

ANALYZING DIFFERENCES IN LEGAL RECOGNITION AND PUBLIC
RECOGNITION OF NEW RELIGIOUS MOVEMENTS: A CASE STUDY OF THE
WESTBORO BAPTIST CHURCH AND SCIENTOLOGY

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Introduction

In March 2018, Dutch newspaper *De Volkskrant* published an article about an offshoot “cult” of Scientology. In this article, it was reported that this movement, called Avatar, is active in the Dutch education system (Kuiper, 2018). The article refers to Avatar as a cult and thus, by mentioning Scientology in the same sentence as a cult that looks like Scientology, is implying that Scientology is a cult as well. Because the word “cult” has acquired such a negative meaning throughout the years, using the word “cult” to refer to groups such as Scientology already frames the story in a certain negative way. This kind of negative rhetoric also exists in the American (mass) media, wherein new religious movements, such as the Church of Scientology, are made out to be cults or sects and are heavily critiqued by the public. Another new religious movement that originated in the United States and that has also acquired a notorious status and a lot of criticism is Westboro Baptist Church. Westboro Baptist Church, too, has a controversial status in public discourse; the church is even designated by the Southern Poverty Law Center as a “hate-group.” Both churches are, however, legally accepted as a religion while facing public scrutiny over its existence as a religion. In my initial research, I found that WBC was seemingly more accepted as a religion in public discourse than Scientology. By looking at the rhetoric used in popular culture products and news coverage of Scientology and Westboro Baptist Church, I investigate my hypothesis that a difference exists in public recognition of religious status of Scientology and Westboro Baptist Church and that WBC is accepted as a religion by the public, while Scientology is not.

New Religious Movements, or NRMs, are alternative religious movements that deviate from the traditionally known religions and oftentimes also deviate from the norms and beliefs of the society they emerge in. For this thesis, I rely on J. Gordon Melton’s introduction to the concept of new religious movements (2007). Melton notes that while no new religious movement shares the same characteristics, there are some common denominators, such as that new religious movements “exist on the fringe of the of the culture and society in which they exist” (32); and new religions exist in a “high level of cultural alienation and simultaneously are socially distanced from influential leaders” (32) and new religious movements almost all differ from the traditionally known religions of their respective culture (32). A word that used to be used to describe such new religious movements was the word “cult.” Today, however, it is controversial to use the word “cult” to describe any (new) religious movement. This is because the of the “cult controversies” that occurred during the 1960 and 1970s: during these

decades, many new religious movements appeared in the United States, some of which quite problematic (e.g. the People's Temple and the Charles Manson Family). Because of such very bad experiences with these new religious movements, "people in the US became scared" of them (Urban 119): by the 1970s, this had turned into a "cult scare" (ibid. 119), which also included a fear of "brainwashing." Thus, the word "cult" is controversial to use because it has been used to stereotype new religious movements as problematic and dangerous, with leaders who brainwash their followers and dupe the members. Calling a religious movement a "cult," then, denies that group religious status: "'cult' signifies the absence of 'religion'" (Catherine Wessinger qtd. in Urban 121).

In this research I compare Scientology and Westboro Baptist Church as both are new religious movements that originate out of the decades that Urban describes as being the decades of the "cult scare," but even more so because both are very controversial religions that have acquired quite a presence in public discourse and are often referred to negatively.

Objectives

I have several objectives for this thesis. The First Amendment of the U.S. Constitution consists of four different clauses: the Establishment Clause; the Free Exercise Clause; Freedom of Speech and of the Press; and Freedom of Assembly and Petition. I am interested in how the Establishment Clause and the Free Exercise Clause (together called the Religion Clauses and which grant religious freedom) "creates" religion and legal religion, and I want to find out how this corresponds to, or diverges from, the public recognition of new religious movements such as Westboro Baptist Church and Scientology. Secondly, I want to find out if this possible difference in recognition between WBC and Scientology differs from the legal recognition of these two case studies. My last objective for this research is to find out why the public regards WBC in a different light than Scientology: for this, I will be looking at the discourse surrounding the legitimacy of the church.

To research these objectives, I ask the following research question:

- Does being recognized legally by the government and the courts as a religion have influence on the public's acceptance of the religious status of Westboro Baptist Church and Scientology?

To answer this question, I have formulated two subquestions:

- How do courts in the United States interpret the First Amendment to “create” a definition of “religion”?
- Is there a difference in legal recognition of the religious status of Scientology and Westboro Baptist Church?
- Is there a difference in public recognition between Scientology and Westboro Baptist Church, and how does this compare to a possible difference in legal recognition between the two churches?

To answer these questions, I will first analyze legal cases concerning both churches. This will allow me to understand how religion is defined in, and upheld by, courts in the United States, as well as by governmental institutions. To understand the public opinion about the churches I will analyze the coverage of the churches by the mass media and their representation in popular culture and the public’s reception to such representations. I will then discuss what the difference is between the legal recognition and public recognition of new religious movements in the United States.

Structure of the Thesis

In chapter 1, I will discuss my research methods and theoretical framework, as well as explain certain definitions used throughout the research. Chapter 2 is my literature review, in which I show how my research builds on, and contributes to, the already existing scholarship on Scientology and WBC. In order to understand why Westboro Baptist Church and Scientology are such controversial new religious movements in the United States today, it is important to be aware of their history and theology; this is explained in Chapter 3. Chapter 4 is concerned with understanding the interpretation of the religion clauses of the First Amendment and then uses this to study the legal recognition of WBC and Scientology. The last chapter, chapter 5, is concerned with researching the manifestations of public recognition of WBC and Scientology. I will conclude my research with a summary of my argument and an answer to my research question.

Chapter 1: Methodology

In this chapter I will outline the methodological aspects of my thesis. This study aims to explore the difference between the legal recognition and the public recognition of Scientology and to understand whether such a difference exists in the religious recognition of Westboro Baptist Church as well. The purpose of my research is to gain an in-depth understanding of the perception the American public has of “religion” and of new religious movements, and in particular Scientology and the Westboro Baptist Church. Another purpose is to understand how American law, specifically the First Amendment, “creates” the definition of “religion” and then to understand this in relation to new religious movements. The theoretical framework of my thesis consists of studying legal theory concerning the First Amendment and its interpretation, as well as critical discourse analysis in a comparative framework.

While looking at the concept of “creating” religion in American courts by interpreting the First Amendment is not new in academic literature, my research will contribute to the already existing literature because of my focus on two new religious movements. Additionally, I will also look at the public’s recognition of the two case studies and use this to analyze the difference in legal and public recognition of new religious movements, which is a new contribution to the field of religion and law in the United States. Lastly, my research will contribute to the question of who gets to decide what counts as religion and what does not: by looking at governmental organizations and the courts, as well as the public’s opinion about what religion is and what is not, this thesis will contribute to the ongoing debate in the field of religious studies.

The theoretical literature that will give me a good insight into the framing of religion in court cases is by Winnifred Fallers Sullivan (2007), as well as by Bette Novit Evans (2011). To study this further in relation to my case studies, I will look at legal cases Scientology and Westboro Baptist Church were involved in, and what the judges and the governmental decisions were concerning religion. Especially for Scientology, governmental decisions concerning what defines religion is important to understand because for a long time, the courts did not consider Scientology a religion and thus it was not tax-exempt. Eventually, however, the IRS granted Scientology tax-exempt status based on religious grounds. Thus, it is important to understand what the IRS views as religion. Concerning the Westboro Baptist Church I will look at the judges’ opinions in cases concerning freedom of religion and freedom of speech that the church has been involved in over the years. Thus, in studying the legal recognition and the “creation”

of religion by courts and governmental institutions, the method I will use will be one of discourse analysis to study what the legal discourse is about religion, as well as document analysis, to study the legal and governmental documents about the churches and religion.

In my research I use the term “public” to refer to the American audience of the media. To understand the public’s perception of Scientology and the Westboro Baptist Church I will look at how they are represented in the both news media and popular culture. I will do so by focusing on their representation in two mainstream newspapers (*Washington Post* and *New York Times*) and big news broadcasting channels (*Fox News*, *ABC News*, *CNN*), as well as look at *Time* magazine’s coverage of the churches. Additionally, I will look at how the churches are represented in different aspects of popular culture, such as in documentaries, TV shows, and during interviews with (former) members when they are guests on American talk shows. For Scientology, I look mainly at the public discourse surrounding former member Leah Remini, but I also look at the discourse used in news media and TV shows. To study the public recognition of Westboro Baptist Church, I have chosen several articles and news segments from media outlets, for the major part of coverage about WBC is in relation to their funeral pickets. Using these sources and media-outlets and their way of representing the churches, and the responses these representations of the respective new religious movements receive, will help me understand how the American “public” thinks about Scientology and WBC. This means that my method of studying public recognition of religion is discourse analysis, which I use to analyze the way the media portrays and covers Scientology and Westboro Baptist Church.

Discourse analysis uses “text and talk as data sources” (Mason, 2002; 57). Authors who wrote about discourse analysis in religious social sciences are, among many others, Titus Hjelm (2011) and Kocku von Stuckrad (2003). Discourse analysis is a method of research which is about uncovering “how actions are given meaning and how identities are produced in language use” (Hjelm 134). Hjelm explains that the concept of discourse in itself is “constitutive,” i.e. “it constructs social reality and relationships” (135). The function of discourse is “contributing both to the reproduction of society and to social change” (Hjelm 135). Discourse analysis as a method of study can be divided into varying types of studying discourse (e.g. interactionists, discursive analysis, constructive analysis, et cetera). The form of discourse analysis that I will be using is critical discourse analysis. This is because critical discourse analysis is a useful method for studying what is considered “common knowledge” in a society and “how these discursive constructions perpetuate particular ways of thinking and practice by suppressing alternative discourses” (Hjelm 142). Hjelm acknowledges that discourse analysis is popular in other social scientific areas of study, but that religious studies has not yet used it very often as

a method of research (Hjelm 134), while critical discourse analysis could be very useful in studying “the legitimation struggles of minority religions and religion and state issues” (Hjelm 142). This latter point is especially relevant for the comparison that I will draw between religions recognition and public recognition of two new religious movements in the United States. I do this by looking at the discourse that is used to describe the churches and how the discourse that is used to talk about the churches and to classify the churches is influential in framing the narrative surrounding the churches.

Limitations

Because of time limitations placed on this project, I could not delve deeper into the public opinion of these new religious movements. If I had had more time, I would have liked to interview members of each religion as well as people in their surroundings (e.g. people of Topeka, Kansas, the hometown of Westboro Baptist Church) to better understand their opinions of these churches. Another limit of this research, concerning Scientology is that Scientology is very closed off from the public: everything that is known about the Church is because of things that is made public through court cases and because of what former members of Scientology have said about the church and its practices. Hence, my knowledge of Scientology is limited to their information and academic scholarship that has also dependent greatly on these sources. Lastly, because of time limitations placed on this research project, my research is limited to its current form. Had there been more time available, my research could have been more extensive and could have included smaller, or less-known new religious movements in the United States and I could have studied these in relation to the public’s opinion of new religious movements, as well as the courts and government’s definition of religion in relation to other new religious movements than studied in this thesis. Additionally, my research is limited in that it analyzes a limited amount of news coverage and popular culture products that cover the churches: in the future, future studies could look at a bigger range of sources and media portrayals in order to get an even better image of the discourse that is used by the media. Nevertheless, these issues remain fruitful areas of research for future studies.

Ethics

As a qualitative researcher I have to be aware of how my research can reproduce certain images, ideas, and categorizations of certain religious groups; in my case this is about how my research will influence a possible stigmatization of Scientology or the Westboro Baptist Church. While I aim to remain objective, I must acknowledge that I, as an atheist, hold a certain bias against

both churches, but I will try to hold this in check so as to not let this influence my research. Additionally, I must refrain from designations such as “cult” or “sect” because they can be offensive characterizations, but they also implement a certain image upon the readers of this project. Thus, to respect the Scientologists and the members of the Westboro Baptist Church, I shall not label their churches as “cults” or “sects.” Lastly, considering that my research only focusses on only two new religious movements in the United States, I must be aware that my research will give a look into the differences between legal and public recognition of new religious movements of my particular case studies, but I should be aware that generalizing my results is problematic because it is not an accurate representation of new religious movements in the United States. Hence, further research on this topic could focus on more, or different, new religious movements in order to get an even better understanding of new religious movements and the public’s perception of them.

Chapter 2: Literature Review

New religious movements have been widely written about by scholars of religion and sociology of religion since the 1970s (Stark and Bainbridge, 1985; Gallagher, 2004; Robbins and Bromley, 1993; Lewis and Tøllefsen, 2016, Urban, 2008). In fact, new religious movements have been part of the United States since the country's early days: the first new religious movement that Gallagher writes about are the Shakers, a group that came to the United States in 1774. As with new religious movements today, this group faced considerable critique by the public and by "representatives of the status quo" (Gallagher, 2004; 2). This is also the case with today's new religious movements, and in specific I will look at how the Westboro Baptist Church and Scientology are critiqued by the public. This literature review focusses on how authors have studied these two religious movements and how the terms "cult" and "sect" have been used to refer to new religious movements and how my research will contribute to, and build on, the already existing scholarship of these topics.

Cults, Sects, and Scientology

Rodney Stark and William Sims Bainbridge (1985) and Eugene V. Gallagher (2004) shed a light on the many different new religious movements and the differences, as they see them, between "cults" and "sects". Stark and Bainbridge are both sociologists of religion and are authors of the book *The Future of Religion: Secularization, Revival, and Cult Formation* (1985). In this book, they have conducted a sociological study on religion, "cults" and secularism, and look at the forms that religion takes in a secular world, and they study the traditional denominations, as well as many "cults." They also look at whether these forms of religion can survive in this secular age. They start their research by theorizing "cults" and "sects" and then continue to use this to study the different religions that exist today. According to Stark and Bainbridge, there are two types of religious movements that are "in a high state of tension with their surrounding sociocultural environment" (24): "sects," and "cults." "Sects," then, are movements that originate from another religious group or organization. "Cults," on the other hand, have no previous connection to "another established religious body" in a given society (25): it is an entirely new religious organization in a society. Stark and Bainbridge then divide "cults" into three separate categories: "audience cults," "client cults" and "cult movements." For my research, the concept of "client cults" is useful because Bainbridge and Stark categorize Scientology as a "client cult" and, even more specifically, as a "magical client

cult:” they do not think of Scientology’s ideology as religious but instead as magical. The sociological theory provided by Stark and Bainbridge is useful for my research because of its theoretical understanding of Scientology and its members. However, while Stark and Bainbridge’s sociological study may be useful, their use of terminology such as “cults” and “sects” are today not popular terms anymore. As I mentioned in the introduction already, such terminology is problematic because these terms are most often used by opponents of controversial new religious groups and as such, are meant to negatively portray a new religious movement (Gallagher, 2004; 4-5). When one uses the word “cult” to describe a group, this definition is used, as Gallagher says, as a “polemical tool” (2004; 6), used to influence people’s perception of such a group and then to make sure action is taken against such a new religious movement. The contributions Stark and Bainbridge made to the field of sociology of religion are important, but today these are rather outdated, which is visible in their acceptance of the terms “cults” and “sects;” but their research is also outdated because over time, these new religious movements that they have studied have evolved, like Scientology: Stark and Bainbridge think that Scientology will never acquire legal religious status, but this eventually happened a decade after they published their work.

Andre V. Gallagher’s book *The New Religious Movement Experience in America* (2004) is a more recent book about new religious movements in the United States. In this book, he categorizes different religions and religious organizations into different groups as a way to understand the history of new religious movements as part of the history of the United States (2004; 29), as well as placing religions together in chapters that are “successive ‘families’ of groups” (29). Gallagher assigns Scientology as part of the “new foundations” chapter, relating Scientology to the Church of Satan, Heaven’s Gate and the Raëlians. This chapter is concerned with religions that originate from the second half of the twentieth century and that are religiously innovative (Gallagher 2004; 213). The intent of Gallagher’s book is to understand the role of new religious movements in America’s history as well as “normalizing” these new religious movements to make them “familiar examples of human religious expression” (2004; 32). Hence, Gallagher wants to remain neutral and uses the term “new religious movement” instead of referring to categories such as “cult” or “sect,” like Stark and Bainbridge do. What is missing from Gallagher’s analysis on Scientology is the controversial beginnings of the church, considering that it is such an important part of Scientology’s controversial origin story. While Gallagher’s descriptive narration of Scientology is useful, it lacks this critical component, which I find important in relation to Scientology. Hence, in my thesis, I include Scientology’s controversial beginnings, in order to fully understand the reactions against it.

Alternative accounts of the church can be found in the scholarship by Hugh Urban (2011) and Janet Reitman (2006, 2011). Urban, a historian of religion, wrote *The Church of Scientology* in order to understand the history and origins of the Church while at the same time also making the reader think about “religion” in the United States in the twentieth and twenty-first centuries (Urban 2011; 3). Urban’s book is useful for my thesis because Urban researches how Scientology became recognized as a religion by defining itself as a religion in the United States. Urban uses Scientology as a case study to “think more broadly about the complex, shifting, and contested category of ‘religion’ itself in the twentieth and twenty-first centuries” (Urban, 2011; 3). I build on Urban’s scholarship on Scientology’s road to being legally recognized as a religion by also looking at Scientology’s religious recognition of the public. I build on Urban’s scholarship by not only comparing the religious status of Scientology to another new religious movement, WBC, but also by looking at the public recognition of these new religious movements to understand a possible disparity between legal and public recognition of new religious movements.

While Urban’s aim was not to uncover new secrets of Scientology, this was just what Janet Reitman’s book *Inside Scientology: The Story of America’s Most Secretive Religion* (2011) is about. Reitman’s goal of the book is to “write the first objective modern history of the Church of Scientology” (xix). She does this by using many interviews that she conducted herself with both current and former members of Scientology, as well as relying on accounts that are part of the public record because these are part of litigation against Scientology, as well as reading and studying a lot of confidential documents. Reitman’s book is very detailed in its account of the church, but considering that it does rely heavily on interviews, it must be taken into consideration that sometimes, these interviews can change Reitman’s story because of how personal it is, i.e. what she is told by her interviewees may not be factual and may be subject to personal bias of the interviewees.

The scholarship on Scientology provided by Gallagher, Urban and Reitman is mainly neutral scholarship without critically looking at Scientology’s practices. By contrast, Canadian sociologist of religion Stephen A. Kent has been a critic of Scientology since the end of the 1990s: he has published articles about Scientology which date back to 1997. Kent is very critical about Scientology’s religious status (1996; 1999a; 1999b; 1999c; 2017; Kent and Raine, 2017), as well as of its organizational structure: he views Scientology as a “multifaceted transnational corporation” (1999a; 4). I use Kent’s scholarship on Scientology as data in my research because it provides a critical, academic, look at Scientology’s religious status as he does not think of

Scientology as a religion, but I keep his political opposition to Scientology in mind as a possible limitation of his scholarship.

Westboro Baptist Church

One new religious movement that has acquired a high public profile in recent years is Westboro Baptist Church (WBC). However, there is a lot less scholarship about this group, and is missing from Gallagher's collection of new religious movements in the United States, despite the Church having been in the public eye for some time already by then. This lack of research into WBC as a new religious movement could be attributed to the fact that it is related to an old religion, in this case Christianity. This is not to say that no research has been conducted into WBC: Professors of sociology Todd Powell-Williams and Melissa Powell-Williams (2017) have conducted a sociological study on the "habitual emotional deviance and neutralization techniques" of members of the church. Joseph O. Baker, Christopher D. Bader and Kittye Hirsch (2014) have also produced a sociological study on the behavior of WBC: they used "cultural and interactionist" perspectives to understand the "strategies of, and reactions to" protests conducted by the church (2015; 45).

The most comprehensive work on Westboro Baptist Church to date is Rebecca Barrett-Fox's *God Hates: Westboro Baptist Church, American Nationalism, and the Religious Right* (2016). This is one of the first books about the Church and its history, ideology and theology as well as about its "antigay and antipatriotic theology and activism" (ibid. 8) of Westboro Baptist Church and studies it in relation to the "antigay and patriotic theology and activism" of the Religious Right (ibid. 8). This book is an insightful ethnography into an infamous congregation, known worldwide thanks to, in part, Louis Theroux's documentary *The Most Hated Family in America* (2011). This book also does not try to remain neutral about the actions of the members: it argues that the Westboro Baptist Church is a hateful group, but it tries to make the reader understand the theology and reasoning behind the actions of the Church's members. The evidence of the book is based on interviews, court cases, media portrayals and ethnographic data. Barrett-Fox's argument in the book is that the messages of Westboro Baptist Church are not that different from the beliefs of the Religious Right, despite the fact that the latter does not want to be associated with WBC. The Religious Right and WBC are similar in their fierce antigay rhetoric, but the difference between them is the fact that the Religious Right has a patriotic message, whereas WBC is also antipatriotic. Barrett-Fox thus compares Westboro Baptist Church to the Religious Right in order to understand religion and patriotism

in the United States. Barrett-Fox's study is useful for me to understand Westboro Baptist Church and its ideology. I improve on this study by comparing WBC to Scientology, thereby expanding the scholarship on WBC and recognition of new religious movements in a comparative frame.

Theological and Legal Literature

Having considered literature on new religious movements and Scientology and Westboro Baptist Church, I will also build my research on theological literature and legal literature which explore theology and law, or law itself.

Anthony Lewis's book *Freedom for the Thought That We Hate: A Biography of the First Amendment* (2007) is useful to understand how the First Amendment is assigned new meaning through the interpretations of the judges and justices ruling on First Amendment cases. Lewis's argument is about free speech in the United States, and how the First Amendment has been subject to different interpretations by judges, political leaders and citizens (xv) and as such, the meaning of free speech has been "shaped by each American generation" (xv). Lewis's book, thus, shows how judges have assigned the free speech of the First Amendment new meaning by reinterpretation of the clauses, as well as of reinterpreting consequent litigation, based on a case to case basis. While Lewis looks at the free speech clauses of the First Amendment, I will use his book to understand how judges decide upon the meaning of free speech in each different case, and so to relate this to the religion clauses of the First Amendment, which have also been assigned new meaning through continuous reinterpretation. Additionally, Lewis's book is useful because the legal cases surrounding WBC are, at least partly, about the struggles between freedom of speech and freedom of religion: Lewis's book is a good contribution to understand the struggle of freedom of speech and the courts.

The struggle between religion and the law, on the other hand, is researched by scholars such as Winnifred Fallers-Sullivan in *The Impossibility of Religious Freedom* (2007); as well as by Bette Novit Evans in "Constitutional Language and Judicial Interpretations of the Free Exercise Clause" (2011); and by Kent Greenawalt in the first volume of *Religion and the Constitution*, which is about free exercise and religion (2009). Sullivan, a professor of religious studies at Indiana University, argues in her book that it is impossible to enforce religious freedom without discriminating against another (religious) group or person. She shows how it is impossible to define "religion" in courts, as well as outside of courts, and she makes her argument by telling the story of the case of *Warner v. Boca Raton* (2001). This case is about a

group of people who argued that their religion told them to put up certain images and statues up on the graves of their dead relatives and friends, whereas the city argued that this goes against the public policy of the graveyard. In this case, it was argued that the religion of the plaintiffs did not explicitly tell them to perform these acts and that it was therefore not really religious. Sullivan concludes that the religion clauses of the First Amendment have now resulted in intolerance towards certain ideas of religion. Sullivan's book is very useful for my thesis because it shows how the First Amendment is interpreted to fit a certain idea of religious freedom, that benefits only certain groups, but is exclusionary to another idea of religion. I will build on Sullivan's research by applying her theories to legal cases involving Scientology and Westboro Baptist Church.

Similar to Lewis's argument about free speech, Evans shows that enforcement of the free exercise clauses of the First Amendment is dependent upon interpretations of the meaning of "religion," and how it should be exercised (2009; 34). She argues that, while the meaning of free exercise is dependent upon jurisprudence, it is also dependent on the "patterns of American religiosity itself" (34): the more pluralistic and diverse the United States becomes, the more cases there will be that rely on the free exercise clauses. This chapter, part of an edited volume about the relationship between church and state in the U.S. (edited by Derek H. Davis), together with Sullivan and Lewis, will help me in understanding how legal opinion concerning Scientology has changed throughout the years. Lastly, Greenawalt's first volume of *Religion and the Constitution* focusses on the free exercise of religion, and he investigates "the force of conflicting values over a range of legal and political ideas" (2). Especially the eighth chapter of his book, "Saying What Counts as Religion" is relevant for my thesis, because this chapter, similar to the works of Sullivan and Evans, show the problems that occur when courts try to define religion.

Conclusion

What can be concluded from this literature review is that while there is a lot of scholarship on new religious movements, the scholarship on Scientology is rather small, and even less scholarship exists on Westboro Baptist Church. In the discourse about new religious movements in the United States WBC should also be included, because not enough scholarship exists about WBC's significance in the religious landscape of the U.S. My research intersects these two different scholarships, for it focusses on both the Westboro Baptist Church and Scientology in a comparative framework, wherein I compare the legal recognition to the public

recognition of both churches. In this thesis, I expand on the already existing research on religious freedom and new religious movements in the United States. Additionally, while scholarship exists on the difficulty of defining religion in court (Sullivan, 2007; Evans, 2009), and on WBC and Scientology separately, my research will expand on the already existing research by combining these topics to show how religion is different from case to case and from religion to religion, especially concerning public opinion.

Chapter 3: Westboro Baptist Church and Scientology

In this chapter I will outline the theology, ideology and history of the Westboro Baptist Church and the Church of Scientology in order to understand why the churches have acquired such a controversial status in the United States. After this, in the next chapters, I will elaborate on the meanings of legal and public recognition of religion in the United States, and how this applies to Westboro Baptist Church and Scientology.

To understand the Westboro Baptist Church, one must understand their history and theology: they maintain an antigay and antipatriotic theology which they express by public picketing. To understand Scientology, it is important to understand its origins in science fiction, Dianetics, as well as the complexity of Scientology's beliefs and terms.

*Westboro Baptist Church*¹

The Westboro Baptist Church was established in 1955 by pastor Fred Phelps in Topeka, Kansas, as a Primitive Baptist Church. Primitive Baptists are conservative and live by Calvinist beliefs, and, as they describe themselves on the FAQ page on their website (godhatesfags.com), they “preach against all form of sin . . . and insist that the sovereignty of God and the doctrines of Grace be taught and expounded publicly to all men.” As Calvinists, they believe in the idea of predestination, i.e. “the idea that people are chosen for salvation by God at the start of time and independent of their behavior” (Barrett-Fox 56). For members of WBC, this means adhering to the five points of Calvinism: Total Depravity, Unconditional Election, Limited Atonement, Irresistible Grace, and Perseverance of the Saints. On the website's “About Us” page, WBC explains that this idea of Baptism diverges from the more “mainstream” Arminian Baptism², and that members of WBC think that Arminian Baptism is wrong and their beliefs are actual lies. What WBC preaches is, on the other hand, the true message of the bible.

When the church was founded in 1955, it consisted mostly of family members of two families: the Phelps-family and the Hockenbarger family. Today, church members are still related to these two families. Barrett-Fox analyses that the church maintains such an exclusive

¹ In this part of the chapter, I will rely largely on Rebecca Barrett-Fox's book *God Hates* (2017), because it is one of the few books written about the church.

² The big difference between Arminian Baptism and Calvinist, or Primitive, Baptism, is that Arminians believe that salvation is dependent on an individual's choice to accept or reject that salvation. Calvinists, on the other hand, believe that only a few can experience God's salvation and it could not be rejected nor is it conditional.

and closed place in American religious society by making membership difficult to achieve by discouraging “potential alliances with outsiders and because of the church’s distinctive theology” (30). Many of the adult family members have law degrees and are part of the law firm that was created by Fred Phelps: Phelps-Chartered. Fred Phelps created this law firm in order to enforce “civil rights legislation through litigation” (Barrett-Fox 17). While the church holds a staunch anti-gay theology today, this law firm has been about challenging racial discrimination and helping minorities with “immigration issues” (Barrett-Fox 17). Phelps explains this difference in theology by arguing that skin color is “an immutable attribute, not an immoral, criminal act voluntarily performed” whereas engaging in homosexual activities is voluntary (qtd. in Barrett Fox, 20).

It is important to understand WBC’s anti-gay ideas in relation to the notion of predestination. In WBC’s understanding of the Calvinist concept of predestination, people are gay because God hates them: “. . . God chose at the beginning of time who was among elect and who was not in total disregard for the worth or obedience of the individual” (Barrett-Fox 73). This is quite different from Arminian Baptists, who believe that God does not approve of gay people because they are gay. Barrett-Fox analyses that a double predestination exist, then: “God abandons some people before they are even born, and, in their abandonment, some people pursue homosexuality” (73). As a result of this belief, changing one’s behavior, as a gay person, will not change one’s destiny, nor will WBC members pray for them. However, while they believe that gay people are “already engaging in God’s plan for them” (Barrett-Fox 74), they do believe that if gay people are among the elect, they will turn away from their gay sexuality (Barrett-Fox 74). Thus, members of WBC view it as their job to preach their messages and they hope that through this preaching they turn people from their sinful behavior, and then will repent “if they are drawn through God’s irresistible grace to do so” (Barrett-Fox 74) WBC pickets seven days a week, or, as they describe it, “daily peaceful sidewalk demonstrations opposing the homosexual lifestyle of soul-damning, nation-destroying filth” (“About” page). Barrett-Fox argues that there are three reasons why the church still pickets and preaches, even though they do not aim to convert people: first, she argues that the church thinks that through social activism God could “reveal someone’s election to him or her” (75). Second, “everyone is to obey God,” and so everyone must hear that message, whether one is damned or elected. The third reason for social activism is that “Westboro Baptist Church must preach out of . . . obedience to God, not because of any expectation that God *will* use the church [emphasis in original]” (76).

Westboro Baptist Church members picket with signs that read, among other things, “GOD HATES FAGS;” “FAGS HATE GOD;” “THANK GOD FOR AIDS;” “THANK GOD

FOR DEAD SOLDIERS.” These signs are part of the continuous picketing that WBC engages in as part of expressing their religion. These demonstrations, or pickets, started in 1991 in opposition to homosexuality. Today, the church not only pickets against homosexuality during parades or other related events but also against U.S. patriotism by way of picketing at funeral of fallen U.S. soldiers. Picketing at the funerals of fallen soldiers is because they are killed in “righteous judgement against an evil nation” (“About Us;” godhatesfags.com). The army, and thus soldiers, are related to WBC’s anti-gay message in that WBC argues that soldiers support homosexuality, by way of joining “a fag-invested army to fight for a fag-run country” (FAQ, godhatesfags.com). Dead soldiers are America’s own fault: America is a nation of sinners, and so God punishes the U.S. by way of civilian deaths and accidents as well as through military deaths (Barrett-Fox 144).

Pickets are only one way the church is active in spreading their message. Before the Internet and social media, the church launched an extensive fax campaign that began in the early 1990s, “with daily or near-daily faxes distributed to businesses, organizations, and individuals” (Barrett-Fox 81). The faxes included accusations, graphics, and “challenges to local authorities” (Barrett-Fox 81). Today, the church has updated its method of spreading their message and, besides their website, uses different social media platforms; the church is active on Twitter, YouTube and Facebook.

*Church of Scientology*³

The Church of Scientology, or Scientology, originates from the 1950s and 1960s in the United States from the work of L. Ron Hubbard. Hubbard, born in Tilden, Nebraska in 1911, was a science fiction writer before writing *Dianetics: The Modern Science of Mental Health* (1950). As Urban determined, there are two different narratives that exist concerning Hubbard’s life: there is the story that is told by the church, which tells “of his extensive travels throughout the Far East, his successful academic career and his heroic military service” (Urban 26); the other story of Hubbard’s life is a critical one, which contradicts the church’s narrative and calls this narrative “fictitious” (26). Urban decides to view Hubbard’s narrative, of a war hero and traveler, as part of the “hero’s journey” seen in stories of other religious leaders and mythological traditions (Urban 32). However, what is important to know of Hubbard’s life is

³ In this part I rely largely Scientology’s website and have used several different pages to understand Scientology. I will list the names of the pages in the footnotes, weblinks to the respective web pages can be found in the works cited.

that, before creating the science of Dianetics, he was a science fiction writer. Even before the book *Dianetics* was published, Hubbard first published his science in the popular science fiction magazine *Astounding Science Fiction* (Urban 43). Because it was first published in a science fiction magazine, and its language was appealing to science fiction fans, many of Hubbard's first supporters were from the science fiction world (Urban 45).

Dianetics, as a “science of the human mind,” is a combination of the Greek words *dia* (through) and *nous* (mind or soul), and can be described as “what the mind (or soul) is doing to the body” (Scientology.org).⁴ While the American Psychological Association rejected Hubbard's ideas, Hubbard maintained that the science behind Dianetics was an alternative to existing psychiatry of the 1950s (Kent and Manca 2014; 1). Dianetics is advertised as a “methodology which can help alleviate unwanted sensations and emotions, irrational fears and psychosomatic illnesses (illnesses caused or aggravated by mental stress)” (Scientology.org).⁵ According to this new science, and contrary to existing science on the brain, the mind is not as complicated as scientists paint it to be; it actually consists of two parts. The first is the *analytical mind*, which is the part of the brain that one uses consciously: “This is the portion of the mind which thinks, observes data, remembers it and resolves problems” (Scientology.org).⁶ The other part of the brain, according to Hubbard is the *reactive mind*. In this part of the brain “painful emotion and physical pain” take place (Scientology.org).⁷ The reactive mind is only active when a person is partly or entirely unconscious. The working of the reactive mind is explained by Scientology as the following:

When a person is ‘unconscious,’⁸ the reactive mind exactly records all the perceptions of that incident, including what happens or is said around the person. It also records all pain and stores this mental image picture in its own banks where it is unavailable to the individuals conscious recall and not under his direct control. Though it may appear that a person who is knocked out in an accident is unconscious and unaware of happenings around him, his reactive mind is actually industriously recording everything for future use.⁹

⁴ “First Dianetics, Then Scientology.”

⁵ “Dianetics: Understanding The Mind.”

⁶ “The Parts of the Mind.”

⁷ *Ibid.*

⁸ A state of “unconscious” can be brought about because of a shock, an accident, anesthetics, painful injuries, or illnesses.

⁹ “The Parts of the Mind.”

These painful memories, are saved in the reactive mind as “engrams.” Engrams can, in turn, result in physical and psychological problems (Urban 2011, 46; Reitman 2011, 25). To liberate oneself from these dangerous engrams, Hubbard developed a form of therapy he called “auditing.” Through this therapy, the troubled individual can erase these engrams by way of reliving the original painful event and consequently clearing it from the reactive mind (Urban 46), making these engrams in turn memories of the analytical mind, where these memories are harmless. The method of auditing is performed by an auditor, who asks questions to identify the engrams (Urban 46). As a person experiencing engrams, one is considered “pre-clear.” The goal of auditing, and Dianetics, then, is to achieve the status of “clear:” “A Clear is a person who no longer has his own reactive mind and therefore suffers none of the ill effects that the reactive mind can cause” (scientology.org).¹⁰ A Clear person experiences considerable physical and psychological improvement, “ranging from increased IQ to optimum health and well-being” (Urban 47). Later on, Hubbard introduced the Electropsychometer (E-meter) into the process of auditing. The E-meter is a device that is still used today in Scientology. This meter was used because it was a “more scientific, precise, and accurate means to access the unconscious mind” (Urban 50), instead of relying on psychoanalytical techniques.

Dianetics, though dismissed by the American Psychiatric Association (APA) (Lewis, 2015; 232), proved popular among Americans: on June 18, 1950 it entered the *New York Times* best-seller list and stayed in that list until December 24 (Urban 52). Reitman attributes this hype for “do-it-yourself psychotherapy” (Urban 52) to the state of psychotherapy of the 1950s: it was expensive, the U.S. mental health-care system was “stretched as at no prior time in its history” (Reitman 26), and only few psychiatrists and psychoanalysts were available in the entire country. Hubbard’s *Dianetics* was appealing to the larger American audience because it was available, easy to perform on oneself or with friends, and cheap.

Out of Dianetics, the science and mental health therapy, came Scientology, the religion. Whereas Reitman (2011) and Kent (1999) characterize this development as a business venture, intended to make money and to avoid paying taxes, Urban (2011) recognizes that, though this may have been part of Hubbard’s reasoning, this shift to Scientology was more complex than it appears. During the early 1950s, the Dianetics movement experienced several setbacks (bad press, struggles within the organization, increased attention from the Food and Drug Administration (FDA)), and so Hubbard responded to this “failure” of Dianetics (Reitman 42) by creating a new science: Scientology. The word Scientology comes from the Latin word *scio*

¹⁰ “The Clear.”

(“knowing, in the fullest sense of the word”), and the Greek word *logos* (“study of”), and Scientology is defined as “the study and handling of the spirit in relationship to itself, universes and other life” (scientology.org).¹¹ Whereas Dianetics was only about the physical and psychological being, Scientology went beyond this and extended into the philosophical field.

Urban writes that while Hubbard still referred to Scientology as a science in 1952 (64), by 1953, when Hubbard wrote to Helen O’Brien,¹² he discussed the idea of making a religion of Scientology, suggesting a “Spiritual Guidance Center,” instead of a clinic. Furthermore, in this letter Hubbard asks O’Brien to consider the “religion angle” because a “religious charter would be necessary in Pennsylvania or NJ to make it stick . . . We’re treating the present-time beingness, psychotherapy treats the past and the brain. And, brother, that’s religion, not mental science” (par. 6). This shows that religion was already on his mind, though he had not entirely decided on it yet. Moneymaking, however, was also on his mind, which he made clear when he said in the letter that “it’s a problem of practical business” (par. 5). The narrative that the Church of Scientology tells concerning its religious origins differs from this: according to the Church of Scientology, Scientology became a religion because of Hubbard discovered that “man was neither his body nor his mind, but a spiritual being.” Consequently, Hubbard founded the religion of Scientology (Scientology.org),¹³ which draws on “the wisdom of some 50,000 years” (Scientology.org), so Scientology argues.¹⁴

Either way, in 1953 and 1954, the religion of Scientology became a reality when Hubbard opened several new organizations and churches: among them the Church of American Science and the Church of Scientology in 1953. In 1954, a church was opened in California. “Thus, by the end of 1954, Hubbard was explicitly defining Scientology as a ‘religion,’ focused on the *spirit*, and contrasting it with Dianetics as a ‘science,’ focused on the physical being [emphasis in original]” (Urban 66). In addition to setting up churches, Hubbard completed the “religion angle” with an eight-pointed Scientology cross, introduced the religious titles of “Minister” and “Doctor of Divinity,” introduced Scientology marriages and wedding and funeral ceremonies, and introduced the wearing of clerical collars, church services, christenings, and other religious terms and practices were introduced (Reitman 45; Urban 66).

While Dianetics focused on the human mind, Scientology went past this and focused on

¹¹ “First Dianetics, Then Scientology.”

¹² At that time, O’Brien was the head of the Hubbard Association of Scientologists, which in 1954 was replaced by the HASI (Hubbard Association of Scientologists International).

¹³ “Scientology: A Knowledge of Life.”

¹⁴ “Scientology: Background.”

discovering the “anatomy of the human soul” (Reitman 39). This is what Hubbard called the “thetan.” “The thetan is not a thing. It is the creator of things,” is how it is described on Scientology’s website.¹⁵ This thetan exists independent of the mind, the body and the physical world and is described as “our true identity, our immortal, spiritual selfhood that has potentially unlimited capacities” (Urban 69). As such, Scientologists believe that this thetan is an immortal spiritual entity, and by recognizing this thetan, a person will accomplish “increased spiritual freedom, intelligence and ability for the individual and [it] clarifies any part of life” (Scientology.org).¹⁶ Related to this is Scientology’s belief in reincarnation: a thetan has lived many past lives, and will live many lives in the future, for it is an immortal entity (Lewis, 2015, 229; Urban 70-71). However, there is much more to this concept of the thetan than it just being an immortal spiritual entity: Hubbard’s story concerning thetans continues in his description of “different states of the thetan” (Urban 81), which he developed into the different levels of “Operating Thetan” (OT) in the late 1960s.

An OT is more advanced in controlling his or her mind than a person who is only clear: “As Hubbard describes it, the state of OT is one in which the thetan is not just liberated but enabled to do anything it chooses: the OT is completely free to create anything, to be anything, to go anywhere its will desires” (Urban 81). There are eight OT levels discovered by Hubbard, and each one would result in a “higher level of personal power and spiritual enlightenment” (Reitman 99). Most notorious is OT 3, a level that has a certain status attached to it; it is not just achieved by continuous auditing, one has to actually be invited to the level (Reitman 99). The knowledge one will achieve from this level was perceived to be dangerous to a mind that is not ready, hence the person has to sign waivers not to hold the Church of Scientology responsible in case of “any trauma or damage” they could experience from the revelations of OT 3 (Reitman 99; Urban 102). To make Scientology’s theology more complicated, OT 3 revolves around Hubbard’s narrative, or “space opera,” which is “about the history of the universe and the role of the thetan” (Urban 73) and revolves around the mythological figure of Xenu.¹⁷¹⁸ This is how Jon Atack, a former member of the Church, describes the story in the third chapter of his book:

¹⁵ “Scientology: A Knowledge of Life.”

¹⁶ “The Thetan.”

¹⁷ Also referred to as “Xemu” in other documents.

¹⁸ It must be noted here that the stories that exists about this level are only known from what former members have told and what is part of public records: there is no way of knowing with certainty if these are true at all without becoming an OT 3 Scientologist.

“Hubbard asserted that some 70 million years ago, our planet, then called Teegeeack, had been one of the 76 planets of the Galactic Confederation. The Confederation was badly overpopulated, with hundreds of billions on each planet. Xenu . . . , the president of the Confederation, ruled that the excess population should be sent to Teegeeack, put alongside volcanoes and subjected to nuclear explosions [to exterminate them]. The spirits, or Thetans, of the victims were then ‘implanted’ with religious and technological images for 36 days. They were then sent to either Hawaii or Las Palmas to be stuck together into clusters. Human beings, so Hubbard said, are actually a collection of Thetans, a cluster of ‘Body Thetans.’ Xenu was rounded up six years after the event and imprisoned in a mountain. According to Hubbard, anyone remembering this material would die.”

The fact that Urban and Reitman both narrate slightly different stories, while Kent’s (1999) and Willm’s (2009) descriptions matches Atack’s for the most part, shows that there are many slightly different versions of OT 3 and the mythology of Xenu. What is most important to remember of OT 3 is that this explains why someone, who is considered “clear,” can still experience emotional or physical issues (Kent, 1999; 104), i.e. engrams that trouble a person can date back millions of years ago to the age of Xenu.

Thus, what Scientology’s theology comes down to is that one needs to be freed from engrams in the reactive mind through auditing to achieve a status of “clear,” and then continue the auditing therapy to experience more physical, spiritual and mental benefits and become an OT. The purpose of becoming OT, then, was to fight psychiatry by making the whole planet “clear.” Since its creation, the Church of Scientology has undergone several changes in management: when Hubbard died in 1986, David Miscavige took over the management of the church and its many organizations.¹⁹ Since the start of the Dianetics movement in the 1950s Hubbard’s ideas and knowledge have spread all over the world, with churches established in Australia, Germany, the Netherlands, Mexico, South Africa, and many other countries.

¹⁹ For an elaborate description of how Miscavige achieved this “coup,” I suggest Reitman’s book (2011), which offers a good insight into the years of David Miscavige’s rise to power and the consequent structural changes within the Church of Scientology.

Chapter 4: Legal Recognition of ‘Religion’ and New Religious Movements

In this chapter I will look at what freedom of religion means in the United States and how the courts and governmental institutions define religion by interpreting the free exercise clause of the First Amendment, especially in relation to new religious movements in the U.S. and in particular to Westboro Baptist Church and to the Church of Scientology. I will draw on scholarship by Winnifred Fallers Sullivan (2007) and Bette Novit Evans (2011) to understand how religion is “created,” in courts, as well as on Lewis’s scholarship on interpretations of the First Amendment concerning free speech. To look at how the definition of religion is then “created” and interpreted by courts and governmental institutions in relation to WBC and Scientology, I will look at court cases of both and see what terms are used to classify them as a religion.

Religion and Religious Freedom in the United States

From the early start of colonial America, America has been a religiously pluralistic society and has functioned, historically, as a place for religious refuge. Most notably were the English Pilgrims who came to America in 1620 because of religious persecution and oppression in England. When colonial America became the United States of America in 1776 and the first Constitution was ratified in 1788, the anti-Federalists were not happy with this Constitution because “[t]hey found in their proposed Constitution a centralizing tendency they feared would ultimately deprive them of their liberties” (Curry, 1987; 194). These anti-Federalists argued that a bill of rights was necessary to guarantee their individual rights and to place some constraints on the government’s power over the state and local governments (Bill of Rights Institute), thus making the Bill of Rights the “foundation for individual liberty” (Labunski, 2006; 2). The First Amendment to the bill of rights reads:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of people peaceably to assembly, and to petition the Government for a redress of grievances. (Bill of Rights Institute)

For the purposes of my research, especially the first part of this amendment is important, which consists of two separate clauses: the first is the Establishment Clause, which protects Americans against “state-sponsored or imposed religious obligations” (Evans, 2011; 2). The second clause

is the Free Exercise Clause, which guarantees that believers can express their religion without governmental punishments. Religious freedom in the United States, thus, has been guaranteed since the ratification of the Bill of Rights in 1791.

While the First Amendment symbolizes a commitment to religious liberty, in practice this commitment to religious freedom has appeared to be a subject of continuous debate and interpretation among “public officials at all levels,” lawyers and judges, academics, religious groups and individuals (Evans 2). In legal cases concerning religion and religious groups, the meaning of religion and freedom of religion is thus conditional on the judge’s understanding of the First Amendment itself, as well as on a judge’s personal understanding of religion. The issues are made clear by Winnifred Fallers Sullivan, in *The Impossibility of Religion* (2007). Sullivan argues that religious freedom is impossible to realize because “religion” is then subject to the interpretation of courts and legislatures: “Courts, legislatures, and other government agencies judge the activities of persons as religious or not, as protected or not, based on models of religion that often make a poor fit with religion as it is lived” (10). To make her case, Sullivan explains this by taking a close look at the case of *Warner v. Boca Raton*, which took place in March 1999. It was a case that was concerned with the Free Exercise Clause and it is a good example that highlights the struggle that arises when two sides interpret religion differently. The defendant, in this case the City of Boca Raton, thought of religion as “something that had dogmas and rules and texts and authorities. Religion was something you obeyed, something about which you had little choice because of the imposition of external authority” (Sullivan, 2007; 36).

For the plaintiffs in the *Warner* case, religion “was a field of activity, one in which an individual’s beliefs and actions were the result of a mix of motivations and influences, familial, ecclesiological, aesthetic, and political” (Sullivan 36). The *Warner* case thus revolved around two different understandings of what religion is, as well as the judge’s own understanding of religion, who enjoyed to “talk theology” (ibid. 4). What is visible, thus, is the “dual nature” of religion and religious experience, and this “dual nature” is something that must be taken into account when understanding religion, according to Evans:

Some of [religion’s] manifestations concern individual spirituality, faith, or conscience. Other religious experiences are communal, and are experienced as private conscience. Other religious experiences are communal, and are experienced as senses of belonging and identity created and sustained by rituals, institutions and communities. (4)

Thus, deciding what legally counts as religion is difficult to do because there are so many different conceptions of religion to take into account, as well as the fact that laws are being interpreted and reinterpreted, which then assigns new meanings to laws. This is visible in the book *Freedom for the Thought that we Hate* (2007) by Anthony Lewis, which is about the interpretation of the free expression clauses of the First Amendment. Lewis shows how these clauses are interpreted and reinterpreted in courts over time:

Judges do not operate in a vacuum. They are influenced by the attitudes of their society, and the society in turn may be influenced by what the courts say. So history, law, and culture contribute to the process of defining what the Constitution demands.” (x-xi)

Lewis also points out that today, when looking at the First Amendment, not only are the original words studied and interpreted, but also “the vast body of law that judges have built up over the years in applying it to issues brought before them” (xi). Though Lewis’s book is concerned with the free speech clauses, the religion clauses of the First Amendment have undergone the same processes of interpretation and reinterpretation throughout the years. As Lewis argues, the meaning of laws changes through a changed understanding of the law by both the public and the judges (x). Thus, the first Amendment, while guaranteeing free exercise of religion and no establishment of religion, is not very specific in its definition of religion. According to Derek H. Davis (2004), this was done on purpose by the authors of the amendment, because

[t]o define the term would have placed a permanent imprimatur upon only those forms of faith and belief that conformed to their definition. The framers instead chose to leave the term undefined, thereby protecting a diversity of beliefs, not merely the traditional ones, from undue advancement or prohibition of expression by government.

As a result of the vagueness of the definition of “religion” in the First Amendment, freedom of religion can be guaranteed in the United States for all religions, old as well as new.

One last thing to point out about religious freedom and religious litigation in the United States is the Religious Freedom Restoration Act (RFRA) of 1993. The RFRA was an important marker in religious freedom in the United States, because it states in Section three that

(a) IN GENERAL.—Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) EXCEPTION.—Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person—
(1) is in furtherance of a compelling governmental interest; and
(2) is the least restrictive means of furthering that compelling governmental interest.
(H.R. 1308).

Thus, religious people and organizations who feel burdened in their expression of their religion by a federal law, can seek defense against that law under the RFRA. Since 1993, the RFRA has become controversial, especially in relation to same-sex marriage: religious (advocate) groups have used the RFRA to argue that they have the right not to serve same-sex couples, or to not employ gay people. The Florida state RFRA was drawn upon by the plaintiffs in the *Warner* case when they argued that their freedom of religious exercise was substantially burdened by the Boca Raton Cemetery Regulations. The RFRA, then, makes it even more complicated to decide on religious freedom cases in the United States.

Scientology and the Law

As explained in the previous chapter, Hubbard was very eager to explore the “religion angle” in 1953, and accordingly, gave Scientology a religious make-over. Since then, Scientology has been involved in several legal disputes concerning its religious status and, consequently, its tax-exempt status. The question of Scientology’s religious status is therefore one of legality and legal discourse. However, as Urban argues, Scientology’s disputed religious status is important to address and to consider because it “[raises] basic questions such as what gets to count as religion and who gets to decide” (Urban 5), and because of Scientology’s conscious effort in describing itself as a religion, to eventually then “*become recognized as a ‘religion’ in the United States – at least in the eyes of the Internal Revenue Service and the State Department [italics in original]*” (Urban 3). This self-imagining of Scientology happened, as is explained in the previous chapter, by way of a “self-conscious attempt to make itself appear more like a religion” and thus to fit better in the general notion of religion in the United States (Urban 16). Scientology’s legal religious status is thus important to understand because it is an example of what Sullivan called the impossibility of religious freedom, i.e. Scientology shows that its religious status is dependent upon who decides what religion is, as well as what religion actually means in the United States today (Urban 5).

For Scientology and Hubbard, being recognized as a religion was important because of the tax-exemption religious groups get. Initially, the Founding Church of Scientology was

awarded tax-exempt status by the Internal Revenue Service (IRS) in 1956, and Reitman notes that soon thereafter, many other of the Scientology churches too acquired tax-exempt status. However, in 1967 the IRS revoked Scientology's tax-exempt status because of Scientology's commercial activities and because these activities were "being operated for the benefit of Mr. Hubbard," Douglas Frantz wrote for the New York Times in 1997. The Church of Scientology did not agree with this assessment and in response they withheld taxes (Frantz 1997). The IRS's revocation of Scientology's tax-exempt status was the start of what Urban calls a "twenty-six-year war between the church and the IRS" (157). Scientology, indeed, is not a cheap religion to be a part of: despite claiming to be a cheap alternative to psychotherapy, becoming clear and auditing is not cheap: "an introductory Scientology course package cost around \$1,000; auditing, also sold in packages, began at roughly \$175 for five hours . . ." (Reitman 73). Becoming clear is not easily achieved, so one can quickly spend a lot of money on becoming clear; some would even go into debt trying to pursue this status (Reitman 198-199). Additionally, each consequent OT level required a lot of auditing and additional costs, such as buying E-Meters and studying material. To support the IRS's perception of Hubbard as profiting from Scientology is the fact that Hubbard earned \$108,000 from 1955-1959, paid to Hubbard as "a percentage of the Church of Scientology's gross profits" (Reitman 46).

The IRS's measure to withdraw Scientology's tax-exempt status has been supported by U.S. courts in several cases. While the Founding Church of Scientology was granted tax-exempt status in 1956, as well as the Washington D.C. church, the latter's tax-exempt status was already revoked in 1958 by the IRS, based on the fact Hubbard and his wife profited substantially from the church's income. The church appealed to the U.S. Court of Claims, but the court ruled in the IRS's favor, arguing that the church was not a religion but a "for-profit organization" (qtd. in Urban 159). In 1967 then, all of Scientology's churches and related organizations were stripped of tax-exempt status (Urban 161). Naturally, the church did not agree and they sued. This became the case of *Founding Church of Scientology v. United States* (1969): Scientology argued that they should be granted tax-exemption because it is a religion. The court on the other hand agreed with the IRS, who claimed that Scientology's practices were of a commercial nature, and that "a portion of its net earnings inured to the benefit of private individuals" (*Founding Church of Scientology v. United States*). Thus, though Scientology may be a "bona fide religion" (Urban 162), it was still highly commercial and working to benefit individuals such as Hubbard and his family, and therefore

[t]he court finds it unnecessary to decide whether plaintiff is a religious or education organization as alleged, since, regardless of its character, plaintiff has not met the statutory conditions for exemption from income taxation. (*Founding Church of Scientology v. United States*)

The court upheld the IRS's decision in *Founding Church of Scientology* to view Scientology not as a religion but as a commercial and profitable organization. However, in this case the question of Scientology's religiosity was not of relevance because the problem here was "[Scientology's] failure to satisfy the I.R.C. Section 501(c)(3) requirement that income not inure to the benefit of private individuals" (Davis n56). In the case of *Church of Scientology of California v. Commissioner of Internal Revenue Service* (1984), it became clear why the IRS had revoked Scientology's tax-exempt status. There were three reasons for the IRS to do so, and the court agreed with the IRS about these reasons, which were that "the Church's activities were akin to a business, that it was serving the private interests of its members and not the public, and that its income inured to the benefit of Scientology practitioners." Again, this case revolved around Scientology's business-like structure, instead of around validating its religiosity.

Cases that do revolve around Scientology's religious claims are explored and discussed by Marjorie Heins in "'Other People's Faiths': The Scientology Litigation and the Justiciability of Religious Fraud" (1981). In this article, Heins discusses four lawsuits brought against Scientology in Boston in the 1979 and 1980. In these cases, former Scientologists claimed that they were misled by the promises of Scientology, and they demanded "multi-million dollar damages for allegedly fraudulent misrepresentation of the benefits to be derived from auditing" (Heins 156). She compares the four cases²⁰ to the case of *United States v. Ballard* (1944). In *Ballard*, the U.S. Supreme Court held that, when the case is about "fraud prosecution of religious leaders" (Heins 158), the jury could only judge on the sincerity of the religious beliefs, but not on whether these beliefs were true or false (Heins 158). Heins's argument then is that "although a church may be guilty of secular offenses [such as crimes, torts, commercial motives or other fraudulent cases], it nonetheless remains a church, entitled to whatever shield the Constitution offers, unless its doctrines are simply not religious in a broad functional sense" (Heins 158). Even though a church or a religion may be guilty of fraudulent practices, that does

²⁰ The four cases are: *Van Schaick v. Church of Scientology* (1979); *Church of Scientology of Boston, Inc., v. Garritano* (1980); *Hansen v. Church of Scientology of Boston* (1980); and *Troy v. Church of Scientology of Boston* (1980).

not make that church any less religious or any less of a church, because the beliefs of new religious movements such as Scientology are “absurd only in the mind of nonbelievers” (Heins 165). Heins’s research is useful to understand because *Ballard*, as it is used to justify Scientology’s claims, “made it clear that a broad spectrum of religious beliefs . . . might be protected under the First Amendment” (Davis, 2004) because here it was decided that the sincerity of one’s beliefs were more important to take into consideration than a religion’s credibility.

Both Heins and Davis (2004) explain why Scientology should be legally accepted as a religion by looking at several different legal cases that involve the free exercise clause, and they show how the courts’ opinion towards religion has changed throughout the years. In 2004, Davis presented a paper CESNUR international conference, entitled “The Church of Scientology, in Pursuit of legal Recognition.” Davis’s paper is about Scientology’s struggle for legal recognition, and he concludes that Scientology is a religion. Davis compared different legal cases that involve the religion clauses of the First Amendment, to show that there is legal precedent for Scientology to be a religion. One of the earliest, if not *the* earliest, legal case concerning the free exercise of religion is the case *Reynolds v. United States* (1878), which is concerned with the free exercise of polygamy of a member of the Church of Jesus Christ of the Latter-day Saints. The Court ruled against Reynolds, arguing that the polygamy was too unconventional to be considered to be religious. The Court also did not bother to come up with a definition of religion, exactly because it polygamy was deemed not religious. Davis argues that, especially in the late nineteenth century and early twentieth century, the courts have been keen to use a traditional definition of what religion is, i.e. a definition of obedience to and worship of a deity:

As late as 1931, the Supreme Court seemed to reaffirm this interpretation when Chief Justice Charles Evans Hughes concluded that ‘the essence of religion is belief in a relation to God involving duties superior to those arising from any human relation.’ Such narrow, content-based interpretations of religion, however, were to become much less common as courts were increasingly confronted with pleas by adherents of nontraditional religions for First Amendment protection. (Davis)

Davis relies on several other legal cases to make his point that throughout the history of the First Amendment, the courts have adopted different conditions to be considered a religion and that based on this progression Scientology should be considered a religion. These legal cases, together with Sullivan’s *Warner* case, show that defining religion by judges in court has, over the course of history, proven to be very difficult, if not impossible.

In response to the IRS revoking Scientology's tax-exempt status in 1967, Scientology launched a "war" with the IRS: Scientology's response to the IRS was to launch Operation Snow White, which "was intended to 'cleanse' Scientology of its negative image by purging any critical documents about the church or its founder" (Reitman 115). Operation Snow White was a "scheme to infiltrate IRS and other government offices in order to gather as much official information, intelligence, and documents on the church as possible" (Urban 167). This operation would become the "largest program of domestic espionage in U.S. history" (Reitman 114). The extent of Operation Snow White was discovered by the U.S. government in 1977, but Scientology's war with the IRS did not end there. After the FBI raids of 1977 of Scientology offices, Scientology members started a "war of litigation," sending out dozens of lawsuits against employees of the IRS and the FBI (Reitman 170), while simultaneously having employees of the IRS investigated by private investigators (Urban 171).

This war against the IRS did not stop until in 1993, Scientology was again awarded tax-exempt status after four decades. The government and Scientology reached a settlement which "ends legal disputes that go back to the founding of the church 39 years ago. Church officials said the settlement would close more than a dozen lawsuits" (Labaton, 1993; par. 5). Details of this agreement remained secret, until late December 1997, when the details were leaked to the *Wall Street Journal*. Douglas Frantz, at the time a reporter for the *New York Times*, reported that it was agreed that Scientology would pay \$12.5 million, as well as dropping all lawsuits²¹ against the IRS and its employees. The IRS, in return, granted Scientology and its organizations tax-exempt status and the IRS agreed to stop auditing thirteen Scientology organizations and to "[dismiss] tax penalties and liens against some church organizations" (Frantz par. 4).

While courts have had difficulties defining religion and churches, the IRS has made a list of thirteen points that it uses to determine if a group should be considered as a religious organization. When the Church of Scientology was consciously framing itself to be a religion, it has done it to such an extent that the Church now fulfills every one of the fourteen points that the IRS has created. These fourteen criteria are the following:

1. Distinct legal existence;
2. Recognized creed and form of worship;²²
3. Definite and distinct ecclesiastical government;

²¹ According to Frantz, Scientology had filed 2200 lawsuits against the IRS over the years.

²² The creed of the Church of Scientology can be found here: www.scientology.org/what-is-scientology/the-scientology-creeds-and-codes/the-creed-of-the-church.html#slide1.

4. Formal code of doctrine and discipline;
5. Distinct religious history;
6. Membership not associated with any other church or denomination
7. Organization of ordained ministers;
8. Ordained ministers selected after completing prescribed courses of study;
9. Literature of its own;
10. Established places of worship;
11. Regular congregations;
12. Regular religious services;
13. Sunday schools for the religious instruction of the young;
14. Schools for the preparation of its members.

The IRS uses these fourteen characteristics as well as “other facts and circumstances” to determine if an organization can be considered a church or not. The Church of Scientology complies with all these criteria, hence the IRS qualifying Scientology as a church, eventually. This is, ultimately, the culmination of Scientology’s decade-long attempt and transformation into, as Urban puts it, “whatever definitions of religion have ben operative at a given moment, creatively . . . adapting to the shifting definitions of religion in contemporary America (177). Thus, the IRS, a bureaucratic, government organization, is in the United States one of the most important factors of determining whether a religious organization can be deemed a religion or not, considering it is one of the only organizations that has formulated such an explicit definition of what counts as religion.

Westboro Baptist Church and the Law

Some religious groups and opponents of Westboro Baptist Church refer to the church as not “real” Christians and a “cult” and compare WBC to groups “such as the KKK and the Branch Davidians of Waco, Texas” (Barrett-Fox 66). However, considering that WBC is a Primitive Baptist Church that adheres to Calvinism, their religious status, and thus their tax-exempt status, has not been questioned by the IRS or by other governmental organizations, nor in courts. This does not mean that WBC has not been part of legal disputes, but when WBC was involved in a court case, these cases were concerned with their rights to free exercise of religion, free speech, as well as their “First Amendment right to picket” (Barrett-Fox 79).

Fred Phelps, the founder of Westboro Baptist Church, was a lawyer and founder of the law firm Phelps-Chartered: today, Phelps-Chartered remains a family business with only lawyers that are children of Phelps (Southern Poverty Law Center). Because of this legal background of WBC, members are unlikely to break the law: the only times that WBC gets involved in a legal case is when their rights were infringed upon and so they only sued to “recover the cost of legal fees associated with action taken against church members” (Barrett-Fox 79).

One major case that should be described here is *Snyder v. Phelps*, because it was a high-profile case in the media and it illustrates the tensions that exist between freedom of speech and freedom of religion. In this case, WBC was picketing the funeral of US Marine Matthew Snyder, who died in Iraq in March 2006. His funeral was held on March 10, 2006, in Maryland and WBC picketed at his funeral. The picket occurred before the funeral even started, and the picketers were standing at 1,000 feet away from the funeral site, and thus this picket was not interruptive of Snyder’s funeral (Barrett-Fox 146). The father of Matthew Snyder, Albert Snyder, has testified that he did not see or hear the picketers during the funeral, and during the oral argument of the Supreme Court, it became clear that he only found out about what the signs said when he saw it on the news later that day (Oyez), which caused Albert Snyder emotional distress. After this picket, Westboro Baptist Church also posted an “epic”²³ of their picket online, which Albert Snyder came across a few weeks after the funeral of his son and which formed part of Albert Snyder’s civil lawsuit filed against Westboro Baptist Church on June 5, 2006.

In June 2006, Albert Snyder filed a lawsuit at the U.S. District Court for the District of Maryland, in which the jury sided with Snyder and awarded him \$2.9 million in compensatory damages and \$8 million in punitive damages (though the latter was later reduced to \$2.1 million, making Snyder’s total award \$5 million). Westboro Baptist Church appealed to this ruling, calling on the free speech clauses of the First Amendment. The Fourth Circuit Court of Appeals sided with WBC and reversed the ruling of Maryland’s District Court on September 24, 2009. The Fourth Circuit argued that the signs and the epic of WBC were protected by the First Amendment because these “do not assert provable fact about an individual, and they clearly contain imaginative and hyperbolic rhetoric intended to spark debate about issues with which the defendants are concerned” (26), but also because these feelings expressed on the signs and

²³ Westboro Baptist Church writes epics after pickets, which functions in a way as a recap of their picket, and an epic consists of Bible passages together with statements to discuss the issues of the picket.

in the epic are expressions of WBC's religious beliefs and they are concerned with "the Defendants' strongly held views on matters of public concern" (ibid. 30) . Thus, the court concluded that

Notwithstanding the distasteful and repugnant nature of the words being challenged in these proceedings, we are constrained to conclude that the Defendants' signs and Epic are constitutionally protected. To paraphrase our distinguished colleague Judge Hall, judges defending the Constitution 'must sometimes share [their] foxhole with scoundrels of every sort, but to abandon the post because of the poor company is to sell freedom cheaply. It is a fair summary of history to say that the safeguards of liberty have often been forged in controversies involving not very nice people.' (Snyder v. Phelps 31).

The case was heard by the Supreme Court on October 6, 2010, and a decision was announced on March 2, 2011. In the 8-1 decision, the Supreme Court agreed with the Fourth Circuit's reversal in that Westboro's signs show "matters of public import" (8). Justice Robertson ended the Supreme Court's opinion with stating that, while speech can be hurtful this does not mean that hurtful speech should be prohibited: "As a Nation we have chosen a different course – to protect even hurtful speech on public issues to ensure that we do not stifle public debate."

The Supreme Court concluded that the WBC's picket signs are protected under the First Amendment as free speech, since these signs were not directed to Matthew Snyder but were expressions of public concern. The importance of *Snyder v. Phelps* is that it showed that the free speech clauses of the First Amendment also protect speech that is controversial and possibly offensive and misunderstood. This relates to Scientology and Heins's argument that they deserve protection under the religion clauses of the First Amendment, because even if a religion is misunderstood and differs from mainstream ideas of religion, this does not mean it should not be protected by the First Amendment.

Chapter 5: Public Recognition of Westboro Baptist Church and Scientology

As I showed in the previous chapter, Scientology has had to face several legal battles in order to be legally recognized as a religion. Westboro Baptist Church's legal struggles, on the other hand, revolve around picketing and their right to free speech. Thus, while both churches are legally considered a religion, they both still face continuous public criticism concerning their religious status. This chapter, then, looks at whether or not the public recognizes Scientology and Westboro Baptist Church as a religion, or not. I will rely on popular culture and mainstream media, and their characterization of the respective churches. Popular culture in this chapter includes television shows and interviews with members of the churches on talk shows; mainstream news includes newspapers such as *The New York Times* and *the Washington Post*; news broadcasting channels such as *ABC News*, *Fox News* and *CNN*; and magazines such as *Time*. To study Scientology in public discourse, I focus more on interviews of former member Leah Remini and how she influences the public discourse, as well as look at media outlets and their characterization of Scientology; for WBC, I will look predominantly at their characterization in the news, both written and broadcasted news shows, as well as interviews with members.

Scientology and Public Discourse

While Scientology is legally recognized as a religion, its religious status is still contested by many of Scientology's critics: Scientology is still referred to as a "cult" or as a "business." As I mentioned before in the methodology chapter, using the word "cult" to describe new religious movements is controversial because of the negative meaning that it has acquired over the years. Scientology was accused of being a cult early on: already in the 1950s, when Dianetics was first published, Dianetics was called a "cult" (Urban 119). As Scientology grew in the 1960s and 1970s, it became part of the "'cult' controversies" (ibid. 118), eventually becoming the center of attention of these debates in the 1970s and 1980s, "frequently identified as the most deviant, dangerous and destructive" of all new religious movements at the time (ibid. 119). In the 1970s, these accusations towards Scientology became more serious, "as the church began to emerge as perhaps the wealthiest, most expansive, and most ostentatious new religion in the United States" (Urban 119-121). Scientology acquired the status of a "quintessential money- and power-obsessed cult" (Urban 121) in the 1980s, which became a fixed status when an article in *Time* magazine, written by Richard Behar, called it the "cult of greed and power" in 1991.

Before writing this 1991 *Time* cover story, Behar had already written about Scientology for *Forbes* in 1986 wherein Behar labelled Scientology as “one of the most lucrative businesses around” (314). Such characterizations have been critical in Scientology’s “cult” status for the public, considering that Behar’s *Time* article is still used to support anti-Scientologist writing. Since then, Scientology has not been able to shed its “cult” label and the church is still fighting against this label being used against them by critics and the media, whether popular culture or news media.

One such critic is Canadian sociologist of religion Stephen A. Kent. Kent has written multiple articles about Scientology and its struggles for legitimacy. In an article published in 1999 in the *Marburg Journal of Religion*, called “Scientology – is this a religion?” Kent argues that Scientology is not a religion: rather, he views it as “a multifaceted transnational corporation, only one element of which is religious” (4). Kent lists multiple aspects that show, according to him, that it is an organization, “such as political aspirations, business operations, cultural productions, pseudo-medical practice, pseudo-psychological practice, social services. . . and alternative family structures” (4). He argues that these aspects are secular in nature, and some medical, and therefore cannot be considered as religious. Thus, for Kent, the U.S. is, by having Scientology be tax-exempt, defending a business-like organization that abuses human rights and which has religion only as an aspect of its organization.

A scholar that argues the opposite is James R. Lewis, a professor of religious studies at the University of Tromsø. Specialized in new religious movements, Lewis argued in 2015 that Scientology is in fact a religion, “in the specific sense of functioning as a religion in the lives of participants” (227). This is visible in the fact that some Scientologists who have left the Church of Scientology have come together in the existence of the Free Zone, which is a community of former members of the Church of Scientology who nevertheless still consider themselves Scientologists (Lewis 238). The ordinary Scientologists has thus sincerely-held beliefs, which is why Lewis characterizes Scientology as a real religion (239-240).

This shows two competing claims by two scholars of religion who both think differently of Scientology’s religious status. Another perspective about Scientology’s religious status is offered by Nikos Passas and Manuel Escamilla Castillo (1992). They argue that Scientology is not religious at all but is in fact an “ordinary profit-making enterprise” (103) and that the characteristics that critics call “cult-like,” are “not substantially different from what is known as ‘white collar crime’” (104). Hubbard’s decision to profile Scientology as a religion is then merely a “managerial decision” (105). Passas and Castillo then argue that Scientology now reflects “features of the American capitalist society” (106), confirming their argument of

Scientology as an enterprise. This is an interesting take on Scientology's religious status, because it reflects the criticism that Scientology is not a religion but an organization intended to make profit, which is also reflected in Behar's *Forbes* article.

Despite Lewis's claim that Scientology should be considered a religion, and Passas and Castillo arguing that it is not a cult at all but a religion, popular culture has not caught up on their arguments yet: Scientology is still referred to in popular culture as a "cult" that "brainwashes" its members.

Scientology and Leah Remini

Since Scientology's beginnings, Hubbard wanted celebrities to become members, because they are rich and so can spend a lot of money on the church's teachings, and they have a high profile and thus can attract even more new converts. Today, while Scientology might keep many secrets, celebrities are the public face of Scientology in the United States, with high-profile Scientologists like Tom Cruise, John Travolta and Kirstie Alley speaking positively of Scientology. In contrast to these celebrities advertising Scientology are the former Scientologists speaking out against the church and its practices. There have been many ex-Scientologists who have spoken out in the past, including former high-ranking Scientologists such as Marty Rathbun, Mike Rinder and even David Miscavige's father, Ron, is speaking out against Scientology. Today, however, a lot of the conversation surrounding Scientology and its practices is partly thanks to actress Leah Remini. Since Remini left the church she has published a memoir about her time in the church, called *Troublemaker: Surviving Hollywood and Scientology* (2015), and together with Mike Rinder she hosts a documentary series, *Leah Remini: Scientology and the Aftermath*, which explores the stories of former Scientologists. The series won an Emmy award in 2017 and has recently been renewed for a third season.

Amy Robach, from ABC's *Good Morning America* characterized Remini as "one of the most outspoken critics of the controversial Church of Scientology, and as such, Remini has appeared as a guest on numerous talk shows, as well as being interviewed by several news channels: a quick search for Remini's name on YouTube will lead to pages of interviews and talk show appearances that are about her and Scientology.

In these interviews, Remini does not hold back in her criticism of Scientology. In an interview with Bill Maher in 2017 on his show *Real Time with Bill Maher*, she calls it a "cult" and then says: "it was a 'religion,' I use that [term] loosely, of its time." Maher then compares Scientology to communism, because in both cases "you're poor, they take all your money, and also the snitching on each other, everybody is watching each other." Remini also talks about

being brainwashed, which is a term with negative connotations and inherently connected with “cults.” In another interview from 2017, on Chelsea Handler’s Netflix show *Chelsea*, Remini characterizes Scientology as “an organization calling itself a church,” which is what Passas and Castillo also argued. When Remini was a guest on *The Late Show with Stephen Colbert* (2017), Colbert asks her if she believes that Scientology is a religion. Remini answers that it is not, in her view, and then labels it a business: “Scientology is a business, you have to pay before you go up the chart of Scientology, and by the end of the Scientology bridge, you’re in it [for] half a million dollars” At the end of the interview, she again calls it a “cult.” In a conversation with Larry King, originally released in 2016, Remini calls Scientology fraudulent and a “pay-as-you-go religion,” again referring to the business-like structure of Scientology.

I have here only mentioned a few interviews wherein Remini has spoken of Scientology as a “cult” and it being a fraudulent organization looking to make a profit, but Remini has been interviewed many more times on different talk shows about her experiences in Scientology. These interviews, available for everyone to see on YouTube, each have over a million views on YouTube alone, and they have undoubtedly many more views on the platforms of the respective shows or TV channels. Remini thus reaches a very large, worldwide, audience each time she appears on a talk show or a news channel to talk about Scientology and so the discourse around Scientology is heavily influenced by Remini’s discourse about the church.

Scientology and *South Park*

In November 2005, *South Park* aired the, now infamous, episode “Trapped in the Closet.” This episode revolves around Stan, one of the four kids the show centers around, getting involved with the Church of Scientology. He is attracted to it because of the free personality test, but then soon after it is revealed that everything after that costs money. According to Stan’s test results, Stan is depressed and needs auditing therapy to cure his depression, which would cost him \$240. During the auditing session, it is revealed that Stan has very high “thetan levels,” which the Scientologists interpret as Stan being the reincarnation of L. Ron Hubbard. This news leads to many Scientologists coming to Stan’s house to see the reincarnation of L. Ron Hubbard: among these Scientologists are Tom Cruise and John Travolta. Then, the president of Scientology arrives, who reveals the “secret truth about the nature of life” to Stan, which is the story of Xenu and the aliens. The president of Scientology asks Stan to write new Scientology doctrine, but this worries Stan’s friends, who are worried about Stan being in a “cult.” A conversation ensues that features the arguments opponents of Scientology use, versus Scientology’s responses to these accusations:

KYLE: Look, Stan, we're really getting concerned about this cult you're getting into.

STAN: Cult? Scientology isn't a cult, Kyle. I read all about this stuff and it's based on facts.

KYLE: Dude, L. Ron Hubbard was a science fiction writer. He lived on a boat with only young boys and got busted by the feds multiple times!

STAN: I [Stan as the reincarnation of Hubbard] did not! Those are rumors, put out by people who are afraid because they don't know the secret truth!

KYLE: What secret truth?

STAN: I can't tell you unless you pay for a few years of audit counseling. All I know is that I was depressed before and now I found meaning.

KYLE: I didn't know you were depressed!

STAN: Neither did I. But now, if you guys can't accept this great thing I belong to, then I suppose we're no longer friends.

This dialogue highlights the accusations that are commonly made against Scientology: it is a cult based on science fiction, that requires you to pay a lot of money to uncover the truths of Scientology, as Kyle found out and it references to Scientology's policy of "disconnecting" from the people in one's who do not support Scientology's beliefs.

After this, Stan presents his writing to the president of Scientology, who is very pleased with Stan's work, until Stan proposes that the church should no longer ask Scientologists for money to belong to the church and receive help. The president is astonished and wonders how else they would make money off of Scientologists. The president, fully aware that Scientology and the "brainwashed alien souls" and the e-meters and thetan levels are all "crap," persuades Stan to continue anyway and present his new doctrine to the people outside his house. Stan realizes he cannot lie to the people and so he tells them the truth, which the Scientologists do not accept and so they threaten to sue him, which is a reference to Scientology's history of suing critics of the church. This scene wherein the president calls Scientology crap, is also interesting because it argues that the president, most likely referring to David Miscavige, is fully aware of the fact that Scientology is a scam, only intended to generate profits for him.

As *South Park* is Comedy Central's highest-rated show, watched by eight million viewers each week (Parker, 2016; 5), this depiction of Scientology is thus very influential in shaping the discourse about Scientology's beliefs and practices.

Scientology in the News Media

Since the *Time* article by Behar were published, a lot of other stories that involve Scientology have been in the news media. One very critical series was the *St. Petersburg Times* three-part “Truth Rundown” (2009), by Joe Childs and Thomas C. Tobin. This article series features stories of formerly high-ranking members of the church; the suspicious death of Lisa McPherson; and the Sea Org and human rights abuses (in: Cusack, 2012; 7-8). In essence, this series describes the story of David Miscavige and the widespread abuse and violence “at the very top of the church’s hierarchy that ranges from the shocking downright to the bizarre” (Urban 2). Child and Tobin’s research has been of influence in creating a negative image of Scientology’s upper levels and Miscavige itself.

Looking into news outlets and their coverage of Scientology, I have found that oftentimes Scientology is in the news because of accusations made by former members against the church, or the other way around. For example, in 2010, CNN aired a week-long, five-part series called “Scientology: A History of Violence,” wherein Anderson Cooper investigated allegations made by former, high ranking members of Scientology, and the counter claims that are made by the church. Additionally, most of CNN’s articles published on their website are related to Scientology and are concerned with topics like Leah Remini’s criticism on Scientology; Scientology’s response to HBO documentary *Going Clear*; Tom Cruise and Scientology, et cetera. The same is true for Fox News’s reporting on Scientology, as well as articles by *The Washington Post*. Scientology is newsworthy when it is about its (former) celebrity members or about other former members making public accusations against the church. Notably, *The New York Times* has a lot less articles related to Scientology, and the ones that are about Scientology are reviews of documentaries made about the Church.

Lastly, satirical news site *The Onion* wrote an article about Scientology, called “Scientology Losing Ground to Fictionology” (2005). The article makes fun of Scientology’s origins in science fiction and of Scientology’s claims that it is scientifically correct. The article says that Fictionology’s central belief is “that any imaginary construct can be incorporated into the church’s ever-growing set of official doctrines” (par. 4). Additionally, the article cites “Hollywood actor David McSavage,” who said that “As a Fictionologist, I live in a world of pretend. It’s liberating” (par. 12), poking fun at Scientology leader David Miscavige. Essentially, the way *The Onion* portrays “Fictionology” according to criticisms voiced about Scientology, i.e. that Scientology is made-up, that is in it to make money, et cetera. This is thus another example of Scientology’s continuous negative portrayal in the media and popular culture.

Westboro Baptist Church and Public Discourse

With its public picketing and its pronounced “antigay and antipatriotic” (Barrett-Fox 7) theology, Westboro Baptist Church has acquired quite some opponents throughout the years: as mentioned in the previous chapter, other religious groups refer to WBC as a “cult,” and Primitive Baptists have tried to distance themselves from WBC’s theology by denouncing them publicly (Barrett-Fox 129). Also, the Southern Poverty Law Center has designated Westboro Baptist Church as a hate group and describes it as “basically a family-based cult,” which is also a designation which influences how the media designates and covers Westboro Baptist Church, considering that SPLC is an established authority when it comes to classifying hate groups and extremist groups.

While WBC has been picketing since 1991, the first time they garnered widespread media attention was in 1998, when WBC picketed the funeral of Matthew Shepard, a gay man who was beaten to death Wyoming. After that, WBC again acquired national attention when members travelled to New York City to visit the site of the fallen Twin Towers after the terrorist attacks of 9/11 with the message that “God did not just hate gay people [but] he was punishing American for its tolerance of homosexuality” (Barrett-Fox 5). WBC realized that one way of spreading their message was through media, and so members are not shy to be interviewed for documentaries, news segments or to appear as guests on talk shows. Considering the many pickets that Westboro Baptist has performed over the years, over 62,000 according to their website, and the reactions these (planned) pickets have acquired, Westboro Baptist Church has been part of public discourse for quite some time now.

Westboro Baptist Church and Washington Post and The New York Times

I have analyzed five articles from *The Washington Post*, and three from *The New York Times*. To start, I looked at an opinion piece by Diana Reese for *The Washington Post* (2013). Reese’s piece is a reaction to Megan Phelps-Roper and her sister Grace leaving the church and now figuring out their new lives. Reese does not refer to WBC as a church in her piece, but as a “group” because, so she says, “it pains me to call it a church.” (2013; par. 2). In the entire piece, Reese indeed only refers to WBC as either “Westboro,” “the group,” or “the organization.” In the first paragraph, Reese writes: “Sometimes I hate telling people I live in Kansas, a state that’s gained infamy as the home of Topeka’s cultlike and homophobic Westboro Baptist Church.” As a result, by taking the words “Baptist” and “church” out and by referring to WBC as a “cult,” Reese is taking away the religious aspect of Westboro Baptist Church.

David Von Drehle (2017) wrote an opinion piece for *The Washington Post* about Roy Moore and in so doing, he named WBC as an example of “the price of religious freedom” that Americans have to pay by accepting that “[a]ny nitwit can call himself or herself a pastor in America and hang a sign outside a so-called church” (par. 1) and he introduced Westboro Baptist Church as follows:

I cringe to remember the hours of television and acres of newsprint given to the late and appalling Fred Phelps, of the self-styled Westboro Baptist Church, who loaded his congregation of brainwashed and intimidated family members into vans and hauled them around the country, tormenting grief-stricken families. (par. 1)

While this article by Von Drehle is not directly concerned with WBC, Von Drehle’s description of WBC is quite detrimental to WBC and so it should be analyzed as such. By using the words “brainwashed” and “intimidated” to describe the members of WBC, as well as by calling it a “so-called church.” Von Drehle makes an implicit reference to the word “cult” and thus denying WBC any religious recognition. The narrative is influenced by using words that are used in relation to the term “cult.”

Another article about WBC from *The Washington Post* is about several petitions that were started in 2013 to have WBC’s tax-exempt status revoked and to have the church be designated as a hate group (Mitchell, 2013). While this article itself is not condemning the church and is only covering the fact that the White House has responded to these petitions, the fact that several petitions were started, with over 670,000 signatures collected (ibid. par. 9), shows how the public feels about WBC

The last two articles from the Washington Post are about *Snyder v. Phelps*. Robert Barnes, author of both articles, describes WBC in the first article (2010) as a “small Kansas church that conducts . . . demonstrations” (par. 1) and he continues to refer to WBC as a church. In Barnes’s second article (2011), he describes WBC as a “fringe” church and as a “group on the outskirts of American life” (1). In the remainder of the article, Barnes refers to WBC either as “the group,” “the church” or “the Phelpses.” Thus, these two articles, while pointing out the controversial aspects of the church, do not question its religious status.

Three analyzed articles of *The New York Times* (Liptak, 2011; Paulson, 2014; Paulson, 2014) do, like articles from *The Washington Post* acknowledge that the church is controversial for its hate-speech and anti-gay picketing, but all three refer to WBC as a church throughout their coverage of WBC and related events and do not appear to write about the religious aspect

of the church nor do the authors try to reduce WBC's religious status by describing it in negative ways.

Westboro Baptist Church and ABC News

From ABC news, I have looked at six articles (De Vogue, 2011; Goldman, 2008; Dwyer, 2010; Hopper, 2010; Lloyd, 2018; Dwyer, 2011), as well as a segment from ABC's *The View*, a daytime talk show, from after the Supreme Court's decision in *Snyder v. Phelps* (2011). Three of the articles are concerned with *Snyder v. Phelps*, and the other three are about Westboro's (planned) pickets. In these six articles each, emphasis is placed on the controversial nature of the church, by describing WBC as a "controversial Topeka, Kansas-based church" (Lloyd par. 8) as well as on the "fundamentalist" aspect of WBC (Goldman, par. 1). Besides this, the authors of the articles refer to WBC as a church with a congregation and thus do not question the church's religiosity and accept the church as a religion. In the segment from *The View*, on the other hand, the hosts are more critical of the church and the decision of *Snyder v. Phelps*. The women on *The View* were discussing to what extent freedom of speech should be protected, but they could all agree that the members of WBC were, according to them, "horrible people" and they agreed with Whoopi Goldberg who said that WBC is based on "a warped idea of . . . what God is, and who God is, and that's what that church is about." *The View*, a long-time running talk show on ABC and garners many millions of views every day, is thus quite detrimental in framing Westboro Baptist Church as being a religion that is "warped" and thus not right.

Westboro Baptist Church and Time

Several articles have been written in *Time* magazine about Westboro Baptist Church, of which multiple related to Fred Phelps's death in 2014. In these opinion pieces written about Phelps, the authors are not very positive about the church and Fred Phelps. Von Drehle (2014) wrote an obituary about Fred Phelps. He starts by calling Phelps a "colossal jerk" (par. 1) and then described WBC in very critical terms: "[Phelps's] so-called Westboro Baptist Church -which was not in any meaningful sense 'Baptist' or even a 'church' – was a brutal but highly effective tool for compelling the attention of the world's media" (par. 3); and in the next paragraph he diminishes WBC's religiosity again by placing the word "church" between quotation mark, to signify that Von Drehle does not agree with the term, which is strengthened by the fact that Von Drehle calls the church-aspect of WBC only a "vile façade" (par. 4). Jim Wallis, too, has an opinion on Phelps's death (2014). In the opening paragraph of Wallis's opinion piece, he

characterizes WBC as a “small cult,” and characterizes the members of WBC as “family members who comprised his cultish followers” (par. 3).

Three other articles I looked at on *Time*'s website are concerned with some of WBC's pickets (Gregory, 2010; Wang, 2012; Worland, 2015). In these articles, the authors recognize that WBC is very controversial and hateful, and Gregory (par. 12) and Worland (par. 3) emphasize that WBC is denounced by other Baptist Churches: however, all three authors do write of the WBC as a church. So, while calling attention to Westboro's controversial status within Baptism could be to diminish their religion and to emphasize that it is not like other Baptist churches, the fact that the authors do refer to WBC as a church means that in these articles WBC is regarded a church and as such, their religious status is not questioned.

Westboro Baptist Church and Fox News

While for the other news outlets I have analyzed mostly written discourse about WBC, for Fox News, in addition to analyzing several articles (Ross, 2010; Whitlock, 2012;) posted on the website of Fox News, I have analyzed multiple video segments from different Fox News shows which discuss WBC and their activities, as well as video segments that have members of WBC on the show to discuss their beliefs with them.

The first analyzed article is about *Snyder v. Phelps*, and is very critical of WBC protesting soldiers' funerals, emphasizing how “abhorrent” it (Ross par. 3). However, the article does not seek to diminish WBC's status as a religion or a church. Scott Whitlock's opinion piece, however, is decidedly more negative about WBC. Whitlock writes in response to ABC News calling picketers “opponents,” which is the wrong word to describe WBC members, according to Whitlock. He finds that the picketers should be recognized as “anti-American bigots” (par. 1). Then, he goes on to call them “small and extreme” (par. 2) and a “fringe group” (par. 11). Whitlock also argues that the members of WBC cannot be characterized as mere opponents to same-sex marriage, and that WBC ideas are “hardly conservative thought” (par. 11). Thus, by discrediting the idea that WBC are conservative and thus opposed to gay marriage, as well as by calling them an extreme group on the fringe, Whitlock is attempting to discredit WBC's religious credibility.

In 2006, Shirley Phelps-Roper appeared at least three times on Fox News shows: once on *The Big Story*, hosted by Julie Banderas, and at least twice on *Hannity & Colmes*, hosted by Sean Hannity and Alan Colmes. In April 2006, Phelps-Roper was a guest on *Hannity & Colmes* to explain why she pickets funerals. In this segment, posted to YouTube as “baptist hate group on hannity and colmes [*sic*],” Hannity soon said that Phelps-Roper was “as mean, and as sick,

and as cruel, as anybody that I have ever had on this program.” While this is only an attack on Phelps-Roper personally, he then attacks the religious status of WBC: “. . . the fact that you use religion to justify your hatred this way . . . it’s mind numbing.” In October 2006, Shirley Phelps-Roper is again a guest on *Hannity and Colmes*, and Hannity again attacks Phelps-Roper personally, by calling her a “sick woman” and a “religious nut.” While this exchange is not focused on discrediting WBC’s theology, it is concerned with discrediting Phelps-Roper personally and, as such, also her religious beliefs. Considering that *Hannity & Colmes* was very popular at that time, and attracted large audiences throughout the years, the condemning language that is employed by the Fox News anchors will be heard by many Americans and as such influence the debate about WBC and their actions and theology.

In June 2006, Shirley Phelps-Roper is a guest on Banderas’s *The Big Story*. In the short, but heated, exchange between the two women, Banderas’s rhetoric used to describe WBC’s theology is centered around dismissing WBC’s religiosity: “Let’s talk about your God, because I don’t know what planet you are from, but . . . I thank God that you are not a leader of a real church. What you preach is hate” and then Banderas calls WBC theology “garbage” and “absolute B-.” Thus, by calling out the theology of WBC, as well as calling it not a real church, Banderas is dismissing WBC’s theology and religious status.

Three other videos of Fox News anchors reporting and discussing WBC are interesting, all three are concerned with *Snyder v. Phelps*. In the first segment, aptly called “Coulter Slams Westboro Baptist Church,” Bill O’Reilly and Ann Coulter discuss the ruling of the Fourth Circuit Court of Appeals. While the primary concern of this segment was discussing the decision of the Fourth Circuit judges, which O’Reilly and Coulter both do not agree with, O’Reilly calls Westboro Baptist Church members “hateful fanatics” and “loons.” Considering that Fox’s *The O’Reilly Factor*, which this segment was part of, was the best-viewed cable news show for many years (Stelter par. 5), the language employed by O’Reilly in this case will have a significant effect on the audience’s perception of Westboro Baptist Church. Additionally, the leading text that goes with the segment is short, but powerful in framing the narrative as well, as it reads: “Ann Coulter says funeral protestors are Satanists.” While Coulter did not actually refer to WBC as Satanists in the five-minute conversation with O’Reilly, this short sentence could still influence how viewers understand Westboro Baptist Church.

A second interesting segment is when the Supreme Court decision of *Snyder v. Phelps* is discussed with rabbi Brad Hirschfield (“Supreme Court Sides with Westboro Baptist Church”). While the rabbi agrees with the Supreme Court in defending the First Amendment, he is not defending Westboro Baptist Church, as he calls them “stark raving lunatics” and then

even questioned the church's religiosity: "Again, we have to really ask, are we upset because this may be a victory for a church, and I know it's even hard to call it a church . . ." Here too, the religious status of WBC is questioned on a major news channel. Lastly, after the Supreme Court decision, Margie Phelps is a guest on *Fox News Sunday* with Chris Wallace. This time, no such heated debates occur as it did before between a Fox News anchor and a WBC member, but what is interesting about this conversation is that Wallace brings up the question to Margie Phelps if WBC is actually a "cult." Wallace cites the Random House's dictionary of a cult, which names characteristics such as extremity, members living outside of mainstream society and a charismatic leader, and then applies this definition to WBC, to implicitly conclude that WBC is, in fact, a "cult." This is interesting because, by referring to WBC as a "cult," he diminishes the religious aspect of the church and relies on the negative associations of "cults" to characterize WBC.

Westboro Baptist Church and Interviews and Documentaries

Westboro Baptist Church members are not shy of the press or of being interviewed and spread their message that way. Because they realize that they can spread their message by employing the media to their benefit, WBC has welcomed multiple documentary makers into their homes. A popular documentary about WBC is Louis Theroux's 2007 documentary *The Most Hated Family in America*. In this documentary, Theroux spends three weeks with WBC in an attempt to understand them. Early on in the documentary, he asks Shirley Phelps-Roper if WBC is not actually a "cult." The requirements he lists are the following: "Well, basically, it's like a fringe religious group, that exercises an inordinate amount of control over its membership . . . and a charismatic leader at the top, maybe like Fred Phelps . . . could qualify." Again, like Wallace, by asking if WBC is a "cult," Theroux makes a distinction then between being a "religion" and a "cult," and by naming such characteristics he is framing WBC as a cult. Four years after Theroux's first documentary about WBC he went back, which resulted in the 2011 documentary *Louis Theroux: America's Most Hated Family in Crisis*. In this documentary, he speaks with former members that have left the church since the first documentary, among whom Lauren Drain, daughter of the church's current spokesman Steve Drain. She was forced out of the church and says that she has "lost her parents to a cult."

Again, the word "cult" is used to describe WBC and coming from a former member it has an even bigger impact on the perception of WBC. Lauren Drain is not the only member to use such rhetoric to describe WBC: Libby Phelps Alvarez, who left the church in 2009, said that she was "brainwashed into thinking that she wasn't brainwashed" in an interview with

Andrea Canning from NBC's *The Today Show* in 2013. The term "brainwashing" is oftentimes used to describe practices of a "cult." As such, by saying that she was brainwashed, Libby is implying that WBC is actually a "cult." Lastly, VICE produced a two-part documentary about Westboro Baptist Church, called "Cult Kids: Westboro" and uploaded to YouTube as "Brainwashed by the Westboro Baptist Church." While WBC is not called a "cult" during the documentary itself, the title of the documentary on YouTube and its documentary name already positions WBC as a cult that conducts brainwashing techniques to control its members, relying, again, on the negative connotations that the words "cult" and "brainwashing" hold in order to frame the conversation around WBC.

Conclusion

As my research into the legal status of Scientology and Westboro Baptist Church has shown, both churches are legally considered to be religions, both by courts and by governmental organizations such as the IRS. Both churches have been part of large legal cases, but for Scientology these revolved around their legitimacy as a church, whereas for WBC such trials and court cases revolve around the conflicts that can exist between the right to free exercise of religion and the right to freedom of speech. As Davis and Heins have shown by drawing on *Ballard* and *Warner*, it used to be the case that in courts the judge would refer to religion only as the belief in traditional ideas of religion and that in cases concerning free exercise of religion, the “sincerity” of a religion is considered a defining characteristic, even though this is something that is very difficult to establish, as well as determining what true religion is and what is not. Scientology, as a new religious movement that does not resemble the mainstream idea of what religion is, and as a result has faced quite some opposition in acquiring this status. However, since courts and governmental organizations have had to deal with more new and alternative religious movements, courts and governmental organizations have been forced to either come up with their own definitions and requirements for religious organizations to follow, or they have to decide what counts as religion on other factors that do not judge the truth of a religious belief, but its sincerity.

In public discourse, both Scientology and Westboro Baptist Church face a lot of criticism. Scientology is oftentimes called a “cult” that “brainwashes” its members. Outspoken former members, such as Leah Remini, continue to influence the narrative of Scientology’s religious status, by producing books, series, and documentaries, and because of the interviews that former members give to highlight the wrongdoings Scientology did to them. Scientology is also made fun of, as is visible in *South Park*’s portrayal of the church and its practices. Public discourse concerning Scientology, then, is often times concerned with discrediting its religiosity by calling it a “cult,” a “scam,” “a fraudulent organization,” or a profit-making business that is only representing itself as a religion. While being a Baptist congregation and an offshoot of another Primitive Baptist Church, WBC is not automatically accepted as a religion by the public: the word “cult” is used to characterize WBC, and the accusation of “brainwashing” WBC’s members has also been part of the debate surrounding WBC. For both Scientology and Westboro Baptist Church, the public has attempted to deny them of their religious status by calling them a “cult,” relying on the negative connotations associated with that term.

Thus, while my hypothesis for this research was that Westboro Baptist Church would be accepted as a religion by the public, and Scientology would not be, my research showed that the former was a false hypothesis. Instead, Westboro Baptist Church is also oftentimes referred to as a “cult,” a narrative perpetuated by documentary makers who try to understand them but can only understand WBC as a “cult,” instead of something that is actually religious. This research thus shows that being recognized by the IRS or by a court does not mean that this sentiment of acceptance will trickle down and that the public will then recognize a movement’s religious status. Additionally, being related to a traditional, Christian, religion also does not mean that the public will accept its religious status, as WBC has shown.

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