

This is an important book on a difficult subject. It is not easily digestible, for it is crowded with ideas which tumble across the page. But gathering them together is well worth the effort.

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doi:10.1017/S0956618X16000466

Legal Cases, New Religious Movements, and Minority Faiths

Edited by JAMES T RICHARDSON AND FRANÇOIS BELLANGER

Routledge, Abingdon and New York, 2014, xv + 278 pp (hardback £70)
ISBN: 978-1-4724-2874-5

Attempts to define what constitutes a religion or religious movement have always been problematic, not least because who is to decide what components must come together to create a religion or religious movement? This collection of works demonstrates, among other things, that the absence of any universally accepted definition of religion both ensures, to some degree, that religious liberty is not unduly limited, thereby allowing new religious movements and minority faiths to establish (if not, necessarily, thrive) and also recognises religion as an ever-evolving concept where new religious movements need to be considered in the light of prevailing attitudes, developments and contexts.

Part I of this collection deals with what the editor terms 'Controversial religious groups and the legal system'. The three chapters that follow demonstrate why they have been defined as such. Chapter 1 address the troubles faced in the 1990s by the Family International (originally known as the Children of God), who, according to the author, Claire Borowik, were 'subjected to internationally publicised military-style raids, resulting in lengthy court proceedings' in Argentina, Spain, Australia and France (p 3). Borowik, perhaps unsurprisingly given her position as international director of public affairs for the Family International and the fact that she was imprisoned during the 1993 raids of Family communities in Argentina, is deeply critical of the way in which members of this particular religious movement were treated across three different continents. The account she gives is deeply disturbing, not least because of the number of children who appear to have been removed from their families on account of allegations, later dismissed by the courts, of neglect and cruelty, which, it was asserted, were part and parcel of the parents' involvement in this particular movement.

Scientology in Italy is the subject matter of Chapter 2, in which Massimo Introvigne provides a short, yet insightful, overview of the way in which the Italian courts grappled with the religion founded by L Ron Hubbard in 1954. Introvigne focuses on the apparent conflict between the Milan Court of Appeal and the Italian Supreme Court as to how Scientology was to be classified, with the former eventually relenting and, in 2000, concluding that Scientology should be recognised as a religion under Italian law (p 34).

In Chapter 3, Jean-François Mayer provides a fascinating glimpse into the trials and tribulations of the Order of the Solar Temple during the 1990s. Reading that chapter, one cannot help but think that the ordeal depicted was either an unused script for an Indiana Jones movie or a series of fictional crimes that should have been investigated by Mulder and Scully. Alarming, however, the author was himself involved in the investigations into the tragedies that plagued this movement and so is able to give some unique views on the events that left 74 dead.

Part II purports to deal with 'Specific legal cases involving minority religious groups', although Chapter 4, concerning the *Mohan Singh* case, bears a tenuous link to this topic by asserting that the defendant at the heart of the trial claimed to be interested in Buddhism (p 57) but, in the view of the prosecution, was in fact part of a cult (p 58), although there is no evidence cited in support of this. In reality, this chapter is not concerned with matters of religion at all and discusses instead the conflicts that can arise between disclosure of evidence and principles of confidentiality during the course of an English criminal trial. That the disclosure requests that arose during the course of this trial related to papers held by INFORM was perhaps the main reason for its inclusion.

Chapters 5 and 6 provide much more insightful examples of interesting legal questions raised by minority religious groups. The former deals with the fight between the US Federal Government and O Centro Espirita Beneficente União do Vegetal concerning the use of hoasca tea during religious ceremonies. The latter examines the extraordinary circumstances surrounding the FBI's infiltration of the Hutaree, a 'Millenarian' militia group, in 2008.

Chapter 7 concludes Part II by providing a summary of the trial of Luong Minh Dang, who founded Human Spiritual Yoga and claimed to communicate with many of the 'Divine Beings' such as Jesus and Buddha (p 120). In the light of the criminal court's findings, it is difficult to conclude that Master Dang was in any real sense the founder of a new religious movement, as the author asserts (p 125), as opposed to a fraudster who was involved in the illegal practice of medicine. He could, of course, have been both.

Part III considers 'Legal issues raised by cases involving minority faiths'. Perhaps unsurprisingly, the issue of religious libel is at the forefront, with Chapters 8 and 9 devoted entirely to this topic. While mildly interesting, for

those who are familiar with the English cases in this area there is little by way of valuable comment or analysis as compared with, for example, Chapter 10 which examines how the European Court of Human Rights has sought to deal with cases involving minority religious faiths. The focus adopted is an interesting one: the authors analyse the Court's Article 9 ECHR jurisprudence by comparing and contrasting the approach taken in cases concerning France and Russia, the former being a founding member of the Council of Europe, the latter being a comparatively recent addition. It is not entirely evident that the statistical data cited in support of some of the conclusions reached is determinative of issues such as whether or not the Court treats newer and original member states differently, or whether there is an anti-Islam (or anti-non-Christian) bias operating within its jurisprudence (p 186). Over time, and as more cases are filed, further analysis is perhaps needed in this area.

Part IV addresses 'Minority religious groups in court' through evaluating 'experimental evidence', largely gathered as a result of analysing the results of mock juries in various different scenarios. The chapters which comprise this part appear to be well researched and the authors offer some insightful observations concerning the analysis they have undertaken. Trial lawyers, sociologists, as well as many other groups would no doubt be interested in the research presented here.

Chapter 11 looks at jury decision-making in cases involving new religious movements. While acknowledging the paucity of empirical studies on how a trier of fact (be it judge or jury) may be affected by evidence indicating a new religious movement association (p 207), the author argues that what does exist appears to demonstrate, perhaps unsurprisingly, a bias against such associations. Of particular interest (and often discussed among trial lawyers) is the efficacy, or otherwise, of judicial directions to juries – an area which can only ever be scrutinised in a mock setting but one that is nevertheless of probative value.

Chapter 12 considers parents' use of faith healing for their children, an issue which has attracted significant attention in the United States following successful prosecutions against parents who have lost children after neglecting to seek medical care for them in favour of resorting to prayer. The chapter explores the apparent conflict between the First Amendment's Free Exercise Clause and the state's obligation to protect children, highlighting the differing approaches taken by certain states. It also analyses relevant research undertaken in an effort to discover how 'community sentiment' responds to various scenarios relating to legal action taken against those who opt for faith-based solutions over medical care – ultimately to the detriment of the child.

'Muslims and the courtroom' is the last chapter of the entire work and addresses very particular issues relating to the degree to which Islam may play a role in court (p 245). Focusing on the experience of the United States

and Canadian courts, it highlights those matters relating to Islam which have had an effect on substantive and procedural legal issues, including areas such as jury selection, the wearing of religious attire in court, the defence of provocation (in, for example, so-called 'honour killings') and child custody disputes. The empirical research undertaken in this field appears to produce mixed (and in some instances surprising) results, although, as the author observes, the topic is at present understudied (p 263).

This book is, for the most part, an intriguing read. The underlying research, which underpins many of the chapters, is particularly important and appears to demonstrate a number of trends that are emerging as regards societal (and judicial) attitudes towards new religious movements. The legal, political, social and ethical implications of what is discussed here should not be overlooked.

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doi:10.1017/S0956618X16000624

Magna Carta, Religion and the Rule of Law

Edited by ROBIN GRIFFITH-JONES AND MARK HILL QC

Cambridge University Press, Cambridge, 2015, xliii + 388 pp (hardback £64.99)

ISBN: 978-1-107-10019-0; (paperback £24.99) ISBN: 978-1-107-49436-7

When as a law student I studied Magna Carta, the clauses we had to read were those on the system of justice, due process and individual liberty, but they did not include Chapter 1, with its declaration that the English Church shall be free and shall have its rights undiminished and its liberties unimpaired. Nor did the great Maitland mention this declaration in his *Constitutional History of England*. The reasons for this neglect of religion probably include the profound change that the 'English Church' underwent 300 years after Magna Carta, and the fact that eventually (after many struggles) the diversity of Christian and other faiths came to be accepted. But it now is evident that in the mid-twentieth century, at least for constitutional lawyers in the West, religion and its related freedoms had ceased to be problematic. Today, 800 years after Runnymede, the scene has radically changed. This excellently edited volume brings together work by many scholars that examines the significance of the Great Charter in its historical setting, and explores its resonance against an ever-changing background that culminates in what the editors describe as 'our contested present' (p 9).