

Cambridge University Press

978-0-521-19122-7 - Fundamentalism in American Religion and Law: Obama's Challenge to Patriarchy's Threat to Democracy

David A. J. Richards

Index

[More information](#)

## INDEX

- abolitionist movement, 117, 190–191
- abortion rights, 14–23. *See also* *Roe v. Wade*
- Aquinas on, 105
  - under constitutional originalism, 60
  - gender hierarchy and, 21
  - late-term, Supreme Court decision, 227
  - moral arguments against, 20–21
  - under new natural law, 111, 120–122
  - Protestant fundamentalism and, 191
  - Roman Catholic influence on, 227–228
  - sexism and, 121–122
- Adams, John, 58
- The Aeneid* (Virgil), 32, 143
- affirmative action, 223–224
- Thomas on, 223–224
- African Americans
- antimiscegenation laws and, 40
  - lynching of, 39–40
  - under Reconstruction Amendments, 36
  - sexuality of, 39–40
- Ali, Ayaan Hirsi, 267
- Alien and Sedition Acts of 1798, 58
- Alito, Samuel (Justice), 1
- Ambrose of Milan, 139, 154, 180
- Amendment 2 (Colorado state constitution), 29, 67–68, 69–70
- “American dilemma,” 277
- American Fascists* (Hedges), 270
- American Protestantism, 159–160, 185–190
- anti-intellectualism and, 188–189
  - cultural panic and, 186–187, 189
  - feminism and, 185–186
  - feminization of male's roles under, 186
  - preachers of, 187
  - resistance movements and, 189
  - resistance to patriarchy as part of, 185–186
  - right to conscience and, 193
- American Revolution, right to intimate life during, 16
- The Anatomy of Fascism* (Paxton), 270
- antiabortion laws
- foundations for, 19–20
  - Sreekumar argument against, 120–121
- anti-intellectualism
- American Protestantism and, 188–189
  - same-sex marriage rights and, 188–189
  - violence and, 188–189
- antimiscegenation laws, 40
- anti-Semitism, 31–35
- of Aquinas, 101
  - Augustinian foundations for, 31–32, 175
  - Christian resistance to, 183
  - within Christianity, 176–177
  - Freud and, 46
  - Gilligan-Richards thesis and, 32, 33
  - of Hitler, 33, 181, 182
  - homophobia as analogous to, 33–34, 70, 71–72
  - as irrational, 177
  - as moral evil, 31
  - paradox of intolerance and, 176
  - political, 181, 182
  - repression of sexual voice and, 32
  - during Roman Empire, as patriarchy-based, 32–33
  - in theory of faction, 259
- antiwar movement, 44
- Apuleius, 35, 132, 145–146
- influence on Augustine of Hippo, 145–146
- Aquinas, Thomas, 90, 91–92, 155. *See also*
- historical Thomism
  - on abortion, 105
  - anti-Semitism of, 101
  - basic goods for, 111–112
  - belief from revelation for, 104

- Aquinas, Thomas (*cont.*)  
 on celibacy, 113–114  
 on conversion of Jews, 99–100  
 ethical naturalism of, 106  
 ethical perfectionism for, 95–96  
 existence of God for, 94–95, 103–104, 112  
 female stereotyping by, 101–102  
 heresy for, 98–99  
 human ethics for, 95  
 moral theory for, 103–112  
 new natural law and, 102–103  
 on non-Christian believers, 100  
 nonprocreative sex for, 19, 96–97  
 on power of medieval church, 104  
 on sex in marriage, 130  
 on universal rights, 105
- Arendt, Hannah, 182  
 on violence as part of totalitarianism, 268–269
- Aristotle, 92  
 ethical naturalism for, 93  
 existence of God for, 92  
 historical Thomism and, 90, 91–92, 93–94  
 perfectionism for, 97–98  
 practical reasonableness for, 92  
 relevant excellences for, 93–94
- Arkes, Hadley, 53–54, 60
- Augustine of Hippo, 101, 131, 133, 147, 154–155  
 Adam and Eve narrative, interpretation of, 133  
 anti-Semitism and, 31–32, 175  
 Apuleius as influence on, 145–146  
 background for, 138  
 celibacy for, 113–114, 149  
 as celibate, 144–145  
 Christianity influenced by, 155–156  
 criticism of, 148  
 on gender stereotyping, 149  
 Luther influenced by, 150–151  
 misogyny of, 135–137  
 parental history of, 136–139  
 on patriarchy, 142–143  
 Protestant fundamentalism and, 175–184  
 Protestantism influenced by, 156  
 on sexuality, 133–135, 140  
 theory of persecution for, 132
- Baker v. State of Vermont*, 127
- Baldwin, James, 42
- Bamforth, Nicholas, 8
- Baptists, 159–160
- basic goods, in new natural law, 103–112  
 Aquinas and, 111–112  
 for Finnis, 110  
 identification of, 109–110
- Bayle, Pierre, 132, 156, 157  
 ethics for, 157  
 right to conscience for, 156–157
- Beecher, Catharine, 25, 115, 185  
 abolitionist feminism for, 117  
 concept of gender for, 117  
 on maternal relationships, 115–116
- Bendroth, Margaret, 187
- Benedict XVI (Pope), 88
- Bentham, Jeremy, 58
- Berger, Raoul, 53, 54
- The Bible, interpretation of  
 female interpretations of, 184  
 Protestant fundamentalism and, textual support for, 174  
 in Roman Catholicism, 84
- Blackmun, Harry (Justice), 26
- Bloom, Harold, 163, 204, 208
- Boas, Franz, 37, 41
- Boggs, Lilburne, 200
- Bonhoeffer, Dietrich, 183
- The Book of Mormon* (Smith, J.), 10, 193, 196, 201
- Bork, Robert, 48, 218  
 as constitutional originalist, 53, 54–55
- Bouyeri, Mohammed, 267
- Bowers v. Hardwick*, 15, 23, 28, 29, 30, 74
- Boy Scouts of America v. Dale*, 251
- Bradwell v. State*, 25
- Brennan, William (Justice), 25–26  
 race and gender analogies for, 25–26, 27
- Breyer, Stephen (Justice), 229
- Brodie, Fawn M., 194. *See also* Smith, Joseph
- Brown, Peter, 137
- Brown v. Board of Education*, 41  
 as unconstitutional, 53
- Bryant, Anita, 215
- Buber, Martin, 165–166, 178
- Burger, Warren (Chief Justice), 24, 26
- Buruma, Ian, 267
- Bush, George H.W., 1  
 originalism as factor for judicial appointees, 225, 227
- Bush, George W., 1, 48, 215, 245  
 patriarchal psychology of, 239  
 Supreme Court nominees of, 221
- Bushnell, Horace, 115, 185  
 abolitionist feminism for, 117  
 concept of gender for, 117  
 on maternal relationships, 115–116
- Calvin, John, 155
- Carroll, James, 44
- Castellio, Sebastian, 103
- The Catechism of the Catholic Church*, 125

- Catholicism. *See* Roman Catholicism
- celibacy  
   for Augustine of Hippo, 113–114, 144–145, 149  
   Christianity and, 91  
   ethical perfectionism and, 98  
   of historical Jesus, 171  
   historical Thomism and, 90–91, 98  
   of John the Baptist, 171  
   Judaism and, 177–178  
   maternal idealization and, 151  
   misogyny and, 151
- Chemerinsky, Erwin, 55
- Child, Lydia Maria, 38
- Christianity  
   anti-Semitism within, 176–177  
   Augustinian influences on, 155–156  
   celibacy and, 91  
   foundations of, 154–156  
   heresy and, 98–99  
   Judaism as rejection of, 176–177  
   moral slavery of Jews under, 180–181  
   patriarchy within, 6–7  
   Protestant Reformation and, 155–156  
   repression of sexuality in, 180–181  
   resistance to anti-Semitism within, 183
- Chrysostom, John, 180
- Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 71
- The City of God* (Augustine of Hippo), 131, 133, 147
- Civil Rights Act of 1964, 245
- civil rights movement, 42–43
- Civil War (U.S.)  
   patriarchy as basis for, in southern U.S., 37–38  
   right to intimate life during, 16–17
- The Clash Within* (Nussbaum), 263–264
- Clinton, Hillary, 238
- The Confessions* (Augustine of Hippo), 133  
   influences on, 145–146
- conservative movement  
   fundamentalism and, 48  
   progressive politics under, 48  
   Reagan and, 47  
   Southern support for, 47–48
- Constitution, U.S. *See also* constitutional law, politics and; constitutional originalism; First Amendment; Fourteenth Amendment; Thirteenth Amendment  
   antiestablishment of religion principle in, 252–254  
   constitutional originalism and, 51–61  
   freedom of religion protections under, 5–6  
   Mormonism under, religious conflicts with, 203, 205  
   polygamy under, 203, 205  
   restrictions on government establishment of religion under, 5–6
- constitutional democracy, Protestantism and, 153–160
- constitutional fundamentalism, 62–79  
   originalism and, 213–214, 218  
   patriarchal roots of, 213–230  
   religious fundamentalism and, 218–230  
   unreasonableness of, 226
- constitutional law, politics and, 246–255  
   gender exclusion under, 247–248  
   patriarchy and, 246–247  
   Reconstruction Amendments and, 246–247  
   religion clauses and, 247
- constitutional originalism, 51–61  
   abortion rights under, 60  
   Bork and, 53, 54–55  
   criticism of, 54–61  
   doctrine of stare decisis and, 56  
   First Amendment and, 254  
   Fourteenth Amendment and, 53, 55, 56, 224–225  
   freedom of speech and, 56  
   judicial review and, 59–60  
   Madison and, 57–58  
   motivations of, 62  
   right to privacy under, 54  
   *Roe v. Wade* and, 54, 64  
   Scalia and, 53, 55, 56, 218–219, 224–225, 254  
   as source-based fundamentalism, 52  
   textual interpretation as part of, 52–53  
   Thomas and, 53
- constructionism, Supreme Court and strict, 1
- contraception, rights to, 14–15  
   Finnis on, 119–120  
   Grisez on, 87  
   moral absolutes and, under new natural law, 113  
   under new natural law, 119–120  
   patriarchy and, 21  
   for women, 17
- Cosman, Brenda, 264
- Craig v. Boren*, 26–27  
   drinking age discrimination in, 26–27
- Crapanzano, Vincent, 4, 162  
   on fundamentalism, 231–235  
   on originalism, 232
- Cruzan v. Missouri Department of Health*, 15
- cultural panic, American Protestantism and, 186–187, 189
- cultural sexism, 129
- culture war, Scalia role in, 76–78

Cambridge University Press

978-0-521-19122-7 - Fundamentalism in American Religion and Law: Obama's Challenge to Patriarchy's Threat to Democracy

David A. J. Richards

Index

[More information](#)

304

Index

- Danforth, John, 224  
 Daube, David, 170  
 DeBerg, Betty, 187  
*The Deepening Darkness* (Richards/Gilligan), 4, 13  
 democracy  
   as "American dilemma," 277  
   constitutional, Protestantism and, 153–160  
   fascism and, 271  
   patriarchal values as threat to, 3, 5, 7  
 democratic constitutionalism, Obama and, 237–246  
   Sunstein on, 237–238  
 deontological theory, 108–109  
   Kant and, 109  
   moral absolutes in, 113  
 Descartes, René, 139, 156  
 dignity, under new natural law, 109  
 disassociation, violence as result of, 150  
 discrimination, under First Amendment, 251.  
   See also right to free speech, sexism and  
*District of Columbia v. Heller*, 228–229  
*Doctrine and Covenants* (Smith, J.), 10, 194, 201  
 doctrine of stare decisis, 56  
 Dodds, E.R., 147  
 Dostoyevsky, Fyodor, 152  
 Douglas, Ann, 185  
 Douglas, Mary, 179  
 Douglas, Stephen, 230, 275  
*Dreams from My Father* (Obama), 240  
*Dred Scott v. Sanford*, 59, 64  
 drinking age discrimination, by gender, 26–27  
 DuBois, W. E. B., 45–46  
 Dworkin, Ronald, 188–189, 227  
  
 Eisgruber, Christopher, 247  
*Employment Division v. Smith*, 55  
 Epstein, Richard, 128  
 Equal Protection Clause, 24  
   segregation under, 36–37, 38  
 ethics, 109  
   for Bayle, 157  
   political liberalism and, 109  
 ethical naturalism, 93, 106  
 ethical perfectionism, 93–94, 95–96  
   celibacy and, 98  
 Europe, religious fundamentalism in, 264  
  
 fascism  
   democracy and, 271  
   patriarchal roots of, 272–273  
   religious fundamentalism as, 270  
   violence and, 270  
*The Federalist No. 10* (Madison), 257–260  
*The Federalist No. 78* (Hamilton), 260  
  
 Feldman, Noah, 251  
 feminism  
   abolitionist, 35–36  
   American Protestantism and, 185–186  
   cultural embrace of, in U.S., 216  
   second-wave, 43–44  
 Ferenczi, Sándor, 32  
 Festinger, Leon, 260  
 Fetner, Tina, 215–216  
 Filmer, Robert, 57, 62, 224  
 Finney, Charles, 195  
 Finnis, John, 87, 88–89, 104, 114, 119  
   basic goods for, 110  
   on contraception, 119–120  
   on gay rights, 123, 124  
   on good of marriage, 130–131  
   human goods for, 88–89  
   on nonprocreative sex of homosexuals, 124–127  
   practical reasonableness for, 89–90  
   on sexuality and gender, Aquinas interpretation of, 105  
 First Amendment  
   constitutional originalism and, 254  
   discrimination against gay men under, 250, 251  
   religious freedom under, 250–251, 252  
 First Jewish Revolt, 173  
 Fitzhugh, George, 116  
 Fourteenth Amendment  
   constitutional originalism and, 53, 55, 56, 224–225  
   Equal Protection Clause under, 24, 36–37, 38  
   right to intimate life under, 17  
 freedom of religion, in U.S., 5–6, 71  
 freedom of speech, constitutional originalism and, 56  
 Freud, Anna, 138  
 Freud, Sigmund, 46  
   on political anti-Semitism, 222  
 Fried, Charles, 234  
*Frontiero v. Richardson*, 24–25, 75  
   gender distinctions and, 27  
 fundamentalism, religious. See also constitutional fundamentalism; source-based fundamentalism  
   academic studies on, 3–4  
   Bush, George W., influence on presidency of, 1, 48  
   conservative movement and, 48  
   constitutional, 62–79, 213–230  
   Crapanzano on, 231–235  
   democratization patterns and, 263  
   in Europe, 264  
   as fascism, 270

Cambridge University Press

978-0-521-19122-7 - Fundamentalism in American Religion and Law: Obama's Challenge to Patriarchy's Threat to Democracy

David A. J. Richards

Index

[More information](#)

- gay rights movement and, 215–217
- gender and, 10, 11
- gender hierarchy within, 20–21
- global rise of violence with, 266
- human rights and, 7
- in India, 263–264
- internal inconsistencies within, 11
- interpretive claims for, 9
- irrationalism and, 8, 236
- Islamic, 266–268
- Mormonism and, 193–209
- natural law and, 8
- Niagara Creed of 1878 and, 161–162
- norm-based, 10–11
- originalism and, 9, 51–54, 61
- patriarchy and, 8, 11
- political capital of, 75, 214–218
- populist foundations of, 273–274
- progressive politics under, 48
- Protestant, 153–192
- as reactionary, 7–8
- Roe v. Wade* and, 217
- Roman Catholicism and, 83–152
- same-sex marriage and, political battle
- against, 215–216
- secular arguments for, 271–272
- sexuality and, 10
- source-based, 10
- Sunstein on, 233–235
- Supreme Court and, influence on, 1
- unreasonableness of, 226
- Virgin Birth and, role in, 162
- war on reason and, 234–236
- gay rights
- antidiscrimination statutes for, 75
- Finnis on, 123, 124
- fundamentalism's influence on, 215–217
- judicial appointments and, 217
- for marriage, 127–128
- new natural law and, 122–124
- gay rights movement, 28–29, 30–31, 44. *See also* homosexuality
- political capital after, 75
- gender. *See also* sexism, as moral slavery
- Augustine of Hippo on stereotyping of, 149
- Beecher on, 117
- Bushnell on, 117
- under constitutional law, exclusion of women and, 247–248
- drinking age discrimination by, 26–27
- Finnis on, for Aquinas, 105
- fundamentalism and, 10, 11
- Grisez on, 114
- heightened scrutiny of, for classification of, 28
- hierarchy for, under fundamentalism, 20–21
- homosexuality and, stereotyping of, 22
- Jesus of Nazareth and, relationship with women, 166–169
- new natural law and, 114, 118
- patriarchy and, 5
- race and, analogies between, 25–26, 27
- in *Reed v. Reed*, 67–68
- during Roman Empire, 140–142
- gender roles
- normative theory of, 24–26
- right to intimate life and, 23
- George, Robert, 114, 119
- on criminalization of homosexuality, 124
- Gilligan, Carol, 4, 12–13, 102, 120, 142, 239.
- See also* Gilligan-Richards thesis
- Gilligan-Richards thesis, 4–5, 260
- anti-Semitism and, 32, 33
- love laws in, 34
- patriarchal voice in, 46
- role of sexuality in Roman Empire, 146
- Gingrich, Newt, 243
- Ginsburg, Ruth Bader (Justice), 65
- Go Tell It on the Mountain* (Baldwin), 42
- God
- Aquinas on existence of, 94–95, 103–104, 112
- in Aristotelian philosophy, 92
- The God of Small Things* (Roy), 34
- Goesaert v. Cleary*, 23
- The Golden Ass* (Apuleius), 35
- Goldman, Emma, 15, 119, 185
- Goodridge v. Department of Public Health*, 127
- Gordon, Sarah, 200, 202–203
- Greenawalt, Kent, 120, 252
- Grimké, Sarah, 184, 185, 187
- Grisez, Germain, 87, 105, 125
- on Benedict XVI, 88
- on gender, 114
- on homosexuality, 123–124
- on impermissibility of contraception, 87
- on John Paul II, 88
- moral theology for, 119
- on papal authority, 88
- on procreational sex, 110–111
- Griswold v. Connecticut*, 14, 23, 63, 123
- Gutter v. Bollinger*, 223
- Hamilton, Alexander, 16
- Hawthorne, Nathaniel, 36
- Hedges, Christopher, 270
- Henry, Patrick, 16, 157

Cambridge University Press

978-0-521-19122-7 - Fundamentalism in American Religion and Law: Obama's Challenge to Patriarchy's Threat to Democracy

David A. J. Richards

Index

[More information](#)

306

Index

- heresy  
 for Aquinas, 98–99  
 Christianity and, 98–99  
 homosexuality as, 72, 73
- Herzl, Theodore, 182–183
- Hill, Anita, 220
- Himmler, Heinrich, 35
- Hindu fundamentalism, 263–264  
 patriarchal foundations of, 263–264
- historical Thomism, 90–106, 113  
 Aristotelian philosophy as part of, 90, 91–92, 93–94  
 basic goods in, 103–112  
 belief from revelation as part of, 104  
 celibacy and, 90–91, 98  
 existence of God in, 94–95, 103–104  
 foundations of, 90–91  
 moral theology and, 103  
 nonprocreative sex and, 96–97  
 perfectionism as part of, 97–98  
 power of medieval church and, 104  
 religious tolerance and, 103
- Hitler, Adolf, 33  
 anti-Semitism of, 33, 181, 182  
 Christian resistance to, 183  
 patriarchy as psychology for, 270
- Hofstadter, Richard, 187, 188, 189
- homophobia  
 American Protestantism and, 186  
 anti-Semitism as analogous to, 33–34, 70, 71–72  
 cultural entrenchment of, 216  
 as cultural sexism, 129  
 paradox of intolerance and, 74  
 patriarchy and, 78  
 of Scalia, 77
- homosexuality. *See also* *Bowers v. Hardwick*;  
*Lawrence v. Texas*; *Romer v. Evans*  
 conceptions of, condemnation as result of, 72–73  
 gender stereotyping and, 22  
 George on, 124  
 Grisez on, 123–124  
 as heresy, 72, 73  
 Judaism and, 179  
 moral reasoning against, 21–22  
 new natural law and, 108, 122–124  
 nonprocreative and, 124–127  
 procreational model of sexuality and, 22  
 Protestant fundamentalism and, 191–192  
 right to intimate life and, 21–23  
 in rights cases, 15  
*Romer v. Evans* and, 29–30, 77, 122
- honor codes, for males, 140–141
- Honoré, Tony, 73
- How the Religious Right Shaped Lesbian and Gay Activism* (Fetner), 215–216
- Hoyt v. Florida*, 24
- human goods, 88–89
- human rights movements, 3  
 fundamentalism and, 7  
 moral slavery and, 7–8
- Hume, David, 257–260  
 theory of faction for, 257–259
- Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston*, 250
- Hutcheson, Francis, 16
- India, religious fundamentalism in, 263–264, 276–277
- irrationalism, 8, 236. *See also* war on reason, fundamentalism and
- Islamic fundamentalism, 266–268  
 terrorism as result of, 266–268
- Jackowski, Karol, 132–133, 145
- Jackson, Emily, 121
- James, William, 186
- Jefferson, Thomas, 12, 157  
 on judicial review, 58, 59
- Jeremias, Joachim, 170
- Jesus of Nazareth, 11  
 Buber on, 165–166  
 celibacy of, 171  
 nonviolent teachings of, 169–171  
 on patriarchy, sensitivity to, 171–172, 174–175  
 prophetic voice for, 172–173  
 Protestant fundamentalism and, 164–173  
 Vermes on, 164–165  
 women and, 166–169
- Jews  
 cultural assimilation of, disadvantages of, 182  
 moral slavery of, under Christianity, 180–181  
 political liberalism and, response to, 181–182
- John Paul II (Pope), 88, 114
- John the Baptist, 171
- John XXIII (Pope), 86
- Johnson, Lyndon, 47, 215
- Johnson, Virginia, 108
- Judaism, 172–181. *See also* anti-Semitism  
 celibacy and, 177–178  
 family relationships and, 178–179  
 female roles within, 178  
 homosexuality and, 179  
 original sin and, 180  
 patriarchy in, 179–180  
 rejection of Christianity and, 176–177  
 as “resistance” movement, 172–179, 190  
 sexuality and, 180–181

- judicial appointments, gay rights support as factor in, 217
- judicial review, 58
- constitutional originalism and, 59–60
- Jefferson on, 58, 59
- under Reconstruction Amendments, 59
- Juergensmeyer, Mark, 266
- Kant, Immanuel, 109, 158, 226
- ethics for, 109
- Kapur, Ratna, 264
- Kennedy, Anthony (Justice), 69–70, 221, 227
- Kennedy, Eugene, 151
- King, Martin Luther, Jr., 3, 42, 47, 160, 215, 276.
- See also* civil rights movement
- Civil Rights Act of 1964 and, 245
- nonviolent civil disobedience by, 43
- Obama and, cultural parallels to, 245
- Voting Rights Act of 1965 and, 245
- Kinsey, Alfred, 107
- Koppelman, Andrew, 105, 251
- Langmuir, Gavin, 177
- Lawrence v. Texas*, 15, 23, 28, 122, 222, 274
- Scalia opinion on, 76–78
- The Laws* (Plato), 21–22
- Lee, Ann, 194
- Lee, Richard Henry, 157
- lesbians. *See* gay rights; gay rights movement; homophobia; homosexuality
- Letters Concerning Toleration* (Locke), 159
- liberal constitutionalism, 62
- liberalism. *See also* political liberalism
- antidiscrimination principles of, 249–250
- ethics and, 109
- Lieber, Joseph, 203
- Lincoln, Abraham, 54, 230, 259
- Obama and, political parallels with, 241–242, 244–245
- Locke, John, 57, 58, 103, 132, 156, 158–159
- hypothetical contract of justice, 158–159
- liberal constitutionalism for, 62
- moral obligations for, release from, 158
- right to conscience for, 156–157, 158–159
- right to rebel for, 158–159
- Lofgren, Charles, 36
- Lord Acton, on role of popes, 85
- love laws, 34
- in Gilligan-Richards thesis, 34
- patriarchy as psychology and, 274–275
- Loving v. Virginia*, 111, 127
- Lupu, Ira C., 55
- Luther, Martin, 150–151, 155
- lynching, 39–40
- MacKinnon, Catherine, 248–249
- Madison, James, 12, 157, 257–260
- constitutional originalism and, 57–58
- theory of faction for, 257–259
- Marbury v. Madison*, 59
- marriage, new natural law and, 110
- Aquinas and, 130
- Finnis on, 130–131
- procreative sex and, 110–111
- marriage rights. *See also* same-sex marriage
- case precedents for, 127–128
- for gays and lesbians, 127–128
- racist arguments against, 17–18
- among slaves, 16–17
- Marsden, George M., 160
- Marshall, Margaret (Chief Justice, Massachusetts), 188
- Masters, William, 108
- Matthias, 195
- violence against women and children by, 195
- McBrien, Richard, 87
- McCain, John, 1
- McCarthy, Maureen, 218
- McCord, Louisa, 116
- Meese, Ed, 48, 218
- Metamorphoses* (Apuleius), 132, 145–146
- Metaphysics* (Aristotle), 92
- Michael M. v. Superior Court*, 28
- Mill, John Stuart, 203
- Miller, William, 194
- misogyny
- of Augustine of Hippo, 135–137
- celibacy and, 151
- of Matthias, 195
- Moody, Dwight, 187
- Moore, G.E., 110
- moral absolutes, in new natural law, 112–113
- contraception rights and, 113
- in deontological theory, 113
- moral evils, anti-Semitism as, 31
- moral slavery, 7–8, 23–31
- of Jews, under Christianity, 180–181
- sexism as, 114–115
- moral theology, of Roman Catholicism, 103
- Mormonism, 193–209
- ancient Israel as model for, 196–197
- contemporary, 206, 208–209
- patriarchal model for, 11, 196–197, 198–199
- polygamy and, 30, 198–199
- right to vote and, 30, 68
- role of priesthood in, 206–209
- Smith as founder of, 193–202
- as source-based fundamentalism, 193–202
- texts for, 193–194
- unreasonableness of, 202–206

Cambridge University Press

978-0-521-19122-7 - Fundamentalism in American Religion and Law: Obama's Challenge to Patriarchy's Threat to Democracy

David A. J. Richards

Index

[More information](#)

308

Index

- Mormonism (*cont.*)  
 U.S. Constitutionalism in conflict with, 203, 205  
 "Mormonism lite," 206  
 Murray, John Courtney, 86, 160, 250  
*My Grandfather's Son: A Memoir* (Thomas), 220–221  
 Myrdal, Gunnar, 277
- NAACP. *See* National Association for the Advancement of Colored People  
 National Association for the Advancement of Colored People (NAACP), 41  
 natural law, 8  
*Natural Law and Natural Rights* (Finnis), 88–89  
 new natural law, 85–131. *See also* historical Thomism  
 abortion rights under, 111, 120–122  
 Aquinas and, 102–103  
 basic goods in, 103–110, 112  
 contraception under, 119–120  
 deontological theory for, 108–109  
 dignity under, 109  
 gender and, 114, 118  
 historical Thomism and, 90–106, 113  
 homosexuality and, 108, 122–124  
 human goods as part of, 88–89  
 human nature under, 88  
 internal incoherence of, 90–113  
 marriage under, 110  
 moral absolutes in, 112–113  
 practical reasonableness as part of, 89–90  
 religious tolerance under, 103  
 same-sex marriage under, 127–128  
 for Scalia, 219  
 sexism constructed under, 114–115  
 sexuality under, 106–108, 118, 123–124  
 teleological theory for, 108, 109  
 unreasonableness of, 113–131  
 Vatican II and, 85–90  
 Niagara Creed of 1878, 161–162  
 Nichol, Gene R., 55  
*Nicomachean Ethics* (Aristotle)  
 Niebuhr, Reinhold, 160  
 Nineteenth Amendment, 41  
*No Man Knows My History* (Brodie), 194  
 Noll, Mark, 188  
 nonprocreative sex  
 Aquinas on, 19, 96–97  
 Finnis on, 124–127  
 nonviolent civil disobedience, 43  
 norm-based fundamentalism, 10–11  
 Roman Catholicism as, 84  
 Northcott, Michael, 87  
*Notes from Virginia* (Jefferson), 58  
 Noyes, John Humphrey, 194  
 Nussbaum, Martha, 124, 263–264
- Obama, Barack, 231  
 background for, 239–240  
 cultural impact of, 245  
 democratic constitutionalism and, 237–246  
 economic policies of, 240–241  
 female appointments by, 238–239  
 inaugural address of, 241  
 King and, cultural parallels to, 245  
 Lincoln and, political parallels with, 241–242, 244–245  
 originalism and, opposition to, 2, 238, 277–278  
 on patriarchal psychology, 242  
 resistance movements and, psychology of, 246  
 Roberts and, opposition to appointment of, 242–243  
 Sotomayor appointment to Supreme Court, 238, 243–244  
 Supreme Court appointments by, 1–2  
 O'Connor, Sandra Day (Justice), 64  
*On the Truth of the Catholic Faith* (Aquinas), 91–92  
 original sin, Judaism and, 180  
 originalism, 2–3. *See also* constitutional originalism  
 appeal of, to racialized groups, 222  
 Bush, G. W., judicial appointees' support for, 225  
 constitutional fundamentalism and, 213–214, 218  
 contemporary revival of, 230  
 Crapanzano on, 232  
 criticism of, 54–61  
 fundamentalism and, 9, 51–54, 61  
 Obama opposition to, 2, 238, 277–278  
 patriarchal psychology and, 2–3, 235  
 political support for, 226–227  
 source-based fundamentalism and, 52, 53–54  
 for Sunstein, 233  
 for Taney, 230
- Pagels, Elaine, 135  
 paradox of intolerance, 69, 70, 176. *See also*  
 anti-Semitism; homophobia  
 anti-Semitism and, 31–35  
 homophobia and, 74  
 patriarchy, as psychology, 256–257  
 abolitionist feminism and, 35–36  
 American Protestantism and, 185–186  
 antimiscegenation laws and, 40



- anti-Semitism and, during Roman Empire, 32–33
- Augustine on, 142–143
- for Bush, G. W., 239
- within Christianity, 6–7
- in constitutional fundamentalism, 213–230
- constitutional law and, 246–247
- contraception rights and, 21
- cultural confrontation of, 3
- definition of, 235
- democracy and, as threat to, 3, 5, 7
- in fascism, 272–273
- female Christian response to, 184–185
- female oppression and, 66
- fundamentalism and, 8, 11
- gender binary within, 5, 20–21
- gender exclusion in religion and, 248
- hierarchy within, 5
- within Hindu fundamentalism, 263–264
- Hitler and, 33, 270
- homophobia and, 78
- human responsiveness suppressed under, 35
- for Jesus of Nazareth, 171–172, 174–175
- in Judaism, 179–180
- love laws and, 274–275
- male honor codes and, 140–141
- Mormon priesthood and, 207–208
- in Mormonism, 11, 196–197, 198–199
- nonviolent civil disobedience and, 43
- Obama on, 242
- originalism and, 2–3, 235
- polygamy and, 198–199, 204–205
- within priesthood, 207–208, 265
- within Protestant fundamentalism, 173–175, 184–192
- Reagan presidency and, 3
- Reconstruction Amendments and, 36, 39
- religious foundation of, 4–5, 6–7
- as repressive, 46–48
- resistance movements against, 31–45, 46, 189–190
- right to conscience and, 229
- during Roman Empire, 140–142
- same-sex marriage and, 275
- for Scalia, 65–66
- of Smith, J., 196–197, 208
- Supreme Court decisions influenced by, 230
- for Thomas, 220–221
- threats to, 235
- totalitarianism and, 268
- United States v. Virginia* and, 65–66
- in U.S., 216–217
- violence as part of, 47
- violence from disassociation and, 150
- war on reason and, 235
- Paul VI (Pope), 87
- Paxton, Robert, 270
- The Pearl of Great Price* (Smith, J.), 10, 194, 201
- Physics* (Aristotle), 92
- Pius X (Pope), 221
- Pius XI (Pope), 114
- Planned Parenthood of Southeastern Pennsylvania v. Casey*, 63
- Plato, 21–22
- Plessy v. Ferguson*, 67
- Romer v. Evans* and, 29–30
- plural marriage. *See* polygamy, Mormonism and
- political anti-Semitism, 181, 182
- call for organized resistance to, 182–183
- Freud, S., on, 222
- political capital
- of fundamentalist religions, 75, 214–218
- of gays, after rights movement, 75
- political liberalism, 109
- Jewish response to, 181–182
- polygamy, Mormonism and, 30, 198–199
- contemporary practice of, 203
- female purification from, 199–200
- official repudiation of, 202, 203–204
- patriarchy and, 198–199, 204–205
- sexism and, 204
- U.S. constitutional conflicts with, 203, 205
- women's role in, 198–199, 204–205
- in written form, in religious texts, 200
- popes, role in Roman Catholicism, 85
- Grisez on authority of, 88
- Powell, Lewis (Justice), 26
- practical reasonableness, 89–90
- in Aristotelian philosophy, 92
- priesthood
- Mormonism and, 206–209
- patriarchy in, 207–208, 265
- Principia Ethica* (Moore), 110
- privacy, rights to
- under constitutional originalism, 54
- for Sunstein, 233–234
- procreational model of sexuality
- Grisez on, 110–111
- homosexuality and, 22
- Protestant fundamentalism, 153–192
- abortion rights and, 191
- Augustine of Hippo and, 175–184
- constitutional democracy and, 153–160
- contemporary, 160–163
- criticism of, 163–184
- female response to, 184–185
- historical Jesus for, 164–173
- homosexuality and, 191–192
- interpretive claims for, 161
- Niagara Creed of 1878 and, 161–162

- Protestant fundamentalism (*cont.*)  
 patriarchal foundations of, 173–175, 184–192  
 reactionary appeal of, 191  
 religious textual support for, 174, 183–184  
 resistance movements and, 189  
 role of women in, 163  
 same-sex marriage and, 191  
 as source-based, 52, 84  
 Protestant Reformation, 155–156  
 Protestantism. *See also* American Protestantism  
 American, 159–160, 185–190  
 Augustinian influence on, 156  
 constitutional democracy and, 153–160  
 Protestant Reformation and, 155–156  
 Roman Catholicism and, 84
- Quakers, 159–160  
 Qutb, Sayyid, 267
- race and gender, analogies between, 25–26,  
 27
- racism  
 as “American dilemma,” 277  
 leading critics of, 41  
 sexuality and, 39–40  
 in theory of faction, 259
- Rauschenbusch, Walter, 160  
 Rawls, John, 51, 109, 158, 226  
 Reagan, Ronald, 3, 47, 48, 215, 218, 245  
 Reconstruction Amendments, 36, 38  
 African American women under, 36  
 constitutional law and, 246–247  
 judicial review under, 59  
 patriarchy and, 39  
 principles of, 38–39
- Reed v. Reed*, 23, 26, 67–68  
 Equal Protection Clause and, 24  
 gender and race in, 25, 27
- Rehnquist, William (Chief Justice), 1, 29, 244
- religion. *See also* Christianity; fundamentalism;  
 Judaism; Mormonism  
 under antiestablishment of religion principle,  
 252–254  
 under First Amendment, 250–251, 252  
 freedom of, in U.S., 5–6, 71  
 gender exclusion in, 247–248  
 patriarchy and, 4–5, 6–7  
 state endorsement of, 252  
 theory of faction and, 261  
 under U.S. Constitution, 5–6
- religious cults, 260  
 religious fundamentalism. *See* fundamentalism,  
 religious  
 religious persecution. *See* anti-Semitism;  
 paradox of intolerance  
 religious tolerance. *See also* paradox of  
 intolerance  
 historical Thomism and, 103  
 under new natural law, 103  
 under Vatican II, 85–87  
 resistance, psychology of, 183  
 resistance movements, 31–46  
 abolitionist movement as, 190–191  
 American Protestantism and, 189  
 antiwar movement, 44  
 civil rights movement as, 42–43  
 cultural assimilation and, 222–223  
 gay rights movement as, 44  
 Judaism as, 172–179, 190  
 long-term impact of, 42  
 against patriarchy, 31–45, 46, 189–190  
 psychology of, 246  
 second-wave feminism as, 43–44
- Rich, Adrienne, 116  
 Richards, David A.J., 4, 13. *See also*  
 Gilligan-Richards thesis
- right to conscience, 156–157, 158–159  
 American Protestantism and, 193  
 development of new religious sects and, 194  
 patriarchal psychology and, 229
- right to contraception. *See* contraception, rights  
 to
- right to die, 15
- right to free speech, sexism and, 248–249. *See also*  
 First Amendment
- right to intimate life, 14–23. *See also*  
 contraception, rights to; privacy, rights to  
 during American Revolution, 16  
 antiabortion laws and, 19–20  
 during Civil War, 16–17  
 compelling public reasons for, 19  
 foundation of, 15  
 under Fourteenth Amendment, 17  
 homosexuality and, 21–23  
 marriage among slaves as, 16–17  
 normative view of gender roles and, 23  
 racist arguments against, 17–18  
 slavery and, 16–17  
 states’ rights v., 18
- right to privacy. *See* privacy, rights to
- right to self-defense, 228–229  
 Breyer on, 229  
 Scalia on, 228–229
- Roberts, John (Chief Justice), 1, 244  
 Obama opposition to appointment of,  
 242–243
- Roe v. Wade*, 14, 21, 23, 191  
 constitutional originalism and, 54, 64  
 fundamentalism and, 217  
 Kennedy opinion on, 227

Cambridge University Press

978-0-521-19122-7 - Fundamentalism in American Religion and Law: Obama's Challenge to Patriarchy's Threat to Democracy

David A. J. Richards

Index

[More information](#)

## Index

311

- public support for, 216
- Scalia opinion on, 63–65
- Roman Catholicism. *See also* new natural law; Vatican II
  - abortion rights and, as influence on, 227–228
  - authority in, 84
  - Bible interpretation as part of, 84
  - cultural roots of, 131–152
  - fundamentalism and, 83–152
  - heresy and, 98–99
  - moral theology for, 103
  - new natural law and, 85–131
  - as norm-based fundamentalism, 10–11, 84
  - political and moral change for, 87
  - popes' role in, 85
  - Protestantism and, 84
  - psychological roots of, 131–152
  - during Roman Empire, 131–132
  - for Scalia, as foundation for, 218–219
  - sexual morality for, 132–133
  - Vatican II and, 85–90
- Roman Empire
  - anti-Semitism and, as patriarchy-based, 32–33
  - male honor codes within, 140–141
  - rise of Roman Catholic Church and, 131–132
  - role of women during, 140–142
- Romer v. Evans*, 28–29, 67–68, 74
  - homosexuality and, constitutional rights and, 29–30, 77, 122
  - Plessy v. Ferguson* and, 29–30
- Roosevelt, Theodore, 186
- Rosenblum, Nancy, 204
- Rostker v. Goldberg*, 28
- Rousseau, Jean-Jacques, 158
- Roy, Arundhati, 34, 276
  - on rise of religious fundamentalism in India, 276–277
- Ruddick, Sara, 168–169
- Sager, Lawrence, 247
- St. Benedict the Moor, Thomas on nuns of, 221
- same-sex marriage, 127–128
  - anti-intellectualism and, 188–189
  - fundamentalist fight against, 215–216
  - patriarchy and, 275
  - Protestant fundamentalism and, 191
  - public opinion on, 216–217
- Sandeen, Ernest R., 160
- Sanger, Margaret, 14–15, 119, 185
- Santayana, George, 186
- Scalia, Antonin (Justice), 9, 11, 29, 48, 218
  - on affirmative action, 223–224
  - as constitutional originalist, 53, 55, 56, 218–219, 224–225, 254
  - dissenting opinions of, 63–69
  - doctrine of stare decisis for, 56
  - homophobia of, 77
  - on *Lawrence v. Texas*, 76–78
  - new natural law for, 219
  - patriarchy as psychology for, 65–66
  - religious views as influence on judicial views, 219, 254–255
  - on right to self-defense, 228–229
  - on *Roe v. Wade*, 63–64, 65
  - role in culture war, 76–78
  - Roman Catholicism as foundation for, 218–219
  - on *United States v. Virginia*, 65–66
- Scanlon, Thomas, 109
- The Scarlet Letter* (Hawthorne), 36
- Second Treatise of Government* (Locke), 158–159
- Second Vatican Council. *See* Vatican II
- second-wave feminism, 43–44
- Segall, Eric J., 55
- segregation
  - under Equal Protection Clause, 36–37, 38
  - scientific basis for, 36–37
- “self-conscious manhood” (DuBois on), 46
- sexism
  - abortion rights and, 121–122
  - homophobia and, as cultural, 129
  - as moral slavery, 114–115
  - polygamy and, 204
  - right to free speech and, 248–249
  - for Thomas, 221
- sexual orientation, as protected classification, 28–29, 30–31
  - Amendment 2 and, 29, 67–68, 69–70
- sexuality
  - African Americans of, 39–40
  - anthropological studies on, 134
  - antimiscegenation laws, 40
  - Augustine on, 133–135, 140
  - Finnis on, for Aquinas, 105
  - fundamentalism and, 10
  - in Gilligan-Richards thesis, 146
  - Judaism and, 180–181
  - under new natural law, 106–108, 118, 123–124
  - racism and, 39–40
- slavery. *See also* *Dred Scott v. Sanford*
  - marriage rights and, 16–18
- Smith, Emma, 195
  - threats from husband, 200
- Smith, Joseph, 11, 223
  - endorsement of violence by, 200–201
  - martyrdom of, as result of murder, 200–201
  - Mormonism and, as founder of, 193–202
  - patriarchal psychology of, 196–197, 208
  - polygamy for, 198–199
  - priesthood model for, 207

Cambridge University Press

978-0-521-19122-7 - Fundamentalism in American Religion and Law: Obama's Challenge to Patriarchy's Threat to Democracy

David A. J. Richards

Index

[More information](#)

312

## Index

- Smith, Joseph (*cont.*)  
 religious revelations of, 195–196  
 religious visions of parents, 196  
 threats to wife by, 200  
 on unbaptized undead, 205
- Sotomayor, Sonia, 1, 238, 243–244  
 political opposition to appointment of, 243–244
- The Souls of Black Folk* (DuBois), 45–46
- source-based fundamentalism, 10  
 constitutional interpretation and, 52  
 Mormonism as, 193–202  
 originalism and, 52, 53–54  
 Protestantism and, 52, 84
- Souter, David (Justice), 2
- Spinoza, Baruch, 156
- Sreekumar, Sandeep, 120  
 on antiabortion argument, 120–121
- Stanton, Elizabeth, 56, 184, 185, 187
- stare decisis, 56
- states' rights, right to intimate life v., 18
- Stevens, Thaddeus, 38
- strict constructionism, Supreme Court and, 1  
 suffrage movements, 40–41
- Summa Theologica* (Aquinas), 92
- Sumner, Charles, 38
- Sunday, Billy, 187, 188
- Sunstein, Cass, 231  
 democratic constitutionalism for, 237–238  
 on fundamentalism, 233–235  
 incomplete theorization for, 234, 236  
 originalism for, 233  
 privacy rights for, 233–234
- superfactions, 259
- Supreme Court, U.S. *See also* constitutional originalism; Scalia, Antonin; Thomas, Clarence  
 under Bush, G. W., 221, 227  
 fundamentalism influence on, 1  
 late-term abortion rights and, 227  
 Obama appointments to, 1–2  
 originalist judges on, 218–219, 225, 227  
 patriarchy as psychology and, judicial decisions influenced by, 230  
 right to intimate life under, 14–23  
 Sotomayor appointment to, 238, 243–244  
 strict constructionism as criteria for appointment to, 1
- Sweatt v. Painter*, 28, 65
- Taney, Roger (Chief Justice), 64  
 as originalist, 230
- teleological theory, 108, 109
- terrorism  
 government responses to, 276  
 Islamic fundamentalism and, 266–268
- Thayer, James, 58
- theory of faction, 257–259  
 group psychology of, 260  
 religion and, 261  
 superfactions in, 259
- Thirteenth Amendment, 37–38
- Thomas, Clarence (Justice), 11, 29, 218, 219–221  
 on affirmative action, 223–224  
 as constitutional originalist, 53  
 patriarchal psychology of, 220–221  
 on sexism, 221
- Tolstoy, Leo, 208
- totalitarianism, patriarchy and, 268  
 violence as part of, 268–269
- Tractatus adversus Iudaeos* (Augustine), 101
- The Trinity* (Augustine of Hippo), 154–155
- Trocme, Andre Pascal, 183
- Turner v. Safley*, 127  
 2008 election, McCain during, 1
- Two Treatises of Government* (Locke), 57
- United States (U.S.)  
 “American dilemma” for, 277  
 feminism in, cultural embrace of, 216  
 freedom of religion in, 5–6  
 patriarchy as psychology in, 216–217
- United States v. Ballard*, 71
- United States v. Virginia*, 28  
 Ginsburg opinion on, 65  
 Scalia opinion on, 65–66
- universal rights, Aquinas on, 105
- van Gogh, Theo, 267
- Vatican II, 85–90  
 political and moral change under, 87  
 religious tolerance under, 85–87
- Verdi, Giuseppe, 141
- Vermes, Geza  
 on historical Jesus, 164–165
- violence  
 anti-intellectualism and, 188–189  
 from disassociation, 150  
 fascism and, 270  
 Islamic fundamentalism and, 266–268  
 of Matthias, against women and children, 195  
 patriarchy as psychology and, 47  
 Smith, J., and, endorsement of, 200–201  
 totalitarianism and, 268–269
- Virgil, 32, 143
- Virgin Birth, 10  
 fundamentalism and, role in, 162
- voting rights, for Mormons, 30, 68
- Voting Rights Act of 1965, 245
- War on Poverty, 246
- war on reason, fundamentalism and, 234–236

Cambridge University Press

978-0-521-19122-7 - Fundamentalism in American Religion and Law: Obama's Challenge to Patriarchy's Threat to Democracy

David A. J. Richards

Index

[More information](#)

## Index

313

- Wells-Barnett, Ida, 39, 41, 42  
 Wilde, Oscar, 186  
 Wilkinson, Jemima, 194  
 Willard, Frances, 40  
 Williams, Roger, 103  
 Wilson, A. N., 167  
 Winfrey, Oprah, 56  
 Witherspoon, John, 16  
 Wolff, Tobias, 251  
*Woman's Bible* (Stanton), 184  
 women. *See also* misogyny, celibacy and  
   abortion rights for, as part of moral  
   independence, 21  
   Aquinas's views on, 101–102  
   biblical interpretations by, 184  
   gender hierarchy for, under fundamentalism,  
   20–21  
   Jesus of Nazareth and, 166–169  
   Judaism and, roles within, 178  
   maternal relationships for, 115–116  
   in Obama administration, 238–239  
   patriarchy and, oppression as result of, 66  
   polygamy and, 198–199, 204–205  
   Protestant fundamentalism and, 163  
   under Reconstruction Amendments, 36  
   right to contraception for, 17  
   during Roman Empire, 140–142  
   single-sex schools and, 65  
   in suffrage movements, 40–41  
 Wood, Gordon, 63  
 Woodhull, Victoria, 185  
 Woodruff, Wilford, 202, 203–204  
 Woolf, Virginia, 43–44  
 Young, Brigham, 194, 195, 201  
 Young-Bruehl, Elisabeth, 268  
*Zablocki v. Redhail*, 127  
 Zagorin, Perez, 86–87, 98  
 Zionism, development of, 182–183