

THE FACT PATTERN BEHIND THE DEPROGRAMMING CONTROVERSY: AN ANALYSIS AND AN ALTERNATIVE

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I INTRODUCTION

This article will review the controversy surrounding legal support of deprogramming and anti-cult psychotherapy as remedies for the mental health problems associated with new religious movements. The "anti-cult" movement, comprised primarily of concerned relatives of converts and led by mental health professionals and lawyers, has developed an analysis of these issues which has dominated media coverage.¹ This analysis, however, ignores the social and cultural background of the widespread motivation for conversion to these groups.²

According to the anti-cult movement, individual motives for conversion are nonexistent. Instead, the proselytization techniques used by the cults are allegedly so seductive that the individual is "brainwashed" by the cult³ and has no control over his or her decision to join.⁴ Constitutional protection of freedom of religion therefore does not apply to these groups, or so the argument goes, because freedom of religion requires freedom of thought as a prior condition.⁵

1. Soloman, *Integrating The Moonie Experience*, in *IN GODS WE TRUST: NEW PATTERNS OF RELIGIOUS PLURALISM IN AMERICA* (T. Robbins & D. Anthony eds. 1980); A. SHUPE & D. BROMLEY, *THE NEW VIGILANTES: ANTI-CULTISTS, DEPROGRAMMERS AND THE NEW RELIGIONS* (1980).

2. See generally R. WUTHNOW, *THE CONSCIOUSNESS REFORMATION* (1976); R. WUTHNOW, *EXPERIMENTATION IN AMERICAN RELIGION: THE NEW MYSTICISMS AND THEIR IMPLICATIONS FOR THE CHURCHES* (1978); Bellah, *New Religious Consciousness and the Crisis in Modernity*, in *THE NEW RELIGIOUS CONSCIOUSNESS* 333 (C. Glock & R. Bellah eds. 1976).

3. *Investigating the Effects of Some Religious Cults on the Health and Welfare of their Converts* (Aug. 18, 1976) (statement of J. Clark to the Vermont Senate Comm. for the Investigation of Alleged Deceptive, Fraudulent and Criminal Practices of Various Orgs. in the State).

4. See generally F. CONWAY & J. SIEGELMAN, *SNAPPING: AMERICA'S EPIDEMIC OF SUDDEN PERSONALITY CHANGE* (1978); T. PATRICK, *LET OUR CHILDREN GO!* (1976); *Playboy Interview: Ted Patrick*, *PLAYBOY*, Mar. 1979, at 53.

5. Delgado, *Religious Totalism: Gentle and Ungentle Persuasion Under the First Amendment*, 51 S. CAL. L. REV. 1, 97-98 (1977).

This anti-cult argument has been developed most persuasively in the legal literature by Professor Richard Delgado.⁶ Professor Delgado bases his legal justification for governmental enforcement of deprogramming on a distinction between those religious movements which brainwash and those which do not. Delgado cites mental health professionals and social scientists who support this conclusion. The plausibility of Delgado's argument rests on his contention that the authorities he cites represent a consensus of informed scholarship on the issue of line-drawing between groups which brainwash and those which do not.⁷

These authorities, however, represent only a small minority of the scholars concerned with these issues.⁸ Most authorities on new religions recognize that individual motives for conversion do exist and that the development of these motives is related to contemporary cultural and social trends.⁹ Because Delgado ignores these authorities and concentrates on the views of a controversial few, the accuracy of the line he draws between religions which brainwash and those which do not¹⁰ cannot be assured, and his subsequent legal reasoning therefore is suspect. In fact, most recent court decisions have held that the government cannot enforce nonvoluntary deprogramming.¹¹

Although these decisions undermine the legitimacy of state intervention and deprogramming as an appropriate response to the cult problem,¹² other remedies are available to treat the mental health problems associated with the new religions. Private remedies which do not require governmental intervention are both available and desirable; it is not necessary that the government interfere.¹³ This article will discuss one available remedy: the voluntary participation by cult members in nonideological counseling sessions about both the new religions and their members' motives for joining them. A project to develop such a counseling program is being organized at the Center for the Study of New Religions of the Graduate Theological Union in Berkeley.

6. *Id.*

7. *Id.* at 10-25.

8. Robbins & Anthony, *New Religions, Families and Brainwashing*, SOCIETY, May/June 1978, at 77; Robbins, Anthony & Richardson, *Theory and Research on Today's 'New Religions'*, 39 SOC. ANAL. 95 (1978).

9. See, e.g., C. GLOCK & R. BELLAH, *THE NEW RELIGIOUS CONSCIOUSNESS* (1976).

10. E.g., A. SCHEFLIN & E. OPTON, *THE MIND MANIPULATORS* (1978).

11. E.g., *Katz v. Superior Court*, 73 Cal. App. 3d 952, 141 Cal. Rptr. 234 (1977). See LeMoult, *Deprogramming Members of Religious Sects*, 46 FORDHAM L. REV. 599 (1978); ACLU, *Deprogramming and the Law: Three Case Histories*, in CHILDREN'S RIGHTS REPORT, June 1977, at 5.

12. See note 11 *supra*.

13. Robbins & Anthony, *Cult Phobia: A Witch Hunt in the Making?*, INQUIRY, Jan. 8 & 22, 1979, at 2.

II

THE GROWTH OF THE NEW RELIGIONS

A. Introduction

The United States and Western Europe are presently experiencing a period of marked spiritual ferment which some observers have compared to the American "Great Awakenings" of the eighteenth and nineteenth centuries.¹⁴ The current "awakening" is characterized by: (1) a rapid growth of evangelical, fundamentalist, and Pentecostal movements, both within established churches and as new sects;¹⁵ (2) a parallel growth in popularity of "eastern" (e.g., Hindu, Buddhist, Sufi) mystical religions;¹⁶ (3) a similar rapid spread of quasi-religious "human potential" movements (e.g., est, Scientology, Arica) which combine oriental-mystical rituals with popular psychology;¹⁷ and (4) an emergence of a variety of controversial authoritarian sects or "cults," (e.g., the People's Temple, Synanon, the Unification Church) which segregate their members from mainstream social institutions and place them in utopian communities.¹⁸ All of these groups believe that religious experience is the origin of moral values¹⁹ and that mainstream religious, economic, and political institutions are illegitimate.²⁰

Most religious scholars had formerly assumed that secularization of religious attitudes was an irreversible aspect of modernization.²¹ Throughout the twentieth century, religion in America had steadily increased its emphasis upon rational ethical themes and deemphasized faith in "things unseen."²² In the late 1960's and throughout the 1970's, however, membership in mainstream

14. See Pritchard, *Religious Change in Nineteenth-Century America*, in C. GLOCK & R. BELLAH, *supra* note 9, at 297.

15. Richardson, *The Jesus Movement: An Assessment*, 9 LISTENING: J. RELIGION & CULTURE 20 (1974).

16. See J. NEEDLEMAN, *THE NEW RELIGIONS* (1970); Wuthnow, *The New Religions in Social Context*, in C. GLOCK & R. BELLAH, *supra* note 9, at 267.

17. See K. BACK, *BEYOND WORDS: THE STORY OF SENSITIVITY TRAINING AND THE ENCOUNTER MOVEMENT* (1972); Stone, *The Human Potential Movement* in C. GLOCK & R. BELLAH, *supra* note 9, at 93.

18. *Why Cults Turn to Violence*, U.S. NEWS & WORLD REPT., Dec. 4, 1978, at 28. See generally Singer, *Coming Out of the Cults*, PSYCH. TODAY, Jan. 1979, at 72; Robbins, Anthony, Doucas & Curtis, *The Last Civil Religion: Reverend Moon and The Unification Church*, 37 SOC. ANAL. 111 (1976).

19. See S. AHLSTROM, *A RELIGIOUS HISTORY OF THE AMERICAN PEOPLE* 511-632 (1972); Greeley, *Superstition, Ecstasy and Tribal Consciousness*, 37 SOC. RESEARCH 202 (1970).

20. See T. ROSZAK, *THE MAKING OF A COUNTER CULTURE* (1969); C. REICH, *THE GREENING OF AMERICA* (1970).

21. See H. COX, *THE SECULAR CITY* (1966).

22. C. GLOCK & R. STARK, *RELIGION AND SOCIETY IN TENSION* (1965).

liberal denominations has been declining,²³ and the four types of countercultural movements mentioned above have grown at the expense of traditional religions.²⁴

Initially, these trends were dismissed as either fads or media-inflated phenomena involving only small portions of the population.²⁵ Surveys taken over the past decade indicate, however, that mystical and evangelical movements are neither transitory nor marginal phenomena. Evangelical and fundamentalist churches have grown 30% to 40% in the last ten years, while membership in traditional liberal denominations has declined an average of 10% to 15% in the same period.²⁶ One survey found that 34% of the American population in 1977 claimed to have experienced the "born-again" phenomenon, and considered themselves to be evangelical or fundamentalist Christians; only 20% did so in 1963.²⁷

The growth of oriental-mystical orientations has also been well documented in a series of national surveys. Thirty-five percent of the American population claim to have had "mystical" experiences.²⁸ This percentage grew steadily during the 1960's (21% in 1962, 32% in 1966, and 41% in 1967).²⁹ Survey data on human potential groups are scarcer, but scattered evidence suggests that such groups also have been growing rapidly.³⁰ The authoritarian sects such as the Unification Church, however, tend to be rather small,³¹ while the degree of commitment demanded from their members is considerable. The growth of these four types of movements indicates that a cultural reorientation is taking place and that rational humanistic religion, as embodied in liberal denominational Christianity, is being repudiated.³²

23. D. KELLEY, WHY CONSERVATIVE CHURCHES ARE GROWING (1977); Taylor, *Worshipping Krishna Is Their Way of Life*, N.Y. Times, Feb. 27, 1973, at 42, col. 1; Fiske, *Children of God Sect Closing Communities and Moving Followers Outside U.S.*, N.Y. Times, Aug. 13, 1972, at 54, col. 2; Raymont, *Author Here Sues Scientologists*, N.Y. Times, Apr. 1, 1972, at 21, col. 4; *Scientology Wins Appeal on Meter*, N.Y. Times, July 31, 1971, at 20, col. 5; Roof & Hadaway, *Shifts in Religious Preference—the Mid-Seventies*, 16 J. SCI. STUDY RELIGION 409 (1977); *Protestants: Away from Activism and Back to the Basics*, U.S. NEWS & WORLD REPT., Apr. 11, 1977, at 58. See, e.g., Wuthnow & Mellinger, *Religious Loyalty, Defection and Experimentation: A Longitudinal Analysis of University Men*, 19 REV. RELIGIOUS RESEARCH 234 (1978).

24. See Robbins, Anthony & Richardson, *supra* note 8.

25. See Wills, *What Religious Revival?*, PSYCH. TODAY, Apr., 1978, at 74.

26. See Kelley, *supra* note 23; Bibby, *Why Conservative Churches Really Are Growing: Kelley Revisited*, 17 J. SCI. STUDY RELIGION 129 (1978).

27. Wills, *supra* note 25.

28. A. GREELEY, THE SOCIOLOGY OF THE PARANORMAL, A RECONNAISSANCE 58 (1975).

29. Bourque & Back, *Can Feelings be Enumerated?* 15 BEHAVIORAL SCI. 487, 492 (1970).

30. See Wuthnow, *supra* note 16.

31. *Behind the Cult Craze*, U.S. NEWS & WORLD REPT., Dec. 4, 1978, at 23.

32. See Robbins, Anthony & Richardson, *supra* note 8.

B. Cultural Background of the Growth of the New Religions

The trend towards experiential and mystical forms of religion first emerged as a dimension of the late 1960's counterculture.³³ The groups advocating such involvement originally presented themselves as being critical of the mainstream "technocracy" and as offering radical alternatives to establishment meaning systems.³⁴ Early commentators saw such groups as the vehicles of a cultural revolution which could produce the "greening of America."³⁵

Partly because of the range and extent of protest against traditional values which emerged in the 1960's, commentators have argued that American society is no longer supported by a consensus of values.³⁶ The traditional meaning system is most often described as a sort of synthesis of the Protestant Ethic and American nationalism, a synthesis once termed "American civil religion."³⁷ The transition from entrepreneurial to managerial capitalism has eroded the ascetic precepts intrinsic to the Protestant Ethic,³⁸ while international and domestic political events such as Watergate and the war in Vietnam have weakened the "chosen people."³⁹ Consequently, American civil religion is in tatters and American society is no longer symbolically integrated.⁴⁰ New religious movements have attempted to fill the void left by traditional religious systems while repudiating the secular rationalism which has taken their place.⁴¹

Most observers agree that converts to new religions are motivated to join such movements by the desire to assuage feelings of moral confusion resulting from the collapse of traditional religious and political perspectives. What remains unclear, however, is whether such movements actually amplify moral confusion, as their critics claim,⁴² or whether they provide authentic solutions to moral confusion, as their defenders claim.⁴³

C. The Reaction Against the New Religions

An "anti-cult" movement, composed largely of converts' concerned relatives, has arisen in opposition to the growth of the new religions. The move-

33. Bellah, *supra* note 2, at 341-42.

34. See generally, J. NEEDLEMAN, *supra* note 16, at 1-37, 212-25.

35. E.g., C. REICH, *supra* note 20; T. ROSZAK, *supra* note 20.

36. See D. BELL, *THE CULTURAL CONTRADICTIONS OF CAPITALISM* (1976); R. BELLAH, *THE BROKEN COVENANT* (1975); J. HABERMAS, *LEGITIMATION CRISIS* (1975).

37. Bellah, *Civil Religion in America*, 96 DAEDALUS 1, 13 (1967).

38. D. BELL, *THE END OF IDEOLOGY* (1960); Fenn, *Toward a New Sociology of Religion*, 11 J. SCI. STUDY RELIGION 16, 20 (1972).

39. Bellah, *supra* note 2, at 334-40; R. BELLAH, *supra* note 36, at 36-60.

40. R. BELLAH, *supra* note 36, at 142.

41. Robbins & Anthony, *supra* note 8.

42. See Marin, *The New Narcissism*, HARPERS, Oct. 1975, at 45; Singer, *supra* note 18; Lasch, *The Narcissistic Society*, N.Y. REV. BOOKS, Sept. 30, 1976, at 5.

43. See, e.g., C. REICH, *supra* note 20.

ment is led by a small number of mental health professionals and lawyers who argue that membership in the new groups has an overwhelmingly negative effect on mental health.⁴⁴

Relatives and friends of those converted to authoritarian sects and cults have been particularly alarmed by the tendency of these movements to segregate converts from mainstream social institutions. They also have been alarmed by the tendency of converts both to criticize "establishment" values and to refuse further contacts with the "establishment."⁴⁵ Interested lay people, as well as some mental health professionals, have argued that these tendencies among converts result from proselytization strategies which are analogous to the "brainwashing" or thought control techniques used in North Korean prisoner-of-war camps.⁴⁶ These "brainwashing" arguments have been used in support of the intensive counter-indoctrination practices known as deprogramming which are intended to reconcile converts with relatives and mainstream institutions.⁴⁷ The argument of those in the anti-cult movement is that the state may legitimately intervene in such cases to permit deprogramming because freedom of thought is a prior condition of the constitutional guarantee of freedom of religion.⁴⁸ This argument has met with little success, however, for although deprogramming has been accomplished legally through the use of conservatorship laws,⁴⁹ most courts are no longer receptive to such arguments.⁵⁰

Nevertheless, Richard Delgado has argued for the use of *ex parte* hearings to determine whether a cult convert should be forcibly confined for 30 days for deprogramming.⁵¹ His argument is based on a pattern previously established by social scientists and mental health professionals in which a line is drawn between those religious groups which brainwash and those which do not. Once brainwashing is established with respect to a particular case, Delgado argues,

44. See Robbins, Anthony & Richardson, *supra* note 8; Anthony & Robbins, A Typology of Non-Traditional Religions in Modern America (Jan. 1977) (paper presented to the Annual Meeting of the American Ass'n for the Advancement of Science); Schwartz & Anthony, Cultural Factors Behind Emerging Types of New Religions (Nov. 1979) (paper delivered at a colloquium convened by the Sociology of Religion Program of the Graduate Theological Union).

45. Delgado, *supra* note 5, at 10-25; Taylor, *Worshipping Krishna Is Their Way of Life*, N.Y. Times, Feb. 27, 1973, at 42, col. 1.

46. Clark, *supra* note 8; R. ENROTH, YOUTH, BRAINWASHING AND THE EXTREMIST CULTS 166-68 (1977); Singer, *supra* note 18.

47. E.g., C. EDWARDS, CRAZY FOR GOD (1979); PLAYBOY INTERVIEW: TED PATRICK, *supra* note 3; C. STONER & J. PARKE, ALL GODS CHILDREN: THE CULT EXPERIENCE—SALVATION OR SLAVERY? 153-56 (1977).

48. See, e.g., Delgado, *supra* note 5, at 87-91; Delgado, *Investigating Cults*, N.Y. Times, Dec. 27, 1978, at A23, col. 2.

49. See Robbins, *Deprogramming the Brainwashed: Even a Moonie has Civil Rights*, THE NATION, Feb. 26, 1977, at 238.

50. See generally LeMoult, *supra* note 11; Robbins, *Brainwashing and Religious Freedom*, THE NATION, Apr. 30, 1977, at 518; Slade, *New Religious Groups: Membership and Legal Battles*, PSYCH. TODAY, Jan. 1979, at 81.

51. Delgado, *supra* note 5, at 88-91.

the first amendment guarantee of freedom of religion does not apply because it depends upon the prior assumption of freedom of thought, which cannot exist if a cult member has been brainwashed.⁵²

Professor Delgado's reasoning therefore depends upon establishing that the new religious groups brainwash their members. He cites a large body of literature in an attempt to show that the anti-cult allegations against the new groups rest upon a consensus of informed scholarship. The literature Professor Delgado cites, however, represents a controversial minority viewpoint which is often contradicted by recent scholarship on the new religions.⁵³

In addition to the unacknowledgedly controversial nature of Professor Delgado's evidence, most of this evidence has not met conventional scholarly standards. He frequently cites a popular book on cults written by journalists,⁵⁴ and another book written by an evangelical sociologist and published by an evangelical publishing concern.⁵⁵ He cites an article on the danger of cults by a doctor whose son, a member of the Hare Krishna sect, has been kidnapped twice by deprogrammers,⁵⁶ and exposé articles from popular journalistic sources.⁵⁷ Finally, he cites testimony (frequently unsworn) before a Vermont state senate committee on the effects of cult participation.⁵⁸ Almost totally absent from the authorities he cites are analyses of cults published in reputable social science journals. The evidence upon which Professor Delgado bases his conclusions, therefore, is of dubious scientific value.

Professor Delgado's article is the most sophisticated legal argument yet presented for the governmental enforcement of nonvoluntary participation in deprogramming. Its cogency evaporates, however, once the selective nature of his citations is understood. Deprogramming is not a viable remedy for the mental health problems associated with the new religions because it assumes governmental enforcement of nonvoluntary participation, and governmental enforcement has been found illegal.⁵⁹ The next section of this article will provide an overview of the literature on the mental health effects of the new religions, in order to correct the biases in anti-cult presentations such as Professor Delgado's.

52. *Id.* at 62-73.

53. See works cited in T. ROBBINS, *CIVIL LIBERTIES, BRAINWASHING AND CULTS: A SELECT ANNOTATED BIBLIOGRAPHY* (1979).

54. C. STONER & J. PARKE, *supra* note 47, cited in Delgado, *supra* note 5, at 4 n.9. 11 n.56.

55. R. ENROTH, *supra* note 56, cited in Delgado, *supra* note 5, at 5 n.14. 7 n.29.

56. Shapiro, *Destructive Cultism*, 15 AM. FAM. PHYSICIAN 80 (1977), cited in Delgado, *supra* note 5, at 11 n.52.

57. E.g., Harayda, *I Was a Robot for Sun Myung Moon*, GLAMOUR, Apr. 1976, at 216, cited in Delgado, *supra* note 5, at 22 n.130.

58. Clark, *supra* note 8, cited in Delgado, *supra* note 5, at 5 n.16.

59. E.g., *Katz v. Superior Court*, 73 Cal. App. 3d 952, 988-89, 141 Cal. Rptr. 234, 256 (1977).

terns do emerge which aid in analyzing these groups. Three dimensions of religious meaning can account for the similarities and differences between movements. These are: (1) the charismatic-technical dimension; (2) the one-level, two-level dimension; and (3) the monism-dualism division. The interaction between these dimensions results in an eight-cell typology which has been reproduced in the chart on page 82. Representative examples of new movements are given in each cell. Because the meaning of these dimensions is extremely complex and is not self-evident, I will provide a few generalizations which can be made on the basis of the typology.⁶⁵

The types of people attracted to various groups as well as the mental health effects of conversion can be predicted quite well by cell membership. In general, the negative effects of conversion apply to one-level groups while the positive effects apply to two-level groups.⁶⁶ Most of the negative effects can be grouped under the generic categories of narcissism or authoritarianism.⁶⁷

One-level charismatic groups give rise to perhaps the most severe problems. These groups segregate their converts from mainline institutions and discourage contacts with relatives and friends.⁶⁸ These practices serve to escalate tension and create conflicts with the larger society which, as in the cases of the Charles Manson cult⁶⁹ and the People's Temple,⁷⁰ may produce tragic results.

65. Some of the distinctions between groups which can be made on the basis of these dimensions are as follows: Monistic groups emphasize an underlying metaphysical unity behind the surface diversity of worldly experience, Stone, *New Religious Consciousness and Personal Religious Experience*, 39 SOC. ANAL. 123, 128-33 (1978). Most eastern mystical and human potential therapy groups are monistic, Bellah, *supra* note 2, at 348. Dualistic groups emphasize the metaphysical ultimacy of divisions between people based upon religious and moral distinctions. Most neo-fundamentalist and Jesus Movement groups are of this type. McGuire, *An Interpretive Comparison of Elements of the Pentecostal and Underground Church Movements in American Catholicism*, 35 SOC. ANAL. 57 (1974); McGuire, *Toward a Sociological Interpretation of the "Catholic Pentecostal" Movement*, 16 REV. RELIGIOUS RESEARCH 94, 97 (1975). Two-level groups interpret religious imagery symbolically and do not emphasize the immediate material consequences of religious conversion. R. BELLAH, *BEYOND BELIEF* 196-207 (1970). Most new groups which emphasize their relationship to traditional religion, either eastern or western, are of this type. One-level groups interpret religious imagery literally and emphasize the immediate material consequences of conversion. R. ORNSTEIN, *THE MIND FIELD* (1976). Human potential and other groups which involve an invented synthesis of religious with secular materialist or political themes are often of this type. They tend to be antinomian and to reject conventional morality. Zaehner, *supra* note 63.

66. See generally R. ORNSTEIN, *supra* note 65; R. WALLIS, *THE ROAD TO TOTAL FREEDOM: A SOCIOLOGICAL ANALYSIS OF SCIENTOLOGY* (1977).

67. Lasch, *supra* note 42.

68. *Why Cults Turn to Violence*, U.S. NEWS & WORLD REPT., Dec. 4, 1978, at 28.

69. Zaehner, *supra* note 63.

70. See REPORT OF A STAFF INVESTIGATIVE GROUP TO THE HOUSE COMM. ON FOREIGN AFFAIRS: *THE ASSASSINATION OF REPRESENTATIVE LEO J. RYAN AND THE JONESTOWN, GUYANA TRAGEDY*, 96TH CONG., 1ST SESS., (1979).

MONISTIC

ONE-LEVEL	TECHNICAL	CHARISMATIC
	est Scientology Circle of Gold	Charles Manson Family Messiah's World Crusade Om Cult Bagwan Shree Rajneesh
TWO-LEVEL	Yoga Bhajan Integral Yoga Sri Chinmoy	Meher Baba Muktananda Bubba Free John

DUALISTIC

ONE-LEVEL	TECHNICAL	CHARISMATIC
	Positive Thinking Robert Schuller Church of Hakeem	Unification Church People's Church Synanon
TWO-LEVEL	Catholic Charismatic Renewal Groups Neo-Pentecostal Groups	Jesus Movement Christ Commune Christian Liberation Front

The argument associated with the anti-cult movement that the new religious phenomenon is monolithic⁷¹ appears contrary to the preponderance of new religious scholarship. Several very different types of groups exist, and only some present real dangers either to the converts or to society. The organization of the literature into typologies is probably the soundest method of balancing the conflicting claims between the complexity of the issue and the desire for scholarly organization of the data. Most authors who have attempted a similar overview of the literature have used such an organization,⁷² citing different motives for conversion and different types of mental health effects within different types of movements. Anti-cult authors' claims of a uniformity of organization and technique among the new groups reflect the overgeneralization which results from scapegoating and stereotyping rather than scholarly objectivity.⁷³ Once this overgeneralizing is recognized, remedies can be developed which focus on those few groups which really do pose a threat to their converts or society.

71. See, e.g., T. PATRICK, *supra* note 4; F. CONWAY & J. SIEGELMAN, *supra* note 4.

72. Wuthnow, *supra* note 16; R. WALLIS, *supra* note 66.

73. Robbins & Anthony, *Cults, Brainwashing and Counter Subversion*, 446 ANNALS 78, 86 (1979).

III

ALTERNATIVES AVAILABLE TO THE ANTI-CULT MOVEMENT

A. Viability of Legal Remedies

Some scholars have argued that anti-cult activities constitute a social movement which is itself, like the new religions it opposes, a collective social response to the decline of traditional religious and political attitudes.⁷⁴ Others argue that similar "countersubversive" movements have opposed religious innovation throughout American history.⁷⁵ Such movements opposed Catholics, Mormons, and Masons in the nineteenth century as well as domestic communists in the heyday of McCarthyism. Countersubversive movements, like the new religious and political trends they oppose, arise as attempts to strengthen threatened religious and political traditions.

The People's Temple mass suicide-murder in Guyana gave the anti-cult movement new impetus. Brainwashing arguments were afforded heightened plausibility; stories of violence against their critics by members of such groups as the Church of Scientology were examined more closely.⁷⁶ If brainwashing were a myth, some observers argued, why would formerly conventional young people engage in such apparently senseless violence?⁷⁷

The People's Temple tragedy, as well as the other negative consequences of membership in some of these groups,⁷⁸ makes clear that some form of public intervention is necessary.⁷⁹ Commentators have suggested that new laws be written which would make these groups' more harmful practices illegal.⁸⁰ Some of their practices may presently be illegal under existing laws, such as statutes against fraud, and may be curtailed by more diligent attention from the legal system. Whether particular tendencies of these movements are judged good or bad is often a matter of interpretation.⁸¹ For new laws to

74. Bateson, *Moon Madness: Greed or Creed?*, in *SCIENCE, SIN AND SCHOLARSHIP: THE POLITICS OF REVEREND MOON AND THE UNIFICATION CHURCH* 218 (I. Horowitz ed. 1978); Shupe & Bromley, *Deprogramming the New Exorcism*, 20 *AM. BEHAVIORAL SCI.* 941 (1977); Shupe & Bromley, *Witches, Moonies, and Evil*, *SOCIETY*, May/June 1978, at 75.

75. See, e.g., H. COX, *TURNING EAST: THE PROMISE AND PERIL OF THE NEW ORIENTALISM* (1977).

76. Bowart, *The FBI vs. Scientology*, *INQUIRY*, Feb. 19, 1979, at 7; *The Cult of Death*, *NEWSWEEK*, Dec. 4, 1978, at 38.

77. Clark, *supra* note 3.

78. See note 63, *supra*.

79. Bowart, *supra* note 76; Chapman, *Cult-Mongering*, *THE NEW REPUBLIC*, Feb. 17, 1979, at 11.

80. REPORT OF A STAFF INVESTIGATIVE GROUP TO THE HOUSE COMM. ON FOREIGN AFFAIRS: THE ASSASSINATION OF REPRESENTATIVE LEO J. RYAN AND THE JONESTOWN, GUYANA TRAGEDY, 96TH CONG., 1ST SESS. 36-37 (1979) (recommendations of the investigative group); Delgado, *Investigating Cults*, *N.Y. Times*, Dec. 27, 1978, at A23, col. 2.

81. Stone, *The Human Potential Movement*, in C. GLOCK & R. BELLAH, *supra* note 9, at 93.

address abuses and *not* violate constitutional protections of freedom of religion, they would have to refer to unequivocally harmful practices and be applied uniformly to conventional as well as unconventional religious groups.⁸² Most proposed laws do not meet that test and would probably be found unconstitutional.⁸³

Although the typological approach mentioned above reduces some of the confusion which results from attempts to evaluate contemporary unconventional religion as a monolithic entity, even this approach is not rigorous enough to support legal measures designed to curtail the negative consequences of membership in new religions. Those movements which have negative mental health effects on most people can have positive effects on some people; those movements which have positive mental health effects on some people can affect others negatively. A typological organization of the research literature therefore does not support the passage of new laws; it can, however, benefit individuals if it is interpreted properly to fit the individual case. The most fruitful direction for public intervention thus does not lie in the passage of new laws but rather in public support for research and for the counseling strategies resulting from this research.

B. Existing Counseling Strategies

1. Deprogramming and its Limitations

The use of deprogramming to counsel those involved in nontraditional religions has focused public debate on the mental health implications of intense religious convictions.⁸⁴ In addition, deprogrammers have legitimately criticized the unethical and illegal practices of specific movements, particularly the practice of misrepresentation while proselytizing.⁸⁵

The new religions' alleged use of brainwashing has highlighted the question of these religions' authoritarianism. Groups, converts, and potential converts have been made more conscious of the need for criteria defining when obedience to religious authority is appropriate.⁸⁶ Deprogrammers also have accomplished the withdrawal of some members from movements which may have been harmful to them and, in some instances, have reunited them with their families.⁸⁷ Thus, deprogramming has served some beneficial purposes.

The limitations of the deprogramming-brainwashing approach, however, flow from factual inaccuracies in its generalized analysis of new religions. Deprogrammers argue that the new religions are a monolithic phenomenon and

82. "Neither [a state nor the Federal Government] can pass laws which aid one religion, aid all religions, or prefer one religion over another." *Everson v. Board of Educ.*, 330 U.S. 1, 15 (1947); see generally LeMoult, *supra* note 11.

83. Lavine, *Retrieving a Cultist Poses Legal Dilemmas*, NAT'L L. J., Dec. 11, 1978, at 19.

84. Slade, *supra* note 48.

85. E.g., C. STONER & J. PARKE, *supra* note 47, at 5-8.

86. Hargrove, *supra* note 62.

87. See C. STONER & J. PARKE, *supra* note 47, at 268-69.

gions and human potential groups which emphasize "open" meaning systems, however, do so for quite different motives.¹⁰² They are not bothered by ambiguity¹⁰³ but suffer, rather, from alienation.¹⁰⁴

Those in favor of deprogramming argue that converts to new religions are captives of the new religions and will remain so until liberated by deprogramming techniques.¹⁰⁵ Research shows, however, that the voluntary turnover rate in such movements is quite high.¹⁰⁶

Because the brainwashing approach discounts individual motives for conversion,¹⁰⁷ deprogrammed ex-members lack insight into their own anomie and their resulting vulnerability to authoritarianism. When deprogrammed ex-members are compared with ex-members who have had psychotherapy, the latter exhibit a greater tendency to accept responsibility for their own conversion.¹⁰⁸ Unless members and ex-members understand the reasons for their vulnerability, they will continue to have difficulty developing the strength necessary to deal with a morally problematic secular society. Thus, deprogrammed ex-members either will become involved in the activities of the anti-cult movement, which functions in many respects like the totalistic sect they have left, or will be left with their original anomie and rejoin their old movement or one like it.

The deprogramming strategy is also deficient in its alleged ability to reunite families. Although some families are reunited by deprogrammers, deprogramming often polarizes disputes between converts and their families. Many converts who otherwise might communicate with their families avoid such contact if they have reason to suspect that their families might use such contact to carry out involuntary deprogramming.

Perhaps the most compelling objection to deprogramming is that, for a variety of reasons, people attracted to the new religions will not voluntarily utilize it, leaving forcible deprogramming as the only option. Increasingly, however, the courts have held deprogrammers legally accountable for kidnapping and thus have denied them the use of conservatorship laws to achieve their goal.¹⁰⁹ As a result of this judicial disapproval, deprogramming should soon be obsolete. Having alerted the public and the mental health community to the abuses indulged in by some new religions, deprogramming has served its only legitimate purpose.

102. M. ROKEACH, *supra* note 98; D. LOYE, *supra* note 98.

103. R. WUTHNOW, *supra* note 2, at 30-42.

104. Hargrove, *supra* note 62.

105. T. PATRICK, *supra* note 4.

106. Ungerleider & Wellisch, *supra* note 97. In the Unification Church of Reverend Moon, for instance, J. Stillson Judah reports that 75% of new converts leave the movement voluntarily within a year. J.S. Judah, Programming and Deprogramming (Apr. 1977) (paper presented to a conference on religion sponsored by the Toronto School of Theology).

107. *Playboy Interview: Ted Patrick*, *supra* note 3.

108. T. Solomon, *Deprogramming: Nemesis or Necessity?* (1978) (Ph.D. dissertation in psychology, Univ. of Cal. at Berkeley).

109. *E.g.*, *Katz v. Superior Court*, 73 Cal. App. 3d 952, 141 Cal. Rptr. 234 (1977).

2. Psychotherapy

Converts to the new groups find that conventional psychotherapy has only limited ability to solve the mental health problems posed by these groups. Psychotherapists are both skeptical of these religions and committed to instrumental rationalism.¹¹⁰ To the converts, however, instrumental rationalism is associated with the decline of traditional theistic perspectives, including civil religion.¹¹¹ In a social world dominated by amoral rationality, converts seek for knowledge of ultimate values, a knowledge which the converts believe psychotherapy is determined to erode.¹¹² Thus, members in dualistic Christian groups and authoritarian cults usually reject conventional psychotherapy as an aspect of instrumental rationalism.

In an effort to make their techniques more palatable to cult members,¹¹³ some psychotherapists utilize conventional psychotherapeutic techniques, such as group counseling and family therapy. These techniques, however, have many of the same disadvantages as deprogramming. By emphasizing brainwashing as the explanation for a client's original conversion, psychotherapists ignore any attempt at increasing the client's awareness of his own motives for conversion.¹¹⁴ The anomie which led to the initial conversion is not, therefore, substantially reduced. Instead, clients continue to be vulnerable to the attractions of other authoritarian movements, and reconversion is common.¹¹⁵

Psychologists and psychiatrists often view the new religions as competitors in the mental health marketplace. Therapists thus try to indoctrinate cult members to the value system of secular individualism.¹¹⁶ If conventional psychotherapeutic techniques could be modified in a way that appealed to those attracted to new religions, however, they could be of great value.¹¹⁷ If therapists could make distinctions between psychotherapy, instrumental rationalism, and antireligious attitudes, a counseling program that specifically addresses the mental health issues raised by the new religions could be established. By marketing such a program among segments of the population typically attracted to new religions, therapists might attract voluntary participants.¹¹⁸ While converts avoid deprogrammers and anti-cult therapists, fearing that the "cure" may be worse than the "disease," converts might voluntarily utilize a non-ideological counseling program if one were available.

110. Glock & Piazza, *Exploring Reality Structures*, SOCIETY, May/June 1978, at 60.

111. R. BELLAH, *supra* note 36, at 142.

112. K. BACK, *supra* note 17.

113. See, e.g., Singer, *supra* note 18, at 82; Clark, *supra* note 3.

114. See, e.g., Clark, *supra* note 3.

115. Ungerleider & Wellisch, *supra* note 97.

116. Robbins & Anthony, *Stop Knocking Cults* (Apr. 1980) (unpublished paper).

117. D'Allesio, *The Human Potential Movement as a Non-Theistic System of Beliefs* (Oct. 1975) (paper presented to the Society for the Scientific Study of Religion).

118. Anthony, *Evaluation of Innovative Counseling on the New Religions* (Sept. 1979) (grant proposal submitted to the National Institute on Mental Health).

Such non-ideological counseling could ameliorate many of the mental health problems associated with the new groups. The best of the secular psychotherapies substitute a temporary relationship with a therapist for the emotional security provided by compulsive authoritarian belief.¹¹⁹ Given such a relationship, the client may be capable of participating in the analytic process and thereby softening and modifying closed religious attitudes.¹²⁰

In the security of a therapeutic relationship, a client may be able to assume responsibility for the denial and repression of impulses which he cannot understand, which he condemns, and which he has projected onto society as a whole.¹²¹ Once such a degree of autonomy is obtained, converts will hold religious beliefs in a more symbolic, less literal way.¹²² The converts then should be able to tolerate the ambiguity that is a fundamental feature of any society.

IV CONCLUSION

Deprogramming and anti-cult psychotherapy are the means most frequently used to counter the negative mental health effects of the new religions.¹²³ Clients, however, usually will not participate voluntarily in these activities; even when they are legally forced to do so, the mental health advantages are dubious.

Professor Delgado's argument for the constitutionality of legal support for deprogramming¹²⁴ rests on literature which is extremely biased in favor of anti-cult authorities. No objective review of the available literature will support Professor Delgado's line-drawing between acceptable and unacceptable new religions. Because any constitutionally acceptable remedy would be dependent on the ability to "draw the line" according to informed scholarship, no remedies which depend on legal enforcement will be constitutionally acceptable.¹²⁵

Scholarship on the mental health effects of the new religions has progressed to the point where scholars can reach general conclusions about the types of mental health problems which are associated with different types of movements. Such scholarship can legitimately serve as information for counseling programs on new religions because such information is reasonably accurate when interpreted to fit the circumstances of the individual case. The voluntary participation of converts and potential converts in such programs seems

119. See H. SULLIVAN, *THE INTERPERSONAL THEORY OF PSYCHIATRY* (1953).

120. M. ROKEACH, *supra* note 98.

121. See T. ADORNO, *THE AUTHORITARIAN PERSONALITY* (1950).

122. See generally Bellah, *supra* note 2.

123. See, e.g., F. CONWAY & J. SIEGELMAN, *supra* note 3; C. STONER & J. PARKE, *supra* note 47.

124. Delgado, *supra* note 5, at 85-88.

125. LeMoult, *supra* note 11, at 610-19.

