

MANAGING IDEOLOGIES: HARMONY AS IDEOLOGY IN AMISH AND JAPANESE SOCIETIES

ROBERT L. KIDDER
JOHN A. HOSTETLER

Informal methods for dealing with conflict within both Japanese and Amish society have been interpreted as being the natural result of, and an important source of support for, traditional cultures. On closer examination we find similar patterns of intentional manipulation of informalist ideology as elements of strategy in the midst of conflict. In both cases, we find informalist ideology being selectively invoked to provide legitimacy to one or more partisan sides in ways which disguise such maneuvers from the majority of their constituent populations. Successful promotion of this ideology sustains the notion, both at the popular level and heretofore among scholars of dispute processing, that nonlaw methods for dealing with conflict have some special ingredient which makes them functionally superior to legalistic methods. If the Japanese and the Amish are in any way representative of a more general case, it apparently takes hard work to preserve anti-legal methods of dispute management.

Few social systems could initially seem more dissimilar than the Japanese and the Amish. One is a powerhouse of relentless technological development, the other a conspicuous avoider of the modern. One is a complex, highly differentiated nation state, the other a collection of undifferentiated farming communities. One sends representatives all over the globe in pursuit of markets, while the other sees virtue in traveling by horse and buggy.

The comparison becomes compelling to us because of what we see as a striking similarity in relationships between legal culture, ideology, and practice. Both societies maintain public postures of legal informalism, rejecting the use of legal institutions and the encouragement of rights consciousness in favor of responses to conflict which are not rule bound or defined in terms of rights. In both societies, adjudication and the development of rights consciousness are treated as aberrations to be avoided. Indeed, in both societies, the avoidance of public confrontation is taken as an important measure of societal success. Both they and their admirers

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view harmony and consensus as cultural assets that relieve the Japanese and the Amish of the institutional burdens which modernized Western societies such as the United States or the nations of Western Europe must bear.

Classical sociological theory would lead us to expect this kind of approach to law among the Amish, since their social structure is most clearly of the type Durkheim (1933) would call "mechanical solidarity." But the Japanese system confounds Durkheimian analysis: Here is a society with an advanced division of labor along with a legal system that is organized by principles, like those of the Amish, which are premodern. In these terms, the Japanese ought to have a highly developed system of organic solidarity based on an equally well-developed system of restitutive law. Even in the Amish case, Durkheim's clear-cut categories do not give us firm grounds for predicting their fate because they live their "simple" lives in such close proximity to, and in so much interdependence with (see Kraybill, 1989: ch. 10), an "outside" world that epitomizes modern, complex social organization. If they reject modern legal forms, how can they defend themselves and prosper within their larger social context? Hence, classical theory does not provide adequate a priori grounds for explaining how either Japanese or Amish social patterns can be sustained in the absence of substantial use of legal institutions. Are we left with only the uniqueness of historical and cultural developments as a means of understanding these two cases? Are the similarities between their legal cultures simply a matter of random happenstance?

As a result of our own research among the Amish and our review of research on Japan, we have found a similarity in practices and ideology which, we believe, provides clues for filling the gap left by classical theory. We will show in this article that in both Japanese and Amish societies, an informalist antilaw ideology of harmony and consensus is deliberately promoted and sustained by leader elites who are pursuing goals and using strategies that do not conform with the ideals they profess. In both instances, their strategies create and sustain the belief that harmony and consensus prevail, that this condition is a natural expression of their cultures, and that the philosophy works in the practical sense. In both cases, the project of building an ideology of informalism succeeds in part because important aspects of the process are misunderstood by "the public" and in part because ideological work includes promoting definitions of leadership actions as consistent with traditional culture.

We will show that the similarity of this pattern in both societies supports the value of proposals by various members of the Amherst Seminar (see *Law & Society Review*, 1988) to join "a tradition of scholarship on ideology with social science studies on law" (p. 631), to see legal ideologies not as mere deceptions of the masses, but as emerging patterns of argument and action, to see

“how law shape[s] social situations and popular consciousness while at the same time the very substance and form of the law [is] being constituted” (*ibid.*, p. 631), even where law itself is being deliberately avoided.

Specifically, our work builds on the argument which Harrington and Merry (1988) put forward, that “ideologies are formed through the mobilization of symbolic resources by groups promoting different projects” (*ibid.*, p. 714). Given that formal legal institutions and public legal confrontation are routinized in the global social context surrounding both the Japanese and the Amish, we argue that minimizing the use of, and demeaning the value of, legal institutions represents a choice, or rather an ongoing and emerging pattern of choices. These choices are not just natural expressions of cultural continuity. Rather they are produced and nurtured, in both cases, by the intentional actions of elites—actions which are at best doubtful, if not plainly contradictory, as models of the ideologies themselves. An essential part of the ideological production process in both cases, therefore, becomes the work of defining elite actions in terms of popular cultural symbols which include the rejection of formal legal institutions. To the extent that elite actions produce conditions which ordinary Japanese and Amish people perceive as “normal,” the manipulation of the symbols of informality serves to strengthen the general cultural posture favoring informality.

I. METHOD

This article is based on a combination of field research and a review of literature. Except where indicated, the material on Japanese informality is derived from a review of current literature. The field research concerns the Amish.

Our work among the Amish has involved lengthy interviews, observations, and collection of news reports. Hostetler provided immediate research access through his lifelong connections with Amish communities, first growing up in an Amish family, then maintaining extensive contacts with Amish communities as part of his work in anthropology. His many publications on Amish society reflect that continued involvement. We began our research on Amish ways of dealing with conflict in 1987. Working sometimes together and sometimes separately, we conducted interviews in Amish homes in Lancaster County, Pennsylvania. We spoke individually with Amish informants, attended relevant public meetings involving Amish-related issues, interviewed state and local government officials as well as non-Amish neighbors in Amish areas of Lancaster County. Our information on the Amish is, thus, a combination of our recent observations and Hostetler’s previous research among the Amish.

II. JAPAN: ASSESSING THE DEMAND FOR LAW

The thesis we introduced above is not entirely new. Parts of it have already been suggested by several recent authors as a way of reinterpreting the antilaw culture of Japan. The economic success of Japan has combined with its comparatively minuscule rates of crime and civil conflict to support the view that delegalization deserves more attention in the United States. Praise for the neighborhood-based police Koban (Bayley, 1977) is one example of this move. Another is the use of mediational procedures that deemphasize rights and instead promote the reintegration of people whose relationships have been disrupted by conflict. These ideas fit with the general thrust of the American move toward ADR (alternate dispute resolution).

Ironically the move toward delegalization in America has come just at a time when both Japanese and non-Japanese scholars have begun questioning the validity of claims about great differences between American and Japanese ways of reacting to conflict. Two problems challenge what was previously taken for granted about the supposed uniqueness in the way the Japanese handle conflict: (1) Americans and Japanese may not, in practice, differ as much as they have been popularly thought to in their commitment to consensus as opposed to the pursuit of individual rights. (2) Differences which do exist are not well explained by simple reference to the unique characteristics of Japanese culture.

On the first point, new research in both Japan and the United States has led to a view that both popular opinion (especially in Japan) and scholarly writings (e.g., Kawashima, 1963) have exaggerated the differences. In the United States, for example, statistics on rates of litigation and the size of the legal profession create a spurious impression of a very litigious population. Much of the work which law courts now do in the United States can be described as routine administrative processing of uncontested legal matters (Friedman and Percival, 1976; Lempert, 1978; Yngvesson and Hennessey, 1975). Although such cases may appear as lawsuits in officially reported statistics, they do not fit with the model of litigious citizens contesting each other in open court. Therefore, statistics on per capita numbers of lawsuits or of court personnel (judges, court administrators, etc.) exaggerate the impression of litigiousness in the United States, when compared with similar statistics in Japan where almost all court work is in the form of contested lawsuits.

Similarly, statistics on the drastic difference in size of the legal professions of the two countries gives a misleading impression of the scope of differences in the demand for legal services. In the United States, for example, while there are around 650,000 lawyers, the majority of them are not litigators. They are, instead, involved in a great range of law-related work, much of which can

best be described as processual, advisory, or mediational rather than contested in the sense of formal adversarial proceedings (Heinz and Laumann, 1982; Nelson *et al.*, 1988). In Japan, by contrast, though the profession is much smaller, the majority of lawyers are litigators, while others (judicial and administrative scriveners, for example, and tax "attorneys," who are not counted as lawyers) carry on work which would be done by lawyers in the United States (*Japan Times*, 13 Oct. 1989, p. 3). In addition, thousands of law graduates of Japanese universities never become lawyers, but companies which hire them can enlist their legal training when the need arises. Such access to low-paid employee-supplied legal assistance creates one of those advantages of corporate "haves" (Galanter, 1974) which induce noncorporate "have nots" to settle out of court when faced with a corporate adversary (Ramseyer and Nakazato, 1989). Credentialing differences exclude such "experts" from the statistics on legal profession size.

While the differences between the two societies have thus been exaggerated, quantitative differences in the amount of legal activity no doubt exist, and the question remains whether Japan is unique in the tendency of its citizens, because of culturally nurtured beliefs and feelings, to "lump it" (Felstiner, 1974) or to work out reconciliation instead of confronting adversaries with a public demand for the enforcement of individual rights. The prevailing popular and academic explanation for low litigation rates and slow growth of the legal system (the profession and the structure of courts) is that a lack of demand from a population steeped in Confucian values of "harmony" (Kawashima, 1963; Yoshiyuki, 1976) restricts the growth of law business. In other words, prior to recent challenges, academic explanations of the Japanese "paradox" simply reiterated the prevailing beliefs of Japanese legal culture that legal institutions were largely unneeded in harmonious Japan.

Haley (1978) challenged this theory of cultural uniqueness by documenting a variety of effective government policies designed specifically to discourage litigation. These policies severely restrict any "natural" growth of demand for legal resources. For example, the Japanese government limits the numbers of new lawyers and new judges to just 500 each per year (currently, about 23,000 hopefuls take the bar examination each year, but only 500 are allowed to pass). The Ministry of Justice plays an active role in setting policies on the development of the profession, so it is not accurate to compare national statistics as though Japan's numbers reflected the same kind of relatively free-market conditions currently producing American numbers.

In addition, court policies erect hostile barriers to legal action. One is the requirement that in order to proceed with a civil suit, plaintiffs must first post a substantial bond (about 1 percent of the amount claimed in a lawsuit). This makes litigation especially burdensome for all except the "haves" (Galanter, 1974) who, like Ma-

caulay's (1963) American businessmen, may have both alternative resources in their specialized communities for pursuing their "rights" and strategic motives for avoiding litigation. In addition, Japanese courts as a rule refuse to accept class action suits, insisting instead on individualized treatment of each claim, thereby multiplying the costs and uncertainties faced by members of groups holding shared grievances, reducing the incentives for individual legal action, and making group legal initiatives rare.

For example, in a suit filed in December 1988 by nearly five hundred air pollution "victims" from the same community, a single judge has had to review each separate plaintiff's request to waive the filing fee because of the enormous financial burden it would have put on them. This review was not completed until April of 1990.¹

Such policies cast doubt on the claim that low rates of litigation reflect absence of claims consciousness, which in turn produces low demand for legal services. People who cannot afford to pay the high fees lawyers charge or who see no hope of timely relief through law because of excessive delay and costs in the courts are likely to avoid litigation and seek alternative solutions to their problems, regardless of their acceptance or rejection of Confucian values. When they then participate in some negotiated settlement of their conflict, the possibility that their rights have been seriously abridged by the necessity to accept what is actually an imposed and one-sided "compromise" is a real alternative to the view that the outcome is "harmony" in the sense of restored relationships.

Japanese behavior with respect to conflict may thus coincide with Confucian values, but not because the behavior is a "natural" product of those values. As several American scholars have argued (Macaulay, 1963, 1979; Galanter, 1983) Americans often act as though they had the same Confucian values because there is a strong preference among Americans, expressed both verbally and in action, to stay away from lawyers and lawsuits and to avoid "making a federal case" out of every disagreement.

In a more recent publication, Frank Upham (1987) has added another dimension to the theory that government control affects Japanese "litigiousness." He demonstrates that the postwar, development-minded Japanese government has consistently avoided confrontation in cases where lawsuits threatened to create new, unwanted legal precedents that would be binding on future government action. By strategically yielding in specific cases, the government has been able to sustain the impression that it is out front leading the way toward reforms. By doing this, government sustains the impression that such reforms are natural, inevitable, con-

¹ Information based on direct observation and interviews by one of the authors.

sensual developments in Japanese society rather than choices made among contested options, choices which may well produce both wanted and unwanted outcomes for different interest groups or classes. Promoting this ideology of consensus preserves governmental freedom from the annoying constraints of specific judicial precedents. In other words, governmental responses to specific challenges sustain the impression that governmental policy is nothing more than a natural expression of Japanese culture and done for the good of the whole.² These actions support the claim that “the power of law resides in part in its capacity to inscribe the arbitrary and cultural features of social life with the aura of the natural and inevitable” (*Law & Society Review*, 1988: 633). In the Japanese case, however, we should rewrite that statement by substituting “the power of antilaw ideology” in place of “the power of law,” since it is the elite’s practice of making policy seem nonlegal which creates the “aura of the natural and inevitable.”

Because of this pattern of elite control, potential litigants and the lawyers they consult are faced with an environment that discourages the development of, or reliance upon, the kinds of legal doctrine that might be produced in, for example, an American setting where common law practices give weight to the separate judgments of individual judges. Either an area of discord is actively ignored by the elite system Upham describes, and its potential “agitators” turned away or cooled out by the absence of established rights and forms of redress, or an organized administrative “blitz” conducted by government ministries, industry leaders, and a controlled judiciary cuts off every potential avenue to litigation with standardized procedures and criteria for legal action that make contest an exercise in futility (see Ramseyer and Nakazato, 1988; Tanase, 1990).³

² Research by a Ralph Nader-style team of alienated automobile engineers shows that Japanese corporations follow the same strategy as their government when dealing with potential precedent-setting legal confrontations (Yates, 1989). The Japan Automobile Consumers’ Union claims that all of Japan’s major auto makers practice “secret recalls,” repairing dangerous conditions in cars during routine servicing or inspection while concealing from the owner the nature of the danger and the fact that it was happening on thousands of other identical models. Car makers then never have to admit making mistakes. Moreover, because the problem is kept secret, the manufacturers can actually pass on the cost of repair to their unwary customers. Moreover, in the past 20 years, “almost all of the 100 lawsuits brought against Japanese automakers by Japanese consumers have been settled out of court and therefore, outside the glare of publicity,” especially since no freedom of information act exists to give Japanese citizens access to such records.

³ In Tanase’s (1990) recent analysis of automobile accident compensation in Japan, he provides a detailed description of an alternative way of forestalling litigation (or “managing disputes”). He portrays a system so laden with objective, clear-cut compensation procedures and standards that an accident claimant can have little doubt about the limits the system will set on compensation. These standards were not produced by the separate actions of judges developing doctrine in response to individual lawsuits. Rather, they were fabricated as fully developed policies by managerial action of a controlled judi-

Under these circumstances, one could even argue that Japanese citizens have shown a remarkably high level of rights consciousness and willingness to make public confrontations. Both Upham (1987) and McKean (1981), among others, have documented a postwar wave of citizen's action groups that have combined litigation with a variety of other political strategies to put forward their claims to various rights not clearly acknowledged in law. Of course, proponents of cultural determinism could contend that since most of these actions were done as *de facto* class action suits,⁴ they simply reaffirm the Japanese cultural preference for acting in groups rather than as individuals. But we could also view this class action pattern as evidence of the difficulty created by government policies which make individual legal initiatives prohibitively expensive, unusually risky, and ineffective because of delay.

One conclusion which fits with recent research is that the view of Japan as a society with a uniquely nonlitigious culture having a strong distaste for, and little need of, formal law is simply wrong. This position would state that the "unique culture" hypothesis is part of a deliberate move by a Japanese "power elite" to protect its social position by justifying the denial of law-in-action rights to those not in positions of power. This is the type of theory we see American legislators and trade specialists using as they reject Japanese "unique culture" defenses of policies which aggravate problems of trade imbalance.

However, as Upham points out, Confucian values of harmony did not simply appear suddenly as a latter-day invention of the new power elite. They have existed for millennia, and they do enjoy widespread general endorsement among ordinary people in Japan. Even the most Machiavellian Japanese governmental strategist would be likely to understand that government initiatives tend to be more successful if they have some level of acceptance by the general population. This means that there must be some correspondence between the values invoked by government and predominant beliefs and values in the general population. We are thus brought back to the old question with which William Graham Sumner (1906) struggled: What is the relationship between "lawways" and "folkways"? Do the actions of the Japanese government in limiting the development of formal law simply reflect the Confucian "folkways" of the Japanese people? Or, to the contrary, is Japanese government policy simply an elaborate deception, im-

ciary in coordination with Ministry of Justice guidance and insurance industry collusion. Tanase's description further supports Upham's thesis in the sense of showing how this multitiered system of control has been achieved by the coordinated efforts of government, judicial, and business decisionmakers.

⁴ Since class action is almost never accepted as a legitimate legal maneuver in Japanese courts, its equivalent is accomplished by the simultaneous filing of multiple identical individual claims.

posing a consensual Confucian mythology on an unwilling but impotent populace?

Our thinking about these questions has been affected by what we have found in studying the Amish. In making these comparisons, we have come to share the Amherst group's view that it is futile to pit ideology against culture as an either/or choice among independent variables. The Japanese case shows that, in at least one case, the culture of legal informalism is created and sustained by deliberate antilaw action in ways designed to give policy the aura of cultural legitimacy. In the next section we will show how this same process operates in the Amish context.

III. THE AMISH: THE CONDITIONS FOR GROUP SURVIVAL

Like the Japanese, the Amish in the United States have a reputation for cultural uniqueness which includes the avoidance of lawsuits, lawyers, and formal legal methods for handling relationships. This reputation comes from a pattern of choices the Amish have made over the past 250 years as farmers in North America. We will begin with a brief description of Amish culture and society, both as they have been understood by Amish church members and as they have been presented in social science analysis. The point of this introduction is to show how their reactions to American law fit with their other "folkways."

The Amish began as one of several Anabaptist sects in the late 1600s (Hostetler, 1980; Kraybill, 1989: ch. 1). Anabaptists get their name from their doctrine of adult baptism. They do not expect anyone to make a lifetime commitment to their church until after they reach adulthood.⁵ The Amish also refused to swear oaths to worldly powers such as princes or established churches. Because of these beliefs and practices, they were periodically persecuted by powerful church authorities and were forced to move from the farms they had developed first in Switzerland and later in the Alsace region of France. Finally, in reaction against their refusal to accept dominant church doctrines, church authorities forced the Amish to again seek new homes, and some readily accepted William Penn's offer of land and religious freedom in his new colony, Pennsylvania, in the 1730s. Subsequent waves of immigration to the same area joined in creating a new Amish region which has continued to grow and thrive in the Lancaster County area of Pennsylvania. Population growth and later migration led to the establishment of other Amish centers, so that now the Amish are found in twenty states and in Canada's Ontario province. They have totally disappeared from Europe.

The most striking aspect of Amish culture to the outsider today is the obvious rejection of modern technology and institutions.

⁵ In many other Christian churches, infants are baptized so that their souls will be "saved" even if they should die before reaching adulthood.

If outsiders know anything about the Amish, their “knowledge” includes images of horse-drawn buggies (which the Amish use because of their rejection of automobiles). Their image also includes homes free from electricity and telephones, and farm fields plowed only by horse-drawn plows. Such images reflect stated Amish philosophy. Outsiders also note the peculiar style of dress used by the Amish—plain black, gray, or dark shades of blue, green, or red. The men are distinctive because of their carefully trimmed beards and broad-brimmed black hats, and the women are easily identified by their aprons and starched white caps. This physical appearance is part of Amish rejection of any form of decoration or anything that might become a symbol of individual differences between them, because individual pride is a major threat to the stability of the church community. In addition, the Amish have created their own system of one-room schools in which their children are educated. Schooling ends at age 14 because the object of each family is to prepare its children for farm work, not careers “outside” in the “English” world. Amish religion also rejects all forms of outside insurance (health, life, social security, homeowner, etc.). Instead, the church member is to trust the church community to come to the family’s aid in time of need. Such mutual aid is vividly demonstrated in the occasional “barn-raising” project when a member’s burned-out barn is replaced in short order by several hundred “helping hands.”

The pacifism of the Amish is well known in the communities where they live and occasionally attracts widespread attention as in the recent Hollywood film, *Witness*. Their young men refuse to serve in military forces of any kind. Amish are committed to a vow of “nonresistance,” which means seeking always to be at peace with each other and with all others as well. Should conflict arise, the Amish person’s response should be to seek understanding with the other side and settle differences peacefully. If outside forces, such as government bodies, demand actions from the Amish that they cannot accept because of their religious commitment, they are obliged by their vows to simply submit to whatever punishment or oppression the outsiders inflict. The only other approved alternative is to abandon their homes and relocate. This doctrine means that they must not employ lawyers,⁶ or attempt to rely on litigation or legal threats, to defend their legal rights against challenges, because such action would be resistance. Amish members should rely on the church community to sustain them if they suffer losses as a result of nonresistance.

If conflict arises between Amish people, the whole community devotes its attention to the search for a peaceful settlement. Once

⁶ Lawyers may be used for routine actions such as filing wills, forming business partnerships, and conducting real estate transactions (Kraybill, 1989: 223). Some have even begun to employ lawyers to help resolve disputes without moving to litigation.

the church community has taken a position, any member resisting the solution by breaking the agreed-upon rules will be shunned (no one will be allowed to talk or eat with him or her) and, if necessary, excommunicated until he or she repents and conforms with the church's rules.⁷

A. Image vs. Practice: Amish Society Meets American Law

Descriptions of beliefs and practices in the previous section would usually be classified as Amish *culture*. They make up the face Amish groups present to "the world" and the ideals they describe themselves as pursuing. In our research, we have discovered some important ways in which the reality of Amish law-oriented practices in America differ from this public image and their professed philosophy. These differences parallel other discrepancies that previous research has discovered between Amish image and practice. For clarity, we will speak of two distinct layers of discrepancy. What is particularly important about both layers, however, is that they play a perhaps necessary role in preserving the general distinctiveness of Amish society and in sustaining the viability of the Amish antilaw ideology.

The first layer of discrepancy is comprised of misunderstandings of the Amish by outsiders. One example concerns Amish rejection of modern technology. Outsiders usually assume that the Amish reject modern technological "comforts" as a kind of religious asceticism in the same way that monastics take vows of silence, poverty, and sleep on hard beds. Such monastic asceticism is a way of purging the individual from sinful ways. It is a suffering sought for the sake of suffering, and its object is individual salvation. It is therefore very different in meaning from the Amish rejection of modern technology.

The Amish purpose for being "old-fashioned" is to preserve the community as a pure offering of love to their God. They do not reject automobiles, electricity, and tractors to seek suffering and redemption through hardship. Rather, each decision about accepting or rejecting a modern "convenience" is based on a consensus about the effect a new product would have on the social patterns of the community. The Amish are, in effect, the original applied sociologists. They scrutinize practices, services, and products to see whether they would generate life-style changes which would hurt community solidarity, create tension within families or between different families, or open the community to excessive dependence on outside institutions. Anything, for example, that might suddenly create conspicuous differences between "haves" and "have nots" is a prime candidate for rejection. New technol-

⁷ For purposes of this article, we will concentrate on Amish relations with those outside the community. For a discussion of conflict arising *within* Amish communities, see Kidder, 1990.

ogy is not rejected out of hand. Instead, the community constantly struggles with the societal implications of technological change.

Because outsiders usually misunderstand Amish simplicity as asceticism, they sometimes view Amish decisions about technology as either contradictory or hypocritically opportunistic. Amish farmers have, for example, accepted electrification in their barns (only 12-volt service, and not in their houses) to comply with state regulations about refrigerating milk before it is delivered to bottling companies. Amish congregations viewed this decision as an economic necessity allowing them to continue dairy farming and thereby sustain the community. Yet to outsiders who misunderstand Amish motives, electricity in the barn appears like a form of pollution in their image of the old-fashioned Amish. The same is true when they see that some Amish farmers use gasoline-powered tractors, which can be used because they have steel wheels that cannot be used on roads; gasoline engines mounted on the back of horse-drawn wagons in order to drive farm implements; or diesel engines to run air compressors which drive power tools for their small factories. They will also accept (or, more accurately, request) high-technology help from their non-Amish farm neighbors (e.g., automobile rides to the bank, the post office, or the local store; powered conveyor belts for loading silos). A telephone in a farm outbuilding or in a booth across the road is also acceptable since it is outside the home. Outsiders who see these kinds of decisions as contradictory sometimes respond with resentment or anger, saying that the Amish pretend to be angels while actually using shrewd tactics to promote their own material well-being.

An important doctrinal feature differentiates the Amish from most other conservative Christian churches, and makes the Amish a target of stereotyping by outsiders as being fundamentalist Christians while they face both hostility and unwanted evangelism from other fundamentalist groups. The Amish are not primarily concerned about individual salvation, with its emphasis on being "saved through acceptance of Jesus Christ as lord and master." They do not claim to know whether they have been saved or not. They view such claims as expressions of pride, a vice they try to avoid. They prefer to avoid theological discussion, trusting instead that what is required is simply to live a loving life in a pure (i.e., happy and caring) community. Thus the community, and the farm land which sustains it, is a trust which, ideally, one generation nurtures and hands on to the next. Consistent with this philosophy, the Amish are generally not interested in proselytizing their faith to others, and they do not place great emphasis on the individual. Paradoxically this philosophy makes the Amish appear much more robustly "worldly" than evangelicals who focus so heavily on individual sinfulness and salvation. Again outsiders are confused by the apparent contradiction: Those who are not familiar with the Amish tend to lump them with other "conservative"

Christian groups and therefore misunderstand some of the key differences so important to the Amish themselves. As in questions of technology, therefore, there is a discrepancy between public assumptions about Amish religious beliefs and the beliefs most Amish people share among themselves.

One layer of discrepancy between image and practice, therefore, concerns public misunderstanding of Amish doctrine and what most Amish believe is their practice. We found some evidence that the existence of this discrepancy serves to protect the Amish against pressure by outsiders to conform with the more general norms of American society. For example, in our interviews with Amish leaders, we heard of several instances where government officials, who were giving some kind of special dispensation to allow the Amish to avoid unacceptable legal obligations, told Amish leaders that outsiders who knew something about the issues were demanding to receive equal treatment. Those officials reported having said something like this: "Well sure, you can be exempted from [the particular legal obligation] as long as you are willing to live like the Amish." In our own interviews with state education department authorities, we heard the same comments. In all such instances, the person telling these stories indicated that such comments inevitably shut up the complaining outsiders. The implication was that few people would be willing to endure the material hardships which the Amish impose on themselves. As long as the Amish appear to be ascetics, outsiders are willing to excuse them from inconvenient or culture-compromising legal obligations.

A second layer of discrepancy, which also plays an important role in defending Amish culture, is between the beliefs and practices which most Amish endorse among themselves and actual Amish practices. While these practices diverge from their own ideals, they may be instrumental in preserving a system which allows the Amish to believe in the validity of their ideals.

The discrepancy is related to two fundamental Amish values: (1) separation from "the world," which is full of strife, temptation to do evil, impurity; (2) nonresistance, which means seeking peaceful solutions to conflicts and not contesting opposing claims. These doctrines raise some basic practical questions: How can the Amish preserve their way of life, protect themselves and their unique communities while living in the midst of a world superpower which professes the values of technological innovation, aggressive economic behavior, and military might? How can a passivist nineteenth-century lifestyle survive in the latter stages of a twentieth-century America characterized by high levels of overt conflict, legal confrontation, and a strong tendency to produce "old-fashioned" living conditions only under circumstances which can best be characterized as colonialistic (e.g., some Native-American reservations; Appalachia; the Mississippi Delta)? Is the practice of

nonresistance as simple as it sounds? Why would “the world” of bustling America be willing to leave this land-rich community alone in its desire for separation when developers seem intent on promoting “progress” wherever a profit can be made? What magic protects the Amish in the midst of the legalized, bureaucratized, computerized, ever expanding progressive whirlwind around them?

Answers to these questions are similar to those we get when we investigate Amish decisions about technology: instead of a slavish obedience to a doctrinal discipline, the Amish make ad hoc adjustments to their environment following the basic principle that preservation of the community is the primary goal. However, the need for such adjustments in the domain of conflict with the outside world has been dealt with differently from the need for adjustments in response to technological modernization. In the case of technology, whole congregations discuss and ponder the responses they will make. Moreover, their decisions are strictly local—each church congregation makes its own decisions about particular new gadgets and their decisions may differ from other congregations. In the case of conflict with the outside world, however, a much different pattern of adjustment has developed, a pattern which seems, to an objective observer, to contradict the basic values of nonresistance and separation.

First, while separation from the “world” is the ideal, a well-developed but generally unpublicized network of relationships has developed with non-Amish groups who willingly use legal services and political action to help protect them. Second, while they strongly reject both litigation and political involvement as unacceptably confrontational (and because politics especially can give birth to the strongly rejected weakness of personal pride), a loosely organized but legally and politically astute national leadership group has emerged to negotiate special relationships which protect the Amish from unacceptable national, state, and local government requirements. Moreover, the work done by those leaders is virtually identical to that done by lawyer/politicians in some of America’s toughest urban environments. There are, in effect, Amish lay lawyers who do everything we might expect of professional lawyers—lobbying, negotiating settlements, inventing and successfully selling unique legal “loopholes,” advocating other members’ cases before official bodies. The only elements missing from their “practice” are the acceptance of fees for services and arguing cases in court. Their efforts are, moreover, supplemented by real lawyers, either those hired by non-Amish activists who seek to protect the Amish way of life or lawyers who have a personal interest in helping the Amish. Decisions about such actions are not produced in consensual meetings of whole congregations. Instead, long-term strategy and day-to-day decisions are made by

those leaders based on their specialized abilities and political connections, and their results often affect all Amish congregations.

For example, an especially bothersome issue has always been how to deal with the military draft. Consistent with their philosophy of nonresistance and their refusal to swear oaths of any kind, the Amish have insisted on being classified as conscientious objectors (COs) unwilling to have anything to do with military activity. During the Vietnam War, the demand for conscripts once again became a threat to the Amish because local draft boards (Dolbeare and Davis, 1968) were given responsibility for accepting or rejecting individual claims of conscientious objection. In some areas, the Amish experienced no problem since their local boards were sympathetic. In others, however, board members were angry that Amish boys were "getting out of the draft" while non-Amish boys had to serve. Some boards refused to grant CO status, while some of the most conservative Amish churches told their boys they should not even register for the draft. Especially during the Vietnam War, therefore, when the draft itself had become a national political issue, the Amish position put them on a collision course with the "outside."

In response to these crises, a nationwide Amish committee of Bishops and related church leaders (the Amish National Steering Committee) was formed to negotiate with the Selective Service System. The group was formed quietly, and had to appear temporary and ad hoc because the Amish in general have been very resistant to participation in politics and unwilling to sanction large-scale organization among themselves.⁸ Nevertheless, some of the individuals who joined this committee became experts in the laws concerning conscription and CO status. Moreover, they went well beyond the learning of formal law. In addition they established personal relationships with key Selective Service System personnel (including General Hershey, the national director), senators, state governors, and members of the House of Representatives. On several occasions, such officials actually visited Amish committee members' homes to discuss draft problems, and members became familiar with the corridors of power in Washington because of frequent visits and phone calls to officials' offices. Relationships like these enabled members of the committee to place telephone calls, visit Washington offices, and hold urgent conferences when a local or state draft board was refusing to abide by informal agreements the committee had worked out with Selective Service Sys-

⁸ The Amish do not even build separate church structures, because worship is always held in members' homes. Hence they have no place to gather groups larger than what can fit in a large living room and kitchen. Kraybill (1989: 86-90) mentions the Steering Committee along with five other organizations as casting a "shadow of bureaucracy" over the Amish landscape. It is a "shadow" precisely because organization is so highly suspect within Amish culture.

tem administrators or other political leaders concerning CO status for Amish boys. In some instances, local board decisions were reversed on the same day they were made by quick intervention from national authorities responding to Amish leaders' calls. One leader described several episodes where "a quick call on a public phone to my friend General Hershey" produced same-day results.

When Amish boys faced prosecution for refusal to comply with a local board order, committee members accompanied them to court and, as one Amish leader put it:

[W]e might just take along someone [a lawyer] just to make sure that there isn't something done that shouldn't be done. Just to sit there and watch and be sure that the boy isn't treated unfairly. You know that can happen sometimes. But we aren't there to make a fuss or argue back or defend against the charges. But we do have some friends . . . lawyers . . . who will just go with us to court to make sure things are done the right way.

. . . [B]ut we never pay him and he always says he'll get around to billing us, but he doesn't seem to. So we just take him some fresh baked bread, or some garden vegetables, and that's how it seems to go. So we don't really hire lawyers or put up defenses or anything.

Another problem was the kind of alternate service the draft boards would require of Amish boys. Amish families did not want their boys shipped off to big cities where they would learn non-Amish ways. The committee worked out a "deal" with Selective Service System officers which allowed everyone to stay technically within the law: some Amish farmers donated their farms to the Amish Church. Then whenever a draft board had to assign an Amish boy to alternative service, he could be sent to a "Church Farm" (which had, from a legal standpoint, become a nonprofit religious organization) where his services could be contributed and he could continue to lead an Amish lifestyle away from "the world."

Members of this ad hoc national committee became itinerant troubleshooters for Amish families all over the country. They traveled to local church districts where a crisis had developed and entered into sometimes intense and protracted negotiations with local authorities. Their farms were tended by other family members as they became nearly full-time negotiators. This ad hoc pattern of trouble-shooting and negotiating existed before the Vietnam crisis but became more systematized then because of the scale of the problem.

We have found numerous other examples of extended negotiations between the Amish "lawyers" and government bureaucrats, and we are struck repeatedly by the innovative legal thinking displayed by these lay lawyers, their savvy about government organizations and strategies that get results, as well as their extraordinary ability to think on their feet as they fend off challenges and

lead their adversaries into acceptable compromises. While military draft crises stimulated the formation of the Steering Committee, its lay lawyers have continued their work on a widening circle of issues.

One target has been the Social Security system. The Amish reject all forms of social welfare for themselves (social security, workers' compensation, medical insurance, life insurance, liability insurance, etc.) on the grounds that their church community has the responsibility of caring for its members. If members were to rely on outside insurers, this would loosen their ties to the community. The Amish "lawyer-negotiators" played a role in crafting the original exemption of self-employed people from Social Security obligations. But this exemption did not extend to the case of Amish people working in nonfarm jobs. Amish lay lawyers figured out a solution to this problem that would make any lawyer proud. An Amishman who owned a small factory employing about twenty other Amishmen was told that he had to withhold social security payments from his employees' paychecks. So committee members, in consultation with Social Security System administrators and key members of Congress, suggested that he make each employee a shareholder in the company, thus making it a partnership. Then the workers could receive profits instead of wages. This solution then became a general practice for other Amish business operators. Social Security administrators agreed to abide by the arrangement.

Such arrangements depend on legalistic creativity, but they also hinge on relationships which took years of patient "networking" to build. As one negotiator related:

Of course, we had been working on things even ten years before, like social security . . . why I remember when I was working with Wilbur Mills—he was chairman of the House Ways and Means Committee at the time, and he and I were pretty good friends. Well I just worked with him on this question of social security and got him to understand.

In 1988, Amish leaders were still working to exempt Amish workers from all social security payments, even when they work for non-Amish employers. The following quote from an interview with one Amish leader gives some flavor of the scope of their work:

[W]e have still the problem, what about our fellows who may be working in a factory or somewhere for wages, and we had not been able to exempt them from social security. But now, with this new legislation that we are getting through, it should take care of the problem. They have written it into the bill so tight that they would have to drop the whole bill if they wanted to take that part out of it. And now I have notified Senator Heinz that it is coming over [from the House of Representatives where it had just passed] so that he can help it through the Senate.

In another example of creative lawyering, the Amish fended off an attempt by the state of Pennsylvania to require that teachers in one-room Amish schools be certified by the state after at least three years of high school training. Amish leaders explained to the attorney general that such a program might deprive them of the most qualified teachers (young, committed Amish, usually women) and create an unacceptable obligation to the state. State education authorities suggested that they supply the Amish with qualified teachers, but Amish leaders explained that outsiders would be unable to teach both English and Old German and Amish hymns which Amish teachers teach. Moreover, they said, they would be unable to pay the high salaries of such outside teachers. After several other state proposals, each one met with an Amish objection, the Amish leaders again met with the attorney general and asked: "Does a substitute teacher need to have a diploma or be certified?" "No," replied the attorney general, "A substitute teacher is taken when there is a shortage or when there is no one better qualified to fill the spot, usually on a temporary basis." The Amish spokesman responded, "Our Amish teachers are the best teachers that we have or can find for a one-room Amish school. From now on our Amish teachers will be 'Substitute Teachers'" (Kinsinger, 1988: 126). State authorities, at that point, dropped any further discussion of teacher training. But just to be on the safe side, the Amish now issue a "diploma," signed by three Amish school board members, to any Amish teacher who has had three years experience either as a teacher or as a "substitute."

In another case, the Pennsylvania state attorney general was threatening to shut down a new Amish school because it was being constructed with a wood-burning stove in the classroom. The state was demanding that a separate room, or place in the basement with fire walls, be constructed to reduce the fire hazard and conform with state regulations. Amish leaders explained that stoves in the basement were against their religious beliefs, since they would not have such arrangements in their own houses and the schools were meant to be an extension of their homes. The attorney general issued several threats, to each of which the Amish responded with gentle but insistent refusals, saying that they would just have to keep their children home if a "closed" sign were to appear on the school's door. To this, the attorney general replied, "This is very embarrassing. When can you come to Harrisburg?" (Kinsinger, 1988: 122). After the meeting, the state finally proposed a compromise: the Amish would put a separate stove in just one school (the new one) and the state would agree to cease inspections on all other Amish schools, including new ones to be built thereafter. State inspectors, according to these Amish leaders, "have been ordered to stay away from Amish schools."

In the course of these activities, Amish "lawyers" have developed their own "practical wisdom" about strategies and the nature

of their "opposition." To illustrate, consider the implications of the following quotation from one leader who was speaking about several different problems, including the draft issue, social security, and workers' compensation:

[I]t's not usually the top people in government, but you know how it is—it's the people below them who . . . well, if you ask them anything, they have to say "hold on while I check that." And then they have to go running to somebody higher up, and it's very hard to get anything done that way. And so they will, instead of sitting down and talking about something, they will just tell you "this is the rule." So you really have to go to the higher up people to get things done.

These problems have been handled, therefore, without litigation or the use of traditional forms of electoral political pressure.⁹ But it would clearly be inaccurate to say that the Amish had simply accepted whatever might happen to them without the use of legal services or political action, as we might expect based on their professions of nonresistance. Legal services, provided by well-informed Amishmen, included detailed knowledge of formal law, the willingness and know-how to lobby, and patient skill in negotiating, sometimes on the front porches of their farm homes and sometimes in politicians' offices, with the appropriate governmental bureaucrats.

B. *The Amish Cocoon*

The Amish are not alone. Legal work done by their leaders is supplemented by, and interacts with, the active intervention of sympathetic outsiders. When the Amish began forming their own separate schools in order to avoid the effects of public school consolidation in the 1950s (prior to that time most Amish children went to public one-room rural schools), their decision to halt education at age 14 conflicted with state requirements that all children attend school till age 16. In several states, therefore, confrontations developed where parents refused to send their children to school and school authorities threatened to jail the parents. In the face of these threats, the correct Amish response would, of course, be nonresistance and continued refusal. How was such a confrontation resolved?

The resolution came in a Supreme Court decision (*Wisconsin v. Yoder*, 1972) which upheld the right of the Amish to have their own schools and make their own educational policies. Since Amish do not hire lawyers or contest in litigation, how did a case such as this reach the Supreme Court? The answer is that a com-

⁹ Since most Amish, as a matter of principle, do not vote in elections ("The problem is, if you vote for one chap, you have to vote against the other, don't you, and then he will feel bad"), they pose no serious "block vote" threat even to local politicians.

mittee of non-Amish was formed to lead a nationwide movement in defense of the Amish. The National Committee for Amish Religious Freedom raises funds, hires lawyers and, in the school case, mounted an obviously successful defense in spite of the fact that no Amish participate in the committee, and no Amish have ever paid for the lawyers engaged by the committee.

In similar fashion, a recent crisis in Pennsylvania over the construction of a four-lane limited-access highway down the center of Lancaster County led to the formation of a countywide political action committee. The main argument made by the committee against the highway, and the main platform in their organizing strategy, was that the highway would destroy some of the best Amish farmland in the United States, that it would physically divide Amish church communities in ways that would destroy them, and that it would probably bring in so much outside traffic that the Amish would be forced to move out of Pennsylvania. Not a single member of that committee was Amish, yet the principle theory of action obviously was the need of the Amish for protection from the state. The antihighway committee even leafletted hundreds of Amish homes successfully convincing them to attend a mass meeting with state officials at a local high school. Over a thousand Amish men and women attended (according to local experts, the largest gathering of Amish in one place ever in history), though they never uttered a word despite the invitation to participate in "Question and Answer" dialogue. Their presence was clearly being used by the committee to lend moral force to its position against the highway. The issue was at least temporarily resolved when the state governor announced a halt to all further planning for the highway.

Thus the Amish, in addition to the inconspicuous political and legal activity which some of their leaders carry on, gain protection within a kind of social cocoon. The cocoon is a construct of several related groups with their own separate reasons for wanting to protect the Amish. One group is composed of various kinds of Anabaptists who are not as conservative as the Amish but share many of the same beliefs. Mennonites in the area also practice adult baptism and refuse military service, though many of them accept most, if not all, advances in modern technology and are willing to use formal legal procedures to protect their rights. In addition, Amish churches tend to create non-Amish buffers around them because in each generation there are young Amish who, when the time comes to decide, choose not to join the Amish church. While a church member who has accepted baptism would be shunned and excommunicated if he/she broke any of the community's rules, church members have no objection to interacting with those who, in good conscience, decide before baptism that they cannot accept the discipline of the church. Those who do not join often stay nearby and join other less conservative churches

(such as the Mennonites) which share some of the Amish beliefs. These nonjoiners are among those who feel protective of the Amish and are free to take more direct action on behalf of the people of their own heritage.

In addition to these "outsiders" who feel a direct religious affinity to the Amish, there are others who derive some kind of philosophical satisfaction from the survival of the Amish. The life style of the Amish seems to satisfy a longing which many Americans share for the purity and humanity of the rural ideal which most have abandoned. It is as if people feel "there is still hope for America as long as the Amish survive." Amish areas are constantly inundated by curious tourists. During the highway crisis, the mass meetings and the issues were being covered by national television network news shows and other national media heavyweights such as the *New York Times*. Their story "angle" was always about the potential damage state bureaucrats were about to inflict on the innocent, hard working, and defenseless Amish. Their editors sensed that viewers and readers would want to know about such threats.

Another piece of evidence about outsider sympathy comes in the form of unsolicited charity. Outsiders, some of whom have never even seen an Amish person, are periodically moved to step in and do something to help the Amish survive. For example, the Amish maintain a modest "poor fund" to provide emergency medical or other assistance to members in distress. Periodically outsiders have given large, unsolicited donations to the Amish which they find problematic because they generally feel uncomfortable with large sums. (Who should decide how to distribute? Where should it be kept? etc.) The image which attracts support for the Amish is that they are just trying to mind their own business and preserve basic values which other Americans feel should be preserved. So the Amish receive support for doing what others wish they had the courage or means to do.

A third form of support comes from those who seek to preserve traditional life styles because in doing so they will be able to achieve goals which may have nothing to do with those values. In Lancaster County, for example, many non-Amish residents are middle- or upper middle-class individuals who have moved to the area because they like the rural environment. They are not farmers themselves, but they like the social atmosphere and the physical beauty that stems from the predominance of agriculture in the area. Thus, when events begin to threaten the Amish way of life, non-Amish neighbors help to organize a defense because they want to protect their own share of the ambience.¹⁰ In the contro-

¹⁰ Proximity to farms, however, sometimes also generates friction with the Amish. A current problem arose when new non-Amish residents began complaining about the odor of cow manure which Amish farmers regularly use to fertilize their fields. Intense negotiations are now going on between the

versy over the proposed highway, many of those who invoked the Amish as the prime victims of it were in fact resident property owners who themselves felt threatened by the changes the new highway would bring.

Finally, a part of the social cocoon comes from the tourist industry. In 1988, tourism in "the Amish country" areas of Pennsylvania generated over \$400 million of commerce, at least half of it attributable to the desire of tourists to see the Amish (Kraybill, 1989). When government authorities and elected officials yield to proposals to accommodate Amish needs, part of their thinking includes the fear that too much pressure could drive the Amish out of Pennsylvania. Thus even though the Amish do not vote, their passive role in the tourist industry gives them "clout" in Harrisburg.

C. *Struggling with Compromise*

Amish reliance on this social cocoon, like their apparent need of the services of their own lay lawyers, fits with their purpose of preserving their communities in much the same way that apparent contradictions in their use of modern technology does. Just as they struggle over the constant influx of new technology,¹¹ they struggle over how far to go in learning about the law and using it to negotiate a unique position for themselves in American society. Just as Amish families allow non-Amish neighbors to drive them several hundred miles to visit other Amish communities, their leaders allow non-Amish action committees to enter the political and legal battles that have also helped to protect their unique social position.

These compromises do not, however, occur naturally and without struggle. Nor do they arise from the same process of democratic consensus building within congregations that we see in the case of problems with technology. Instead, there is a gap of understanding between leaders and the rest of the community, decisions are made by "representatives" who act "on behalf of" others, and the practical knowledge of those representatives remains out of reach of most church members.

For example, at the mass meeting over the proposed highway described above, while Amish leaders saw it as a chance to learn something and to remind state authorities of the special needs of the Amish, some of those who attended were clearly uneasy about

Amish and state and county agencies, who have insisted on new procedures for handling and use of manure.

¹¹ A recent one being whether they should let their children use electronic calculators in school—being battery-operated, they are less threatening to the community than electrical products that depend on being plugged in; but if only some of the children have them, they may lead to envy and pride. In another case, in a small public school where all the pupils are Amish, their church has allowed them to use the school's tape recorders but not at home.

what they were doing. Amish women and men tried to avert their faces when television cameras and lights were trained on them. As one man said, "Well, it's not so good, I think. Looks like, if they decide not to build the highway, everyone will blame the Amish." He later spoke of the strong prospect that he and his fellow church people would soon be forced to leave Lancaster County because of pressures like the highway issue. To him and others, the answer is not political maneuvering and finding legal loopholes, but rather following the Amish tradition of nonresistance and, if needed, migration.

Soon after the Amish Central Committee was formed, one Amishman was employed to scout around (sociologists would call it a survey) to find out how Amish people would feel about the creation of such an organization. He returned with the information that the overwhelming opinion was strongly negative. For his troubles, he was fired and the leaders went ahead and formed the committee anyway. As Kraybill (1989: 88) puts it, "The committee functions as a self-perpetuating body outside the formal structure of the church. Some individual bishops support the committee, whereas others fear that it will become too powerful. Some Amish have accused the committee of 'trying to run the church'."

The leaders we have been describing do not define their work as a departure from Amish values. Instead, part of their creativity includes their ability to define their law work as a legitimate adaptation of those values. For example, in describing the settlement of a crisis over Social Security laws, a leader summed up the work this way:

[T]hat is how we like to do things. We sat with them around the table there and they asked us questions and we asked questions, and finally we worked out this solution which is good for all of us. So it's not really a "problem" with the government. [*Interviewer had asked him to describe any "problems" he had dealt with in connection with government.*] It's just that, from time to time, when something new comes up, we need to sit down together and work things out.

When asked to explain why government and political leaders seem willing to accommodate Amish needs, even though the Amish rarely vote, this same leader said:

[W]ell, we've just made many friends over the years . . . and we try to work with them and be helpful. And I think they appreciate that. Why, over the years, I've had so many people come here and sit on my porch . . . Governor Shapp and some of his people came in here one day, and we sat here talking.

Or in a case where a state draft board chief was refusing to compromise over conscientious objector status for Amish boys, a leader said:

But again General Hershey just told him to sit down and talk with me. Now you see why that was better . . . because then he [the state administrator] did not have just a list of rules and regulations so he could say, "see here, the rules here say such and such . . ." but instead he would have to sit down with us and we could work things out.

The language in these quotes reflects the process of framing legal activity, advocacy, and confrontation in nonconfrontational, "folksy" terms which are much more compatible with Amish values. Getting what they want is defined as "working things out." Conflict over a legal requirement is not really a "problem," just "something that comes up." Inventing legal loopholes and feeding them to government agents is just being "helpful." Never mind that the government agent needs "help" because of Amish refusal to follow the law. Dealing with top officials, rather than their subordinates, is not political "wheeling and dealing." It simply liberates government and the Amish from slavish obedience to rules and the law and makes everyone happier. And state authorities, including the governor, seem like "just folks" dropping by for a beloved Amish tradition of an afternoon of conversation, forgetting that their "visit" is precipitated by a crisis over special Amish needs.

As for Amish leaders themselves, they develop explanations of their work which make it appear to be merely a further expression of traditional Amish values. For example, when one leader was describing what he obviously considered a brilliant legal idea that settled a confrontation with a state government agency, he paused reflectively and then, a warm smile spreading over his face, observed:

Isn't that a better way? You see, instead of getting into a struggle and saying "You must do it our way," we just wait for the Lord's inspiration, and things just somehow work out.

Or recall the quote earlier in the article about taking a lawyer to court when dealing with draft cases. It is done not to "make a fuss" or to "put up defenses," but just to make sure that a boy is "treated fairly." And instead of pay, the lawyer gets fresh bread and vegetables.

IV. CULTURE AND IDEOLOGY

With both Amish and Japanese cases, we see similarities in the circumstances and actions taken in constructing and sustaining informalist ideologies. In both cases, what seems to be a culturally based (and therefore spontaneous or self-directing) avoidance of law conceals a pattern of intention and action which is much less automatic than we would expect if culture alone were the source. The purposive legal and political decisionmaking does not fit with the cultural ideal or "official version" of the way things work.

Many, both inside and outside these two societies, appear to misunderstand what they see as being a natural consequence of each society's unique culture.

In Japan, the appearance of harmony is partially preserved by specific governmental policies which are designed to preserve flexibility for government by selective invocation of traditional values. Among the Amish, the values of nonresistance and separation from the world are sheltered within a cocoon which includes the active intervention (both solicited and unsolicited) of outsiders and behind-the-scenes compromises developed by a national leadership whose actions strongly resemble those of non-Amish legal and political actors. In both cases, the work of elites is partially obscured from ordinary members of the society, while elite action is covered with a mantle of apparent compliance with traditional beliefs in efforts to legitimize such actions.

Despite vast differences in scale, history, and relationship to modern institutions, the Japanese and Amish show a level of similarity in their relationship to legal institutions which can best be understood by examining the ideology of informalism. Japanese leaders fend off restrictions on their power by aligning themselves with emerging popular ideas of how new conditions should be interpreted in terms of Japanese culture. In this, their actions, while very different in scale, are similar to the give and take of Amish communities and their leaders hammering out new relationships to technology and to outsiders, including the state, in ways which will convince church members that their leaders have been true to the Amish way. Both instances show a give and take between the ordinary members of society and their leaders, and in both cases much of the dialogue is in terms of the correct way to stay true to values in the face of change. The process belies the automaticity of culture because in both cases conscious decisionmaking is designed to maintain the impression that values have been preserved, even though the decisions themselves promote interests and goals that may be either unrelated to, or contradictory of, plausible rival interpretations of traditional culture.

Because these actions are strategies adopted in the context of conflict, the process appears to be closer to the concept of ideology as strategy than culture as a "taken for granted" set of constraints. But this ideology is produced in the heat of combat between competing claimants to legitimacy, and it is therefore a view of ideology as less domineering and permanent than either the "tyranny of culture" or the tyrannic ideological hegemony of which Gramsci (1971) spoke. Nor does this view of ideology necessarily require denial of the automaticity of culture. Instead it calls on us to recognize that the things people "take for granted" are often at odds both with each other and with new conditions which necessitate new patterns of thought and action.

It is obvious that major differences exist between Amish and

Japanese societies. The Japanese development of ideology rests in the diversified and specialized hands of a managerial elite. Management of Amish ideological development involves much less formal specialization. The Japanese case involves an elite working to preserve its own position as primary planners and beneficiaries of modernizing change. Therefore, its actions are directed primarily internally, seeking to control the actions of other Japanese. The Amish "lawyers" are working primarily to preserve a separate group identity in a larger social context. Their actions are, consequently, directed externally. Undoubtedly these differences affect aspects of strategy, and might, if we had ways of measuring them, affect levels of harmony. For our purposes here, we are interested in the fact that in spite of these differences, the ideological similarity is paired with disguised self-contradicting methods for preserving the impression that antilaw methods "work."

The type of ideological activity we have described here is best understood as the selection of portions of a culture for the purpose of pursuing goals or interests which are at odds with other facets of that culture. As such, ideology is not only a tool in the hands of elites who impose their hegemony. It is, rather, the very language within which elites assert control and other groups resist or redirect that control. It is also the language within which various non-elite groups form alliances with or compete against each other. Ideology is the selective invocation of tradition for the purpose of legitimization.

How can one select only the area of formal law and talk meaningfully about similarities between Japanese and Amish societies when so many great differences exist? The answer lies in the similarities of ideology with respect to the handling of conflict and the rejection of formal law. In Unger's (1976) analysis of modernizing states, he presents Japan as a prototype of a "traditionalistic" society. Our research here shows that in key respects the Amish, who apparently reject modernity, fit Unger's profile of traditionalism to a tee. Like the Japanese, the Amish share a "sense that society is graced by a natural order that ought to be learned and preserved" (*ibid.*, p. 226). They, too, "have a perception of the primacy of the group over the individual," and their "idea of self is almost completely defined by the place and job [they] hold in the social order" (*ibid.*). The difference between the two is that they have adopted opposite responses to what Unger calls the "ambivalence" between "acceptance of the traditionalistic outlook and attraction to the dominant culture of the liberal capitalist societies." Elites in Japan use contemporary political methods clothed in traditionalist rhetoric in promoting change toward capitalism while Amish leaders use modern techniques clothed in traditional language to resist capitalism. To modify Unger's thesis a bit, traditionalism, especially one of its pillars, legal informalism, is an ideological package which has been developed as a response to the

pressures of modernization. Neither the Japanese nor the Amish can be adequately understood as mere followers of tradition.

Both societies generate an extraordinary amount of discussion, among both members and interested outsiders, about the "uniqueness" of their "cultures" as being resistant to the mainstream. Both have been perceived as unusually insular and have experienced hostility from the excluded outsiders. We submit that the rejection of formal law by both societies is an aspect of intense ideological activity in both which heretofore has been misconstrued as simply an unusual level of conformity with tradition.

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