

Verdict on polygamous sect: Religion is not a shield for criminal activities

by [Patrik Jonsson](#) in the [April 13, 2016](#) issue

*(The Christian Science Monitor)* The federal prosecution of criminal and civil rights violations in two remote towns on the Utah-Arizona border suggests that law enforcement agencies are erasing cultural taboos against prosecuting polygamous sects in the United States.

The two-pronged action by the Department of Justice against a Fundamentalist Church of Jesus Christ of Latter-day Saints sect, legal scholars say, shows a deepening sophistication among Americans when it comes to drawing a distinction between religious activities and criminal activity.

A federal jury in March found two FLDS-run towns guilty of multiple civil rights violations, and the Federal Bureau of Investigation rounded up 11 FLDS leaders on felony welfare fraud charges. The jury found that the towns sabotaged people who were considered threats, that the police departments harassed and intimidated nonbelievers, and that local officials denied services to new residents from outside of the faith.

The prosecutions are “important because we have gone through this era now in which there have been successive unveilings of sexual abuse in a wide variety of institutions, and one option all along was to just let the fringe religious groups continue to operate as they were operating,” said Marci Hamilton, a constitutional law professor at Yeshiva University in New York City. “What this [government action] shows is that the law matters, and that oppression and theocracy are unacceptable.”

A federal jury found that the FLDS towns, run from a Texas prison by convicted child molester and bigamist Warren Jeffs, violated child labor laws, as well as civil rights laws, which they did by refusing service to nonbelievers, many of whom live side by side with FLDS adherents, who post signs reading “Zion” on their front porches.

“The critical thing to pay attention to is in the politically charged rhetoric of religious liberty; what’s often left in the background is that fact that no theocracy may exist in the United States,” Hamilton said. In Colorado City, Arizona, and Hildale, Utah, “you had to be a true believer to have the fire truck show up at your burning house.”

The indictments describe a bold scheme that law enforcement officials say aimed to bilk millions of taxpayer dollars through food stamp fraud. In one strategy detailed in the indictment, church members swiped EBT cards at church-owned stores and received nothing in return.

The argument from the town attorneys was a traditional one—that church members were victims of persecution, not the other way around. The argument has in the past been effective, particularly in Utah, where the issue of polygamy has been sensitive. The state was founded by the Mormon Church, which practiced polygamy in the 19th century before officially terminating the practice in 1890. The FLDS is not affiliated with the Church of Jesus Christ of Latter-day Saints.

In December 2013, a Utah state court found polygamous cohabitation legal in a case involving the reality television series *Sister Wives*. The judge ruled that making it a crime for married people to live with other people violates “important [rights] of personal and religious freedom,” as George Washington University law professor Jonathan Turley has put it. (The case is now being heard by the Tenth Circuit Court of Appeals.)

Indeed, Utah and the federal government have walked a tightrope on polygamy for decades. Much of the current tension runs back to a 1953 raid on the same Utah FLDS community by state authorities. Pictures of crying children being ripped from their mothers’ arms by state agents sparked outrage. One former Utah attorney general told researchers that, as a result of the raid, “we can’t penetrate closed groups” or “get local prosecutors to do their jobs.”

Yet in 2007, Jeffs was indicted on statutory rape charges after a major manhunt. In 2008 Texas took custody of 462 children who had been living on an FLDS ranch, sparking one of the largest child custody cases in U.S. history.

While some agents showed up with heavy firearms, most of that raid, in contrast to the one in 1953, was handled peacefully by state social workers.

At one point, Jeffs is believed to have had 80 wives, some of whom had been as young as 12. He is now serving a life sentence in a Texas prison.

Jeffs has continued to lead the church in his “prophet” role, which gives him broad powers over the marital arrangements of his followers. But in recent years, apostates have testified, an exodus from the church has intensified, with perhaps as

many as 1,000 people leaving in the past few years. A sort of “underground railroad” has emerged to help people leave the sect and to prepare them for life outside the literal walls put up by members to keep an “evil” world at bay.

In January, a federal judge heard arguments in a civil case against an FLDS labor contractor accused of using 1,400 unpaid FLDS laborers, including 175 children, during a pecan harvest in 2012.

While John Huber, U.S. attorney for Utah, has been careful to articulate that the prosecutions were not about “religion . . . but fraud,” it’s clear to some observers that his decision to target the leadership structure could serve to destabilize the church.

Women who have left the church have spoken out for decades about systemic abuses, and many have reported practices such as FLDS men taking child brides and mothers abandoning male children on highways before they grow old enough to compete with men.

“The largest and most fundamental question in this case is to whom does the state owe a duty—to religion or to vulnerable members of a religion?” said Amos Guiora, a University of Utah law professor. “The fact is, in Utah, state agents have articulated their duty as to the religion.”

Gallup polling last year found that polygamy “retains its essence of moral repugnancy in the nation’s social consciousness.” Yet there has been a slight softening of views toward polygamy: 16 percent of Americans now believe the practice is morally acceptable, compared with 6 percent in 2003.

Such shifts suggest that the United States is looking at “civil rights around not just religion but how people organize their intimate lives,” said Courtney Bailey, a professor at Allegheny College in Pennsylvania, who studies changing cultural attitudes toward polygamy.

At the same time, the decision by authorities to dismantle what was ruled a theocracy on U.S. soil and imprison church leaders on fraud charges is one indication of where the federal government places the limits of religious freedom.

“Increasingly the victims of polygamy have come to the forefront, published books, conducted lectures, making it increasingly hard to paint polygamy in this soft light,”

said Hamilton at Yeshiva University. "Twenty years ago it was taboo to say negative things about religion in public. Today it is easier for people to see the crime and understand that this has nothing to do with discrimination and everything to do with criminal behavior."

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