

The Nonproblem of Fundamentalism

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THE NONPROBLEM OF FUNDAMENTALISM

Andrew Koppelman*

I am not sure I should be here. When I was invited to this conference on “Families, Fundamentalism, & the First Amendment,” my reaction was that, although there are real issues worth discussing, this is the wrong way to identify them. I still think so.

The announcement of this conference declares: “Fundamentalist families compel the state to confront a classic political challenge in which it must balance its commitment to noninterference in private lives against its commitment to securing individuals’ entitlements to certain basic liberties, even when threats to those liberties come from within the family itself.”¹ Fundamentalist families, then, are understood to constitute a threat to basic liberties.

This is a big mistake. Unless you are invested in a modernist biblical hermeneutic, fundamentalism as such is not a problem.

Fundamentalism, without more, entails nothing in particular about basic liberties. It is a strategy of biblical interpretation, contingently and historically linked to a kind of anti-modernism. Its contingency means that its agenda will sometimes coincide with that of modernist liberals. There is no problem of fundamentalism as such. There is a cluster of problems, with which some fundamentalists tend to be associated. The value of fundamentalism is something that needs to be determined at retail, case by case.

I. THE NONPROBLEM OF FUNDAMENTALISM

Defining fundamentalism is tricky. George Marsden observes that “fundamentalism,” in its original 1920s form, refers to “a broad coalition of conservatives from major denominations and revivalists (prominently including premillennial dispensationalists) who are militantly opposed to modernism in the churches and to certain modern cultural mores.”² More specifically, it refers to a movement that avows a literal interpretation of the Bible.³ In more modern usage, it refers to the evangelical

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¹ Institute of Bill of Rights Law, Families, Fundamentalism, & the First Amendment, <http://law.wm.edu/academics/intellectuallife/researchcenters/ibr/programsandevents/index.php> (last visited Jan. 30, 2010).

² GEORGE M. MARSDEN, FUNDAMENTALISM AND AMERICAN CULTURE 234 (2d ed. 2006).

³ See generally *id.* “From its origins fundamentalism was . . . a movement among American ‘evangelical’ Christians, people professing complete confidence in the Bible

Protestant wing of the Religious Right, a coalition that also includes Catholics and Mormons.⁴ The agenda of the Religious Right is, of course, associated with conservative positions on abortion, gay rights, funding for the arts, child care policy, the roles of the sexes, and the place of traditional values in education and especially in sex education.⁵

With respect to each of these issues, fundamentalism is essentially a reaction against what James Davison Hunter has called a “progressive” worldview, which tends to take human well-being as the ultimate standard by which moral judgments and policy decisions are grounded, and to treat any moral truth as a human construction that is always subject to reevaluation in light of experience.⁶ Perhaps because of its oppositional character in modern circumstances, Marsden is able to suggest a shorthand definition: a fundamentalist is “an evangelical who is angry about something.”⁷ The bounds of the category, in short, are somewhat vague. For my purposes, I will use it to refer to the set of people who self-identify this way. As thus defined, it describes a lot of people.

The illiberalism of American fundamentalists should not be exaggerated. Marsden notes some salient differences between American fundamentalists and radical Islamists, to whom the label “fundamentalist” is also often applied.⁸ Both are trying to stop the “erosion of religious identity . . . and create viable alternatives to secular institutions.”⁹ But American fundamentalists’ warfare “is almost always metaphorical rather than literal.”¹⁰ They hardly ever engage in violence, they affirm separation of church and state, they are strong believers in individual liberty, and they remain comfortable with the liberal ideals of the American Revolution.¹¹

and . . . convinced that sincere acceptance of this ‘Gospel’ message was the key to virtue in this life and to eternal life in heaven . . .” *Id.* at 3.

⁴ *Id.* at 234–35.

⁵ *See id.* at 240–43; *see also* JAMES DAVISON HUNTER, *CULTURE WARS: THE STRUGGLE TO DEFINE AMERICA* (1991).

⁶ *See* HUNTER, *supra* note 5, at 43–48 (discussing the “culture war” between orthodox and progressive worldviews).

⁷ MARSDEN, *supra* note 2, at 235.

⁸ *Id.* at 250 (“[S]cholars often extended the use of the term ‘fundamentalist’ to include militant anti-modernists of other world religions, especially Islam.”).

⁹ *Id.* (quoting GABRIEL A. ALMOND ET AL., *STRONG RELIGION: THE RISE OF FUNDAMENTALISMS AROUND THE WORLD* 17 (2003)).

¹⁰ *Id.*

¹¹ This is evident even in some of the most extreme fundamentalists, such as David Smolin, who argues that Christians should be permitted to legislate on the basis of religious dogma—by outlawing abortion, fornication, and homosexual conduct, for example—but that the basic religious and political rights of non-Christians will continue to be respected.

The vast majority of American traditionalist theists embrace America’s heritage of civil and political liberty. . . . They believe that government should not coerce religious belief, nor generally interfere with religious liberty, regardless of whether that religion be their own or another’s.

In some respects, fundamentalists can even be enlisted as friends of liberalism. Their first champion, William Jennings Bryan, was an early proponent of women's suffrage, railroad regulation, the federal income tax, opposition to capital punishment, a federal department of labor, campaign fund disclosure, state initiative and referendum, and vigorous enforcement of antitrust law.¹² His campaigns, Garry Wills observes, were "the most leftist mounted by a major party's candidate in our entire history."¹³ Bryan's fundamentalist politics culminated in the New Deal, and its traces can still be found in the Democratic Party.¹⁴

It is true that fundamentalism can contingently be malign in some circumstances, and this in two ways. Most notoriously today, it can support a retrograde politics, one that would have astonished Bryan. One can imagine what he would have thought of the efforts of Reagan or the two Bushes, all of whom looked to fundamentalists as a crucial part of their political base, to make the tax code more regressive, to weaken workplace safety regulations, or to subject old age pensions to the vagaries of the stock market.

More pertinently here, fundamentalism can license certain varieties of child abuse, most importantly efforts by parents to prevent their children from being adequately educated. The problem is most acute with respect to homeschooling, where, as James Dwyer and my colleague Kim Yuracko have documented, many states have completely abdicated their oversight responsibilities; some children are getting wretched educations in "homeschooling" that does not deserve the name.¹⁵

But here the use of "fundamentalism" as a category of analysis is even more misguided than it is in the study of politics. Fundamentalist religion is, at least, a fairly reliable predictor of political behavior.¹⁶ The education problem in particular is contingent, and not unique to or especially related to fundamentalism. The overwhelming majority of fundamentalists cheerfully send their children to public

Most American theists perceive these constitutional protections as congruent with their faith, insofar as they safeguard the legitimacy of law and the limitations of governmental power. They believe that America is under God and that America should be a Christian nation, while maintaining that Christianity is compatible with freedom.

David M. Smolin, *Regulating Religious and Cultural Conflict in a Postmodern America: A Response to Professor Perry*, 76 IOWA L. REV. 1067, 1098 (1991) (book review).

¹² GARRY WILLS, *UNDER GOD: RELIGION AND AMERICAN POLITICS* 99 (1990).

¹³ *Id.*

¹⁴ See Susan D. Franck, *Foreword: A Symposium Exploring the Modern Legacy of William Jennings Bryan*, 86 NEB. L. REV. 142, 142 & n.5 (2007).

¹⁵ James G. Dwyer, *The Children We Abandon: Religious Exemptions to Child Welfare and Education Laws as Denials of Equal Protection to Children of Religious Objectors*, 74 N.C. L. REV. 1321 (1996); Kimberly A. Yuracko, *Education Off the Grid: Constitutional Constraints on Homeschooling*, 96 CAL. L. REV. 123 (2008).

¹⁶ See generally GEOFFREY C. LAYMAN, *THE GREAT DIVIDE: RELIGIOUS AND CULTURAL CONFLICTS IN AMERICAN PARTY POLITICS* (2001).

schools.¹⁷ Fundamentalists have become an increasingly large proportion of homeschoolers,¹⁸ but that fact has no significance in itself. Some homeschooling is extremely good, and there is no reliable data about the proportion of good and bad.¹⁹ The bad homeschoolers are not all fundamentalists.²⁰

In short, if you are concerned about child welfare, it is a mistake to use fundamentalism as a category of inquiry.

Deeming fundamentalism the problem in this context is also a strategic error in rhetoric—exactly the same kind of error that was committed by those who claimed, after the September 11, 2001 terrorist attacks, that Islam was the problem. This way of putting things slandered millions of potential allies.

Public secularism takes different forms in different regimes. France and Turkey, for example, aggressively strive to purge the public sphere of any trace of religion.²¹ The United States is not like that. We have not had a strong anticlerical party.²² The salient difference, Ahmet Kuru observes, is that in America, there was no danger that an old local monarchy would reestablish itself on a religious basis.²³ Secular rationalists therefore did not, for the most part, become anticlerical or antireligious. Rather, they worked together toward a regime of religious liberty acceptable to both.²⁴ What was true then is true now. America does not need an anticlerical party.

Religion has been ubiquitous in American public life.²⁵ It is hardly obvious that this is a bad thing. The most important religiously-based movement in American politics was abolitionism.²⁶ There were few secular arguments for getting rid of slavery, and practical men of affairs had little interest in such arguments as there were. The civil rights movement of the 1960s, too, had religious roots.²⁷ And then there is Bryan.

The recent proliferation of works of political philosophy fretting about the role of religion in politics²⁸ is also a consequence of a recent phenomenon, the alignment

¹⁷ Nomi May Stolzenberg, *“He Drew a Circle that Shut Me Out”: Assimilation, Indoctrination, and the Paradox of a Liberal Education*, 106 HARV. L. REV. 581, 638–39 (1993).

¹⁸ Yuracko, *supra* note 15, at 126–27, 127 n.17.

¹⁹ *Id.* at 134–35.

²⁰ *Id.* at 135 n.51.

²¹ See AHMET T. KURU, *SECULARISM AND STATE POLICIES TOWARD RELIGION: THE UNITED STATES, FRANCE, AND TURKEY* 8–9 (2009).

²² See generally *id.* at 6–100.

²³ *Id.* at 23, 25–30.

²⁴ *Id.* at 28–29.

²⁵ See generally A. JAMES REICHLEY, *RELIGION IN AMERICAN PUBLIC LIFE* (1985).

²⁶ See generally *id.* at 191–93.

²⁷ See *id.* at 241–42.

²⁸ The literature on this topic is extensive. See, e.g., ROBERT AUDI, *RELIGIOUS COMMITMENT AND SECULAR REASON* (2000); ROBERT AUDI & NICHOLAS WOLTERSTORFF, *RELIGION IN THE PUBLIC SQUARE: THE PLACE OF RELIGIOUS CONVICTIONS IN POLITICAL DEBATE*

of the most religious Americans with the political right. This alignment only began in the late 1970s.²⁹ Before then, religion was a politically cross-cutting category, with religious groups swinging left on the most pressing issues: the civil rights movement and the Vietnam War.³⁰

The contingency of the connection between religion and the political right was made clear by the emergence in the 2008 Republican presidential primaries of Mike Huckabee, who is as religious as they come, but who is surprisingly leftish with respect to a range of economic issues.³¹ We may already be seeing the breakup of the Religious Right as a coherent political movement.³² But that hardly means the end of fundamentalism.

II. A CASE STUDY: THE EX-GAY MOVEMENT

The instabilities within fundamentalism—and the opportunities these create—are especially apparent in the rhetorical and political dynamics of the ex-gay movement. Gay rights issues raise both of the concerns about fundamentalism I mentioned earlier: fundamentalists have supported repressive politics, and they raise their gay children in ways that are likely to produce guilt and self-loathing. Neither of these can be stopped. Fundamentalists have the right to vote, and they cannot be prevented from teaching their children what they believe. Yet the consequences of this acculturation are in some ways surprising.

(1997); STEPHEN L. CARTER, *THE CULTURE OF DISBELIEF: HOW AMERICAN LAW AND POLITICS TRIVIALIZE RELIGIOUS DEVOTION* (1993); CHRISTOPHER J. EBERLE, *RELIGIOUS CONVICTION IN LIBERAL POLITICS* (2002); KENT GREENAWALT, *PRIVATE CONSCIENCES AND PUBLIC REASONS* (1995); MICHAEL J. PERRY, *LOVE AND POWER: THE ROLE OF RELIGION AND MORALITY IN AMERICAN POLITICS* (1991); MICHAEL J. PERRY, *RELIGION IN POLITICS: CONSTITUTIONAL AND MORAL PERSPECTIVES* (1997); MICHAEL J. PERRY, *UNDER GOD?: RELIGIOUS FAITH AND LIBERAL DEMOCRACY* (2003); *RELIGION AND CONTEMPORARY LIBERALISM* (Paul J. Weithman ed., 1997); PAUL J. WEITHMAN, *RELIGION AND THE OBLIGATIONS OF CITIZENSHIP* (2002); Smolin, *supra* note 11; Symposium, *Religiously Based Morality: Its Proper Place in American Law and Public Policy?*, 36 WAKE FOREST L. REV. 217 (2001); Symposium, *The Role of Religion in Public Debate in a Liberal Society*, 30 SAN DIEGO L. REV. 643 (1993); Sanford Levinson, *Religious Language and the Public Square*, 105 HARV. L. REV. 2061 (1992) (book review).

²⁹ See ROBERT WUTHNOW, *THE RESTRUCTURING OF AMERICAN RELIGION* 191–214 (1988).

³⁰ See *id.* at 145–48. My own view is that religious people have as much right to participate in politics as anyone else, but that the courts appropriately monitor the output of their participation to ensure that it has a secular legislative purpose. See Andrew Koppelman, *Secular Purpose*, 88 VA. L. REV. 87 (2002).

³¹ This is emphatically not an endorsement of Huckabee. See David D. Kirkpatrick, *Shake, Rattle and Roil the Grand Ol' Coalition*, N.Y. TIMES, Dec. 30, 2007, at 1.

³² See David D. Kirkpatrick, *The Evangelical Crackup*, N.Y. TIMES MAG., Oct. 28, 2007, at 38.

The October 2007 issue of *Christianity Today* included a fascinating piece about the evolution of the ex-gay movement.³³ The article inadvertently exposes a major fault line in the Christian Right's position on homosexuality.

The article, unsurprisingly given its venue, takes as an unquestioned premise that homosexual desire and homosexual conduct are always evils to be avoided. It notes an important shift in the claims being made by the ex-gay movement, a primarily Christian movement that has been around for some decades now, promising to lead gay people away from homosexuality.³⁴ In the early days of the movement, it claimed that a gay person could transform him- or herself into a heterosexual through a pure act of will.³⁵ Those claims have now disappeared. The article reports that “[e]arly hopes for instant healing have given way to belief that transformation occurs through a lifetime of discipleship.”³⁶

Alan Chambers, president of Exodus International, the largest of the ex-gay groups,³⁷

is frank that change does not eradicate temptation. He wonders if change is ever 100 percent complete in this life. “One thing we can expect as Christians is a life of denial,” he says. “I don’t think we’re afraid to tell people that they may have a lifetime of struggle. Freedom isn’t the absence of struggle, but the life of struggle with joy in the process.”

The ex-gay movement seeks to integrate the reality of same-sex attraction into a life of discipleship. In that lifelong journey, they expect many changes, including changes of feeling and attraction. But they emphasize that each person’s experience is different, and that instant transformation is extremely rare.

Not surprisingly then, ex-gay ministries appeal almost exclusively to Christians. Most participants come from evangelical backgrounds and can’t resolve their Christian faith with a gay identity.³⁸

An accompanying article describes a recent study of “reparative therapy” (therapy that seeks to transform sexual orientation).³⁹ The study struggles to cast that therapy in the best possible light. But among those who were deemed to have successfully converted to heterosexual, most

³³ Tim Stafford, *An Older, Wiser Ex-Gay Movement*, CHRISTIANITY TODAY, Oct. 2007, at 49.

³⁴ *See id.* at 50–51.

³⁵ *See id.* at 50.

³⁶ *Id.*

³⁷ *See id.*

³⁸ *Id.* at 51.

³⁹ Tim Stafford, *The Best Research Yet*, CHRISTIANITY TODAY, Oct. 2007, at 52.

“did not report themselves to be without experience of homosexual arousal, and did not report heterosexual orientation to be unequivocal and uncomplicated. Sexual orientation for the individuals in this study (and indeed for most of us) may be considerably more complicated than commonly conceived, involving a complex interplay of what we are instinctively attracted to, what we can be attracted to with proper attention and focus, what we choose to be attracted to based on how we structure our interpersonal environments, our emotional attachments, our broader psychological functioning, (of course) our religious and moral beliefs and values, and many more factors. We believe the individuals who presented themselves as heterosexual success stories at Time 3 are heterosexual in some meaningful but complicated sense of the term.”⁴⁰

The abandonment of the claim that sexual orientation can easily be changed is very big news. Poll data reveals that those who think homosexuality is innate are overwhelmingly likely to support gay rights, while those who think homosexuality is a choice are likely to be opposed.⁴¹ “Of those who consider it a choice,” a New York Times poll reported in 1993, “only 18 percent rated it as acceptable, compared with 57 percent of those who regard it as something gay men and lesbians cannot change.”⁴²

There is nothing illogical about thinking that homosexuality is innate and nonetheless opposing gay rights. One can regard it as an unfortunate fact of life that some people are permanently denied any permissible path to sexual happiness. The *Christianity Today* article ends on that note: “Our attractions, always disordered to some extent, must be submitted to Christ, who alone can redeem us. For those who feel strong same-sex attractions, that task is especially difficult. But it is the same basic struggle every Christian must face.”⁴³

But that story is a hard sell. Americans like happy endings. They like to think that if homosexual sex is forbidden, then another avenue to sexual fulfillment is easily available to gay people. That is why the leadership of the Christian Right has tended to be quiet about the ambiguities in the experience of those in the ex-gay movement. As recent studies of the ex-gay movement have shown, this has produced considerable

⁴⁰ See *id.* at 54.

⁴¹ See Jeffrey Schmalz, *Poll Finds an Even Split on Homosexuality's Cause*, N.Y. TIMES, Mar. 5, 1993, at A14 (reporting results of a New York Times/CBS poll).

⁴² *Id.* The same correlation has been found in dozens of surveys over several decades: “regarding a homosexual orientation as freely chosen has consistently been associated with more negative attitudes toward gay people and opposition to gay rights.” Gregory M. Herek, *Gender Gaps in Public Opinion about Lesbians and Gay Men*, 66 PUB. OPINION. Q. 40, 46 (2002).

⁴³ Stafford, *supra* note 33, at 51.

tensions.⁴⁴ One committed member of the movement denounced the hypocrisy of his fellow Christians:

“Most of them can’t handle the truth. If you’re in the church and you’re a drug addict, murderer, whatever, guys will come up to you and slap you on the ass. You’re one of the guys. But if you state you struggle with homosexuality, you get the whole pew to yourself.”⁴⁵

The appearance of the *Christianity Today* article is a significant event because it shows that mainstream conservative Christianity is now willing to admit these uncomfortable facts. This, however, is a decidedly unstable cultural formation. It is also liable to slippage, as when Michael Bussee, one of the founders of Exodus International, fell in love with one of the members.⁴⁶ They left the group together and never came back.⁴⁷

The ex-gay movement is, wittingly or not, a progressive force in American politics. It demands that the immutability claim be taken seriously, and its members are not easily dismissed by the Religious Right, because they agree with the Religious Right about nearly everything else.⁴⁸ They have a credibility and a competence in the pertinent theological claims that no one else can possibly match. They are able to speak to their own cultural group in the same way that sophisticated Islamic feminist theologians can speak to theirs.⁴⁹

Among Americans, there is a sharp generational divide on gay rights and same-sex marriage. According to Gallup, 57 percent oppose same-sex marriage.⁵⁰ But, according to another poll, among those 18 to 34 years old, 58 percent support same-sex marriages.⁵¹ The number falls to 42 percent among respondents aged 35 to 49, to 41 percent of those aged 50 to 64, and to 24 percent of Americans 65 and older.⁵²

⁴⁴ See MICHELLE WOLKOMIR, “BE NOT DECEIVED”: THE SACRED AND SEXUAL STRUGGLES OF GAY AND EX-GAY CHRISTIAN MEN (2006); see also TANYA ERZEN, STRAIGHT TO JESUS: SEXUAL AND CHRISTIAN CONVERSIONS IN THE EX-GAY MOVEMENT (2006).

⁴⁵ ERZEN, *supra* note 44, at 66.

⁴⁶ See WOLKOMIR, *supra* note 44, at 28–29.

⁴⁷ See *id.* at 29–30.

⁴⁸ See ERZEN, *supra* note 44, at 186–88 (explaining the relationship between the ex-gay movement and the Christian Right).

⁴⁹ See, e.g., Asra Q. Nomani, *A Gender Jihad For Islam’s Future*, WASH. POST, Nov. 6, 2005, at B2.

⁵⁰ Jeffrey M. Jones, *Majority of Americans Continue to Oppose Gay Marriage*, GALLUP, May 27, 2009, <http://www.gallup.com/poll/118378/Majority-Americans-Continue-Oppose-Gay-Marriage.aspx>.

⁵¹ Paul Steinhauser, *CNN Poll: Generations Disagree on Same-Sex Marriage*, CNN.COM, May 4, 2009, <http://www.cnn.com/2009/US/05/04/samesex.marriage.poll/>.

⁵² *Id.* Other polls reach similar results. See Arian Campo-Flores, *A Gay Marriage Surge*, NEWSWEEK, Dec. 5, 2008, <http://www.newsweek.com/id/172399> (finding “about half of those

The same effect is noticeable among white evangelical Christians, otherwise a very conservative lot: 58 percent of those 18–29 years old support some legal recognition of same-sex couples, with 26 percent supporting marriage rights.⁵³ Only 46 percent of those over 30 support any legal recognition, with 9 percent supporting marriage.⁵⁴ Older evangelicals also care much more about the issue: according to a Pew Forum study, 61.8 percent of those over 60 said that “stopping gay marriage” was very important, while only 34 percent of those 29 and under said so.⁵⁵

I predict that in twenty years, there will still be millions of fundamentalists; politically conservative, deeply opposed to abortion, and skeptical of Darwin. But they will not care at all about gay rights issues. That will make life easier for young fundamentalists who discover that they are attracted to persons of the same sex. Fundamentalism is anti-modernism, but the definition of the modernity that is being resisted is fluid and subject to continuing negotiation.

CONCLUSION

I am not a fundamentalist myself. I am a secular liberal. Secular liberals are, of course, no more happy with the present state of American society than fundamentalists are, though the sources of our unhappiness are somewhat different. The emerging plutocracy is unlikely to be an enduring source of joy to either. There are areas of overlap, though, and neither group is large enough to accomplish what it wants without help.

Most fundamentalists would not be pleased by the horror stories of non-education that are told by Dwyer and Yuracko.⁵⁶ With respect to other educational issues, such as natural history, sex education, or the meaning of gender, there is likely to be deeper disagreement. We have important issues to argue about. But the question of the appropriate biblical hermeneutic is not among them.

aged 18 to 34 back [same-sex] marriage rights”); Jones, *supra* note 50 (finding 59 percent of 18–29 year-olds support same-sex marriage); Adam Nagourney, *Signs G.O.P. Is Rethinking Stance on Gay Marriage*, N.Y. TIMES, Apr. 28, 2009, at A4 (finding 57 percent of those under 40 support same-sex marriage).

⁵³ GREENBERG QUINLAN ROSNER RESEARCH, INC., YOUNG EVANGELICAL CHRISTIANS AND THE 2008 ELECTION, Sept. 29, 2008, <http://www.greenbergresearch.com/index.php?ID=2251>.

⁵⁴ *Id.*

⁵⁵ Steven Waldman, Beliefnet, *Abortion vs. Homosexuality: The Evangelical Age Gap*, <http://blog.beliefnet.com/stevenwaldman/2008/07/abortion-vs-homosexuality-the.html> (July 8, 2008, 15:17 EST) (also citing similar data from Barna Research).

⁵⁶ See *supra* note 15 and accompanying text.