
Scientology and its 'Clear' Business

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The Church of Scientology (CoS) has been the center of controversy and moral panics around the world. Many of its critics, including government and professional bodies suggest that it is a "destructive cult" with values in conflict with society. Against such views, it is argued that the CoS both reflects and relies on conventional values. The CoS is analyzed as a successful commercial enterprise which, seeking to achieve its goals, occasionally adopts illicit means. The CoS's business is also deviant in that it denies its commercial structure. Ironically, it is this very denial, this very deviance that helps explain its survival and success.

Few new religious movements (NRMs) have created more controversy than the Church of Scientology (CoS), which has been subjected to intense attacks from both individuals and organizations that consider it a "destructive cult". In the United Kingdom (UK), during a trial that made headlines Justice Latey stated that "Scientology is both immoral and socially obnoxious. In my judgement it is corrupt, sinister and dangerous" (quoted in Lamont, 1986, p. 149). Former CoS members, journalists, professional bodies, and governments have joined voices against the CoS (Behar, 1986; Harrison, 1990; Lamont, 1986; Malko, 1970; Vosper, 1971; Wallis, 1975). Governmental committees and inquiries into CoS have suggested that it constitutes an evil and a threat to the family and the community, which brought about legislation specifically targeting CoS and its practices in many parts of the world (Barker, 1989; Richardson, 1986; Wallis, 1975). There is evidence that its members have committed offenses to protect CoS or to further its aims (*United States v. Heldt*, 1981). The CoS's religious status has been disclaimed by its fiercest critics, in the eyes of whom it is little more than "an international scam" (Behar, 1991).

Contrary to views that CoS's values are at odds with society and independently of the stated intentions and declarations of CoS and its leaders, we argue that it functions like an ordinary profit-making enterprise that both reflects and relies on dominant cultural values in the West and in particular in the USA. To a large extent, CoS has conflicted with mainstream institutions precisely because it offers conventional "goods and services" and competed with established groups.

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Secondly, in view of the charges directed against CoS in various parts of the world, we suggest that its unlawful practices have no “cultic” features; indeed, the patterns of the CoS’s lawbreaking are not substantially different from what is known as “white-collar crime”. The activities of the CoS, its leaders and followers can, thus, be analyzed as an “innovative”—in the Mertonian sense of the term—effort to attain culturally inculcated goals, such as monetary and other success, through deviant channels.

Thirdly, the CoS’s litigation about its religious character in the USA and Europe—where we concentrate—is even less surprising once it is recognized that, ironically, its survival depends on the fact that it is not a conventional business. The CoS’s practices and rituals must remain couched in religious terms and beliefs. Any official definition of the CoS as purely “professional” or commercial would very likely signal the end of CoS. In short, a condition of the CoS’s survival and prosperity is that it is a “deviant enterprise”.

THE CoS AND TRADE IN CONVENTIONAL VALUES

L. Ron Hubbard was originally a science fiction writer, whose best-selling book *Dianetics* (1950) evolved into a psycho-therapeutic system. *Dianetics* contains the philosophical background of therapeutic techniques, the main point of which is to help people become “Clear”. A Clear “has all his inherent mental ability and imagination free to use it. His physical vitality and health are markedly improved and all psychosomatic illnesses have vanished and will not return” (Hubbard, 1968, p. 170; quoted in Wallis, 1977, p. 27). Various Dianetic Foundations emerged in the early 1950s, where professional “auditors” were trained and began assisting patients—“Preclears”—to get rid of “impediments” or “engrams” that had been recorded in their minds in the past and were interfering with mental and bodily functions. During the auditing sessions, which were a crossing between confession, counseling, and psychotherapy sessions, an “e-meter”—a sort of lie-detector—was used, at first to diagnose and treat, later to “disclose truth to the individual who is being processed and thus free him spiritually” (Malko, 1970, pp. 75–76).

Although *Dianetics* became a thriving business that expanded beyond the USA, not all was “clear”. Medical, psychological and psychiatric professions did not welcome dianetic therapies with open arms (Wallis, 1977, chap. 2). Evidence that *Dianetics*’ results were far less impressive than touted posed another threat to its vitality. As splinter groups were created, people sought independence from Hubbard and tried to improve his methods.

In 1954, Hubbard’s ideas and writing moved into the realm of religion, as he founded the CoS—incorporated in 1955 as a nonprofit society (Lamont, 1986, p. 28). In the CoS, the notions of control and self-determination are further accentuated. The ultimate objective is to achieve the state of “Operating Thetan” (OT)—that is, a Clear who is “aware of his [or her] awareness”, has overcome the stimulus-response reaction and is “at cause over matter, energy, space, time and thought”. Auditors were transformed into “ministers”, franchises into “missions”, payments and fees into “fixed donations”, theories into “sacred scripture”.

While the aim of *Dianetics* was to address ontological and existential problems, the CoS sought to meet the needs of people seeking practical solutions to everyday

problems (Beckford, 1985, p. 53). Indeed, what is offered by the CoS is appealing precisely because of its consonance with prevailing values and its promise to help attain culturally approved goals.

The average man is up against problems. He's asking himself, *how can I make more money? How can I make my wife faithful to me? How can I help my children grow up?* . . . in Scientology processing he resolves these questions, he understands what he's doing, and he turns from a man who is simply a puzzled static being into somebody who is more than that (Hubbard, 1970, p. 13; italics added).

The CoS's 'world-affirming' orientation (Wallis, 1987) and the instrumentality of its dogma is attractive—it can “sell”—in Western societies and competitive environments, where messages of success and never-ending demands to achieve more are omnipresent (Merton, 1968; Passas, 1988), and rational and utilitarian individualism is often thought to be human nature.

Each stage of the development from science-fiction to Dianetics to the CoS effectively represents a move toward wider audiences and markets (cf. Wallis, 1977, p. 198). Consequently, the impact and profitability of Hubbard's initiatives—whether regarded as consecutive “revelations” or rational commercial-like planning—increased. Not all of his followers like the shift to religion because they thought that it would be just a “legal cloak over the group's activities” (Senn, 1990, fn. 130). The switch to religion, however, can be regarded as a managerial decision, as it was better able to retain its “clientele” and compete against professional bodies that could successfully challenge its scientificity. The CoS grew into a “rational” organization consistent with the principles of market economy (Straus, 1986).

In spite of the long list of lawsuits of former members or clients against the CoS, its worldwide following today is in the millions (Harrison, 1990). The typical members have freely elected to join CoS, are married, in their 20s, white, educated, and hold white collar jobs (Beckford, 1985, p. 59; Harrison, 1990; Johnson, 1987, p. 256; Wallis, 1975, p. 104). While one analysis suggests that the CoS developed and perfected a mechanism promoting “pluralistic ignorance” (Bainbridge & Stark, 1980), the CoS followers can be characterized as “achievers” or “seekers” (Straus, 1976; Wallis, 1977), people who espouse dominant values and turn to CoS in their effort to attain self-realization and success. The CoS members are people who, rather than seeking God, want to be God (Bainbridge, 1987, p. 74).

Not only success, but self-made success—a favorite theme in USA culture—is part of CoS's trading stock: “Now the real work is to put an individual into a mental condition where *he can confront his own problems and solve them*” (Hubbard, 1970, p. 14; italics added; see also pp. 14–15). The thirst for status is also catered for in CoS through an elaborate system of initiation levels or “grades” from Preclear to Clear and OT, which furnishes alternative status and status symbols (Bainbridge 1987, p. 61; Bainbridge & Stark, 1980; Hubbard, 1968; Wallis, 1977, p. 65).

Other themes from conventional life that are addressed or capitalized on by CoS are “reaching the top” and realizing one's full potential (Wallis, 1987, p. 81; cf. U.S. Army's advertizing slogan “be all that you can be”), solving communication problems (Beckford, 1985, p. 57), the cultural emphasis on risk-taking and exchange relations—“something for something”. The latter is highlighted by the CoS's

"doctrine of exchange", according to which anytime someone receives something, s/he must pay something back (*Hernandez v. Commissioner of Internal Revenue*, 1989, p. 2141). In fact, the whole system of fees Preclears must pay to the CoS is based on this doctrine.

Consistent also with the client-like relationship between the CoS and Preclears (Beckford, 1985, p.129), fees for auditing are an integral part of the transaction and are as high as the market can bear. The fees were \$500 for 25 h in 1969 (Moore, 1980, p. 701); in 1979 a "Solo Audit Course" cost \$3,692.87, while the price of special aids to Clears was \$250 per h (Bainbridge & Stark, 1980, p. 132); in 1991 auditing costs \$1,000 per h (Behar, 1991, p. 52).

A number of CoS practices further illustrate how it employs ordinary business and marketing strategies in the pursuit of its goals. The CoS retains one of the largest public relations companies in the USA (Behar, 1991, p. 57), tries to attract new clients through free personality tests that are likely to show that you can do better, pays commissions to those recruiting neophytes (Vosper, 1971) and uses advertizing in magazines and on TV to promote its "goods and services". Its advertizements are no different from those for other goods: "Scientology promotion promises 'YOU TOO CAN BE A SUPERPERSON'. You can be a CLEAR" (Vosper, 1971, p. 166).

Go Clear—For the first time in your life you will be truly yourself. On the Clearing Course you will smoothly achieve the stable State of Clear with: Good Memory, Raised IQ, Strong Will Power, Magnetic Personality, Amazing Vitality, Creative Imagination (Bainbridge & Stark, 1980, p. 128).

The CoS's revenues are not limited to those connected with training and auditing. Like many commercial enterprises, it is quite diversified. The CoS-linked organizations include Sterling Management Systems, Way to Happiness Campaign, Applied Scholastics, Citizens Commission on Human Rights, Concerned Businessmen's Association of America, Health Care, Narconon, Author Services Inc., several publishing companies and periodicals (Barker, 1989; Vosper, 1971, chap. 12). Although not all of them are directly geared to profit-producing activities, the CoS appears to be a very lucrative business (Behar, 1991; Robbins, 1988, p. 74).

Thus, contrary to views expressed by anticult groups in Europe (Beckford, 1985, pp. 257–259; Berger & Hexel, 1981), it appears that the clashes between the CoS and its environment are not the result of conflicts between different sets of values. The internal control mechanisms of the CoS have scandalized its critics for their authoritarian character. Even its control system, however, has been shown to reflect and exaggerate certain features of the American capitalist society (Straus, 1986) and was developed largely as a defensive adaptation to hostile societal reactions to the CoS (Wallis, 1975).

For its market, the CoS competed with the medical, psychiatric and psychological professions, as it provided a theory radically different from those of orthodox science, as well as with other NRMs offering to "release" people from obstacles to the full realization of their potential (Beckford, 1985). Wallis has argued that the CoS's ambiguous role and functions may explain the reaction against it.

The boundaries between church, business, science and to a lesser extent psy-

chotherapy are relatively clearly drawn. Scientology infringed those boundaries, and, refusing to recognize any necessity of occupying one category rather than another, behaved in ways characteristic of them all. It was thus a source of cognitive anomaly and psychological anxiety. Since it behaved as a business as well as a religion . . . many argued that its religious claim must be purely “a front”, and Scientology “a con” (Wallis, 1975, p. 104).

Not only did the success of the CoS draw the attention of professionals whose interests were affected by it. Politicians and government agencies could also show how they cared for the public good by assaulting a “disruptive cult”, while other agencies could see additional revenues in taxing a corporation that enjoyed charitable status. Family members could find a scapegoat for possible mistakes in the bringing up of their children. Their overreaction to some deviant traits of the CoS have contributed to an “amplification of deviance process” (Wallis, 1975). The shift to religion eased tensions with professionals. Further attempts to assault and marginalize the CoS, however, were regarded as persecution, to which the CoS responded sometimes with deviant or even criminal means. The continuing pursuit and consequent publicity of such means could seriously harm the CoS’s business. Most of its troubles with the law, though, are of a business-like character.

AN “INNOVATIVE” BUSINESS

In a way reflecting the salesmanship and entrepreneurial spirit in the USA, Hubbard wrote to the CoS officials, “Make sure that lots of bodies move through the shop . . . Make money, make more money. Make others produce so as to make money . . . However you get them in or why, just do it” (quoted in Behar, 1991, p. 52; Senn, 1990: fn. 110). In line with values that make the aggressive pursuit of goals an invaluable asset (especially in the USA), pressure sales are institutionalized in the CoS: “The operative terms here are ‘toughness’, ‘effectiveness’, ‘getting the job done’. There are no compunctions about hard-sell, no embarrassment about instrumental values or bureaucratic rationality” (Straus, 1986, p. 80).

Consequently, a large number of cases before the courts had to do with what can be described as “customer satisfaction”, “fraud”, “deceptive advertising”, “product design” and “mislabeling of products”; i.e., offenses rarely regarded as peculiar to religions. In 1958, the Food and Drug Administration (FDA) seized and destroyed “21,000 tablets of a compound known as Dianazene, marketed as a preventative and treatment of radiation sickness . . . on the grounds that they were falsely labeled” (Wallis, 1975, p. 92).

In *Founding Church of Scientology of Washington, D.C. et al. v. United State of America* (1969), the therapeutic aspect of its practices was challenged as the government charged that the CoS had falsely represented the e-meter as an effective treatment of physical ills. By applying a consumer statute, the FDA raided the CoS offices and seized e-meters and related literature on the grounds that it could be damaging to health (Malko, 1970, p. 76; Wallis, 1975, p. 93; on the theory that FDA’s motives were not very straight forward, see Garrison, 1980, p. 27). In another lawsuit against the CoS, the complaint was that auditing was ‘likened to confession, only “better”’ (Heins, 1981, p. 193).

A frequent complaint regards excessive fees for the courses (Barker, 1989, p.

174). For instance, on charges of "intentional infliction of emotional distress" and claiming that she had been "defrauded by the church as promises to improve her life remained unfulfilled despite spending \$3,000 on auditing course fees", a former Scientologist was awarded more than \$2 million by an Oregon jury (Moore, 1980, pp. 701–802; this case seems to have prompted many more such lawsuits, Heins, 1981; *Van Schaick v. Church of Scientology*, 1982).

Further, Sterling Management Systems has been linked to what an attorney called "a kind of bait and switch". A dentist who entered a Sterling seminar in 1988 is reported to have

endured 'the most extreme high pressure sales tactics I have ever faced'. Sterling officials told [him] that their firm was not linked to Scientology, he says. But [he] claims they eventually convinced him that he and his wife . . . had personal problems that required auditing. Over five months, [the couple] say, they spent \$130,000 for services, plus \$50,000 for 'gold-embossed, investment-grade' books signed by Hubbard (Behar, 1991, p. 52).

The public's daily exposure to high-pressure sales tactics, hyperbole in advertizing, and depersonalization of seller-consumer relations makes for susceptibility to consumer fraud (Schur, 1969, p. 170). Regardless of whether CoS is the offender or the victim of vindictive defectors, as the CoS claims, inherent in its marketing tactics—similar to those of ordinary businesses—are these deception-prone characteristics.

Another accusation against the CoS is that it artificially created best-sellers by massive buying of Hubbard's books and stocking them up (Behar, 1991, p. 55; Vosper, 1971, p. 183), a business trick to sell even more. Additional allegations denied by the CoS include inside trading, a scheme "to gain inside information on which countries are going to be denied credit so that Scientology-linked traders can make illicit profits by taking 'short' positions in those countries' currencies" (Behar, 1991, p. 55).

The CoS members have been involved in criminal acts, such as breaking into federal agencies' offices and stealing government documents in the USA (*United States v. Heldt*, 1981)—the CoS officials are now being charged for such offenses in Canada too (Behar, 1991, p. 56). Such activities, along with persistent litigation against vocal critics, are part of its tactics to defend itself. Noteworthy is its "Fair Game" policy, which involved the permission to trick, sue, lie to or destroy any "enemy" or "suppressive person" (Moore, 1980, pp. 702–703; Wallis, 1975, 1977). In a sense, the CoS's frequent recourse to the legal system as a way of achieving its goals is in line with the litigious character of U.S. American society. It is also largely due to its congruence with prevailing values; the CoS would not resort to courts if its values radically departed from society's (Beckford, 1985, p. 191).

Except for its persistence and intensity, such a policy is not too dissimilar from practices that respected organizations and individuals have engaged in. Smear campaigns and efforts to illicitly discredit opponents are not rare. The efforts of General Motors to discredit Ralph Nader (Cullen, Maakestand, & Cavender, 1987, p. 154) and the devious tactics used against political opponents to the Nixon administration—as disclosed after the Watergate affair—can be cited as examples. Ironically, it has been alleged that the American Medical Association spread black propaganda about Hubbard's past psychiatric treatment (Garrison, 1974; Lamont, 1986, p. 27).

Another type of illegal activity that the CoS has been accused of is tax evasion. There have been allegations that it uses religion as a shield for tax exemption and avoidance of public scrutiny (Robbins, 1988). It is hardly novel to point to the commonality of "tax minimization" among companies as well as respectable individuals. As tax breaks are sought systematically, federal courts "have consistently guaranteed [the] right of the taxpayer to do as much dodging as possible within the limits of the law" (Gibney, 1960, p. 217). The same author has observed that the practice of fraud has been "dignified" by constance use and acceptance.

In this light and given Hubbard's views on money and his aversion to tax collectors (Lamont, 1986, pp. 65, 92-93), the Internal Revenue Service's (IRS) revelation that the CoS had 'removed nearly \$4,225,000 out of several Swiss Bank accounts, a sum later found on the yacht belonging to the Church's founder' (Moore, 1980, p. 687) does not come as a surprise. A report in *Time* magazine has reiterated that, in the 1970s, IRS audits "proved that Hubbard was skimming millions of dollars from the church, laundering the money through dummy corporations in Panama and stashing it in Swiss bank accounts" (Behar, 1991, p. 51).

Many writers and organizations have undertaken to unveil the CoS's purely secular nature (Behar, 1991; Lamont, 1986, p. 149; Miller, 1987; Robbins, 1988). A number of court decisions have denied the CoS its tax-exempt status because of its substantial nonreligious and commercial activities (*Founding Church of Scientology v. United States*, 1968) or because it transferred profits to Hubbard and other private individuals (*Church of Scientology of California v. Commissioner of Internal Revenue*, 1987). It is worth adding that the CoS's practices would not pass Senn's "sincerity test" of religious beliefs, which is essential for constitutional protection under the First Amendment. According to Senn's criteria, the CoS could be prosecuted for "religious fraud" (see Senn, 1990, fns. 100, 130, 138).

Our aim, however, is not to question the honesty and motives of Hubbard¹ or the religiosity of the CoS. Rather, we focus on its actual workings and the way in which it relates to mainstream values. A former Scientologist found no cause to suspect that Hubbard "had any ulterior motive but to further his "baby", Scientology" (Straus, 1986, p. 80). To the extent that the pursuit of legitimate but nonreligious success goals, such as profit, glory, or power, might have influenced the passage from science fiction to psychotherapeutic methods to a religious doctrine, Hubbard and the organization he created illustrate Merton's "innovation" category.

When Merton wrote about anomie and social structure (Merton, 1968), a central aim was to show how conformity to dominant values can bring about deviance (Passas, 1988: appendix). Among the possible responses to sociostructural discrepan-

¹ Nevertheless, it is hard to resist the temptation to note the following original account relative to Hubbard's intentions. According to "Karl", there was a parallel between a joke and the way in which some of Hubbard's ideas were born. The joke was about the ideal story for *Readers' Digest*. Popular topics included sex, animals, police and religion. The ideal story, then, would be about "how I screwed a bear for the FBI and found God". In the late 1940s, Karl was a graduate student at Ohio State University, when Hubbard visited the campus to meet with another science fiction writer about an article for *Astounding*. Karl met the two authors at the Blue Danube Café after a psychology lecture by Professor D. R. Meyer who employed the term "engrams" for memory trace—what gets remembered. Karl's clear recollection is that a consciously commercial purpose guided a synthesis of much-discussed themes of the time. A successful story should include elements from dynamic systems, psychoanalysis, and cybernetics. Over a beer, the term engram was thrown in by Karl, who suggests that it is perhaps more than sheer coincidence that the term reappeared and became central in Dianetics.

cies and lack of conventional means for the attainment of culturally promoted goals is “innovation”, which involves the pursuit of cultural ends through deviant channels. In a similar fashion, while the “goods and services” the CoS offers are consonant with dominant Western values, some of which are expressed in an exaggerated fashion in the USA, it departs from conventional psychotherapeutic, religious or business practices.

Irrespective of the “real” motives, the CoS operates as a commercial enterprise. It provides goods and services that are in demand, it caters for the needs of particular sections of the population, a good number of its activities are geared toward profit, and many of the CoS’s troubles with the law are typical of those found in the commercial world (Passas, 1990).

A BUSINESS THAT MUST REMAIN A RELIGION

To a large extent the CoS has been a successful business because it has been able to steer away from obstacles associated with its scientific claims and, thereby, minimize the tension with professional bodies; because it became a religion, a nonprofit organization, that had to be officially recognized as such. In other words, much of its success is due to its successful claim that it is not a business. In this respect, the CoS is a deviant business, which has to remain that way. This explains to a large extent why CoS has been fighting major legal battles around the world to preserve its religious status.

In the USA, under the protection of the First Amendment, the CoS has been recognized as a religion since its constitution. Although its tax-exempt status had been challenged, to the aid of CoS came other court decisions, such as in *Barr v. Weise* (1969). After Aaron Barr unsuccessfully requested exemption from military service on “dependency/hardship” grounds, he made the same request on “religious grounds”. When the Army advised Barr that he did not meet the requirements for discharge, he sought to obtain a judicial review of the Army’s denial of a discharge “despite the fact that he possessed a ‘status as a full-time student of the ministry in the Church of Scientology’” (p. 339).

In the meantime, the petitioner passed his examinations and became Reverend Barr, which forced the question of whether he was a minister of a recognized religion. The court followed the opinion in *Founding Church of Scientology of Washington, D.C. et al. v. United States of America* (1969) and held that the CoS made a prima facie case that it is a bona fide religion—but not “for all legal purposes”. With respect to Reverend Barr, absent rebuttal, it was sufficient that the CoS is “incorporated in New York as a religious corporation, that it has a substantial membership and a functioning divinity school which ordains its ministers” (*Barr v. Weise*, 1969, p. 340). Nevertheless, the judge did not seem to think much of the e-meters as he wrote that a judgment on the benefits or “lack thereof, which may come to the members of the Church while holding in their hands two tin soup cans linked by an electric apparatus” was for the future (p. 341).

Following a policy of international expansion and seeking refuge from the hostility of US government agencies (Wallis, 1975), the CoS moved to the European market and established its International Headquarters in the UK. But the CoS encountered hostile treatment by the government there too. The Minister of Health submitted

a written answer to a parliamentary question, in which he described the CoS as a “pseudo-philosophical cult the practice of which was potentially harmful to its adherents” (*Church of X. against the United Kingdom*, 1968, p. 308). In order to curb its growth, the government introduced restrictions on foreigners entering the country to study or work for the CoS and refused the CoS establishments recognition as educational establishments.

Unable to obtain favorable rulings from UK courts, the CoS turned to European organizations with jurisdiction over UK, such as the European Commission of Human Rights and the European Court of Human Rights. Yet, the CoS did not obtain the decision they hoped for. In *Church of X. against the United Kingdom* (1968), the Commission noted that the measures were imposed for the execution of Home Office policy on the admission and control of foreign citizens, which is a discretionary act by a public authority (p. 316). The CoS members were denied student status, permissions to stay in the country for studies at the CoS establishments were not extended, and work permits were refused. The Commission observed that all this did not prevent members, whether resident or coming from overseas, from attending the CoS College or “otherwise manifesting their religion or belief” (p. 318). Moreover, the Commission had found that a right of a foreigner to be admitted to a country other than their own is not as such guaranteed by any of the provisions of the European Convention on Human Rights. So, the ruling was that the prohibition of foreigners’ movement into the UK for the study of Scientology did not violate the rights protected by articles 9 (pt. 1)—on freedom of thought, conscience and religion—14, 6 and 13 of the Convention.

Perhaps for this reason, Yvonne van Duyn, a Dutch citizen who worked as administrator in the CoS’s offices in the Netherlands, tried to enter the UK to fill the post of secretary at the international headquarters of the CoS in East Grinstead, Sussex, in 1973. Having failed to make a case on the basis of human rights, an attempt was made to obtain the lifting of movement restrictions through European Community (EC) regulations, which are designed to promote the free exercise of economic activities in all Member States (MSs). Van Duyn claimed her right to work freely within the EC, a right denied by the UK by its restrictions on CoS members. During an interview with an immigration officer, it emerged that she had worked in a CoS establishment in Amsterdam for 6 months, prior to such work she had taken a course in the subject of Scientology, she was a practising CoS member, and she was planning to work at a CoS establishment in the UK (*Van Duyn v. Home Office*, 1974, p. 365).

As she was handed a document entitled “Refusal of Leave to Enter” the UK, her case was one of labor law—admissible before the Court of Justice of the EC—with a religious background that could produce a favorable decision for both van Duyn and the CoS. The EC Court of Justice, however, did not fulfil this expectation.

It all came down to the question of whether a MS is entitled to prevent a national of another MS from taking gainful employment within its territory with a body or organization, on grounds of public policy, particularly when no such restriction is placed upon its own nationals. Under article 48(3) of the EEC Treaty, limitations to the freedom of movement for workers without discrimination can be justified on grounds of public policy, public security or public health. When such limitations apply, leave to enter a MS and the right to reside there may be refused to a national of another MS (*Van Duyn v. Home Office*, 1975, pp. 17–18).

The CoS’s predicaments found no end in *Church of Scientology of California v. Commissioners of Customs and Excise* (1982), which related to CoS’s exemption from Value Added Taxes (VAT). On this occasion, the CoS’s religious status itself was to be decided and whether the CoS’s activities amounted to illicit competition with professional bodies and commercial enterprises. The CoS requested that the UK Court refer to the EC Court of Justice for some preliminary questions of interpretation of EEC law, regarding—among other issues—the criteria for determining whether a body is a religious or philosophical institution for the purpose of being exempt of VAT. Due to a formal impediment, the UK court did not refer to the EC Court of Justice, but interpreted itself EEC regulations on VAT exemptions for religious functions. Under the provisions of article 12(1) of the Sixth Council Directive 77/338/EEC, MSs

shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemption and of preventing any possible evasion, avoidance or abuse: . . .

(1) supply of services and goods closely linked thereto for the benefit of their members in return for a subscription fixed in accordance with their rules by non-profit-making organizations with aims of a . . . religious . . . nature, provided that this exemption is not likely to cause distortion of competition.

From this Directive, it follows that tax exemption of religious organizations in the EC is regulated via explicit exceptions, provided that no distortion of competition may result; that is, provided that the religious activity does not have a commercial character. Unfortunately for the CoS, an earlier decision had established that, in the auditing courses, the UK branch of the CoS “was competing with trained and partly trained psychologists and psychiatrists who operated professionally” (*Church of Scientology of California v. Commissioners of Customs and Excise*, 1980, p. 118).

Perhaps due to all this adversity, despite the lifting of the movement restrictions in 1980, the CoS decided to move its International Headquarters to California. In the USA, however, its troubles continued as several court decisions rejected its charitable status for fiscal purposes. By doing so, they have further highlighted the CoS’s underlying business structure. One of the most clarifying decisions was by the Supreme Court in *Hernandez v. Commissioner of Internal Revenue* (1989). The case, like many others decided by USA courts, is about whether payments for auditing can be considered as tax-deductible charitable contributions. In its presentation of the facts, the Court rendered evident that the most important aspects of the relationship between the CoS and believers are of commercial rather than religious nature.

Based on its doctrine of exchange, “fixed contributions” are set forth in schedules and the prices charged vary according to the sessions’ length and sophistication. The CoS rewards advance payments with a 5% discount and refunds unused portions of prepaid services with the deduction of an administrative charge. CoS also distributes “account cards” on which those who prepaid can determine which services have not been claimed yet. The Court also noted that auditing and training sessions may never be offered free, because “processing is too expensive to deliver” (*Hernandez v. Commissioner of Internal Revenue*, 1989, pp. 2141, 2145).

On the grounds that these payments have inherently a *quid pro quo* character, they are of a commercial nature, the Supreme Court rejected the claim that such

payments are tax deductible (see also *Miller v. Internal Revenue Service*, 1987—with Americans United for Separation of Church and State as Amicus Curiae, which underlines the significance of such rulings for both traditional religions and NRMs; *Neher v. C.I.R.*, 1988).

Such decisions have not deprived the CoS of its religious status in all other respects, thanks to First Amendment protection. Moreover, the dissenting view in *Hernandez v. Commissioner of Internal Revenue* (1989) is interesting and, it seems to us, well founded. In her dissent, Justice O'Connor—joined by Justice Scalia—examined the differences between the payments to the CoS for auditing and those made to mainstream religions, such as pew rents, assessments, church dues or stipends for Catholic masses. She concluded that it is very hard to find a rational basis to establish a difference between them, for fiscal purposes. All the more so given that, in this particular case, the IRS—to expedite matters—recognized that CoS was at all times a corporation exempt from general income taxation and denied deductibility “solely on the basis that the exchange is a *quid pro quo*, even though the *quid* is exclusively of spiritual or religious worth” (p. 2152).

In the light of the constitutional requirement not to discriminate irrationally and the principle of equal treatment of all religions, the government can either tax all *quids pro quo* or disregard them all, which has been the practice over the years. The contrary view “involves the different application of a standard based on constitutionally impermissible differences drawn by the Government among religions” (p. 2155).

For these reasons the dissenting judges found the Supreme Court decision discriminatory, lends support to the argument that the Court shifts toward “establishmentarianism” and limits the efforts of newer groups to survive (Richardson, 1988). Such rulings inevitably will affect State regulation of religious groups. For instance, the standard introduced in *Hernandez v. Commissioner of Internal Revenue* (1989) has already been applied in *Jimmy Swaggart Ministries v. Board of Equalization of California* (1990).

The point is that, in case no discriminatory enforcement is to follow, all religions will be adversely affected by this ruling. Otherwise, there is a certain risk of bias against NRMs. Justice O'Connor's view is very much in line with other decisions, such as in *Staples v. Commissioner of Internal Revenue* (1987), where a parallel with mainstream religions is also drawn.

If the Scientologists' 'prices' were deemed to make participation in their religious services as a material, financial, or economic benefit such that the Staples' payments were not contributions, then 'the passing of the collection plate in church would make the church service a commercial project' (p. 1327).

Nevertheless, the fact remains that, when the courts deny the CoS its religious status, they do so exclusively for tax purposes. Such State interventions are more likely in the context of financial pressures for additional sources of revenue combined with trends of secularization, whereby public resistance to the taxation of religions is weaker (Demerath & Williams, 1984; Robbins, 1985). Although this may reduce the CoS's revenue, it will not keep it from continuing with its activities, provided that its religious status is not completely (officially) denied.

Actions directed at other NRMs can also threaten the CoS's status, as an ordinance of the City Council of Clearwater, Florida, illustrates. Under ordinance No. 3091–83

of Clearwater, which followed on the steps of a previous Ordinance of the City of Houston—the constitutionality of which was upheld in *International Society of Krishna Consciousness [ISKCON] v. City of Houston* (1982)—charitable organizations wishing to solicit funds are required to:

register with the City, maintain specified records, disclose the sources and uses of their contributions, refrain from engaging in fraudulent solicitation practices and submit to an investigation by the City Attorney if ten or more individuals complained about the organization’s activities (*Church of Scientology v. City of Clearwater*, 1991, p. 1504).

Despite the CoS’s arguments, the court affirmed the constitutionality of the ordinance on the grounds that ‘While freedom to believe is absolute, freedom to act pursuant to one’s religion cannot be. “Conduct remains subject to regulations for the protection of society’” (p. 1513). This is less than convenient for the CoS as, according to the ordinance, its activities will be under constant scrutiny by the City of Clearwater, especially because “Clearwater claims Scientology has not proven that it is a religion, but ‘Even if Scientology is a religion, the actions at issue here are commercial, and sometimes criminal in character’” (p. 1510).

The consolidation and spreading of such regulation in the USA, would probably signal the beginning of the end of the CoS. The grave consequence would be that the CoS would have to return to the commercial or professional status from which it turned away and was able to survive the competition.

In a case highlighting how vital it is for the CoS to retain its religious, charitable status, the CoS sued a splinter group for conspiring to disseminate confidential CoS teachings, which had been stolen from a Danish branch. In a business-like fashion, the CoS sought the protection of California trade secrets law. CoS argued that this might cause “spiritual harm to persons receiving the secret revelation” without prior CoS training (Robbins, 1988, pp. 81–82). This argument was not successful because it did not contend that economic damage was caused. Had CoS argued the latter, however, it would have undermined its own claim to religious/nonprofit status (Robbins, 1988, p. 81). In this case, one might speculate that, from the CoS’s point of view, winning a battle was not worth risking the war.

CONCLUSION

A former high ranking Scientologist has been reported as saying that “Hubbard told me that at one time the biggest mistake we made was going religious and that we should have kept it straight as a business ... That would have avoided all the trouble with the IRS” (Behar, 1986, p. 318; quoted in Robbins, 1988, p. 80). Although this is true, according to our analysis, it would have jeopardized the CoS’s survival in the market in which it competes.

As has been observed, “there is a wide-open market in the area of commercialized therapeutic services, and brand loyalty is weak” (Johnson, 1987, p. 235). Governmental intervention, increased regulation, use of the “sincerity” criterion for the recognition of religious status or—not least—exposure of criminal acts committed by or for the benefit of CoS would pose a fatal threat to the CoS, as we know it. Bainbridge (1987) has made the point that the CoS’s prospects would improve

if it refreshed its content. This is true, but on the specific condition that it retains its religious status. In Australia, anti-CoS laws have been repealed and it has been declared a religion (Barker, 1989). In many other countries, it is a charitable organization (Harrison, 1990).

In brief, the CoS must remain a deviant business that borrows from science, renews its imaginative jargon, updates its spiritual techniques and remains a religion. Its deviance is its life blood, which is consistent with Stark's (1987) argument that, for a NRM to succeed, a degree of tension with its environment is necessary.

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