

THE POISONED WELL OF TOLERANCE

Allan C. Carlson

Truth Overruled: The Future of Marriage and Religious Freedom

By Ryan T. Anderson

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“We are sleepwalking into an unprecedented cultural and social revolution,” argues Ryan T. Anderson in his provocative book *Truth Overruled: The Future of Marriage and Religious Freedom*. Released after the U.S. Supreme Court’s ruling last summer (in the case *Obergefell v. Hodges*) that declared same-sex marriage to be a constitutional right, the volume laments in now almost ritual language that a “truth acknowledged for millennia has been overruled by five unelected judges.”

Anderson summons his readers to continue the fight. “Preserving the man-woman definition of marriage,” he writes, “is the only way to preserve the benefits of marriage and avoid the enormous societal risks accompanying a genderless marriage regime.” He affirms more specific truths: women and men are both required to create new life and are “equally necessary” in the lives of children; while different, male and female are “complementary” in familial behaviors; and marriage policy “should maximize the odds that a child will grow up with a mom and a dad.”

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The author properly reports that “too many heterosexuals” bought into a vision of sexual liberation that made “a mess of marriage” through no-fault divorce, cohabitation, nonmarital childbearing, extramarital sex, pornography, and so on. Accordingly, he sees same-sex marriage as “a consequence, not a cause” of America’s diseased marriage culture.

Anderson also correctly notes that family law cannot be neutral between the historic “conjugal” view of marriage and the new “consent-based” version advanced by same-sex advocates.

Tellingly, though, Anderson declines to discuss the morality of homosexual relations and rejects any appeal to tradition or history. Instead, all his arguments are founded solely “on reason: philosophy, jurisprudence, political science, and social science.” His implicit goal in this embrace of Enlightenment technique is to convince “the liberal elites who now have the upper hand” to treat dissenters from *Obergefell* as they have treated pro-lifers—that is, with a certain tolerance—rather than with the complete scorn shown to racists.

Within the framework of that modest objective, Anderson hopes to popularly tag the court’s opinion as “judicial activism,” to protect the freedoms of speech and religion as barriers to the sexual revolution, and to “redouble” efforts to support conventional

marriage “in the public square.” Regarding the last objective, he places particular hope in the better telling of personal stories regarding the harm caused by same-sex marriage.

Truth Overruled provides a good summary of the libertarian critique of same-sex marriage. Specifically, the state becomes involved in marriage law solely because of the potential of heterosexual couples to produce children: future citizens of the commonwealth. Otherwise, as Anderson phrases it, the government “should leave consenting adults free to live and love as they choose.”

The volume also offers a well-crafted critique of the contemporary idea of “parenting,” which rests on the premise that men and women are interchangeable when rearing children. Instead, Anderson insists on the distinct qualities of “mothering” and “fathering.” He provides an able review of the blistering judicial dissents to *Obergefell* offered by Chief Justice John Roberts and Associate Justices Antonin Scalia, Clarence Thomas, and Samuel Alito. They emphasized the damage done by the majority decision to democratic self-government, civil society, religious liberty, and marriage itself.

In addition, Anderson spotlights the scandalous corruption of the social sciences on the question of same-sex parenting. Both the American Sociological Association and the American Psychological Association have routinely submitted *amicus curiae* briefs in litigation over same-sex marriage, always asserting that there are “no differences” in outcomes between children raised in mother-father homes and those in same-sex-couple households. In fact, the few studies using both rigorous methodology and strong samples have all found the same result: children raised by parents in same-sex relationships have predictably more negative life outcomes that closely resemble those found among children reared by divorced and single par-

ents. On the positive side, those same studies reaffirm an old truth: “children do best when raised by a married mother and father.”

The author concludes his book with reference to organizations carrying on the good fight in defense of marriage and religious liberty, including the Federalist Society, the Heritage Foundation, Alliance Defending Freedom, the Family Research Council, and the Beckett Fund for Religious Liberty. More broadly, these groups are working—Anderson asserts—to restore the principles of the American Founding: “ordered liberty based on faith and reason, natural rights and morality, limited government and civil society.”

All of this is well and good. However, a shadow haunts his argument. The organizations listed above are all solid and worthy; indeed, I have worked on family questions for or in cooperation with all of them, at one time or another. Yet the truth is that this traditionalist coalition has been actively opposing the same-sex marriage campaign for more than two decades. The result, alas, has been largely a string of losses: both at the legal level and—to a considerable degree—in the court of public opinion. Moreover, there is no indication that the near future will be much different. This raises a salient question: Why did the Marriage Movement fail? (Please note that what follows involves a degree of self-criticism.)

A share of the answer lies in a broad acquiescence by conservatives to the liberal moral principle: on sexual matters, consenting adults may do whatever they please. However, from colonial times until the middle decades of the twentieth century, Judeo-Christian values were embodied in American law. Sodomy and other “perversions” were commonly criminal offenses. Contraceptives, abortifacients, and pornography faced systematic suppression at both

the state and federal levels (the most sweeping measures were the “Comstock laws,” named for Anthony Comstock, secretary of the powerful New York Society for the Suppression of Vice from 1873 to 1915).

There were both criminal and civil penalties for adultery. These were the true and relevant marriage and “sexual” principles of the American Founding. Some of these strictures began to disappear in the 1930s. Between 1965 and 2003, a series of Supreme Court decisions eliminated the rest. It is hard now to imagine a return to the old order. Still, it is important to recognize how sexual liberalism had already “swept most of the legal table” well before same-sex marriage emerged as a serious issue.

On a related matter, most defenders of natural marriage politely refrained from any commentary on certain jarring facts, such as the range of debilitating and often fatal diseases associated with male homosexuality (e.g., more than 350,000 deaths from AIDS alone since 1980); and the abnormally high rate of physical violence found among lesbian couples. Causes for this silence may have included: intimidation directed toward medical researchers, scholars, and writers who raised such questions; guilt over personal sexual choices (consider Andrew Sullivan’s classic essay “We Are All Sodomites Now”); and assurances that same-sex marriage was the solution to such disorders. Once again, social conservatives deferred to the liberal principle of tolerance, and so surrendered some of their potentially most potent arguments.

The Marriage Movement also failed to fight effectively early legal battles, which—being lost by default—left the institution of marriage imperiled. Most notably, little opposition rose to counter the move in the 1990s to allow adoption by same-sex couples. Sentimental tales of special-needs

children waiting for homes, while often specious, carried the day among state legislators. Opponents usually focused only on seeking exemptions for religious social service agencies. Yet, once same-sex couples won the right to adopt children, the case for same-sex marriage (or at least its equivalent) grew much stronger. Once more, conservatives threw themselves into the welcoming arms of liberal tolerance, and lost.

In addition, a central battle in the war over marriage *does* involve the reading of history. Most of the state and federal court decisions endorsing same-sex marriage referred to an “evolution” of marriage: from an institution focused primarily on the procreation of children and the preservation of property toward a flexible lifestyle choice that should fulfill each individual’s “emotional and sexual desires.” Favorite historians here were Nancy F. Cott (*Public Vows: A History of Marriage and the Nation*, 2000) and Stephanie Coontz (*Marriage, a History: From Obedience to Intimacy or How Love Conquered Marriage*, 2005), who chronicled this “love revolution.” Conservatives failed to present a compelling alternative account of the history of marriage and family in America. (Although, at risk of improper self-promotion, I have since written a book that offers—perhaps too late—such an interpretation: *Family Cycles: Strength, Decline, and Renewal in American Domestic Life, 1630–2000*.)

Most important, the Marriage Movement failed to grasp the real force behind the other side. Relative to sex, the Judeo-Christian anthropology is clear: a person is born either male or female; except for a small number in celibate religious vocations, each person is called by God to find a mate of the opposite sex, to marry, and to procreate. *All* cultural, social, economic, and political influences must affirm, support, and encourage this task.

The LGBTQ movement has its own anthropology. Each new person is born facing a long list of possible sexualities: lesbian, gay, bisexual, transsexual, queer, flexural, asexual, genderf—k, polyamorous, bondage/disciple, dominance/submission, etc. In this view, the task for persons is to discover which sexuality fits them. The best way to know is to try them all. As among the Judeo-Christians, all cultural, social, economic, and political influences must assist the young person in this quest. Anyone or anything that interferes—parents, churches, old communities—must be neutralized, so that each human might find its destiny.

The conservative Marriage Movement often seemed to act as though this LGBTQ anthropology was a ruse, designed merely to loosen up the laws for libertine reasons. The more accurate read may be that these advocates were quite serious, and actually were/are *more committed* to their view of human nature than contemporary Christian and Jews were/are to theirs.

This would explain their readiness to suppress “the reactionaries”: for example, stripping recalcitrant churches of their tax

exemptions; or separating children from their “homophobic” parents; or shutting down Christian homeschools. From their perspective, fulfilling the most basic of human rights requires such actions. They also parallel the way Christians behaved when they held sway for the first three centuries of the American experiment.

Ryan Anderson understands a good share of this, I suspect. Yet his book frequently returns to the arguments “that reasonable people of good will are to be found on both sides of this debate”; that religious liberty is strong enough to contain the final push of the sexual revolution; and that mutual toleration of radically different visions of human nature is possible.

I wish that these assertions would prove true. Yet I doubt that the institutions and assumptions of liberalism can fairly contain such a dispute. Simply put, the liberal deck is stacked against conservative outcomes. Facing a cage fight over the nature of the most fundamental human institution and the fate of children, appeals to the rules of the Marquess of Queensberry will probably not suffice. †