean/Intimidation of Government Officials with Pseudo-legal Claims on Their Property and the Chilling Ambush of a County Recorder Herald an Ominous New Direction for the Anti-tax Movement*, SF GATE (July 16, 1995, 4:00 AM), <http://www.sfgate.com/crime/article/Lien-and-Mean-Intimidation-of-government-3028395.php>.

63. Kim Bolan, *Speakers with Anti-Semitic Ties Coming to B.C. Rally*, VANCOUVER SUN (Mar. 20, 2001), <http://www.mail-archive.com/public-list@neither.org/msg01611.html> (citations omitted).

[A]re linked to such U.S.-based groups as the Sovereign Citizen's Movement, "based on a defunct right-wing extremist group, the Posse Comitatus."

"The Posse Comitatus claimed there was an international Jewish conspiracy which controlled international finance," the memo said, adding that some in the U.S. movement are also "involved in the racist right.["]

"There are several extreme anti-government groups in Western Canada promoting Sovereign Citizen activities based on those of the Freeman and Posse Comitatus in the U.S.A., denying the legal authority of the federal and provincial governments in several areas, including the authority to levy taxes, or to require drivers of motor vehicles to be licensed."⁶⁴

This RCMP memo became public a month after Canadian anti-government people had held a conference in a Christian school in Vernon, B.C., and days before another conference was to open in Port Coquitlam, B.C. One of the scheduled speakers was Eldon Warman, a Calgary bus driver and founder of Detax Canada, who was convicted of assaulting an official of the Motor Carriers Commission.⁶⁵ This Commission is a governmental arm of the B.C. Ministry of Transportation that "regulates, licenses, and adjudicates passenger carriers" in that province.⁶⁶ As recently as August 3, 2011, the "E" Division Criminal Intelligence Section of the RCMP issued an "Officer Awareness Bulletin" about the "Freeman-On-The-Land," to which the World Freeman Society-Canada provided a link on its Facebook page.⁶⁷

The conference, however, ran into trouble after police informed the hosting hotel about the nature of the group.⁶⁸ The hotel cancelled the contract and the conference organizers lost a court chal-

64. *Id.*

65. *Id.*

66. See Press Release, British Columbia Ministry of Transportation, Cutting Red Tape Helps Bus, Taxi, Limousine Businesses (Feb. 6, 2003), available at http://www2.news.gov.bc.ca/nrm_news_releases/2003TRAN0003-000126-Attachment1.htm.

67. *World Freeman Society - Canada*, FACEBOOK (Aug. 11, 2011), <http://www.facebook.com/WFS.Can> (posting a link to Officer Awareness Bull., Freeman-on-the-Land (Aug. 3, 2011), available at <http://freemanontheland.com/wp-content/uploads/2011/08/freeman-doc-001.jpg> (issued by the "E" Division Criminal Intelligence Section of the Provincial Intelligence Centre)).

68. *Freedom Fest 2001 Hotel Fight going to Court*, CBC NEWS (Mar. 22, 2001), http://www.cbc.ca/news/story/2001/03/22/bc_bestwestern010322.html.

lenge to force the hotel (Best Western) to honour its contract. In turn, organizers moved the conference to a hotel in Abbotsford, B.C.⁶⁹ Later that year, the leader of an Alberta sovereign citizen and detaxing group, Patriots on Guard, announced a weekend seminar in Sylvan Lake, Alberta, with speakers known for their detaxing, anti-Semitic, anti-drivers' licenses, and Sovereign Citizen views (often including claims to follow Common Law and the King James Bible).⁷⁰ The Canadian Sovereign Citizen movement differs from its American counterpart in that its analyses emerge out of Canadian, rather than American sources,⁷¹ but the issues, such as the illegitimacy of federal governments and their taxes, are parallel.⁷² In reality, "the inheritance of the English theory of parliamentary democracy means that, in Canada, Parliament has supreme and sovereign authority over the affairs of all individuals and institutions and religious practices of individual citizens, subject only to the generally applicable constitutional limitations on its sovereign legislative power."⁷³

69. *No Freedom Fest at PoCo Hotel*, CBC NEWS (Mar. 23, 2001), http://www.cbc.ca/news/story/2001/03/23/bc_freedomfest010323.html.

70. David Lethbridge, *Bad Medicine: Prescription for Fascism*, ANTIFA INFO-BULL., No. 306 (July 29, 2001), https://groups.google.com/forum/?fromgroups#!topic/misc.activism.progressive/GNwvnL6t_5E.

71. Consisting of the Canadian Constitution, the Canadian Bill of Rights, the Canadian Charter of Rights and Freedoms, the British North America Act, and various other Canadian laws.

72. For an example of a Canadian-based Sovereign Citizen web site, see e.g., Frederick Mann ed., *#TL05D: How to Seize Your Freedom in Canada*, BUILD FREEDOM, <http://www.buildfreedom.com/tl/tl05d.shtml> (last visited May 9, 2013). Canadian Freemen note that both the 1982 Canadian Charter of Rights and Freedoms and the 1960 Canadian Bill of Rights begin by recognizing "the supremacy of God." Constitution Act, 1982, *being* Schedule B to the Canada Act, 1982, c.11, Part 1 (U.K.), *available at* http://www.solon.org/Constitutions/Canada/English/ca_1982.html; Canadian Bill of Rights, 1960, *pmb*, *available at* http://faculty.law.ubc.ca/myoung/constitution/docs/Canadian_Bill_of_Rights.pdf. The same passage in the preamble to the *Canadian Bill of Rights* specifically mentions "free men." *Id.* ("The Parliament of Canada, affirming that the Canadian nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of *free men* and free institutions; Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law . . .") (emphasis added). "The Preamble in the *Canadian Bill of Rights* was the first piece of legislation to give 'God' statutory status and must be one of the only very few pieces of legislation in the common law tradition to refer to 'God.'" OGILVIE, *supra* note 3, at 108.

73. OGILVIE, *supra* note 3, at 100.

Parliamentary sovereign hierarchy, however, is precisely what the Freeman and related groups reject. This rejection led the Canadian Security and Intelligence Service to include these groups within the “domestic issue-based extremism” category,⁷⁴ and Associate Chief Justice J.D. Rooke of Alberta’s Court of Queen’s Bench to write a detailed refutation of their beliefs when presiding over a Freeman-involved divorce and matrimonial property action.⁷⁵

A group operating in Edmonton and Saskatoon is a Canadian variant of the Sovereign Citizen movement, although it has no record of planned violence against court officials. (One of its members, however, did send an ominous, common-law declaration to the provincial registrar of Saskatchewan,⁷⁶ and husband-and-wife members of the church sent “an ecclesiastical Private agreement” to the Esterhazy RCMP in December 2010).⁷⁷ The group calls itself the Church of the Ecumenical Redemption International, and it seems not to believe in the authority of the Canadian government, but rather believes that a government should be based solely on the King James version of the Bible.⁷⁸ For example, on an apartment door in a building in the city of Edmonton is posted the following statement as a directive from this church:

Private Property

Notice and Covenant

This land and house are the privately designated sanctuary of the Church of the Ecumenical Redemption International wherein the ministers and children of God conduct

74. Report, Canadian Sec. Intelligence Serv., Integrated Terrorism Assessment Centre Threat Assessment 12/35-E Unclassified, at ¶ 47 (Apr. 19, 2012) (on file with author). See Douglas Quan, *Freeman Movement Troubles Police*, EDMONTON J. (Dec. 29, 2012), <http://www2.canada.com/edmontonjournal/news/story.html?id=f4dc9608-1c85-46f3-aac4-8c551493a980>.

75. Meads v. Meads, 2012 ABQB 571 (Can.).

76. Allen Bennett, *Agreement with Catherine Benning Land Titles Saskatchewan - Church of the Ecumenical Redemption International*, ALL CREATORS GIFTS, <http://allcreatorsgifts.org/forumarc/64.html> (last visited Apr. 11, 2013).

77. Wayne Duchek & Judy Duchek, *Ecclesiastical Private Agreement with all Private Men and Women Acting as RCMP Officers and Public Officials in Saskatchewan*, MINISTER WAYNE AND JUDY DUCHEK’S ECCLESIASTICAL POST (Dec. 11, 2010), <http://allcreatorsgiftsministerswayneandjudy.blogspot.com/2010/12/private-agreement-with-all-rcmp.html>.

78. Sam A. McDonald, *Woman Dragged from Courtroom After Disputing Judge’s Authority*, STAR PHOENIX (May 4, 2006), <http://www.canada.com/story.html?id=5069328d-8a03-4af9-8654-abb414b0752http>.

religious worship. All guests, friends and neighbours are welcome to enter the land and conduct their affairs in a peaceful and spiritual manner.

No de facto military or civilian police, bailiff, sheriff's officer or other de facto agent, official or officer of Her Majesty may enter unto this land for any purpose whatsoever relating to any process or any agency or department of Her Majesty without prior written approval. All such men or women who violate this no-trespass notice hereby covenant with either minister [of the church] to be held criminally responsible pursuant to the Criminal Code of Canada and privately liable for all damages as a result.⁷⁹

In 2002, one of its members, Edward-Jay-Robin: Belanger (note the odd Freeman name alteration, done "to distinguish themselves from their 'strawman'—the version of themselves recorded in government records"),⁸⁰ appeared in court for refusal to pay money on either his mortgage or line of credit, saying that that the King James Bible considered banks to be false idols.⁸¹ In 2006, member Karen Ponto had to be dragged out of a Saskatchewan provincial court.⁸²

Ponto was facing two counts of violating a child custody order, and when a justice of the peace asked her whether she wanted a trial by judge or jury, she responded, "As a Christian minister, this violates my beliefs and I don't recognize the authority of this court."⁸³ Hoping that reason would prevail, the justice held over her appearance until the afternoon, but when she refused to state what kind of trial she wanted, he had her removed from the courtroom. As the deputy sheriffs dragged her away, she "was kicking so hard that her black sandals flew off and [she was] yelling at the judge that her arrest for contempt of court was a violation of her

79. Private Property Notice & Covenant from Edward-Jay-Robin: Belanger, Church of the Ecumenical Redemption International, to the public (on file with the Stephen A. Kent Alternative Religions Collection).

80. *Canada's Freeman*, INDIAN IN THE MACHINE WORDPRESS (Oct. 30, 2010), <http://indianinthemachine.wordpress.com/2010/10/30/canadas-freeman-over-the-past-century-the-freemen-claim-canada-went-bankrupt-and-was-taken-over-by-a-corporation-ever-since-the-government-has-had-no-authority-to-make-laws-%E2%80%94-but-it-do/>.

81. Raquel Exner, *Pay Interest? It's Against my Religion!*, EDMONTON SUN (Nov. 28, 2002), <http://lists.topica.com/lists/Important/read/message.html?sort=t&mid=804956211>.

82. See McDonald, *supra* note 78.

83. *Id.*

rights as a Christian.”⁸⁴ Subsequently, the group accused the judge of committing treason.⁸⁵

These examples reveal situations where religious groups have *failed to accept the state* as the legitimate agent of consecration. The American Freemen and militia, however, and the Church of the Ecumenical Redemption International, still *acknowledge religion* as the primary agent of consecration. Thus, they outright refuse to participate in the “legal game.” Furthermore, they also support sociologist Steven Engler’s argument that religion still plays a much bigger role in the consecration of capital than Bourdieu implied.⁸⁶ Identifying the numbers of followers is notoriously difficult, but as of late 2010, a Canadian Freeman Facebook page had over 2,000 members.⁸⁷

C. Using the Law to Harass: Suing Attorneys

As critics are formulating cases against cults, and sometimes even after trials have begun, some cults try to disrupt their opponents by initiating legal action against the attorneys on the other side. Cults, therefore, can become “the aggressors, using litigation as a weapon to attack those they consider their enemies.”⁸⁸ In Canada, a Scientology-launched case against Toronto Crown counsel S. Casey Hill backfired. Hill sued the Church of Scientology of Toronto after its attorney, Morris Manning, had incorrectly undertaken criminal proceedings against him for contempt charges that they announced to media sources, many of which carried the story. Subsequently, a judge dismissed the contempt charges,⁸⁹ and Hill eventually received a \$1.6 million jury award against the Church of Scientology and attorney Manning. In its decision, the Court of Appeal wrote:

This case is in a class by itself. Scientology decided that Casey Hill was its “Enemy” and set out to destroy him. It levelled false

84. *Id.*

85. *Christian Faith Under Attack in Treasonous Saskatoon Courts*, THE REDEMPTIVE PRESS (June 1, 2006), <http://maritimes.indymedia.org/news/2006/06/12775.php>.

86. Engler, *supra* note 26, at 446.

87. Stewart Bell, *Who are Canada’s ‘Freemen’?*, NAT’L POST (Oct. 29, 2010), <http://terrorism-insurance-memphis.itpatil.com/?p=17>.

88. Michal Belknap & Cathy Shipe, *Cults and the Law*, in RELIGION AND AMERICAN LAW: AN ENCYCLOPEDIA 112, 113 (Paul Finkelman ed., 2000).

89. Donn Downey, *\$1.6 Million Award Upheld in Appeal*, THE GLOBE & MAIL (Can.), May 11, 1994, at A5.

charges against him. It prosecuted him on those charges. It repeated those charges after a judge had found them groundless. It repeated allegations in its pleadings and in open court which it knew were lies. It made additional serious false accusations against Casey Hill. In summary, the evidence suggests that Scientology set upon a persistent course of character assassination over a period of seven years to destroy Casey Hill.⁹⁰

At the time of its award, this decision was the largest libel award in Canadian history.⁹¹

Soon after the initial award, however, in 1991, the sect's Los Angeles office placed more than \$6 million in mortgages against its building in Toronto, which was the amount at which the building had been assessed. It became apparent that \$3.1 million of the mortgages were to pay off the legal bills of Scientology's Toronto lawyer, Clayton Ruby, who initially had first proposed the criticism of Casey Hill that led to the libel trial. In essence, it appeared that Scientology was going to pay off the person who had initiated the very problem before Hill himself received any money.⁹² Eventually, however, after court pressure, Hill collected on his judgment.

D. Abuse of the Legal System

More common, however, than cults suing oppositional lawyers, is their own lawyers' involvement in a vast array of legal abuses or questionable legal and ethical practices, usually in defense of their controversial clients. In short, they attempt to subvert the rules of the legal game; in other words, they attempt to cheat. Keep in mind, of course, that many of these unscrupulous lawyers are sect members themselves. Consequently, the abuses and practices in which they engage are extensive. They include:

-using lawsuits to overwhelm opponents;

-filing suits in multiple jurisdictions;

90. Hill v. Church of Scientology of Toronto (1994), 18 O.R. 3d 385, 114 D.L.R. 4th 1 (Can. Ont. C.A.). See Downey, *supra* note 89.

91. Downey, *supra* note 89.

92. Thomas Claridge, *Church Offices Mortgaged, Court Told*, GLOBE & MAIL (Can.), Nov. 26, 1992, at A6, available at <http://www.scientology-lies.com/press/globe-and-mail/1992-11-26/scientologists-offices-mortgaged-court-told.html>.

- delaying cases to increase opponents' costs;
- refusing to submit documents;
- demanding postponements;
- acquiring false affidavits; and
- engaging in disruptive and unprofessional courtroom histrionics.⁹³

These tactics intend to victimize opponents and their counsel, since many of the opponents have limited financial resources and suffer the normal limitations of physical and emotional stress. Therefore, these groups take advantage of their opponents' lack of economic capital and emotional strength to gain a better position in the juridical field.

Each of these abusive tactics has occurred in legal proceedings involving one organization—Scientology. Of all the contemporary sectarian groups operating in the world today, Scientology's litigation aggression is unrivalled. In the earlier days of Scientology litigation, many of its lawyers used the questionable legal practices of:

[F]looding dockets with motions, suing those who had sued the church in multiple jurisdictions, and even suing the plaintiffs' lawyers. Boston personal injury lawyer Michael Flynn for example, who at one time represented more than a dozen plaintiffs against the church, was sued by the church more than a dozen times in four jurisdictions for everything from contempt of court to defamation. All the suits were eventually dropped or dismissed . . .⁹⁴

These actions involved using the legal system as a weapon against opponents, and they came directly from inspiration by the founder of Scientology itself. In 1955, L. Ron Hubbard instructed his followers concerning "the placement of a [law]suit against anyone found" using materials of Scientology without the organization's authority. Hubbard told Scientologists:

93. J. P. Kumar, *"Fair Game": Leveling the Playing Field in Scientology Litigation*, 16 REV. LITIG. 747, 749, 755 (1997).

94. William W. Horne, *The Two Faces of Scientology*, THE AM. LAW., July 1992, at 74, available at <http://www.thecia.net/~rnewman/scientology/media/amlawyer-7.92>.

The placement of the suit is to harass and discourage rather than to win. The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway . . . will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly.⁹⁵

In essence, extreme and abusive juridical capital simply was to be another vehicle that Scientologists were to use in efforts to annihilate their critics.

Occasionally, courts have responded to Scientology's abuse of the legal system. For example, on April 17, 1992, Scientology lawyers:

[Earle] Cooley, church general counsel William Drescher, and Bowles & Moxon name partner Kendrick Moxon were among a team of church lawyers soundly rebuked in a[n American] federal court ruling for their willingness to "literally flaunt court orders and defy the authority of the courts." In his opinion, Los Angeles federal special master James Kolts criticized the church's non-compliance with several discovery orders in a trade secrets and copyright infringement action the church had filed but then allowed to languish for seven years at the preliminary discovery stage. Dismissing the case, Kolts called the church's tactics a "cynical and unfair use of the judicial system."⁹⁶

These tactics, however, were ones that Scientology attorneys had used elsewhere.

More serious was a 1980 decision against three Alberta Scientology missions, involving a lawsuit that they initiated against critics for allegedly slanderous remarks made to public officials and several media shows. Beginning in 1976, the case dragged on for so long, and the Scientology missions became so uncooperative about providing financial information, that in 1980 Judge John Agrios decided "the proceedings and the action of the Plaintiffs amounted to a clear abuse of process." Accordingly, he awarded costs on solicitor client basis of \$51,857.15.⁹⁷

95. 2 L. RON HUBBARD, THE TECHNICAL BULLETINS OF DIANETICS AND SCIENTOLOGY 157 (1954-1956).

96. Horne, *supra* note 94, at 78 (citations omitted).

97. Church of Scientology Mission of Edmonton v. Hamdon, 1981 CarswellAlta 570 (WL Can.) at ¶ 20 (Can. Alta. Q.B.) (Agrios, J.). See *id.* (Order); Stephen A. Kent, *Deviance Labelling and Normative Strategies in the Canadian 'New Religions/Countercult' Debate*, 15 CAN. J. SOC. 393, 406 (1990).

E. Harassment and Legal Attacks Against Lawyers

Commonly, attorneys whom Scientology leaders decide are major opponents are the subject of complaints to their respective Bar associations. A number of California attorneys have been the subjects of Scientology-initiated complaints against them, and occasionally Scientology scores some victories. In addition, the organization filed complaints against the Chief United States Prosecutor, Raymond Banoun, who successfully argued the American government's case against eleven Scientologists in the late 1970s on various counts related to the burglary of federal offices. In fact, complaints against Banoun went as high up as the White House.⁹⁸ Cartoons distributed by Scientology featured Banoun as a baboon and a judge as a Nazi.⁹⁹

Another recipient of Scientology's tactics was Boston attorney Michael Flynn. The Scientology organization "wrote nine letters of complaint to the Massachusetts Board of Bar Overseers about Flynn alleging unethical conduct—one complaint [was] based upon drafts of documents [that] church detectives found by rummaging through Flynn's trash."¹⁰⁰ The operatives who did the trash scoops used an ingenious technique of identifying the bags of garbage they needed to collect from the dumpster. Someone would go on the floor where the law offices were located, drop some stones in a metal soft drink can, and toss the can in a trash receptacle. At night, members would go into the dumpster and shake the bags of garbage, and the bag that rattled was the one that the operatives carted away.

Moreover, a suspicious incident that occurred to government prosecutor Banoun was indicative of the odd, often dangerous, occurrences that befell lawyers, clients, and judges involved in hostile Scientology cases. His car caught fire.¹⁰¹ Less serious was the car-related incident that occurred to California lawyer and strident Scientology opponent, Graham Berry. In late January of 1994, after entering his car to drive to his office for an important meeting, Berry explained that:

98. Ron Shaffer, *Church of Scientology Attacks Investigators and Critics*, WASH. POST, Aug. 16, 1978, at A4.

99. *Id.*

100. Horne, *supra* note 94, at 74.

101. Cheryl McCall, *Federal Prosecutors Unveil the Astonishing Intrigues of the Scientology Church*, PEOPLE, Aug. 14, 1978, at 20.

As I reversed my vehicle it felt as though it had gone over a large bump and a tire immediately deflated. It turned out that a sharpened screw driver blade had been propped against my rear tire which pierced it entirely as I reversed back [sic] causing this near new tire to have to be replaced. It now sits in our office, with the screwdriver blade still in the tire, available for inspection.¹⁰²

Berry added that another Los Angeles area lawyer, Dan Leipold (who was handling many Scientology-related cases), had associates who "discovered nails that had been propped against the tires of their vehicles."¹⁰³

Judges also suffered similar mishaps. For example, Los Angeles County Superior Court Judge Ronald Swearingner (who was presiding over a crucial Scientology case) reported:

I was followed [at various times] throughout the trial . . . and during the motions for a new trial... All kinds of things were done to intimidate me, and there were a number of unusual occurrences during the trial. My car tires were slashed. My collie drowned in my pool. But there was nothing overtly threatening, and I didn't pay attention to the funny stuff.¹⁰⁴

Lawyers involved in Scientology cases have reported additional incidents, which include water in the gas tank of an airplane piloted by an anti-Scientologist lawyer, forcing him to make a dangerous emergency landing.¹⁰⁵ Many attorneys report being under surveillance, being followed, and even having their houses staked out.¹⁰⁶

F. Burglaries of Legal Offices

Lawyers' offices have frequently been targets of burglaries committed by sect members, and once again, the most dramatic examples in the United States and Canada come from Scientology.

102. See Declaration of Graham E. Berry Re: Deposition Testimony of Gary Scarff in Support of Cost Bill For Dr. Geertz's Motion for Award of Costs, Expenses, Attorney's Fees and Sanctions, *Church of Scientology Int'l v. Fishman*, No. CV91-6426 HLH-T (U.S. Cal. Dist. Ct. C.D. Apr. 4, 1994) [hereinafter *Declaration of Graham E. Berry*].

103. *Id.*

104. Horne, *supra* note 94, at 77; Andrew Blum, *Church's Litany of Lawsuits*, THE NAT'L L. J., June 14, 1993, at 36A.

105. *Declaration of Graham E. Berry, supra* note 102.

106. See *id.*; Steven Pressman, *Litigation Noir*, in 12 CAL. LAW. 38, 42 (1994).

Sects that orchestrate these break-ins are looking for information about current or future cases. Sometimes these intruders are caught, which makes things even worse for the sects to which they belong.

For example, in 1978, the U.S. government served the Church of Scientology with a forty-two-page grand jury indictment that charged eleven Scientology officials and agents with twenty-eight criminal indictments. All eleven people, including the wife of the founder, were convicted on a reduced number of charges and were sentenced accordingly. Some of those indictments involved offenses against U.S. government lawyers.

Four motives were behind the attacks against the government attorneys. Scientology wanted to:

1. find out about its tax-exempt status;
2. see what information the government had on the group in its files;
3. obtain information “on persons or groups it perceived to be its ‘enemies;’” and
4. establish an “‘early warning system’ to protect Hubbard from government scrutiny.”¹⁰⁷

Among the offenses were the theft of documents removed from attorneys’ offices in the U.S. Internal Revenue Service’s tax division of the U.S. Department of Justice, and burglaries against officials who worked for the Attorney General.¹⁰⁸

In the Sentencing Memorandum for nine of the eleven Scientologists who were convicted, the American government summarized the burglaries that had occurred against private law firms in both Washington, District of Columbia (“D.C.”) and Los Angeles. In Washington, Scientologists gained access to the law firm that was representing the American Medical Association (also one of its targets), and subsequently leaked some of the illegally obtained documents to the press.¹⁰⁹ Additionally, Scientology agents committed three similar burglaries against the law office representing

107. Timothy S. Robinson, *U.S. Charges Scientology Conspiracy*, WASH. POST, Aug. 16, 1978, at A1.

108. *Id.* at A4.

109. McCall, *supra* note 101.

the ST. PETERSBURG TIMES, which was defending the newspaper against a Scientology lawsuit.¹¹⁰

In 1975, two Scientologists attempted a burglary in Toronto but were caught. The law firm of Weir and Foulds was representing a client, Nan McLean, who had left the local Scientology organization, removed Scientology documents in the process, and was involved in legal action against the group. A security guard caught two men in a locked elevator room on the seventeenth floor of the building in which Weir and Foulds had its office. When apprehended, they had lock-picking instruments, three flashlights, and two briefcases. On October 27, 1975, they received suspended sentences and two years of probation.¹¹¹ This incident, however, convinced high-ranking Scientologists that burglaries were too risky in many instances, so it initiated a program to place plants—undercover members—in key organizations from which it wanted information.

Using plants to gather information was also a risky venture that frequently led to their capture and prosecution. For example, in September, 1977, a thirty-five-year-old secretary employed by California's State Attorney General's Department in its Los Angeles office was arrested "after investigators told the grand jury [that] they watched her after normal business hours copy an eight-page package of 'both accurate and false information' on Scientology planted in the office of [the Deputy Attorney General]."¹¹² Subsequently, police arrested her after she removed the papers out of the building in her purse.¹¹³

Scientology in Toronto repeated the same pattern of getting plants to work in key government and civic agencies. Having sent some of its members to what amounted to a "spy school" in England, it then planted individuals in offices of the Toronto Metro Police, Ontario Provincial Police, the RCMP, and the Canadian Mental Health Association. Eventually the spy network was uncovered, and it led to the conviction of the Church of Scientology of Toronto on two breach of trust charges, as well as to convictions of seven former members.¹¹⁴

110. *Id.*

111. Letter from B. McIntyre to Mrs. N. McLean (Nov. 3, 1975) (on file with the Stephen A. Kent Alternative Religions Collection).

112. Robert Rawitch & Robert Gillette, *Church Wages Propaganda on a World Scale*, L.A. TIMES, Aug. 27, 1978, at 17.

113. *Id.*

114. Thomas Claridge, *Church of Scientology Guilty of Breach of Trust*, THE GLOBE & MAIL (Can.), June 27, 1992; *Absolute Discharge Given Ex-Scientologist in*

G. Character Attacks and Personal Attacks on Judges

In addition to attacks against lawyers, their firms, and their legal institutions, judges themselves have been targets of operations. The unique and important role that judges play in the judicial system makes them vulnerable to special kinds of harassment and potentially physical attack. Some sects assume that they either can derail cases by harassing judges or that they can intimidate members of the bench so that they will become too afraid to rule against their organizations. Regardless of the motives, however, judges can become special targets, sometimes falling victim to unique forms of harassment.

People associated with judges—their family members and employees—also become targets. In one instance, the son of a judge presiding over an important Scientology case was the subject of an investigation by the group.¹¹⁵ Moreover, the judges themselves were subject to Scientology investigations. A secret 1976 document from Scientology's Guardian Office laid out strategies for gathering intelligence directly from the judges themselves. It claimed:

A. Judges are usually very accessible and can be interviewed easily by students. Some questions to ask a judge would be 1) 'What are your favorite cases?' [']What about them did you like?' 2) What are the cases you disliked and what specific[ly] did you dislike about them?' (Note: In this way [the] legal [department members] can form their presentation along the lines of what the Judge likes and attribute to the opposition what the Judge does not like[.] 3) How should a case be presented? ([T]his shows up any hidden standards the Judge has and can guide [the] legal [department] in their presentation.)

B. Call other lawyers [sic] and get their opinion of the Judge and any other data that you can use for the investigation.

Court, EDMONTON J., Dec. 14, 1985, at F7; Peter Moon, *Scientology Church Offers to Aid Poor if Charges Dropped*, THE GLOBE & MAIL (Can.), July 26, 1988, at A1, A16.

115. *Declaration of Graham E. Berry*, *supra* note 102.

C. Find other cases the Judge has ruled on (especially similar to ours) and use this in the final estimate (attaching the cases for [the] legal [department]).¹¹⁶

After several more suggestions about how to gather information on judges, the document ended with a request that the recipient pass along this memo to people who were investigating a particular customs judge, in preparation for an upcoming hearing that Scientology had with him.¹¹⁷

Whereas attacks against attorneys are often attempts to interfere with cases before they go to trial, other tactics may be employed once a case is before a judge. In at least two major Scientology cases, Scientology lawyers have tried to have judges recused for alleged biases against the organization. The most extensive efforts took place in the United States in 1976 and 1977 against judges involved in various Scientology lawsuits. Scientology's notorious operations branch, the Guardian Office, issued a directive that instructed operatives to "use 'standard overt sources' and 'any suitable guise interviews' to monitor activities of all district court judges presiding in [Freedom of Information Act] suits. In 1977, that directive was extended to all fifteen active judges in the D.C. federal district court."¹¹⁸

Following these directives, Scientologists posed as journalists and students, interviewing the judges as they researched their backgrounds. These actions were part of a larger and more intrusive series of intelligence-gathering operations. When the U.S. federal government laid charges against eleven Scientologists in 1978, D.C. District Judge George Hart, Jr. became the first judge to preside over the case against nine of them. Scientology's recusal strategy against him was unique. In January 1979, Scientology's attorney told Judge Hart "that the judge himself was a target of Scientologists' own possibly illegal activities, [which] would cause the judge to be biased, or appear to be biased, against [the group]." These allegedly illegal activities "possibly [included] the use of methods violative of the judge's privacy and other rights and possibly violative of criminal laws." Consequently, the Scientology

116. Memorandum from Cindy [Raymond], Re: Information on Investigation of Judge William Grey (July 26, 1976) (on file with the Stephen A. Kent Alternative Religions Collection).

117. *Id.*

118. James B. Stewart, *Scientology's War Against Judges*, THE AM. LAW., Dec. 1980, at 30, available at <http://www.gerryarmstrong.org/50grand/media/am-lawyer-1980.html>.

lawyer insisted “the sitting judge is revealed to the jury and the public as a victim of possibly illegal actions,’ and ‘the judge has an obvious interest which may be affected by the outcome of the case.’”¹¹⁹ Judge Hart stepped down, and Judge Louis Oberdorfer took over.

This judge, however, had been involved in an earlier tax case involving Scientology, and soon he, too, stepped down. The case passed along to Judge Charles Richey. Before he heard the case, he received death threats, which caused him to travel with bodyguards and to heighten court security. During the trial itself, Scientology lawyers insulted the judge (including accusing him of lying), and likewise insulted opposing counsel. All nine Scientologists were convicted under one criminal charge after both sides entered into a stipulation of facts and the government dropped twenty-three of twenty-four charges.

Two days before sentencing, the Scientologists’ lawyers brought a recusal motion against Judge Richey. Remarkably, they claimed that their own abusive courtroom tactics, along with the threats against Richey, prejudiced him. Richey denied this first recusal motion and sentenced the nine defendants to prison terms that ranged from six months to five years.¹²⁰

But two more defendants were waiting to be tried, and six months later, the Scientology attorneys brought forth a second recusal motion. One of Scientology’s attorneys learned that Judge Richey, his wife, and his two sons had received death threats. Next, these attorneys hired a private investigator to investigate Richey, and the private investigator made contact with, and secretly recorded conversations with, one of the federal marshals guarding the judge and the judge’s court reporter.¹²¹ Meanwhile, the private investigator had gathered information, which alleged that the judge had used a prostitute, and Scientology sent it to the press. The famous columnist, Jack Anderson, printed the story. Approaching exhaustion, Judge Richey resigned from the case, but as he did he placed on the record that “defendants and their counsel have engaged in groundless and relentless attacks on this court. Their motive is transparent. It is an attempt to transform the trial . . . into a trial of the judge.”¹²² He labelled the attempts

119. *Id.* (citations omitted).

120. *Id.*

121. This court reporter’s house had been burglarized, and he had received threatening phone calls. *Id.*

122. *Id.* (citations omitted).

to remove him as a “classic example” of abuse of recusal statutes.¹²³

Another recusal of a judge presiding over a Scientology case occurred in late June 1993, when United States District Judge James M. Ideman withdrew himself from a case in Los Angeles. He did so because the plaintiff (i.e., Scientology)

has recently begun to harass my former law clerk who assisted me on this case, even though she now lives in another city and has other legal employment. This action, in combination with other misconduct by counsel over the years has caused me to reassess my state of mind with respect to the propriety of my continuing to preside over the matter. I have concluded that I should not.¹²⁴

Judge Ideman went on to specify some of Scientology’s behaviours over the preceding years of the case:

1. The past 8 years have consisted mainly of prolonged, and ultimately unsuccessful, attempts to persuade or compel the plaintiff to comply with lawful discovery. They have utilized every device that we on the District Court have ever heard of to avoid such compliance, and some that are new to us.

2. This noncompliance has consisted of evasions, misrepresentations, broken promises and lies, but ultimately with refusal. As part of this scheme to not comply, the plaintiffs have undertaken a massive campaign of filing every conceivable motion (and some inconceivable) to disguise the true issue in these pretrial proceedings. Apparently viewing litigation as war, plaintiffs by this tactic have had the effect of massively increasing the costs to other parties, and, for a while, to the Court....

3. Yet, it is almost all puffery—motions without merit or substance.¹²⁵

The judge concluded by expressing his hope that his recusal would not allow Scientology to escape discovery or further add to the costs that the other parties would accrue if the case were to drag on for more years.¹²⁶

123. Stewart, *supra* note 118 (citations omitted).

124. Religious Tech. Ctr. v. Scott, 82 F.3d 423 (9th Cir. 1996) (declaration of Hon. James M. Ideman, October 17, 1994).

125. *Id.*

126. *Id.*

H. Killings and Murder—Attempted and Successful in the Anti-government Movement

Two mass murders in recent years—the Oklahoma City bombing and the Norwegian bombing/shootings—share anti-government rage by the perpetrators. At their core, these attacks were attempts to destroy government (which included) legal systems, albeit for different, culturally and socially embedded reasons. On July 22, 2011, Anders Behring Breivik murdered eight people by bombing a government building in Oslo, Norway, and then killed an additional sixty-nine people (mostly teenagers) at a Labour Party youth camp on the island of Utøya. According to his 1500 page manifesto, Breivik believed he was ridding Europe of a Marxist/multiculturalist scourge that was enabling an Islamist global take-over.¹²⁷ He indicated that he was a member of *Pauperes Commilitones Christi Templique Solomonici* (“PCCTS”), a branch of the Knights Templar that he claimed to have “re-founded” with twelve other anonymous members in London.¹²⁸ Authorities, however, still have not confirmed the existence of this group.¹²⁹ Because he appears to have acted alone, and because he directed his rage almost exclusively against political rather than legal and judicial figures, we do not undertake a detailed analysis of his actions in this article. (In late November 2011, two court-appointed psychiatrists declared him to be suffering from paranoid schizophrenia.¹³⁰) Seeking precedence for this bombing, however, invariably leads back to the actions of a former American soldier, Timothy McVeigh (1968-2001), who also used fertilizer as the dominant explosive in a vehicle-based explosion.¹³¹

McVeigh was the primary perpetrator in the April 19, 1995 Oklahoma City bombing, who felt varying types of government disdain, from concern that the government was going to restrict, if

127. Andrew Berwick, 2083: A European Declaration of Independence (2011) (unpublished manuscript), available at http://www.fas.org/programs/tap/_docs/2083_-_A_European_Declaration_of_Independence.pdf.

128. *Id.* at 827.

129. Duncan Gardam, *Norway Killings: Mysterious Group Called the Knights Templar*, THE TELEGRAPH, July 26, 2011, <http://www.telegraph.co.uk/news/worldnews/europe/norway/8663842/Norway-killings-Mysterious-group-called-the-Knights-Templar.html>.

130. *Norway Massacre: Breivik Declared Insane*. BBC NEWS (Nov. 29, 2011), <http://www.bbc.co.uk/news/world-15936276?print=true>.

131. Susan Jones, *Fertilizer Control: DHS Creates 'Ammonium Nitrate Security Program'*, CNS NEWS (Aug. 2, 2011), <http://cnsnews.com/news/article/fertilizer-control-dhs-creates-ammonium-nitrate-security-program>.

not ban, gun ownership,¹³² to outrage over the FBI's handling of two high-profile incidents (Ruby Ridge and Waco) of people resisting federal law enforcement. We will discuss these two incidents and their influence on McVeigh and his fellow travellers, along with the additional influence exerted on him by prominent anti-government figure, Richard Snell. Years before McVeigh did the deed, Snell had advocated bombing the main government building in Oklahoma City, and this type of extreme, anti-government action coincided with a fictional account in a book, *The Turner Diaries*, which McVeigh distributed.

1. Randy Weaver and Ruby Ridge

Widespread among the militia movement members and sympathizers with whom McVeigh socialized and sympathized¹³³ was a deeply-felt resentment over the FBI's undercover operation to get a Christian Identity member in Deep Creek, Idaho named Randy Weaver to spy on the Aryan Nations. (Weaver had been strapped for money, so he had participated in the alteration and sale of two sawed-off shotguns in what turned out to be a government sting operation in late October 1989.) Weaver failed to show for his court appearance in early 1991,¹³⁴ and days before his court date, the U.S. Attorney's Office in Boise, Idaho received two letters from Randy's wife, Vicki. She had addressed the first letter (dated February 7, 1991) to "The Queen of Babylon," and it pronounced, "A man cannot have two masters. Yahweh Yahshua Messiah, the anointed One of Saxon Israel is our law giver and our King. We will obey him and no others."¹³⁵ She addressed the second letter to "Servant of the Queen of Babylon, Maurice O. Ellsworth U.S. Attny [sic]," implying that he was an illegitimate attorney who was Satanic through his alleged servant association with the illegal

132. MARK S. HAMM, APOCALYPSE IN OKLAHOMA: WACO AND RUBY RIDGE REVENGED 144 (1997).

133. STERN, *supra* note 55, at 191-193.

134. See U.S. DEP'T OF JUSTICE, DEPARTMENT OF JUSTICE REPORT REGARDING INTERNAL INVESTIGATION OF SHOOTING AT RUBY RIDGE, IDAHO DURING ARREST OF RANDY WEAVER (1994) [hereinafter *Ruby Ridge*], available at <http://www.byington.org/car1/ruby/ruby4.2.htm>. The court actually had informed Weaver of the wrong date, but it is unlikely that he would have shown anyway, given what transpired. See *id.*

135. *Id.* at n.91 (citations omitted).

government. (He actually was the U.S. Attorney for Idaho.)¹³⁶ The text read (in part), “The stink of your lawless government has reached Heaven, the abode of Yahweh our Yahshua. Whether we live or die, we will not bow to your evil commandments.”¹³⁷ By the time that Vicki sent the letters, she and her husband, their four children, and friend Kevin Harris (plus three dogs) had retreated to the Weaver cabin. In April 1992 (Weaver’s supporters usually give the exact date as April 19), U.S. Marshals began their intensive surveillance of the Weaver cabin.¹³⁸

Some eighteen months later, on August 21, 1992, federal marshals killed Weaver’s fourteen-year-old son and the family dog during a bungled reconnaissance mission, during which one U.S. Marshal also died.¹³⁹ The next day, agents killed wife Vicki and wounded Randy and the family friend, Kevin Harris, who lived with them.¹⁴⁰ By August 31, Harris and Weaver both surrendered, ending the standoff. In the eventual trial that took place on June 8, 1993, Harris and Weaver were acquitted of murder, conspiracy, aiding and abetting, and firearms violations, and Weaver only was convicted of failure to appear in court and of violating his bail.¹⁴¹ As NEW YORK TIMES reporter Timothy Egan concluded, the jury decisions were “a strong rebuke of the government’s use of force during an armed siege.”¹⁴² To Timothy McVeigh and anti-government ideologues, however, the Weaver case proved “that the government had been out of control” and that now the “common enemy” of people and their liberties was the government itself.¹⁴³ It mattered little that a legally constituted jury had rebuked the government’s tactics in the case. Even before the trial, however, forty citizens around Ruby Ridge began a group calling itself the

136. ALAN W. BOCK, *AMBUSH AT RUBY RIDGE: HOW GOVERNMENT AGENTS SET RANDY WEAVER UP AND TOOK HIS FAMILY DOWN* 204 (1995) (citations omitted).

137. *Ruby Ridge*, *supra* note 134, at 3. Subsequently, in Randy Weaver’s sentencing hearing for the two minor counts on which he was convicted, the court heard from one of the prosecutors “how personally offensive Vicki Weaver’s letters addressed to the ‘Queen of Babylon’ had been to ‘those of us in government with a strong faith in God . . . especially at a time when people like [U.S.] Marshal Degan [who was involved in the standoff] were fighting the ‘king of Babylon in Operation Desert Storm.’” BOCK, *supra* note 136., at 213 (citations omitted).

138. BOCK, *supra* note 136, at 63.

139. *Id.* at 5-9.

140. *Id.* at 20.

141. *Id.* at 120, 203. See also BEN SONDER, *THE MILITIA MOVEMENT: FIGHTERS OF THE FAR RIGHT* 43 (2002).

142. BOCK, *supra* note 136, at 203 (quoting Egan) (citation omitted).

143. DYER, *supra* note 18, at 82-83.

United Citizens for Justice, which called for murder indictments against the marshals involved in the Weaver siege. No indictments ever came, but the pro-Weaver movement grew within Christian Identity circles.¹⁴⁴

2. The Branch Davidians and the Siege Near Waco

A second influence on McVeigh regarding his Oklahoma City bombing was the way in which federal officials handled the Branch Davidian standoff near Waco, Texas. Agents from the Bureau of Alcohol, Tobacco, and Firearms (“BATF”) obtained a warrant to search the Davidians’ Mount Carmel community for possible firearms violations where leader David Koresh and his followers resided. The suspected violations “had to do with paperwork, fees, and registration, not possession of the alleged weapons and materials themselves.”¹⁴⁵ A contingent of heavily armed BATF agents raided the Mount Carmel property on February 28, 1993, only to be repelled by better-armed Davidians. This initial confrontation resulted in the deaths of four BATF agents and six Davidians, as well as wounding twenty agents and four Davidians.¹⁴⁶ The FBI quickly took over the site, and negotiations with the Davidians, as a fifty-one day siege began. The negotiations bore some fruit, with Koresh allowing twenty-one children to leave the compound,¹⁴⁷ but FBI negotiators developed the opinion that Koresh was untrustworthy after he reneged on promises that they thought he had agreed to uphold. Apparently not considered at the time was the possibility that Koresh would never have surrendered because he had sex with numerous young girls in his group, and he knew that authorities were aware of these assaults.¹⁴⁸ Regardless of any

144. LEONARD ZESKIND, BLOOD AND POLITICS: THE HISTORY OF THE WHITE NATIONALIST MOVEMENT FROM THE MARGINS TO THE MAINSTREAM 309-312 (2009).

145. JAMES D. TABOR & EUGENE V. GALLAGHER, WHY WACO? CULTS AND THE BATTLE FOR RELIGIOUS FREEDOM IN AMERICA 100-101 (1995).

146. *Id.* at 3.

147. *Id.* at 73.

148. U.S. DEPT OF JUSTICE, REPORT TO THE DEPUTY ATTORNEY GENERAL ON THE EVENTS AT WACO TEXAS § VII (1993) [hereinafter *Report on Events at Waco Texas*], available at <http://www.justice.gov/publications/waco/wacotocpg.htm>. The day before the raid, the local newspaper published a front-page article that discussed allegations of Koresh’s child sexual abuse. Mark England & Darlene McCormick, *The Sinful Messiah, part One*, WACO TRIBUNE-HERALD, Feb. 27, 1993, at 1A, 10A. For public allegations about child sexual abuse a year before the Waco raid, see MARC BREault & M. KING, INSIDE THE CULT: A MEMBER’S CHILLING EXCLUSIVE ACCOUNT OF MADNESS AND DEPRAVITY IN DAVID KORESH’S COMPOUND 62-64, 72-73,

weapons charges that he might have faced, he could have gone to prison for life on child sexual abuse convictions alone.

Amidst the stalemate, the FBI brought in Bradley armoured vehicles (i.e., armoured tanks), which were in use when McVeigh visited the siege site in early April 1993 and were similar to the Bradley vehicle in which he had been a gunner during the first Iraq War.¹⁴⁹ Later that month, on April 13, frustrated FBI officials authorized combat engineering vehicles—and soon afterward, the Bradleys—to fire tear gas into the buildings as it knocked down part of the wooden structures.¹⁵⁰ Fire broke out in the highly flammable buildings—most probably from arson by members,¹⁵¹ possibly accentuated by vapour-air mixtures from the tear-gas¹⁵² and quickly the entire complex became an inferno in which eighty or so Davidians died (some from gunshot wounds, probably inflicted as ‘mercy killings’ by armed members).¹⁵³

Federal indictments against surviving Davidians appeared within months of the catastrophic climax, with twelve members facing various charges that included conspiracy; aiding and abetting the killing of federal agents; illegal carrying and use of firearms; conspiracy to murder; attempted murder; unlawful possession of firearms and a grenade; and the unlawful manufacture and possession of machineguns.¹⁵⁴ Some members of the legal profession felt that the indictments were a travesty of justice, with federal officials admitting no responsibility for the nature, size, or

78-81, 90-92 (1993). For confirmation by a Davidian that Koresh had sexually assaulted young teenage women, see DAVID THIBODEAU & LEON WHITESON, *A PLACE CALLED WACO: A SURVIVOR'S STORY* 109, 113-114 (1999).

149. HAMM, *supra* note 132, at 142-143. Note, however, that McVeigh almost certainly did not see the Bradley when he visited Waco, since the FBI kept the public at a considerable distance from the buildings. He would have seen the Bradley on television.

150. See DICK J. REAVIS, *THE ASHES OF WACO: AN INVESTIGATION* 267-275 (1995).

151. See KENNETH G. C. NEWPORT, *THE BRANCH DAVIDIANS OF WACO: THE HISTORY AND BELIEFS OF AN APOCALYPTIC SECT* 281-301 (2006).

152. REAVIS, *supra* note 150, at 267-275.

153. Sources vary on the exact number who died in the final confrontation. See, e.g., NEWPORT, *supra* note 151, at 1 (eighty); REAVIS, *supra* note 152, at 275 (eighty-five); TABOR & GALLAGHER, *supra* note 145, at 3 (seventy-four). Newport provides the most comprehensive list of persons who died at Waco, which includes four BATF agents, six Davidians during or soon after the initial shootout, seventy-four Davidians plus two unborn babies during the final conflagration, plus twenty-three unidentified bodies found at the compound. NEWPORT, *supra* note 151, at 359-362.

154. *Report on Events at Waco Texas*, *supra* note 148, at App'x F.

outcome of the confrontation. (Subsequently, one of the government prosecutors would plead guilty to obstructing an investigation by withholding “several pages of pretrial notes” from the defendants.)¹⁵⁵ When attorney Dan Cogdell, first spoke with his client, Clive Doyle, he “decided, ‘This is why we go to law school. This was a case about the abuse of authority.’”¹⁵⁶ Many of the Davidians’ lawyers took on the case *pro bono*, even though it was estimated to cost them about \$25,000 each.¹⁵⁷ One of these lawyers was Dick DeGuerin, who—during the siege itself—had moved between the Davidians and the FBI in an effort to receive a nonviolent solution. DeGuerin’s efforts, however, were more than altruistic: he had hired a literary agent for the Davidians, believing that their story would have a financial value greater than the significant legal fees for which he saw little possibility of payment.¹⁵⁸

For the gun enthusiasts, constitutionalists, and anti-government groups, the entire Waco raid was a dramatic example of the state attempting to limit citizens’ right to bear arms. “Waco rapidly became a rallying cry across a spectrum of radical underground movements, from the emergent militia milieu to the more radical scene of Aryan revolutionaries.”¹⁵⁹ For them consequently, the trial was a travesty of justice from the very beginning, and its results only reinforced this opinion.

Before the trial began in January 1994, one defendant, Kathryn Schroeder, entered into a plea bargain with officials. She agreed to testify against the other Davidians and plead guilty to one count of armed resistance against a federal officer, in exchange the government dismissed all other charges.¹⁶⁰ The trial ended in February, with the jury finding:

[A]ll eleven defendants not guilty of the multiple murder and conspiracy accusations, and three of them . . . innocent of all charges. The jury also found seven defendants guilty of aiding and abetting in the voluntary manslaughter of federal officials, five of them additionally guilty of carrying a firearm during the

155. *Lawyer to Plead Guilty in Waco Case*, ASSOCIATED PRESS (Feb. 6, 2001), <http://www.rickcross.com/reference/waco/waco285.html>.

156. REAVIS, *supra* note 150, at 279-280 (citations omitted).

157. *Id.* at 279.

158. *Id.* at 252.

159. MATTIAS GARDELL, *GODS OF THE BLOOD: THE PAGAN REVIVAL AND WHITE SEPARATISM* 63 (2003).

160. *Report on Events at Waco Texas*, *supra* note 148, at § XIV (“Prosecution”). See also *id.* at § XIV(E) (“Schroeder’s Guilty Plea”).

commission of a crime of violence, and two defendants . . . of other arms violations.¹⁶¹

Having gotten the murder charges dropped and three Davidians acquitted, the defense team initially felt pleased, especially since they had feared that Judge Walter Smith, Jr. had shown his sympathy for the prosecution early on and had been very clear that “the government is not on trial.”¹⁶²

Immediately, however, upon the public reading of the jury’s verdict on February 23, 1994, Judge Smith dismissed the jury and reported to the attorneys on both sides that it had not followed his instructions. The instructions given to the jury were that they could convict the plaintiffs of “using and carrying a firearm during and in relation to the commission of an offense” only if it also convicted on the charge of conspiracy to wage war against the United States—the offense in question.¹⁶³ Since the jury had dropped the conspiracy charges, it could not still convict on carrying a firearm while commissioning an offense.¹⁶⁴

Eight defendants remained in custody, and when Judge Smith announced sentencing on July 17, 1994, he essentially rewrote a key aspect of the jury’s findings. He reasoned that because the jury had found Davidians guilty of carrying weapons while committing a crime, then it must follow that in fact they had committed the crime of conspiracy against the government.¹⁶⁵ As a consequence of Smith’s ruling:

Eight convicted defendants would serve a total of 240 years, an average of thirty years each. In addition to prison terms, each of the eight was sentenced to pay \$1.2 million in restitution to the ATF and FBI. In the hands of Judge Smith, the prosecution had won 75 percent of the punishment it had sought.¹⁶⁶

Judge Smith, therefore, had ignored the hundreds of telephone calls and faxes that he had received that pleaded for leniency toward the Davidians, and they and their supporters felt disdain for

161. REAVIS, *supra* note 150, at 296.

162. *Id.* at 281.

163. *Id.* at 296.

164. *See id.*

165. *Id.* at 298.

166. REAVIS, *supra* note 150, at 299.

the stiff sentences and the judge's reinterpretation of a key aspect of the jury's decision when issuing them.¹⁶⁷

Expectantly, appeals and civil lawsuits by Davidians and family members against the FBI and ATF followed. None of the civil suits was successful.¹⁶⁸ The United States Supreme Court, however, significantly reduced sentences of five Davidians in a June 2006 decision, ruling that Judge Smith's decision that the plaintiffs had access to machine guns (which draws a thirty-year sentence) went beyond the jury's decision that they had used firearms (which carries a five-year sentence).¹⁶⁹ Judge Smith, therefore, had to reduce the Davidians' sentences, and by mid-April 2006, prison officials released six Davidians, with the last member leaving prison in 2007.¹⁷⁰ One of the six, Paul Gordon Fatta, reflected the opinion of those persons who saw the supposedly pro-government bias of the trials when he retorted, "They [government officials] needed their pound of flesh, so they took the survivors and put them on trial. Somebody had to pay."¹⁷¹

3. Richard Wayne Snell and the Turner Diaries

Richard Snell had extensive contact with various Christian Identity groups (such as the Christian Patriots Defense League; Eliohim City; and the Covenant, Sword, and Arm of the Lord ["CSA"]), in addition to Posse Comitatus. In a July 1983 Aryan Nations meeting, Snell apparently participated in planning the vehicle bombing of the Alfred P. Murrah Federal Building in Oklahoma City, going so far as to conduct a reconnaissance on the structure and discovering that it had minimal security and housed numerous federal agencies.¹⁷² While involved with the CSA, he had murdered a pawnshop owner (believing him to be Jewish) during a robbery, and later murdered an African-American state

167. *Id.*

168. *See* NEWPORT, *supra* note 151, at 7 n.1.

169. Michelle Mittelstadt, *Judges Cut Terms of 5 Davidians*, DALLAS MORNING NEWS (June 6, 2006), <http://www.cesnur.org/testi/waco76.htm>.

170. *Six Branch Davidians Due for Release 13 Years After Waco Inferno*, ASSOCIATED PRESS (Apr. 19, 2006), <http://www.rickross.com/reference/waco/waco331.html>.

171. *Id.*

172. STUART A. WRIGHT, *PATRIOTS, POLITICS, AND THE OKLAHOMA CITY BOMBING 90-91* (2007).

trooper in Arkansas.¹⁷³ Eventually convicted on both murders, he faced execution on April 19, 1995.¹⁷⁴

A March 1995 issue of a Montana militia magazine urged its readers to contact Arkansas's governor, demanding that he spare Snell's life. Particularly about the date of the scheduled execution, the militia article informed its readers:

If this date does not ring a bell for you then maybe this will jog your memory,... 1. April 19, 1775; Lexington burned [marking the start of the American Revolutionary War]; 2. April 19, 1943; Warsaw burned; 3. April 19, 1992; the feds attempted to raid Randy Weaver, but had their plans thwarted when concerned citizens arrived on the scene with supplies for the Weaver family totally unaware of what was to take place; 4. April 19, 1993; The Branch Davidians burned; April 19, 1995; Richard Snell will be executed—unless we act now!!!¹⁷⁵

Neither McVeigh nor his accomplice, Terry Nichols, knew Snell personally, but it appears likely that McVeigh had connections with Elohim City and learned of Snell's tentative bombing plan through its residents.¹⁷⁶

In its broad dimensions, Snell's plan resembled the bombing that took place in the fictitious *Turner Diaries*, written by the anti-Semitic National Alliance leader William Pierce (under the pseudonym, Andrew Macdonald) in 1978. The book described the subversive actions taken by a group of godly freedom-defenders called the Organization after Jews, and their sympathizers took over the government and removed people's rights to possess weapons. In an act of resistance, the Organization bombed the FBI's national headquarters. The description that it gave of making a massive truck-bomb with fertilizer and oil closely resembled what McVeigh would do in Oklahoma City.¹⁷⁷ McVeigh read and re-read *The Turner Diaries* and urged his friends and family to do the same. He went on to sell copies at gun shows.¹⁷⁸

The Alfred P. Murrah Federal Building that McVeigh blew up with a fertilizer bomb in a rental truck on April 19, 1995, took its name from a Roosevelt-appointed federal judge in 1937 who, at

173. STERN, *supra* note 55, at 56; ZESKIND, *supra* note 144, at 82-83.

174. STERN, *supra* note 55, at 57.

175. *Id.* at 57 (citation omitted). See also HAMM, *supra* note 132, at 31.

176. WRIGHT, *supra* note 172, at 178-181.

177. ANDREW MACDONALD, *THE TURNER DIARIES* 38 (2d ed. 1978).

178. HAMM, *supra* note 132, at 144-145, 153, 160-61.

thirty-two-years-old, was “the youngest federal judge in American history.”¹⁷⁹ Constructed in 1977, the building housed offices for the: U.S. Drug Enforcement Agency; U.S. Bureau of Alcohol, Tobacco and Firearms; U.S. Secret Service; U.S. Department of Housing and Urban Development; U.S. Marines; U.S. Department of Agriculture; U.S. Customs; Veterans Administration; army recruiters; U.S. Department of Transportation, General Accounting Office; U.S. Department of Health and Human Services; U.S. Defense Department; Social Security Administration; and the Federal Credit Union. The building also housed a day-care for children.¹⁸⁰ The bomb killed 168 people (including nineteen children) and wounded another 500, and caused an estimated \$652 million in damage.¹⁸¹ Snell was in his final hours of life when he saw early television news coverage of the bombing. His last words, spoken to the governor, were, “Look over your shoulder. Justice is coming.”¹⁸²

I. Killings and Murder—Attempted and Successful in Other Sects and Cults

The disrespect and resulting violence against the government and its legal system within the anti-government movement is well-publicized, and staff within law enforcement and the courts have a good idea about the dangers they face from it, especially if they are handling a sensitive case involving one or more of its ideological adherents. Less anticipated and expected are similarly dangerous reactions that have come from sects and cults outside of the anti-government movement whose theologies and ideologies would not necessarily lead court officials and law enforcement to be on guard. However, several instances of attempted murder of court officials have occurred in the United States, and one particularly disturbing sectarian murder of a lawyer and his family took place in Japan.

1. Synanon

One case of attempted murder involved a California lawyer, Paul Morantz, who in 1978 won a \$300,000 judgement against

179. *Id.* at 37.

180. *Id.* at 39-40.

181. *Id.* at 239.

182. STERN, *supra* note 55, at 57 (quoting Richard Snell).

Synanon. (In this case's pre-trial stage, "Synanon attorneys so angered the judge in the case by disobeying court orders that he placed Synanon in default and the only issue became the amount of money [Morantz's client] would collect.")¹⁸³ Meanwhile, Synanon had developed its own elite guards, called the Imperial Marines, and they had a well-earned reputation for physical aggression and litigation.¹⁸⁴ The night before the attempt on his life, Morantz approached the Los Angeles Police Department for protection, since former members were telling him that he was on the group's "hit list." The captain in charge thought that he was "a hysterical nut," so Morantz was going to produce a list of former members with whom he could speak. The following day, in October 1978, Morantz reached into his mailbox to retrieve a package, and a four-and-a-half foot rattlesnake bit him. The Synanon perpetrators had removed its rattle so that Morantz would receive no warning of what awaited him. The bite nearly killed him, and he remained hospitalized for half a year.¹⁸⁵ Synanon leader, Charles Dederich, and two members pleaded "no contest to conspiracy to commit murder" charges in July 1980.¹⁸⁶ In this instance, the attack on an opposing lawyer was not a manifestation of a larger, anti-government agenda. Instead, it was a manifestation of the aggressive practices toward perceived opponents that the group had developed through its slow implosion into socially dysfunctional values sanctioned by its leader.

2. Rajneeshees

Followers of Bhagwan Shree Rajneesh had lived in increasing tension with local and state residents since they moved to a commune not far from the town of Antelope in the late 1970s. Spearheading most of the Rajneeshees' battles with Oregonians was Rajneesh's right-hand confidante, Ma Anand Sheela. After years of struggle and confrontation, Sheela was running out of tactics, so in May 1985 she proposed to an elite group of members that the Rajneeshees initiate a campaign of targeted murder against opponents. In order to garner support for her new proposal, Sheela

183. DAVE MITCHELL, CATHY MITCHELL & RICHARD OFSHE, *THE LIGHT ON SYNANON: HOW A COUNTRY WEEKLY EXPOSED A CORPORATE CULT AND WON THE PULITZER PRIZE* 179 (1980) [hereinafter *Light on Synanon*].

184. *Id.* at 179-189.

185. DAVID GERSTEL, *PARADISE, INCORPORATED: SYNANON 266-67* (1982); *Light on Synanon*, *supra* note 183, at 192.

186. *Light on Synanon*, *supra* note 183, at 299.

went straight to Rajneesh himself and had a conversation about her proposal. "She returned with a tape of her conversation. Although the quality was poor, the commune leaders heard Rajneesh say that if 10,000 had to die to save one enlightened master, so be it."¹⁸⁷ The statement epitomized his narcissism, which saw himself as enlightened and far superior and much more valuable than mere mortals.

Rajneeshees tended to be from middle-class backgrounds and were highly educated, with some members trained in medically related areas. Consequently, many of the plots involved poison. One murder target was a county district attorney. "While no definitive diagnosis was made at the time, his symptoms and the circumstances of his illness were unusual and very similar to those of [Rajneesh's physician], who was later poisoned by Diane Onang, the Director of the Rajneesh Medical Corporation."¹⁸⁸

Group operatives made another murder attempt against the county district attorney, Michael Sullivan, who was thirty-two years old, in good health, and was a jogger. When, however, his physician received an emergency call to his home, Sullivan had no pulse or blood pressure and only a faint heartbeat. Rushed to the hospital, Sullivan underwent tests for diabetes, and septic shock, but they were negative. Meanwhile, he received twelve litres of fluid that caused him to gain forty-two pounds in twenty-four hours because his capillaries were permeable. Remarkably, he recovered, and only later did a pathologist deduce a rare diagnosis of arsenic poisoning.¹⁸⁹

Two other county officials were poisoned, one of whom was a judge serving as a county commissioner. The two officials gained access to the Rajneesh commune, and were meeting with Rajneeshee leaders on a number of increasingly serious legal issues. After the meeting, they found a flat tire on their car. It was a hot day, so as they changed it they accepted glasses of water from Rajneeshees, not realizing that cult members had laced the water with salmonella. Again, both officials recovered, but one was hospitalized.¹⁹⁰

187. Les Zaitz, *Rajneeshees' Utopian Dreams Collapse as Talks Turn to Murder*, OREGONIAN (Apr. 15, 2011), http://www.oregonlive.com/rajneesh/index.ssf/2011/04/part_five_utopian_dreams_die_i.html.

188. CARTER, *supra* note 44, at 199.

189. *Id.*

190. *See id.* at 202.

After the Rajneesh commune fell apart in the mid 1980s, investigators uncovered two more plots against attorneys, which the group never carried out. One was a plan to murder a United States district attorney, and members had gone so far as to stake out his house. They never carried out the planned ambush, however. The second plot involved plans to kill the Oregon Attorney General, who had filed a lawsuit that challenged the constitutional status of the Rajneesh community. Less serious but still disturbing were the packages of condoms, sexually explicit magazines, and sex toys that clerks received in the mail at the county courthouse.¹⁹¹

All of these specific attacks must be viewed in the larger context of criminal actions that the group perpetrated on other citizens and some of their own members. In 1984, for example, Rajneesh members poisoned approximately 750 local citizens—the largest case of mass poisoning in American history.¹⁹² In the end, sixty-three members were charged with eleven different offences. These offences included: “electronic eavesdropping conspiracy; immigration conspiracy; lying to federal officials; harbouring a fugitive; criminal conspiracy; burglary; racketeering; first degree arson; second degree assault; first degree assault; [and] attempted murder.”¹⁹³

3. Aum Shinri Kyo

More chilling is the account of a Japanese lawyer who had been an opponent of Aum Shinri Kyo—the group that orchestrated the Tokyo subway attacks of sarin gas in which twelve people died and 6,000 were injured. As Japanese authorities pressed ahead with their investigation of the group, they uncovered accounts of “confinement, kidnapping, manslaughter, theft, counterfeiting, wire-tapping, agricultural land violations, and premeditated murder.” Prior to the murders in the subway from the gas, the earlier murder victims were a lawyer who had opposed the group, his wife, and their one-year-old son. The thirty-three-year-old human rights lawyer, Tsutsumi Sakamoto, had begun representing a group of parents who lodged complaints against the sect after their

191. *Id.* at 222.

192. *Id.* at 224.

193. CARTER, *supra* note 44, at 236.

children joined Aum.¹⁹⁴ After Sakamoto criticized Aum on a radio show, group members “spread leaflets near his home denouncing him for religious persecution.”¹⁹⁵ Soon thereafter, he met with a lawyer representing Aum, who also was a member, and pressed ahead with his allegations that the [Aum] leader, Shoko Asahara, was committing fraud. The meeting deteriorated into an argument, and afterwards he warned the parents to be on their guard.

When Asahara received a report about the confrontational meeting, he warned his key disciples that the lawyer could destroy all that they had built. Consequently, Asahara concluded, “We must send counsellor Sakamoto’s soul away by any means.”¹⁹⁶ Soon afterward, a team of six devoted followers dispatched to the lawyer’s apartment, among them a scientist, a martial arts expert, and a physician. They broke in, and first attacked the baby, injecting him with a lethal dose of potassium chloride. Both parents awoke and fought fiercely, but smashes to the head soon subdued them so that they too were murdered. The team then removed the bodies, placed them in metal drums and, for the next three days, the team of Aum disciples drove around Japan looking for safe places to dispose of them.

Before burying the adults, the group yanked their teeth out with pliers and smashed them to powder with a pick-axe, making it impossible to identify the bodies through dental records. The family’s pyjamas and bedding were then burned, and the drums and shovels tossed into the Sea of Japan.¹⁹⁷

Police subsequently found the lawyer’s remains buried on a remote, wooded hillside.¹⁹⁸ They also found the remains of his wife. Of their son, however, all that was left was the infant’s right palm.¹⁹⁹

194. See generally *Former Cult Official Admits Killing Lawyer, Family*, ASSOCIATED PRESS (Mar. 12, 1996), <http://www.apnewsarchive.com/1996/Former-Cult-Official-Admits-Killing-Lawyer-Family/id-12f77a08db22571420d2bf8e4a869e6d>.

195. DAVID E. KAPLAN & ANDREW MARSHALL, *THE CULT AT THE END OF THE WORLD: THE TERRIFYING STORY OF THE AUM DOOMSDAY CULT, FROM THE SUBWAYS OF TOKYO TO THE NUCLEAR ARSENALS OF RUSSIA* 39 (1996).

196. *Id.* at 40.

197. *Id.* at 42.

198. Andrew Pollack, *Japanese Police Find Body of a Lawyer Believed Killed by Cult*, N.Y. TIMES (Sept. 7, 2005), <http://www.nytimes.com/1995/09/07/world/japanese-police-find-body-of-a-lawyer-believed-killed-by-cult.html>.

199. KAPLAN & MARSHALL, *supra* note 195, at 287.

III. CONCLUSION

Sufficient numbers of incidents exist where various sect and cult groups have abused the legal system that anyone prosecuting, presiding over—and in some cases, even defending such cases—must be prepared for a range of eventualities. Some religious cults, and certainly many of their elite members, see the entire secular justice system as an encumbrance to their reputedly godly missions. As self-proclaimed agents of the divine, ideologues likely will place the survival of their group above truth, justice, and fairness. For them, legal adversaries become cosmic criminals, and far too often, these reputedly cosmic criminals become the subjects of attacks. These attacks are a reflection of the groups' attempt to subvert the rules of the legal game, which these groups often consider illegitimate or subordinate to the "divine" laws of their ideologies. Moreover, because of the court's ability to demonize certain practices and beliefs through legal rulings and court decisions, these groups are quite aware of the negative ramifications of a decision in their opponents' favour. With these points in mind, it is naïve to conclude, as does John Witte, Jr., that "religion gives laws its spirit—the sanctity and authority it needs to command obedience and respect. Religion inspires the rituals of the court room, the decorum of the legislature, the pageantry of the executive office, all of which aim to celebrate and confirm the truth and justice of the law."²⁰⁰ While Witte can provide abundant evidence from Christendom to support his conclusions, the relationship between many sects and cultic religions is far more problematic.

The problem of legal abuse is a societal one. While we more-or-less understand the mind-sets of deeply committed ideologues who have lost appropriate moral and ethical codes, we still realize that some of these ideologues are furthered in their opposition to the law because they feel that it is inaccessible or a tool of the wealthy. Access to the courts in North America requires money (economic capital), and many people who either fall victim to cults' legal attacks or who want to launch legitimate lawsuits of their own simply cannot afford to do so. Some of the best legal minds in Canada, for example, have realized that "millions of middle class Canadians are routinely denied basic legal rights because access to every-

200. JOHN WITTE, *GOD'S JOUST, GOD'S JUSTICE; LAW AND RELIGION IN THE WESTERN TRADITION* 460 (2006).

day civil justice is unaffordable for too many.”²⁰¹ This message is what a chief justice of the Supreme Court of Canada delivered to lawyers at their 2011 Canadian Bar Association meeting. She also informed them that in a rating “of the 12 wealthiest nations, in Europe and North America, Canada was ranked only eighth out of 12 last year in terms of justice. This year, Canada is ranked ninth, ahead of only Spain, Italy, and the United States.”²⁰² Consequently, to countless Canadians—and it would appear, Americans as well—the legal system (and the juridical field) is simply another tool of oppression, far more responsive to political power and corporate wealth than to the modest incomes of many of their victims. Indeed, in that same convention, Governor General David Johnston told attendees that lawyers throughout the democratic world had contributed “to the collapse of trust between citizens and public institutions, and the resulting social instability in many western nations today.” Johnston had in mind lawyers’ collusion in the recent global economic crisis, but an earlier financial crisis in the early 1980s—the farm crisis due to interest rates and foreclosures—also occurred with the complicity of those in the legal community involved with financial and property law.

In different sets of cases, the cults themselves wield the legal power through their almost limitless litigation money and members who also have legal training. In other words, these situations represent groups who often have much more juridical capital than their opponents; thus they are able to subvert the law through their relative wealth and knowledge of the legal system. In these instances, the abusive if not illegal actions of many cults have to receive appropriate legal sanction. Often police and the courts shy away from religiously-coloured cases, fearing that their intervention will be translated into allegations about discrimination on their part. Yet intervene they must, since the severity of the incidents increase over time. When cults or cult members operating as their agents commit crimes, then the appropriate people, who may be the leaders themselves, must be held accountable.

This conclusion is in line with Marci Hamilton’s examination of religions attempting to obtain exemptions from various laws:

Therefore the rule of law—which is the collection of legal principles that are duly enacted by legitimate legislatures—must be

201. Richard Foot, *Law System Out of Order: Johnston*, EDMONTON J., Aug. 15, 2011, at A7.

202. *Id.*

applied even-handedly to all religious entities. Legislatures can exempt the religious from some laws, but only where the religious entities have borne the burden of proving that exempting them renders no harm.²⁰³

Alas, the even-handed application of the law to groups bent on abusing it is more difficult than it sounds. For example, in the context of Scientology's aggressive and often abusive litigation strategies, J. P. Kumar reviewed a number of possible legal remedies. These possible remedies included sanctions, dismissal and summary judgement, discovery, countersuits, cost shifting and attorney fees, and even changes in substantive law. He concluded that, while each remedy may have value in particular cases, abusive adversaries also could hinder if not defeat its effectiveness.²⁰⁴ The best solution, therefore, to court abuses

has to lie with the courts on a case-by-case basis... [T]rial judges possess the power to maintain control of their courtrooms, to broadly construe and vigorously police the requirement of good faith, and to safeguard the integrity of the legal process. In the case of misconduct, they must be willing to exercise that power without hesitation or fear of reflexive reversal.²⁰⁵

Judges, therefore, simply must enforce existing laws if and when sects, cults, or their representatives attempt to breach them. Intellectuals and legal theorists may understand the reasons for these breaches, but “[w]e cannot allow ourselves to justify actions of religious extremist[s] by articulating contextualism.”²⁰⁶ As a Canadian Report of the Subcommittee on Global Review of the *Federal Court's Rules* indicated in 2012, “there is widespread support empowering judges to deal directly with dysfunctional and destructive conduct in the litigation process.”²⁰⁷

Even after strict but fair application of the law, judicial and law enforcement personnel may be at risk. Risk also may come from groups whose leaders suffer from personality disorders and who therefore may resist participation in the legal game by bending and breaking many of the rules that those in legal professions

203. Kent, *supra* note 43, at 11.

204. Kumar, *supra* note 93, at 757-772.

205. *Id.* at 773.

206. AMOS N. GUIORA, FREEDOM FROM RELIGION: RIGHTS AND NATIONAL SECURITY 124 (2009).

207. SUBCOMM. ON GLOBAL REVIEW OF THE FED. COURT RULES, REPORT OF SUBCOMMITTEE 25 (2012).

assume exist. These leaders may lack empathy or even consciences, so the normal rules of social interaction and values are not in play. Their operatives, who likely have internalized their leaders' imbalances, act in ways that would be foreign to them if they were not in their respective groups. Sometimes their actions may include violence against court officials and their families; therefore, persons working within the court system will want to take necessary precautions.

In terms of preparing for the worst, the Johnson County, Kansas Sheriff's Department compiled a list of 101 tips for judges and court staff to enhance their safety. The list is thorough, and should be required reading by anyone involved in the judicial system. One item, however, stands out among them: "45. Do not think that just because you have never had court violence that it will never happen in your courtroom."²⁰⁸ Some fairly recent American examples help put the likelihood of this kind of threat into perspective. Looking at one year's data, "since the beginning of 2009, at least 23 reported incidents have been directed against federal and local courthouses—one fatal shooting and one attempted bombing, three suspicious packages, five hoax bomb threats, and eleven suspicious incidents involving photography."²⁰⁹ For the year before (2008), however, a report by the Justice Department's Inspector General painted an ominous picture by looking at threats to court personnel rather than simply threats to court buildings. "Federal court personnel were the target of 1,278 threats in fiscal 2008, more than double the threats received in 2003..."²¹⁰ Between the years 2003 and 2008 (inclusive), American federal judges, U.S. attorneys, and assistant U.S. attorneys received 5,744 threats.²¹¹ Note that these figures do not include threats to state or county courts or officials.

208. JOHNSON CNTY., KAN. SHERIFF'S DEP'T, *Taking Precautions: 101 Personal Safety Tips for Judges and Court Staff*, NCSC, <http://www.in.gov/judiciary/center/education/library/social/court-security/personal-safety-tips.pdf> (last visited May 9, 2013).

209. U.S. DEP'T OF HOMELAND SEC., OFFICE OF INTELLIGENCE & ANALYSIS, (U//FOUO) ANALYSIS OF INCIDENTS DIRECTED AGAINST COURTHOUSES IN THE UNITED STATES 2 (2010), available at <http://publicintelligence.info/CourthouseAttacks.pdf>.

210. Ed O'Keefe, *Federal Courthouse Security Could be at Risk, Report Says*, WASH. POST (Nov. 22, 2010, 7:23PM), <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/22/AR2010112206144.html>.

211. Alan Silverleib, *Report: Threats Against Federal Judges, Prosecutors Rise Sharply*, CNN (Jan. 4, 2010, 1:46 PM), <http://www.cnn.com/2010/CRIME/01/04/judges.threats/index.html>.

Ironically, as the threats to American court personnel increase, building security is decreasing in jurisdictions across the country (with the possible exception of New York State). The reason is simple: budget cuts. "With the recession prompting step cuts to state and local budgets, courts around the country are facing the tough decision of whether to reduce court services or cut back on security."²¹² One Alabama judge began bringing a handgun into her courtroom,²¹³ while other judges bought firearms for protection (in addition to taking a number of other precautionary measures).²¹⁴ As far back as 1999, increasing numbers of federally appointed judges in Canada were requesting "special security measures for themselves and their families."²¹⁵ And a 2006 study of lawyers in Vancouver, B.C. and its suburbs found that 683 attorneys "reported varying degrees and numbers of threats."²¹⁶

Courthouse and judicial staff security have become big business, and it is not our intention to wade into these specialized areas. Some basic observations, however, are appropriate. A review of some security literature suggests that basic security concerns for courthouse buildings and staff involve three wide areas. One area involves the space outside the courthouse, which includes the proximity of parking lots, streets, other building, etc. A second area involves entry into courts (security systems). A third area involves personnel movement and behaviour within buildings and courtrooms, the separation of lawyers and judges from the public, courtroom decorum and responses to incivility, etc. Other security issues involve court officials in public space: exiting the courthouse; driving to and from home and within the community; and living at home. Suffice it to say that in each of these areas, this article has provided one or more examples of sect and cult members making security breaches, which is worrisome because of

212. Denise Lavoie, *Budget Cuts Force Tough Choices for Court Security*, ASSOCIATED PRESS (Jan. 11, 2010), http://www.masslive.com/news/index.ssf/2010/01/budget_cuts_force_tough_choice.html.

213. *Id.*

214. David M. Flores et al., *Judges' Perspectives on Stress and Safety in the Courtroom: An Exploratory Study*, J. AM. JUDGES 85 (2008-2009).

215. Nahlah Ayed, *More Judges Requesting Special Security*, NAT'L POST (Sept. 7, 1999), <http://www.nationalpost.com/news.asp?f=990907/73074&s2=national>.

216. Karen N. Brown & David MacAlister, *Violence and Threats against Lawyers Practising in Vancouver, Canada*, 48 CAN. J. L. OF CRIMINOLOGY & CRIM. JUST. 543, 543 (2006).

their likely disdain, if not hatred, of the legal system and those who operate it.